

CLAUSE 8

Hospitals

CLAUSE 8 protects patients in hospitals and similar institutions from intrusion. It requires journalists to identify themselves and to obtain permission from a responsible executive to enter non-public areas. The clause applies to all editorial staff, including photographers.

The clause covers the newsgathering process, so the Code can be breached even if nothing is published. The clause also requires that, when making inquiries about individuals in hospitals and similar institutions, editors need to be mindful of the general restrictions in Clause 2 of the Code on intruding into privacy.

Identification and permission

Journalists must clearly identify themselves and seek permission from a responsible executive to comply with the Code. The use of the term “executive” implies that permission can be obtained only from a person of sufficient seniority. A journalist who attended a London hospital after the Canary Wharf terrorist bomb photographed an injured victim in the company of a relative and another person who he thought had obtained permission from hospital staff. When medical staff

WHAT THE CODE SAYS

- i) Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.
- ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

A public interest exemption may be available. [See Page 120.](#)

complained, the PCC found the Code had been breached. It said: “The Commission was not persuaded the reporter in this particular case had followed the provisions of the Code: it was not enough to assume that his identity was known or to rely on the comment of an individual who was clearly not a responsible executive, although the reporter had done so in good faith.”

Hutchison v News of the World:
www.pcc.org.uk/cases/adjudicated.html?article=MTkwMA

Non-public areas

In most cases, what constitutes a non-public area will be clear and will certainly include areas where patients are

receiving treatment. A reporter who went into a hospital unit to speak to the victim of an attack – at the request of the victim’s parents – spoke to staff only after he had left the public area of the hospital.

The PCC said: “The reporter could have acted to ensure that there was no uncertainty about his identification, and that the necessary permission had been obtained from a ‘responsible executive’, before entering the unit where the patient was being treated.

“This could have been achieved, for example, by asking at reception at the beginning of the visit to speak to a relevant executive, or approaching the hospital in advance. As it was, the conversation in which the journalist had allegedly identified himself had been with staff in the unit; he appeared, therefore, to have already entered a non-public area.”

Stamp v Essex Chronicle:

www.pcc.org.uk/cases/adjudicated.html?article=NzMyMA

Similar institutions

The PCC held that, in the spirit of the Code, the vulnerability of the patient or individual should be taken into account when deciding what constitutes a “similar institution”.

It was ruled a breach of the Code in 1995 when Countess Spencer was photographed at a clinic where she was receiving treatment. And the PCC ruled that a residential

home for the elderly could be a similar institution if a number of the residents need medical supervision.

A man v Daily Mail:

www.pcc.org.uk/cases/adjudicated.html?article=MjA3Nw

The public interest

There are cases where otherwise prohibited action can be justified in the public interest.

The parents of a comatose woman, who was brain-damaged as the result of domestic violence, invited a photographer to take a picture of their daughter to highlight what they saw as an inadequate prison sentence imposed on her attacker.

The NHS trust complained that the picture was taken without its permission.

The PCC ruled that the newspaper had acted in the public interest. It said: “The Commission noted the strong feelings of the woman’s own parents. While they may not have legally been responsible for their daughter’s welfare, their own role in the matter was something that the Commission had to take into account.

“They were entitled to express their disgust at what they saw as the leniency of the sentence, and the photograph graphically illustrated the severity of their daughter’s injuries and allowed readers to contrast these injuries with the alleged leniency of the sentence.”

Taunton & Somerset NHS Trust v Daily Mirror:

www.pcc.org.uk/cases/adjudicated.html?article=MjA0Mw

A Clause 8 complaint about a story on abortion resulted in IPSO ruling that the investigation was justified by the public interest.

It said: “The Code’s starting point is that journalists must identify themselves and obtain permission given the heightened sensitivity of a hospital or similar institution.

“However, this Clause is subject to a public interest exception and there is an expectation that journalists will continue to assess whether their presence in the clinic is serving, and is proportionate to, the public interest in undertaking the investigation.

“It had been necessary for the journalist to enter this non-public area of the clinic, in order to gather first hand evidence on the process by which a woman was able to seek an abortion at the clinic, and report accurately upon it.”

It concluded that the newspaper’s actions had been proportionate to the public interest.

Mansford v Daily Mail:

www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05943-17