

CLAUSE 6

Children

THE CODE goes to exceptional lengths to safeguard children by defining tightly the circumstances in which press coverage would be legitimate. For the most part, this applies up to the age of 16 – but the requirement that pupils should be free to complete their time at school without unnecessary intrusion provides a measure of protection into the sixth form.

In the absence of a public interest justification, pupils cannot be approached at school, photographed or interviewed about their own or another child’s welfare, or offered payment, unless consent is given by the parent or guardian.

The welfare of the child includes the effect publication might have.

A complaint from an asylum seeker was upheld after a newspaper interviewed and identified some of his children. The PCC said the article was likely to provoke a strong reaction in readers, which might affect the children’s welfare.

Keneua v Sunday Mercury: www.pcc.org.uk/cases/adjudicated.html?article=MTgyMg

There is a public interest defence available to editors, but here again the bar is raised in favour of protecting children and the Code states that “an exceptional public interest” would need to be demonstrated.

WHAT THE CODE SAYS

- i) All pupils should be free to complete their time at school without unnecessary intrusion.
- ii) They must not be approached or photographed at school without permission of the school authorities.
- iii) Children 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.
- iv) Children under 16 must not be paid for material involving their welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child’s interest.
- v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child’s private life.

A public interest exemption may be available. [Click here.](#)

Consent

The press has to establish which is the competent authority to grant consent in each case. IPSO ruled that publication of a photograph of an injured schoolgirl and her sister was

a breach of the Code because parental consent had not been obtained. It was also ruled to be a breach of the clause covering intrusion into grief or shock.

A woman v Derby Telegraph: www.ippo.co.uk/rulings-and-resolution-statements/ruling/?id=01866-14

A photograph taken of a boy on school property broke the rules even though his mother had approved it. The school authorities had not been asked.

Brecon High School v Brecon and Radnor Express: www.pcc.org.uk/cases/adjudicated.html?article=MjA2Ng

In contrast, when a mother spoke to a newspaper about how her three-year-old child “escaped” from a nursery, her former partner, who was the child’s father, complained to IPSO. The complaint was rejected as IPSO said the mother was entitled to speak to the Press about her experience and, as a custodial parent, had given consent to the publication of a picture of her child.

IPSO’s decision shows that it does not take sides in a dispute between parents. If an editor can show that permission has been obtained from one parent who has legal responsibility, that will be sufficient authorisation.

Holling v Barnsley Chronicle: www.ippo.co.uk/rulings-and-resolution-statements/ruling/?id=00661-14

When a Scottish weekly newspaper published a schoolgirl’s mobile phone video of unruly classmates, the school complained that no consent had been sought. The newspaper maintained it was in the public interest to

demonstrate poor supervision of the pupils, all of whom were over 16. The PCC agreed it was legitimate to use the video material to spotlight the classroom conditions – but it was not necessary to identify the pupils. It upheld the complaint against the weekly newspaper but rejected complaints against two national newspapers that had used the material without identifying the students.

Gaddis v Hamilton Advertiser: www.pcc.org.uk/cases/adjudicated.html?article=NDY2MA

Gaddis v Scottish Daily Mirror: www.pcc.org.uk/cases/adjudicated.html?article=NDY2MQ

Gaddis v Scottish Sun: www.pcc.org.uk/cases/adjudicated.html?article=NDY2Mg

Another video clip prompted a complaint after it appeared in a story headlined “Heartbroken mum shares distressing footage of bullies attacking her 12-year-old daughter before leaving her lying in a gutter”. The article reported on a physical confrontation involving two young girls and contained a 40-second video of the incident.

The complainant, the mother of the first girl, who had been described as a bully, said she had not given her permission for the video to be published and, by including it in the article alongside its accompanying stills, the newspaper had breached her daughter’s privacy. The complainant did not accept that it was in the public interest to report on, or publish footage of, the incident.

The newspaper did not accept a breach of the Code. It said the video showed an anti-social and potentially criminal act, which was filmed in a public location by another person

allegedly bullying the victim. The newspaper said it had ensured that the footage and pictures were pixelated to protect the identity of those shown. The newspaper said it had considered the Code before publication and decided it was in the public interest to report on the incident.

IPSO did not uphold the complaint and said there was a very strong public interest, justifying publication, in enabling the second girl's mother to discuss the effect that the behaviour featured in the video had on her daughter. The video and stills were part of that story, particularly as the video formed part of the incident to which her daughter was subject.

There was also a public interest in contributing to public debate about anti-social behaviour among young people and the video illustrated vividly, in a way that would not have been possible through words alone, the nature of the behaviour.

A woman v mirror.co.uk: www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01690-17

Children post material online and editors must consider the Code before they re-publish it. A key factor is whether the welfare of the child is involved.

An online petition about school uniform prompted a complaint after a newspaper named a 15-year-old pupil and published her comments in an article headlined "Term starts with shoe row". The pupil's stepfather said she had been named and quoted without his consent.

The newspaper did not accept that it had breached the Code. The pupil had posted publicly viewable comments on a public website. She had not been photographed or

interviewed, and it was not under an obligation to seek parental consent before naming the child.

IPSO said the Code provides particularly strong protection for children. As such, honouring the full spirit of the Code – as required by the preamble – means that what will constitute an "interview" for the purposes of Clause 6 (iii) is broader than circumstances where a journalist directly seeks comment or information from a child. It might cover the re-publication of material that a child had posted online.

However, Clause 6 (iii) only requires parental consent where the subject matter concerns the welfare of a child.

In this case, the complainant's stepdaughter's comments were innocuous in nature, were not about her welfare and were not an intrusion into her time at school. There was no breach of Clause 6.

Lightfoot v Leicester Mercury: www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=08255-16

IPSO has published guidelines about sourcing content from social media, which can be found here: www.ipso.co.uk/press-standards/guidance-for-journalists-and-editors/social-media-guidance/

Children are sometimes named in court hearings and, in the absence of reporting restrictions, newspapers can legitimately report their identity, although they may sometimes choose not to, depending on the circumstances.

A newspaper received a complaint when it reported that a jailed businessman and his father had funded a lavish

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lifestyle, including a large house that the businessman shared with his wife and two children, who were named.

The newspaper said the names were mentioned in open court by the businessman's barrister as part of his mitigation. It said that as there were no reporting restrictions in place, it was entitled to report this information.

IPSO said that publications are, in the absence of reporting restrictions, entitled to include information revealed in open court in their reports of cases. In this case, the names were disclosed in open court as part of the businessman's mitigation and, as a consequence, they were genuinely relevant to the reporting of these particular proceedings. Publishing their names did not represent an unnecessary intrusion into the children's time at school, nor was the sole reason for the publication of their names the notoriety of their father. There was no breach of Clause 6.

IPSO pointed out that editors are able to exercise their discretion to omit details from articles in circumstances such as these and welcomed the fact that, on receiving the complaint, the newspaper deleted the children's names from the article.

A man v Wales Online: www.ipsa.co.uk/rulings-and-resolution-statements/ruling/?id=09529-16

A lads' magazine broke the Code when it failed to check the age of a young woman in a topless picture that was submitted to it. She was just 14. The PCC said the magazine had not taken adequate care to establish the provenance of the photograph or whether it was appropriate to publish it.

A couple v FHM magazine: www.pcc.org.uk/cases/adjudicated.html?article=NDcxNA

Payment to children

The Code offers protection to children when payment is involved in a story. It puts an obligation on the Press not to make payments to minors – or their parents – unless it is “clearly in the child's interest”. IPSO has powers to launch an inquiry without a complaint under this part of the Code because it is unlikely that a complaint would be brought by a person being paid. Payments to parents for interviews involving their children are not uncommon, especially when highlighting intense or dramatic family experiences.

The issue was thrust into the public spotlight when a boy aged 13 was believed to have fathered a child with his 15-year-old girlfriend. A court order prevented the PCC from holding a full inquiry but the Commission issued new guidance stressing that, despite the parents' right to freedom of expression, editors in such situations should form an

independent judgment on whether publishing information, and the payment involved, was in the child's interest.

It posed three key questions that editors should ask:

- Is the payment alone responsible for tempting parents to discuss a matter about their child that it would be against the child's interests to publicise? If so, only an exceptional public interest reason could justify proceeding with the arrangement.
- Is there any danger that the offer of payment has tempted parents to exaggerate or even fabricate information?
- Is the payment clearly in the child's interest?

If there is doubt about any of these questions, it would be wise to take advice from IPSO.

Children of the famous

The Code offers protection to all children and stresses that the fame, notoriety or position of a parent or guardian cannot be the sole justification for publishing details of a child's private life.

Some celebrity parents take a relaxed view of their children being pictured, while others take action to keep their children away from the glare of publicity. Some will speak about their children and be photographed with them, while others will use IPSO's advisory service to ask that any pictures of them with their children should be pixelated. The responsibility for determining the position in any particular case rests with the editor.

Generally, the Code takes a commonsense view and if pictures of children do not involve their welfare they will not require consent. The PCC made this clear when it said that if the Code was interpreted in a highly restrictive manner, it would mean that no pictures of children, no matter how innocuous, could be published without consent.

The PCC said: "That is clearly not what the Code is intended to do. Instead, the Code requires editors to seek such consent before interviewing or photographing children under the age of 16 'on subjects involving the welfare of the child'.

"The mere publication of a child's image, unaccompanied by details of its private life, when he or she is in a public place could not be held by the Commission to breach the Code."

Donald v Hello! Magazine: www.pcc.org.uk/cases/adjudicated.html?article=MjAyMA

Celebrity parents who post information about their family on social media can create a public profile for their children – and IPSO will take this into account when considering a complaint.

Wayne Rooney complained after his son was named in an article headlined "Rooney's lad, 7, trains with City!".

The footballer said it was an unwarranted intrusion into his son's privacy to report that he had attended training with the Manchester City Football Academy, having previously attended Manchester United's development team.

The newspaper denied that the article revealed any details of the child's private life, it did not involve his welfare and football training was not part of his schooling.

It also said account should be taken of the extensive public

disclosures that Rooney and his wife had made about their son.

IPSO said that regardless of the decision by the complainant and his wife to disclose certain information about their son to the public, they retained their rights, as his parents, to choose not to disclose certain other pieces of information about him. However, the large amount of information about Kai in the public domain formed part of the context in which it assessed the effect of the newspaper's report.

IPSO noted the limited detail that was published: the article reported simply that Kai had attended Manchester City Academy and the minimal further comment was complimentary and focused on his ability as a young player rather than any aspect of his personal development.

The article did not contain further details or speculation about other aspects of Kai's life and it did not seek to criticise his father or embarrass the child or the family.

In the circumstances, IPSO did not consider that the child had a reasonable expectation of privacy in relation to the bare fact of his attendance at the academy, and it did not find that it was an intrusion into his time at school. The complaint was not upheld.

Rooney v Daily Mail: www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=14261-16

Public interest

The Code makes provision for a public interest exception in cases involving children under 16 but the bar is raised very

high. It declares: "An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16."

A school bus crash involving 50 young pupils just failed the public interest test set by the PCC.

A mother complained after two regional newspapers published a picture showing her clearly distressed daughter being comforted by a policeman at the scene of the accident.

The PCC agreed that the crash raised important public safety issues and the newspapers had generally reported it with sensitivity. But it said: "It was clear that the complainant had not given her consent for the newspaper to either take or publish the photograph which showed her daughter in a state of distress. The subject matter of the close-up photograph certainly related to her welfare."

The PCC added: "There may be occasions where the scale and gravity of the circumstances can mean that pictures of children can be published in the public interest without consent. In the specific circumstances of this case, the Commission did not consider that there was a sufficient public interest to justify the publication of the image.

"It accepted that the newspaper had thought carefully about whether to use the photograph, but the Commission considered that it was just the wrong side of the line on this occasion."

A woman v Nottingham Post: www.pcc.org.uk/cases/adjudicated.html?article=NjMwNQ

A woman v Leicester Mercury: www.pcc.org.uk/cases/adjudicated.html?article=NjMwNg