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 sensitive material; it means that they should not do so insensitively.

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.

Nor does it amount to a ban on covering tragic stories unless all parties consent.

IPSO has published guidelines on reporting deaths and inquests, which can be found here: https://www.ipso.co.uk/media/2296/deaths-and-inquests-guidance.pdf

Key points include:

- A person's death is a matter of public record and may affect a community as well as those who knew them.
- The press should take care not to break news of a person's death to the immediate members of their family.
- Once immediate family are aware, journalists can report a person's death, even if surviving family members would prefer for there to be no reporting and regard the death as private.
- 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.

- Care should be taken with the reporting of suicide, by avoiding excessive details of the method used, to reduce the risk of other people copying the same method.

Major incidents can have a terrible impact on individuals, their families and communities, and in a rapidly developing situation the press must make judgments on how a story should be reported.

In the aftermath of the 2017 Manchester Arena terror attack, IPSO produced guidance on reporting major incidents. The regulator said: "It is strongly in the public interest that the media reports on major incidents, which includes natural disasters, terror attacks and other such events.

"In the immediate aftermath, such reporting plays an important role in informing the public of emerging developments and can be used to convey public safety messages. Over time, the reporting helps the public to understand how an incident happened, share their feelings of grief or compassion, and to hold public authorities to account for any failures to respond appropriately."

Points in the guidance include:

- There is a public interest in reporting major incidents, to inform the public of what has happened and, over time, to allow the public to make sense of those events.
- Legitimate reporting of major incidents will often include approaches to individuals who have witnessed or been otherwise affected by the events. The Code does not seek to prevent this.
- Journalists must approach individuals caught up in these incidents, or affected family and friends, with sensitivity and sympathy.
- Journalists must take care to distinguish between claims and facts when reporting on major incidents
- Journalists must take particular care in relation to any content about a major incident which involves children, considering carefully how to avoid unnecessary intrusion

In addition to Clause 4 (Intrusion into grief or shock), reporting major incidents can be covered by a number of other clauses in the Editors' Code of Practice, including Clause 1 (Accuracy), Clause 2 (Privacy), Clause 3 (Harassment), Clause 6 (Children), and Clause 8 (Hospitals).

IPSO's guidance can be found here: www.ipso.co.uk/media/1713/major-incidents-ed-and-journ.pdf

In coverage of terrorist outrages, acting in the spirit of the Code is important. That is because every story is different and the circumstances will influence how to comply with the requirements of Clause 4. It is a question of judgment.

Some survivors and families will be keen to tell their stories; others may not wish to and IPSO offers an advisory service that can inform the media that an individual or family group do not wish to speak at that time. IPSO has produced advice for people involved in a major incident: www.ipso.co.uk/media/1714/major-incidents-public_v3.pdf

Survivors Against Terror published a report on media

reporting of terror attacks (survivorsagainstterror.org.uk/summary-a-second-trauma) which advocated accurate and appropriate reporting to inform the public while avoiding unnecessary further trauma and distress for victims and has published non-binding guidance on reporting: https://mcusercontent.com/2822f41786e450ea0ed7f2718/files/bacc2207-5c87-5379-be45-c7dd86dfab16/Media_Guidance_final.pdf

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/media/2173/ipso-social-media-guidance-final.pdf

IPSO has also published guidance on reporting suicide: www.ipso.co.uk/media/1725/suicide-journo-v7-online-crazes.pdf

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

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

Similarly, IPSO ruled that publication of CCTV footage of a pedestrian just moments before he was hit by a police car on an emergency call was handled sensitively.

The man's family had complained that publication of the video and a photograph was insensitive and in breach of Clause 4, particularly where the video faded out only a fraction of a second before the police car hit the victim.

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.

The publication said it had obtained the footage from a local shopkeeper and had taken care to ensure that the video faded out before the collision, and that the moment of impact was not published.

IPSO said that news organisations play an important role in reporting on accidents and fatalities that occur in public, and even when this is done sensitively, this will often cause great distress to the families of individuals involved. The terms of Clause 4 do not prohibit reporting on distressing circumstances and events, but rather set out that such publication should be handled sensitively.

IPSO acknowledged the justification for the inclusion of the footage in the article, which allowed readers to better understand the circumstances leading up to the accident. This was particularly the case given that the accident had involved a member of the public and a police car responding to an emergency.

IPSO appreciated the distress caused to the family by the inclusion of the video but considered that the publication of the video had been handled sensitively.

Family of Tony Carroll v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=08070-18

Grieving families may find any coverage of a relative's death distressing but IPSO made clear that there is a public interest in reporting such events in an adjudication involving the death in London of the son of the ruler of Sharjah. Coverage included reports that his death had involved a drug-fuelled party.

In one of a series of adjudications, IPSO said: "The fact of someone's death is not private, and there is a public interest in reporting on a death. Journalists have a right to report the fact of a person's death, even if surviving family members would prefer for there to be no reporting."

IPSO noted that the deceased was a high-profile fashion designer and a member of a royal family.

IPSO said: "It was not insensitive in breach of the Code for the publication to have reported the alleged circumstances of Prince Khalid's death on the day of the funeral."

Sultan bin Muhammad Al Qasimi and the Al Qasimi family v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05601-19

Sultan bin Muhammad Al Qasimi and the Al Qasimi family v Metro:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05600-19

Sultan bin Muhammad Al Qasimi and the Al Qasimi family v Daily Mail:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05599-19

Sultan bin Muhammad Al Qasimi and the Al Qasimi family v The Sun:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05531-19

Sultan bin Muhammad Al Qasimi and the Al Qasimi family v thesun.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01506-19

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

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

The press has an important role in covering courts. This contributes to open justice and the rule of law and is in the public interest. Clause 4 does not restrict the right to report legal proceedings, although IPSO has ruled that such coverage should be sensitive.

A woman victim of rape and assault complained about the level of detail in a court report of the case and specifically objected to the detailed description of her physical reaction to the attack and publication of comments made to her by her attacker.

IPSO said that reporting on criminal matters will, in some cases, lead to the publication of information that might be distressing to victims and others connected to the case. Clause 4 is clear that this is not in itself a justification for curtailing the right to report legal proceedings. However, the terms of Clause 4 still apply – in particular, the requirement for publication to be handled sensitively.

IPSO recognised that in some circumstances the publication of such personal and intrusive details may be justified. However, no such justification was put forward for the complaints committee to consider. The publication did

not suggest that it had considered its obligation to handle publication sensitively and had reached the decision that the publication of these details was warranted.

IPSO said: "After detailed consideration, the committee concluded that in the context of the crime and article, the inclusion of this extremely personal information about the complainant's physical reaction to the attack amounted to an unnecessary level of detail which intruded into her grief and shock. There was a breach of Clause 4 on this point."

A woman v Aberdeenlive.news
www.ipso.co.uk/rulings/22051-23/

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

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 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.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01866-14

Photography at funerals without consent

Some families accept, or even welcome, press coverage of a funeral because they want to celebrate the life of a loved one and bring the community together to grieve. In other cases, they may wish to grieve in private. In these circumstances, any coverage usually involves a balance of sensitivity versus publication in the public interest. Complaints are uncommon but sometimes the press gets it wrong.

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

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

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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=NjIyOA

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.