

***Ms Emily Jennings v Eastbourne Gazette***

Clauses noted: 4, 8

Ms Emily Jennings of Crawley complained that a reporter from the Eastbourne Gazette approached both her and members of her family in breach of Clauses 4 (Harassment) and 9 (Hospitals) of the Code of Practice.

The complaint was upheld.

The complainant's father had suffered a motorcycle accident that left him in a coma. On Sunday 4 August, during his first visit home after regaining consciousness, a journalist approached the house and was told that the family would call him at a more appropriate time if they wished to speak about the accident. The journalist left an answerphone message later in the week, and telephoned again on Friday 9 August asking for permission to visit the complainant's father. This was firmly denied, but that day the journalist entered the hospital without identifying himself and questioned the complainant's father despite the fact that his injuries were such that 'he barely knew his own name'.

The newspaper agreed to the 'basic facts of the case', although the complainant's father had been happy to talk to the journalist on his first visit to the house, when it was agreed that the time was inappropriate, and then in hospital, a full three weeks after the accident. When the complainant telephoned the newspaper it apologised verbally and promised not to publish any material, an undertaking it had honoured. It subsequently apologised to the complainant in writing, and explained that the journalist had been dismissed following a disciplinary hearing.

The complainant insisted that it had been made clear when the journalist visited the house that her father did not want to talk, and the assumption that he was fit to be interviewed three weeks after the accident when he had spent one of those weeks on a life support machine was ill-founded.

*Adjudication*

Clause 9 (i) of the Code - which is one of the central provisions relating to the protection of the vulnerable - clearly states that 'journalists or photographers making enquiries at hospitals or similar institutions must identify themselves to a responsible executive and obtain permission before entering non-public areas'. The newspaper had rightly conceded a clear breach of this Clause as, while there was some dispute about the response to the journalist's initial approach, the request to desist should have been heeded prior to the hospital visit.

The Commission noted with approval that the newspaper had apologised in writing, undertaken not to publish the material, and taken disciplinary action against the journalist, but it emphasised that the responsibility to ensure that material is gathered in accordance with the requirements of the Code lies with editors. In this instance the Commission believed that this was a serious breach of the Code which no action could effectively remedy and therefore upheld the complaint under Clauses 4 and 9.

Relevant rulings

Swire v The Mail on Sunday, 2001

Taylor v Sunday Mercury, 2000

Adjudication issued 2002