

NEWSLETTER OF THE PRESS COUNCIL OF IRELAND AND THE PRESS OMBUDSMAN



Press Council applies for recognition under terms of new Defamation Act

Office of the Press Council of Ireland
and Press Ombudsman

1, 2 & 3 Westmoreland Street
Dublin 2

Telephone: Lo-call 1890 208 080

Fax: 01-6740046

info@presscouncil.ie

info@pressombudsman.ie

Inside this issue:

**Press Council
applies for
recognition** 1

**Privacy and the press:
report** 2

**Complaints about
privacy** 3-4

Important implications for newspapers and magazines

The Minister for Justice, Equality and Law Reform, Mr Dermot Ahern TD, announced on 10 March that he will ask the Oireachtas to approve an Order by him declaring the formal recognition of the Press Council of Ireland as the “Press Council” under the terms of the 2009 Defamation Act. This follows an application by the Press Council setting out in detail the way in which it and the Office of the Press Ombudsman comply with the stipulations of the Act.

One of the most important of these is the requirement that publications that are members of the Press Council have to publish in full decisions of either the Press Ombudsman or the Press Council which uphold complaints made under the Code of Practice for Newspapers and Periodicals.

Once recognition has been granted, member publications of the Press Council – which include all the national newspapers and all the major regional newspapers and magazines – will be able to avail of important protections under the Act. In particular, a court can, under Section 26, take into account the extent to which any publication adheres to the Code of Practice, and publishes decisions of the Press Council, when deciding whether that publication is entitled to avail of the new defence of “fair and reasonable publication” in defamation actions.

In addition, any publication of decisions of the Press Council or of the Press Ombudsman, and any statements made during the investigation of complaints or during the hearing of appeals, will be entitled to qualified privilege. Recognition will mark the completion of the final phase in a lengthy process that led to the establishment of the Press Council in 2007 and the new Act itself.

PRESS COUNCIL HOLDS PUBLIC MEETING IN CORK ON PRIVACY



Protecting individual rights a theme

Newspapers have the power to destroy reputations that can be difficult to rebuild, but a person's right to personal privacy as an individual must be protected in any civilized society, the businessman Mr Ben Dunne told a seminar on Privacy organized by the Press Council of Ireland in Cork on 15th January.

"I know, Mr. Dunne said, "that a strong and professional media is vital to the freedom of our society. Any privacy law that unduly restricts the media in doing their job will be a bad law. But what must be acknowledged and protected is the right to personal privacy regardless of who you are or what your status in life is."

The Data Protection Commissioner, Mr. Billy Hawkes, told the seminar that Irish data protection laws provided a wide exemption for the media to disclose personal information about individuals in the public interest.

"What constitutes 'public interest' is something that is always controversial and keeps John Horgan and the Press Council busy doing their valuable work", he added.

Professor Chris Frost, of Liverpool John Moore's University, analysed recent decisions of the UK Press Complaints Commission on privacy, and said that many newspaper editors still resented the need to justify any intrusion into someone's privacy in terms of the 'public interest' criterion.

Fran Bissett of Youthwork Ireland, in a paper prepared for the seminar but read for him by the Press Ombudsman, Professor John Horgan, argued that the media could not automatically justify the use of material simply on the basis that it had appeared previously on the internet and was therefore in the public domain.

Paul Drury, Managing Editor of the Irish Daily Mail, read a contribution to the seminar that had been prepared by John Kierans, editor of the Irish Daily Mirror, who was unable to attend because of illness.

Mr Kierans's paper emphasized the importance of a free press operating within reasonable guidelines on privacy such as the Press Council's Code of Practice. He also argued strongly against any proposed new law on privacy, which, he said, would be unwelcome and a threat to the freedom of the press.

The full text of these speeches will be available on our website shortly



COMPLAINTS ABOUT PRIVACY

A majority of complaints made under the Code of Practice since the beginning of January 2010 have been complaints featuring Principle 5 of the Code of Practice for Newspapers and Periodicals. This Principle states that privacy is a human right and that the private and family life, home and correspondence of everyone must be respected. It also urges newspapers to use sympathy and discretion when seeking and publishing information in situations of personal grief or shock. A selection of decisions is included in this Newsletter to illustrate some of the issues that arise in connection with privacy, and how the Code of Practice has been applied in each case. Full details of each case will be available on our website shortly.

Photographs of a body

The parents of a young man murdered abroad, Mr and Mrs Frank Ennis, complained about the publication by the Sunday World of photographs of dismembered body parts of their late son. The Press Ombudsman decided that the gratuitous publication of extraordinarily graphic and detailed photographs of identifiable parts of Mr Ennis's dismembered body failed to take into account, and exacerbated, the personal grief and shock being experienced by his family, and therefore breached Principle 5 of the Code.

Personal correspondence

The General Secretary of the Irish Creamery Milk Suppliers' Association (ICMSA), complained that his privacy was breached when the Irish Farmers' Journal published an article which quoted from a letter sent by him replying to another member of the organization who had written to him to take issue with comments he had made on RTE. The Press Ombudsman found that as copies of the correspondence had been circulated to various members of the organization, the newspaper's action in publishing extracts from part of this correspondence did not amount to a breach of the complainant's privacy.

People's private homes

The Sunday Independent published an article about the private homes of current and past trade union officials. The article followed a public controversy about the relative living standards of – among others – television presenters and current senior trade union officials. Two of the people named in the article complained that their privacy was breached.

COMPLAINTS ABOUT PRIVACY (CONTINUED)



Mrs Maire Begg complained that the article, which included a picture of her home and details of the security arrangements relating to it, together with statements about its market value and mortgage status, breached her privacy. In the light of the importance of the public interest versus the right to privacy argument in the case, the Press Ombudsman referred the complaint to the Press Council for decision.

The Press Council decided that the publication of the information complained about was not essential to achieving the purposes of the story, and did not add any public benefit proportionate to the level of intrusion on the right to privacy. The complaint was therefore upheld.

A second complaint by Mr Des Geraghty was the subject of a decision by the Press Ombudsman. Mr Geraghty, who was referred to prominently in the headline of the article, complained that the article was inaccurate and also breached his privacy. The newspaper offered to publish a clarification which Mr. Geraghty thought was unacceptable.

The Press Ombudsman decided that the clarification offered by the newspaper was not sufficient to amount to a satisfactory resolution of the complaint. He also decided that while Mr Geraghty had been, and remained, a public person, the publication of some of his personal details in the article did not satisfy the requirement of Principle 5.4 of the Code that such publication may be justifiable “where the information revealed relates to the validity of the person’s conduct, the credibility of his public statements, the value of his publicly expressed views, or is otherwise in the public interest.” The complaint was also upheld.