

## 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.

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.

**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

**WHAT THE CODE SAYS**

- i) All pupils should be free to complete 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. [See Page 120.](#)

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.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01866-14](http://www.ipso.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](http://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.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00661-14](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00661-14)

Family relationships can be complex and the importance of confirming who has parental responsibility was underlined in an IPSO ruling about a fundraising event in aid of the children of a woman who had died.

A newspaper included comments from the woman’s

partner, and from her friend who was organising the event. The article included two unpixelated photographs of the woman and her children and also included the children’s first names and ages.

The woman’s former partner, the children’s father, said the photographs of his children had been published without his consent, in breach of Clause 2 (Privacy) and Clause 6 (Children).

The newspaper said the photographs had been published in good faith with the intention of helping to raise awareness of the fundraising effort. It added that modern families were complicated and it had no reason to believe that the person who provided the photographs was not in a position to consent to their publication.

IPSO said it may not always be possible to know who has parental responsibility for a child and the reporter had been acting in good faith in assuming that the people who provided the photographs were in a position to consent to their publication. However, no inquiries were made as to whether either of those adults had parental responsibility for the children. Neither of them did, and therefore publishing the photographs without the complainant’s consent was a breach of Clause 6.

**A man v Yorkshire Evening Post:**

[www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02322-19](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02322-19)

A newspaper may take photographs of children with consent to illustrate a story – but re-publishing the images to illustrate a very different kind of story may be a breach of the Code.

When children's entertainer Bobby Bubbles was jailed for a sex offence, an online report illustrated the story using a picture of the offender with two children, whose faces were pixelated.

The children's mother complained that, despite pixelation, her children were still identifiable because the photograph of her children had been taken in 2017 to advertise the opening of a local venue, and had been widely circulated at the time. The image of the children was taken in the context of a fun day, and she did not consent to its use in the context of a court report.

IPSO said parental consent had been given for the photograph to be used to publicise the opening of a local venue. However, the newspaper had used the image to illustrate a report concerning the conviction of a paedophile. IPSO did not consider that the purposes for which consent had been provided covered the use of the photograph in this context.

IPSO said: "This was a highly sensitive subject, and regardless of the extent to which the children were identifiable in the image, it constituted an issue involving the children's welfare. The image had been published in this context without parental consent, and as such, there was a breach of Clause 6 (iii)."

A woman v Hull Daily Mail:  
[www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=09539-19](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=09539-19)

IPSO has highlighted the issue of informed consent around photography – where a parent or guardian knows how the picture will be used.

*IPSO said that in situations involving a child's welfare, a publication relying on a third party to obtain consent from a custodial parent should ensure that it represents informed consent for the purpose intended.*

A newspaper pictured two children with consent at a school summer camp – but breached the Code with the accompanying story that centred on child poverty.

The mother of two of the children featured in the photograph said the story gave the misleading impression that her children were poor and hungry. She said the children attended the holiday club for recreational reasons, not financial reasons.

The mother said that although she had signed a consent form providing permission for photographs of her children to be taken and used for the purpose of promoting the holiday club, or for use on the school's web channels, the consent did not extend to the publication of photographs in a national newspaper. She said the misleading impression created by the article that her children were

poor and hungry had affected their time at school, as it had caused them distress and could lead to bullying.

IPSO said the story breached Clause 1 (Accuracy) and Clause 6 (Children).

IPSO said that in situations involving a child's welfare, a publication relying on a third party to obtain consent from a custodial parent should ensure that it represents informed consent for the purpose intended.

The consent form, which the parents had signed, gave permission for their children to be photographed for "promotional purposes relating to this programme". IPSO considered that the limited purposes for which consent had been provided did not cover the taking of a photograph to illustrate an article that focused on child poverty.

*Begum v The Daily Mirror*:

[www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05869-19](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05869-19)

A 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](http://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](http://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/media/2173/ipso-social-media-guidance-final.pdf](http://www.ipso.co.uk/media/2173/ipso-social-media-guidance-final.pdf)

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 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

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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.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=09529-16](http://www.ipso.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](http://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.

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, Kai, 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](http://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=NjMwNg](http://www.pcc.org.uk/cases/adjudicated.html?article=NjMwNg)

**A woman v Leicester Mercury:**

[www.pcc.org.uk/cases/adjudicated.html?article=NjMwNg](http://www.pcc.org.uk/cases/adjudicated.html?article=NjMwNg)

IPSO ruled that there was an exceptional public interest when a newspaper ran a CCTV picture of a 13-year-old boy following trouble at a football match.

The picture was one of 30 supplied by police in an attempt

to identify individuals and the boy’s mother complained to IPSO that it had been published without her consent.

The newspaper said that following publication, the police informed it as soon as any pictured individual had been successfully identified. Police then requested that their images be pixelated in the online article. The newspaper said the boy’s face had been obscured following a request from the police, and before the mother had made her complaint. His image was not re-published in print.

IPSO said the public interest in exposing or detecting crime is specifically recognised in the Code. The newspaper had considered the public interest prior to publication, although not in relation to Clause 6, as it had not been aware of the boy’s age.

IPSO said editors should be vigilant regarding the ages of photograph subjects to prevent an inadvertent breach of Clause 6. In this case, there was an exceptional public interest in publishing the boy’s photograph, and there was no breach of the Code.

**Perrin v The News (Portsmouth):**

[www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=19498-17](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=19498-17)