

The Hon Nicholas Soames MP v The Argus (Brighton)

Clauses noted: 6

The Hon. Nicholas Soames MP complained that a photograph published in The Argus on 7 January 2008 to illustrate an article headlined "Error or personal freedom?" was intrusive in breach of Clause 6 (Children) of the Code.

The complaint was upheld.

The photograph showed the complainant driving a quad bike on a public road. In the trailer behind the complainant there were four adults and three children, whose faces had not been pixellated. One of the children was the complainant's; the other two were those of friends on whose behalf Mr Soames was also complaining. He said that publishing the children's images was intrusive, and noted that most newspapers had blanked out the children's faces.

The newspaper argued that the photograph authenticated and illustrated an incident that was widely debated in the public interest: was it legitimate for an MP to be criticised for towing children in this way without due regard for health and safety issues? The incident came days after a seven-year-old girl was killed in an accident involving a quad bike, and had occurred in a public place – during a hunt – where scrutiny in the form of people taking photographs or videos was to be expected. While the faces of two of the children were visible, none of them was named and nothing was included about their private lives. The public interest was emphasised by the fact that the complainant was subsequently convicted for driving on a public highway with no insurance. In the court case, the footage from which the photograph was taken was shown in full and therefore placed in the public domain; the court did not order the pixellation of the children's faces.

Adjudication

Although the complainant was – as all parties agreed – a legitimate subject for scrutiny, the three children in the photograph were innocent bystanders in the matter. It was clear that the photograph concerned their welfare: indeed, the article speculated about their safety by highlighting the recent death of a seven year old girl in a quad bike accident. No consent had been obtained from the parents to publish the image.

The Commission did not believe that the editor had demonstrated why it was necessary to publish the children's images, or established that consent had been implied because the photograph was taken on a public road. The substance of the story would not have been affected by obscuring the children's faces. While the footage may have been shown to the court several months after the article had been published, this subsequent use of the material did not – in the Commission's view – justify the decision to publish the image at the time. Nor did it constitute, retrospectively, an exceptional reason such as to override the paramount interests of the children. The Commission considered that insufficient regard had been paid to these interests and that there was a breach of Clause 6 of the Code as a result.

Adjudication issued 11/06/2008