

## CLAUSE 4

# Intrusion into grief or shock

**JOURNALISM** is an occupation conducted on the front line of life and, often, of injury and death. But while tragedy and suffering may go with the journalistic territory, insensitivity for its victims should not.

The Code's strictures on intrusion into grief or shock are designed to protect those victims at their most vulnerable moments.

Newspapers have a job to do at such times and most do it well. It is a myth that approaches by the Press reporting injury and death are inherently intrusive. For example, reporters making inquiries sensitively are often welcomed by the bereaved, who see an obituary or story as an opportunity to speak out on the circumstances surrounding the death of their loved one, or as a final public memorial. They would prefer the facts to be given first-hand.

Also, as deaths are a matter of public record, the information is in the public domain and newspapers have a right to publish. Again, a balance has to be struck. The key, as expressed by the Code, lies in making inquiries with sympathy and discretion and in publishing sensitively.

That does not mean newspapers should not publish

## WHAT THE CODE SAYS

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

sensitive material; it means that they should not do so insensitively. Nor does it amount to a ban on covering tragic stories unless all parties consent, as the then-regulator, the PCC, made clear in an adjudication in 2005 when it gave examples of some of the elements likely to constitute a lack of sensitivity in publication. They were:

- The use of gratuitously gory information in pictures or stories at a time of grief.
- Unnecessarily ridiculing the manner of death.
- Publishing a picture of the subject engaged in obviously private, or embarrassing, activity.

The regulator was adjudicating in a case where a picture of a woman missing in the 2004 tsunami appeared in a national newspaper against her family's wishes. The father's request that no photograph of his daughter be used was not passed on, due to a miscommunication, and an image from a website was published.

While regretting the lapse in communications, the PCC ruled that publication of an innocuous image – obtained from a public resource such as the internet – of someone caught up in such a shocking event was not insensitive.

*The family of Alice Claypoole v Daily Mirror: [www.pcc.org.uk/cases/adjudicated.html?article=MjE2MA](http://www.pcc.org.uk/cases/adjudicated.html?article=MjE2MA)*

Reports of violent crime can be upsetting for those involved, but publications will comply with Clause 4 if they handle the content sensitively.

The family of a man who died after being stabbed during a bag snatch in San Francisco complained when CCTV footage of the incident was published online. The family said the CCTV footage was published the day after the victim's death (several weeks after the incident), when family and friends were still in shock, and its publication had made the grieving process "very difficult" for them.

IPSO did not uphold the complaint. It said that news organisations play an important role in reporting crimes and the public have a legitimate right to be informed. It said that reports of serious crimes – even when handled responsibly and with proper sensitivity – will risk causing distress to victims, their family members and friends.

Clause 4 does not prohibit the reporting of distressing events, such as violent crimes, but it requires that publication is handled sensitively.

IPSO understood that watching the video of the attack must have been extremely distressing to those who knew the victim. However, it did not consider that its inclusion in the article represented a failure to handle publication sensitively.

The video was shot from a distance, was grainy, did not include sound and was published as an illustration of the incident described in the article. It was therefore directly relevant to the story.

The article itself was presented as a straight news piece and the video did not humiliate or demean the victim or his death.

Police released the video 18 days after the incident and the victim's family had been warned about it in advance. The footage had been released to a number of media outlets in an attempt to find the attackers and had been widely published, including on police social media accounts.

*Family of Paul Tam v Mail Online: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02078-16](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02078-16)*

*Family of Paul Tam v Express.co.uk: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01999-16](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01999-16)*

Sensitivity in approaching families experiencing grief or shock is essential in observing the Code.

Reporters at an inquest on a woman who took her own life were told by the coroner that the family did not wish to comment – but they still approached her grandmother.

IPSO said that, in the absence of any specific justification for persisting with inquiries, this represented a failure to make inquiries with sensitivity and discretion, and was an intrusion into the family's grief.

*Farrow v Lancashire Evening Post: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07252-15](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07252-15)*

In contrast, a family complained when a newspaper did not approach them before publishing a story about an inquest into the death of a scientist.

The complainant said the newspaper had not approached the family before proceeding with publication, and the article

represented a failure to act with any sympathy or discretion at a time of grief.

The newspaper said the media is entitled to report proceedings from the Coroner's Court. There was no requirement to contact families before publishing reports of inquests, but in this case it said a reporter approached a member of the family at the inquest to let them know that a story would be published.

IPSO noted that families in circumstances of bereavement vary in their wishes and some families object to being contacted for their comment in such tragic circumstances.

Clause 4 (Intrusion into grief or shock) and Clause 5 (Suicide) are sometimes both engaged in the same tragic incidents and IPSO has made clear that reporting on inquests must be sensitive. In the following chapter we will examine how IPSO also dealt in this case with the question of intrusion into grief and an accusation of excessive detail.

*Smyth v Oxford Mail*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=14070-16](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=14070-16)

IPSO has published guidelines on reporting deaths and inquests, which can be found here: [www.ipso.co.uk/press-standards/guidance-for-journalists-and-editors/deaths-and-inquests-guidance/](http://www.ipso.co.uk/press-standards/guidance-for-journalists-and-editors/deaths-and-inquests-guidance/)

Key points include:

- The fact of someone's death is not private. Deaths affect communities as well as individuals and are a legitimate subject for reporting.
- Journalists should show sensitivity towards people in a state of grief or shock. Reporting should be

handled sensitively and appropriate consideration should be given to the wishes and needs of the bereaved.

- The press should take care not to break news of the death of an individual to the immediate members of their family.
- Particular care should be taken with the reporting of suicide to avoid the possibility of other people copying the same method.

IPSO has also published advice on the use of social media that refers to intrusion into grief and shock. It can be found here: [www.ipso.co.uk/press-standards/guidance-for-journalists-and-editors/social-media-guidance/](http://www.ipso.co.uk/press-standards/guidance-for-journalists-and-editors/social-media-guidance/)

## Breaking the news

Online publishing has made it even more important for the Press to observe the letter and spirit of the clause covering intrusion into grief or shock. A story can run online while the emergency services are still on their way to an accident. The identities of the injured and dead may be revealed on social media before their families are aware of what has happened.

The regulator has upheld a newspaper's right to publish a story as soon as the death is confirmed to the deceased's immediate family, but not before. It is no part of the journalist's role to inform close relatives or friends of the death.

A newspaper that relied on confidential sources to report the death of a woman in a terrorist attack in Tunisia while her family were still awaiting official confirmation was

found to have breached the Code. Lincolnshire Police, who complained on behalf of the victim's family, said reporting the death as fact had caused "enormous upset at an already highly distressing time".

The newspaper said it waited several hours to publish the information, until it had received confirmation from multiple sources that it considered to be reliable that the victim was dead and the family were aware.

IPSO said the claims by the newspaper's confidential sources that the family had been told of the death were evidently inaccurate. Neither the death nor the family's knowledge of it had been confirmed by any official source.

As the newspaper relied solely on confidential sources, it was unable to show that it had taken appropriate care before taking the decision to publish to ensure that the family

knew the woman had been killed. It had therefore failed to demonstrate that it acted with the level of sensitivity required by the Code.

*Lincolnshire Police v Lincolnshire Echo: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04361-15](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04361-15)*

A mother brought a successful complaint about an article published online that said a teenager was believed to have been knocked down by a car outside a school. A photograph of the scene showed the girl lying on the pavement, with her face pixelated. Next to her were another girl in a school uniform and two passers-by.

The two girls shown in the picture were 11-year-old sisters. Their mother said the photograph depicted a distressing incident for both girls and had been taken at a time when everyone involved was in shock and before the emergency services arrived.

A member of the newspaper's staff, who had been passing the scene of the accident, took the picture. The newspaper had not been able to contact the family of the child involved, as her name had not been released at the time. The injured girl's face was pixelated prior to the publication of the article and the newspaper was unaware that anyone else in the photograph was connected to the injured girl.

IPSO said that although the newspaper pixelated the face of the injured child and contacted the ambulance services to try to ascertain the severity of the injury, publication of the photograph – at a time when the newspaper had not been able to verify the identity of the child or establish whether

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her parents had been informed of the incident – represented a failure to handle publication with appropriate sensitivity.

The photograph was distressing for the family, and risked notifying friends and relatives about the accident.

*A woman v Derby Telegraph: [www.ipsa.co.uk/rulings-and-resolution-statements/ruling/?id=01866-14](http://www.ipsa.co.uk/rulings-and-resolution-statements/ruling/?id=01866-14)*

## Insensitive or unnecessary detail

(See also Clause 5: Reporting Suicide)

A woman claimed a local newspaper’s story about her brother’s death following a collapse at home – headlined “Starving Pet Starts To Devour Pensioner” – was distressing and sensationalist. The regulator agreed, rejecting the editor’s claim that the story was handled sympathetically. It ruled that the story was not sufficiently sensitive, bearing in mind that it was published immediately after the death and neither the funeral nor the inquest had taken place.

*Yeoman v Rhondda Leader: [www.pcc.org.uk/cases/adjudicated.html?article=MjExOQ](http://www.pcc.org.uk/cases/adjudicated.html?article=MjExOQ)*

## Photography at funerals without consent

This usually involves a balance of sensitivity versus publication in the public interest.

But a Sunday paper’s picture of a boy of 14 at the funeral of his father, an asylum seeker who killed himself in a detention

centre, raised wider issues. The story, headlined “The Ultimate Sacrifice”, included a CCTV image of the father at the detention centre with a sheet tied around his neck, and an extract from a suicide note addressed to, and featuring, the son. The CCTV pictures were shown at the inquest, but the boy had been unaware of them.

His solicitors claimed this was unnecessarily intrusive and amounted to “excessive detail” of the suicide method under Clause 5. Also, the funeral picture was taken without proper consent when the boy had a reasonable expectation of privacy. It affected his welfare as a child and was published only because of his association with his father. The lawyers said the boy should expect a suicide note addressed to him to be private. Any public interest in the story could have been served by omitting his name and the pictures.

The complaint was rejected on all counts. The regulator said the sensitivity rule did not provide automatic anonymity for those affected by tragedy, especially where they were central to it. The story had legitimate public interest and the CCTV pictures were relevant because of the inquest and raised no issues under the “excessive detail” rules. While the funeral picture was taken without formal consent, the Commission accepted that the newspaper did not know this and relied on the fact that it had been published elsewhere. An offer to delete it from the file was a proportionate response.

*A boy v The Sunday Times: [www.pcc.org.uk/cases/adjudicated.html?article=NDMzMA](http://www.pcc.org.uk/cases/adjudicated.html?article=NDMzMA)*

By contrast, the funeral of TV personality Carol Smillie’s mother was not a public event and a Sunday newspaper’s

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prominent coverage of it was an intrusion, the regulator ruled. The paper's photographers had been asked to leave the funeral, but ran a three-page story using a freelance's pictures taken with a long lens at the crematorium.

The PCC said the newspaper knew it was a time of grief and that photographers were unwelcome. The prominence given to the article added to its insensitivity and the result was a breach of the Code.

*Smillie v Sunday Mail: [www.pcc.org.uk/cases/adjudicated.html?article=MTgyNQ](http://www.pcc.org.uk/cases/adjudicated.html?article=MTgyNQ)*

The onus of responsibility for appropriate sensitivity, particularly in cases involving intense grief and tragedy, falls squarely on the Press.

A newspaper whose photographer was warned away from the funeral of a teenager who had taken his own life went on to publish a picture spread, prompting a complaint. The paper argued that cremations were public events and it was unaware

that the family objected to photographs being published. Upholding the complaint, the regulator said grieving parents should not have to be concerned about journalistic behaviour. This occasion called for great restraint and sensitivity and the paper should have established the family's wishes in advance. *Mrs Hazel Cattermole v Bristol Evening Post: [www.pcc.org.uk/cases/adjudicated.html?article=NjA3Ng](http://www.pcc.org.uk/cases/adjudicated.html?article=NjA3Ng)*

## In insensitive or negative comment

A record 25,000 people protested to the PCC after Daily Mail columnist Jan Moir ran a comment piece about the sudden death of Boyzone singer Stephen Gately on the eve of his funeral. There were accusations that it was offensive, distressing, inaccurate, homophobic and, perhaps at the very heart of it, intrusive at a time of grief. The PCC considered these issues following a complaint from Mr Gately's partner, Andrew Cowles.

The Commission said the piece had indisputably caused great distress, the timing – for which the columnist had apologised to the family – was questionable, and the newspaper's editorial judgment on that was open to legitimate criticism. But the central issue was freedom of expression. It was, essentially, an opinion piece and all the complaints had to be considered in that light.

The PCC had long held that it is not unacceptable to publish criticisms of the dead but the sensitivity of the family had to be taken into account. In this case, the comments were not flippant, or gratuitously explicit, or focused on issues that had

otherwise been kept private. To deny the columnist's right to express her opinions would be a slide towards censorship. The complaint was not upheld.

*Mr Andrew Cowles v Daily Mail: [www.pcc.org.uk/cases/adjudicated.html?article=NjlyOA](http://www.pcc.org.uk/cases/adjudicated.html?article=NjlyOA)*

## Defaming the dead

This is not a crime and has no remedy under the law. But a factually incorrect statement about a dead person can be the subject of a complaint under the Code's accuracy rules. In addition, the Intrusion into Grief clause's requirement for sensitive publication in cases involving personal grief or shock means that inaccurate reporting or unjustifiable criticism of the recently dead could aggravate the hurt.

That does not put fair comment out of bounds. But, as with all such issues that might intrude on grief, it has to be handled with great care. It is one thing to include tart comment in an obituary on a public figure who has died at the end of a long and controversial life, but usually quite another to do so for a young victim of a tragic accident or violent crime.

The sad case of 16-year-old Diane Watson, stabbed to death in a Glasgow playground row in 1991, remains a grim reminder of the risks and potential for significant intrusion into grief. That tragedy was compounded when her brother Alan, aged 15, killed himself 18 months later after reports appeared which he believed besmirched Diane's name.

The loss of Alan led to a sustained and ongoing campaign by parents Margaret and Jim Watson for changes to the law

in Scotland around defamation of the dead. The Code does provide a remedy, but prevention is clearly better than cure. A little foresight by editors fully sensitive to the risks can avoid a great deal of unnecessary suffering.

## Humorous accounts

Although the Code does not cover the privacy of the dead, a critical obituary in the *British Medical Journal*, describing a doctor as "the greatest snake-oil salesman of his age", brought a complaint from the man's family. No adjudication was necessary as the editor offered to publish an apology for the distress caused.

*Kelliher v British Medical Journal: [www.pcc.org.uk/cases/adjudicated.html?article=MjEwMg](http://www.pcc.org.uk/cases/adjudicated.html?article=MjEwMg)*

A magazine which ran a jokey student guide to suicide fell foul of the Code when it referred flippantly to two unconnected student deaths, one of which happened only months earlier. The PCC ruled that for the two tragedies to be treated with gratuitous humour was a serious breach of the Code.

*Napuk and Gibson v FHM: [www.pcc.org.uk/cases/adjudicated.html?article=MTgxMQ](http://www.pcc.org.uk/cases/adjudicated.html?article=MTgxMQ)*