

### ***A woman v Daily Mirror***

Clauses noted: 3, 14

A woman complained to the Press Complaints Commission that an article headlined "The Baby Whisperer" published in the Daily Mirror on 11 August 2010 was intrusive in breach of Clause 3 (Privacy) and that she had been identified as a confidential source in breach of Clause 14 (Confidential sources) of the Editors' Code of Practice.

Following remedial action by the newspaper, no further action was required.

The article was a feature about an acupuncturist who had helped women with fertility problems, including the complainant, to have children, following a media-attended event which brought the women together. A number of the women (who were photographed) had told their stories. While the complainant had been happy to share her experiences with a freelance journalist – and be photographed at the event - she had specifically asked to remain anonymous in any published article. She said she had been informed by the freelance photographer that a photograph would not be published without her explicit consent. The newspaper had agreed to use a pseudonym before publication but had then published her photograph.

The newspaper said that the complainant had taken part in an interview with a freelance journalist, as well as posing for a group photograph (published in another newspaper in June) and an individual shot. The BBC had also broadcast an item on the event in which the complainant was seen briefly. In direct conversation with its reporter, the complainant had requested that her identity be withheld, but had not mentioned the issue of the photograph which she was aware that the reporter had seen. The paper was unaware of any assurance in regard to the publication of the photograph. As a gesture of goodwill, the newspaper removed the image from its website and gave an assurance that it would not be republished. It also offered to send a private apology to the complainant. While she welcomed this, she wished for the Commission to rule on the matter.

#### *Adjudication*

At the heart of this complaint was a misunderstanding in regard to the use of the complainant's photograph. The complainant had attended an event at which journalists, and a BBC film crew had been present, and the Commission had to have regard for the fact that she had posed voluntarily for pictures at that time. The specific issue of the photograph had not been discussed directly with the newspaper and there was nothing to suggest that the newspaper had deliberately ignored a request for it not to appear. Indeed, the newspaper, having honoured its agreement not to use her real name in the article, was not aware of any other understanding regarding the image.

Nonetheless, the newspaper had recognised that the complainant did not want to be identified in connection with information about her private life (including medical details about her). In that context, it was certainly an error (albeit seemingly based on poor communication) for the paper then to publish a clear picture of the complainant and so identify her in connection with personal details about her health. This raised a breach of the Code.

Having reached this decision, the next step for the Commission was to determine whether the action taken by the newspaper in response to the complaint was sufficient. In circumstances where there was some legitimate confusion about the consent for publication of the photograph (for which the complainant herself had posed), the Commission decided that the prompt removal of the image, the assurance as to future publication and the offer to apologise privately to the complainant represented a proportionate response to remedy the breach of her privacy. No further action was required.

Adjudication issued 19/11/2010