

## CLAUSE 9

# Reporting of crime

**THIS CLAUSE** is designed to protect family members, friends and others from being caught unnecessarily in the publicity spotlight focused on those accused or found guilty of crimes.

Relatives or friends should not normally be named or pictured unless they are genuinely relevant to the story – or publication can be justified in the public interest.

Child witnesses or victims of crime are given special consideration. And in 2018 the clause was strengthened to protect children and young people accused of crime.

Key questions to be asked by editors include:

- Did relatives or friends consent to identification?  
This may be implied if they appear publicly with the defendant.
- Are they genuinely relevant to the story?
- Is mentioning relatives or friends in the public interest?
- Is the coverage of the relatives or friends proportionate to their involvement?
- Have we taken sufficient care to protect vulnerable children?

### WHAT THE CODE SAYS

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.
- iii) Editors should generally avoid naming children under the age of 18 after arrest for a criminal offence but before they appear in a youth court unless they can show that the individual's name is already in the public domain, or that the individual (or, if they are under 16, a custodial parent or similarly responsible adult) has given their consent. This does not restrict the right to name juveniles who appear in a crown court, or whose anonymity is lifted.

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

Complaints usually hinge on genuine relevance to the story, or whether there is a public interest in them being mentioned, or whether identification is gratuitous. The

PCC gave editors a lead by taking a commonsense line. If a relationship was well known and established in the public domain, then it would be perverse to expect editors to omit reference to it.

Similarly, if a parent, for example, publicly accompanied the accused person to court or made public statements on the case, that would add genuine relevance.

The regulator would also take account of the tone of the article – how much the story focused on the relationship – and whether that was relevant or in the public interest.

## Genuine relevance

The issue of genuine relevance meant that IPSO found in favour of a woman who complained when a newspaper published an old picture of her with a man accused of murder and described her in the caption as a “friend”.

Rurik Jutting was arrested in Hong Kong and charged with murdering two Indonesian women in his apartment.

The newspaper’s article contrasted Jutting’s student days in England with the circumstances of his arrest for murder. It was accompanied by three photographs, the largest of which depicted Mr Jutting standing next to the complainant with his arm around her, captioned as “Rurik Jutting as a Cambridge student at 21, with a friend”.

The complainant, Clémentine Bobin, said the photograph had been taken in 2006, when she was a young colleague of Mr Jutting, after which she had no contact with him. Although it

had not named her, it clearly identified her to friends, family and colleagues, which was intrusive and upsetting.

IPSO said: “The article had made no reference to the complainant, and she was plainly not personally relevant to the story. No public interest could reasonably be regarded as justifying the intrusion into the complainant’s life caused by so prominently and publicly associating her with an alleged criminal.”

*Bobin v The Times*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01657-14](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01657-14)

A man who appeared in a picture with an alleged serial killer that was taken from the TV programme *Masterchef* failed in his complaint under Clause 9. The caption to one of the screenshots identified the alleged serial killer standing “behind [a] chef” in the kitchen.

The complainant said that he was the “chef” referred to in the caption. He said he had worked in the kitchen with the alleged serial killer, but had nothing to do with his alleged crimes. The complainant was concerned therefore that he had been identified in breach of Clause 9, and that the newspaper had published the image without his consent.

The newspaper did not accept that the photograph breached Clause 9. The article did not suggest in any way that the complainant had been involved with the alleged serial killer. He was not specifically identified in the photo, and was not named or otherwise referred to in the article. Further, the newspaper said the complainant would have appeared on the programme of his own free will, and the footage showing the alleged serial killer in the same shot had already been seen

by several million viewers, given the programme's popularity. The footage remained readily accessible on the internet.

IPSO said the complainant, who had only a professional relationship with the alleged serial killer, appeared in the photograph incidentally. The article did not refer to him in any way, and did not specify the nature of his connection to the alleged serial killer beyond referring to him simply as a "chef". In this context the complainant had not been identified as a friend or relative of the accused man, and the terms of Clause 9 were not engaged. Further, the terms of Clause 9 do not require that newspapers seek permission to publish photographs of individuals.

*Worthington v The Sun*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07572-15](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07572-15)

You may be a prominent member of your community but that does not necessarily justify being mentioned in a report of a court case of a relative.

A man complained on behalf of himself and his parents when a newspaper named them in a report of a court case involving fraud. The Jewish Chronicle identified them as the brother and parents of the defendant but the complainant said they were not relevant to the story of his brother's conviction and should not have been identified. The newspaper said they were well-known within the community and the judge had referred to the family in court.

IPSO said the judge stated that the defendant's family and friends had helped to compensate his victim. However, it did not appear that anybody had referred to an individual friend or family member in court.

IPSO said there may be circumstances where an individual has a relationship with a person convicted or accused of crime which is so well-known and established in the public's mind that Clause 9 would have no useful purpose – but this was not such a case. The complaint was upheld.

*A man v The Jewish Chronicle*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01745-17](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01745-17)

In contrast, when former First Minister of Scotland Lord McConnell was named in a newspaper report of a court case involving his sister, IPSO ruled that it was relevant to the story. The story, which was headlined "Sister of ex-First Minister stole £9k from 80-year-old", reported that the court heard that "she even claimed to cops her brother would pay back the sum". The article said that one of her brothers was the former First Minister of Scotland.

The complainant said he had not been named during the hearing, and at no point had anyone specified to which of the woman's brothers she had been referring.

The newspaper said the defendant told police that one of her brothers would repay the money, and therefore Lord McConnell – as one of the woman's brothers – was genuinely relevant to the story.

IPSO did not uphold the complaint and said the newspaper was entitled to explain what had been heard in court and, where a reference had been made to one of the defendant's brothers without him being named, to note that one of them was a prominent public figure. The complainant was genuinely relevant to the report of the proceedings.

*McConnell v Ardrossan & Saltcoats Herald*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00456-16](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00456-16)

## Courts

If you arrive at court in the company of someone on trial you might expect to be photographed by the press.

A man complained when a newspaper reported that he had accompanied to court a woman accused of keeping a brothel in Northern Ireland. IPSO rejected the complaint, saying the complainant appeared publicly with the defendant in court.

IPSO said: “Matters heard in court are generally in the public domain and there is a public interest in open justice.

“In the absence of specific reporting restrictions, the press has a right to report from court, and to include information beyond that heard in the course of proceedings. While the complainant may not have been named in the case, he had appeared with the accused in a public forum. In the context of a piece which was primarily a report of court proceedings, the newspaper was entitled to refer to an individual who had been present while the case was being heard.”

*McCaffrey v The Impartial Reporter*: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01683-14](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01683-14)

## Children

The special protection given to children under the age of 18 in sub-clause 9 (ii) is a continuation of the spirit of the Clause 6

provisions and amounts to a duty of care aimed at preventing them becoming further damaged, or their welfare affected, by their innocent involvement as witnesses or victims of crime.

The law does allow children who allegedly commit crimes to be named before they appear in court, when they cannot be named. In the past many newspaper editors have refrained from naming these children, although they have done so in exceptional cases.

In 2018, Clause 9 was strengthened with an additional section which says editors should generally avoid naming children under the age of 18 after arrest for a criminal offence but before they appear in a youth court unless they can show that the individual’s name is already in the public domain, or that the individual (or, if they are under 16, a custodial parent or similarly responsible adult) has given consent.

The new section protects young defendants but it does not restrict the right to name juveniles who appear in a Crown Court, or whose anonymity is lifted.