

***Carmarthenshire County Council v South Wales Guardian***

Clauses noted: 6

Carmarthenshire County Council complained to the Press Complaints Commission on behalf of a couple that an article headlined "My Maxine is not evil - mum", published in the South Wales Guardian on 4 August 2010, contained a photograph of their adopted child without consent in breach of Clause 6 (Children) of the Editors' Code of Practice.

The complaint was upheld.

The article was an interview with the mother of Maxine Williams, who had been convicted of murder in 2008. Ms Williams' mother had spoken about her daughter's appeal and about the adoption of her daughter's child as a result of the conviction. The article included a photograph of Ms Williams with the child, who was also named, taken when she was around 13 months old.

The complainants were the adoptive parents of the child, who was three years old at the time of publication. They had not given consent for the publication of the photograph, and had only been made aware of it when a third party - who had identified their child from the article - had alerted them. The publication of the article had caused distress and they were concerned about the future effect of publication on the child.

The newspaper said that the use of the photograph had been authorised by the child's biological mother and grandmother. The consequences of Ms Williams's crime and the actions of social services in the case were proper objects of public scrutiny, and the information included about the child had not been unduly intrusive. The newspaper offered to consult the complainants before republishing the child's picture until she reached the age of 16. The complainants wished for an assurance that neither the child's name nor her photograph would ever be republished.

***Adjudication***

The Commission agreed that the newspaper had been entitled to present the views of the child's grandmother on the subject of her removal from the family's care. There was a general public interest in debating the actions of public authorities in the case, to which the article contributed. In the Commission's view, the publication of the child's previous name was not intrusive in this context.

The Commission also had to consider the publication of the photograph. Clause 6 (ii) of the Editors' Code states that "a child under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents".

The Commission took the view that the photograph, in the context of an article about the child's mother's conviction for murder and the impact of the adoption, clearly involved her welfare. The paper had not obtained the consent of the custodial parents prior to publication. The Commission noted that one person had apparently identified the child from the information in the article, which had caused anxiety to her adoptive parents. The Commission considered that there was a breach of Clause 6 (ii) here.

To justify such a breach, the Editors' Code requires an exceptional public interest to override the normally paramount interests of the child. In this instance, while the Commission recognised the general public interest in the story, it did not consider that there were exceptional public interest grounds specifically to justify the publication of the picture. The complaint was therefore upheld.

Adjudication issued 16/03/2011