

Mr and Mrs Nicholas Levene v The Sunday Times

Clauses noted: 6

Mr & Mrs Nicholas Levene complained to the Press Complaints Commission through Needleman Treon Solicitors of London that an article headlined "Vanished City trader's losses may hit £200m", published in The Sunday Times on 18 October 2009, included a photograph of their daughter which was published without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.

The complaint was not upheld.

The article reported that Nicholas Levene, a City financier, had disappeared from public view after allegedly incurring huge losses. The article was accompanied by a photograph of Mr Levene, his wife and their daughter. The complainants said that their daughter was irrelevant to the article and that the publication of the photograph had caused considerable distress.

The newspaper said that the photograph had been taken at a society party, and supplied by an agency. It was not in dispute that consent for the taking of the photograph had been given at the time. The image was published in OK magazine's account of the party in August 2009. Mr Levene had previously sought publicity for himself and his family, and the newspaper said it was performing a public duty in alerting people to his apparent absence, particularly through the publication of the family photograph.

The complainants denied that Mr Levene had sought publicity for his family, and said that he had not 'disappeared'.

Adjudication

Clause 6 of the Code states that "a child under 16 must not be photographed on issues involving their...welfare unless a custodial parent...consents".

It was clear that the complainant's family had posed for the photograph at a public event and consented to its earlier publication in a glossy magazine. The question for the Commission was simply whether the newspaper was entitled to republish it in this new context. On balance, the Commission considered that it was.

The article reported the fact that several clients of Mr Levene had contacted insolvency experts, amid speculation that the trader had been responsible for losing millions of pounds, and that other agencies including the Serious Fraud Office had become involved. The focus on the piece was, therefore, entirely on Mr Levene. The article did not specifically discuss the impact of her father's difficulties on his daughter, and indeed did not contain any information about her other than her name and what she looked like. The Commission did not consider that the publication of the photograph involved her welfare to any significant extent, bearing in mind that this image of the family together had already appeared in the press.

The complaint was therefore not upheld.

Adjudication issued 28/01/2010