

A married couple v The Sun

Clauses noted: 1, 3, 4, 6, 12

A married couple complained to the Press Complaints Commission through the charity Mermaids that two articles headlined "Boy, 12, turns into girl" and "Now boy, 9, is girl", published in The Sun on 18 September 2009 and 19 September 2009 respectively, contained inaccuracies in breach of Clause 1 (Accuracy) and intruded into their daughter's private life in breach of Clause 3 (Privacy) of the Editors' Code of Practice.

The complaint was upheld.

Separate complaints under Clauses 3 (Privacy), 4 (Harassment), 6 (Children) and 12 (Discrimination) were not upheld. A further complaint from a second couple through Mermaids was also not upheld.

The complainants' child was born as a boy but had begun to behave as a girl from an early age. At 8, her parents allowed her to live as a girl at home. She then moved from primary to secondary school and her name was changed. Following incidents of teasing, the secondary school held a meeting with other children to explain her new situation. After this, some parents of the children had discussed the matter online and threats had been made against the family. The 18 September article reported the story - without naming the family - and a further article appeared the next day.

The complainants said that the article was inaccurate when it stated that their daughter was "preparing for sex swap surgery". There were other inaccuracies in the piece in regard to: the child's uniform; what she wore for swimming lessons; her hairstyle and accessories; the colour of her micro-scooter; and the provision of toilet facilities in both schools. These points gave a misleading impression of the child. The complainants also said that the newspaper had passed on their contact details without consent to a TV production company, which then wrote requesting an interview.

The newspaper said that the child now looked, acted and wished to be treated as a girl and was in that sense "preparing" for surgery. The other points did not appear to be significant, but it offered to publish a correction and apology on them. The newspaper accepted that it had passed on the complainants' details to the TV production company. The subsequent approach had been made by letter only and no interview had taken place.

Adjudication

The Commission agreed that the cumulative effect of the inaccuracies served to give a misleading impression of the girl's appearance and behaviour at the school. This was unacceptable and the newspaper should have taken greater care when publishing details of such a vulnerable child. This raised a breach of Clause 1 of the Code.

In addition, the newspaper had passed on the family's details to a third party - therefore identifying the child - at a time when it had been specifically informed that further contact from the media was unwelcome. Given that the newspaper had recognised the need to avoid naming the child publicly, the decision to identify her to a third party (who would not otherwise have known who she was) was clearly an error. The paper had shown a failure to respect her private and family life in breach of Clause 3 of the Code.

The complainants also complained that the coverage had intruded into the child's private life and time at school - and discriminated against her - in breach of Clause 3 (Privacy), Clause 6 (Children)

and Clause 12 (Discrimination) of the Code. They also said that the newspaper had harassed them, in breach of Clause 4 (Harassment).

The complaints were not upheld.

The complainants said that the publication of the article represented an unnecessary and unjustified intrusion into their daughter's private life and her time at school. While she had not been named in the piece, the complainants said that the details in the article (primarily the references to the actions of the school, which was described as having a thousand pupils and being located in "southern England") would have enabled her to be identified. This had caused great distress: the first few weeks of secondary school were stressful enough for any individual without being exposed to the ridicule the child had endured. As a result, the child had been withdrawn from the school for several days and the effect on her, and the family, had been considerable.

The complainants were also concerned that the article had discriminated against the child on the basis of her gender, seeking to make her an object of fun. The (inaccurate) references to her appearance mocked the child. In addition, the newspaper had referred to the child throughout the article as "he", a "lad" and a "boy", despite the fact she had chosen, with the complainants' consent, to live as a girl.

In the complainants' view, the newspaper had also harassed the family. On the day before publication, its reporter (together with other members of the press) had arrived at their property unannounced and had been informed by the police that the family did not wish to speak. He then posted the family a letter informing them that a story about their daughter was to appear the following day. The family then decided to issue a brief statement to the reporter, which was included in the story. On the day of publication, the reporter posted another letter through the door urging participation in a further story. Given the media interest, the family were advised to leave their home by the police, which they did. Their representative contacted the PCC to make clear that the family did not wish to speak to the media; this was communicated by the PCC across the industry. No further contact followed.

The newspaper said that there was a clear public interest in reporting how society and the education authorities were dealing with transgender issues involving children. The story had emerged after a meeting in the school which resulted in parents expressing concern about the way in which the matter had been handled. Some parents had discussed the issue in a threatening and antisocial manner. Far from being the result of the article, the reactions were the reason for it.

Nonetheless, the newspaper said that it had taken great care not to reveal the location and identity of those involved. There were no geographical clues (other than the reference to "southern England") as to the location of the school and the town or county were not mentioned. There were hundreds of "1,000-pupil" secondary schools in the south of England. In addition, it did not believe that anyone, who was not already aware of the situation (having been informed by the school or other parents), could have identified the family involved. The subject had been discussed widely over the internet and at the school before the newspaper had even become aware of the situation.

Although the story had been given prominence, the newspaper argued that there was nothing pejorative about its coverage, which did not make fun of anyone. This was a sensitive story handled with the appropriate care. Rather than mocking the girl as a 'freak', the article was accompanied by comments from a transgender counsellor and the newspaper's agony aunt offering advice. The references to the girl as a "he" were intended to describe the anatomical position (given that the complainant's child had not undergone gender reassignment surgery), and were not intended to offend.

The newspaper denied that its reporter had harassed the family. He had approached them at their home on one occasion and - having been told by police that the family did not wish to speak - then

posted a note through their letterbox informing them of the nature of the interest in the story, which he had not had an opportunity to make clear on the doorstep. That evening he had been telephoned by the family to provide him with their statement. The following morning he had simply posted another note allowing the family to comment, post-publication, should they wish. Upon receipt of the notice passed around by the PCC, the reporter left the area and did not return.

Adjudication

The broad complaint related to an issue of great sensitivity: the gender transition of the complainants' daughter, which they understandably considered to be a private matter. The Commission recognised that the coverage in general had been unwelcome to the complainants and their daughter and had caused them distress. At the same time, the Commission had to have regard for the newspaper's right to question how the education authorities had approached the issue of the child's transgender, to consider the implications of the medical condition in someone so young, and to publish the views of other parents in response to the situation.

Given the age of the child, it clearly would have been wrong - and a breach of the Code - for the newspaper to have named her, or provided information which would have enabled her to be identified. The newspaper had plainly taken care not to include excessive detail in the piece such that might identify the complainants' daughter. The references to the school containing 1,000 pupils and being located in "southern England" were sensibly vague.

In addition, it appeared to have been accepted that the school itself had specifically informed pupils of the situation (without parental permission) following incidents in which the girl's transgender had been the subject of abuse. Given that this had already taken place, the Commission did not consider that newspaper's report of the facts of the case - in such a controlled manner, without identifying information - represented a further intrusion into her time at school. To suggest otherwise would be to say that the newspaper was not entitled to publish the story at all, which could not be correct. The articles, in the Commission's view, would not have informed anyone of the family's involvement who had not already been aware of it. There was no breach of Clause 3 or 6 of the Code on these issues.

Clause 12 states that newspapers must avoid prejudicial or pejorative reference to (amongst other things) an individual's gender. While the article made a number of references to the child's gender identity, the Commission did not agree that the coverage sought to discriminate against her on such a basis. There were no specifically pejorative terms used to describe her and no attempts to make light of the situation (through a punning headline, for example, or mocking descriptions, both of which would have been clearly unacceptable). The article's use of masculine terms to describe the girl was more difficult, reflecting a genuine problem in such transgender cases (where full gender reassignment had not taken place). While the Commission recognised that it may have been more appropriate to refer to the child as a girl (as it was doing in this adjudication), it did not mean that the description was a breach of the Code, taking into account that the child had not been identified.

The terms of the Editors' Code in regard to harassment seek to prevent reporters from persistently asking questions when asked to desist. Before and after the publication of the story, the complainants had found themselves caught up in a situation in which they had little experience and had been forced to leave their property. This was a matter of great regret to the Commission, although it was grateful that the family had then approached the PCC for help in communicating their request for attention to desist. This appeared to have had the desired impact.

The Commission considered the specific behaviour of the newspaper's reporter. In its view, he had not overstepped the line between making the complainants aware of the existence of the story - which had enabled them to make a statement on the matter - and harassing them in breach of Clause 4. An initial approach to the family home had resulted in an immediate rebuff, which had not allowed the reporter to explain the interest. The further approach - in a handwritten note - had not

been confrontational and the one subsequent approach (after publication, when the story had moved on) had again been by this method. He had not approached the family once the PCC had passed on their request.

One possibly legitimate criticism was that the reporter had not made the complainants aware of the fact that the newspaper was not intending to identify the girl. It would have been preferable if this had been clear in the letter, which would have alleviated the family's concerns overnight. However, the Commission did accept that the reporter may not have been in a position to know fully the editorial decision in this regard. While the Commission wished to make public its concerns that the family had been needlessly worried about identification, it could not conclude that there had been a specific breach of the Code on this point.

A second couple also complained to the Press Complaints Commission, through Mermaids, that the article of 18 September 2009 had intruded into their daughter's time at school in breach of Clause 6 (Children) of the Editors' Code of Practice.

The complaint was not upheld.

The complainants' daughter, who was transgendered, had also attended secondary school as a girl, having gone to primary school as a boy. She was the same age as the child in the story.

The complainants said that the publication of the article had led to several children from their daughter's school, friends of the family and other members of the media mistakenly identifying her as the child featured in the piece. The family had received a note, for example, from a daily newspaper making reference to the story "about your child in The Sun". The publication of the piece had led to intense media interest outside her home in addition to great upset for the child. As a result of the article, the girl's school life had been disrupted dramatically - she had been bullied and her self-confidence had been affected. The complainants said that the manner in which the article was written (including details of the child's age) meant that there was a serious risk of confusion.

The newspaper said that the story did not relate to the complainants' child, and it had included no information that would have singled her out.

Adjudication

The Commission understood that the publication of the article had inadvertently caused problems for the complainants' child at school. This was a matter of regret.

However, as noted above, the Commission did not believe that the article had breached Clause 3 or Clause 6 of the Code, as it had sought satisfactorily to protect the anonymity of the child at the centre of the story. An inevitable consequence of this was that speculation about the possible identity of the child could arise. The Commission did not see how this could be avoided, bearing in mind the absolute necessity of the actual child involved not being identified.

In the circumstances, the Commission could not conclude that the publication of the article had represented an unnecessary intrusion into the complainants' daughter's time at school, in breach of Clause 6. While the cases may have had similarities - which had led to incorrect assumptions by others - the fact remained that the article had not related to the child. The complaint was not upheld.

Adjudication issued 02/04/2010