CLAUSE 2

Privacy

PRIVACY is a major issue for our society. There is a genuine debate about the citizen's right to privacy, whether it involves surveillance by the state in the name of national security, the tracking of your internet preferences by companies, or the activities of newspapers in pursuit of stories.

In relation to the press, there has been conflict over where legitimate public exposure ends and unwarranted intrusion begins. And when dealing with people who trade on their fame, there can be a further dimension: how much of the public's interest has been encouraged by the celebrities themselves? People not in the public eye also use social media to reveal details of their lives. There can be no definitive answer to the privacy question. It is a matter of balance and judgment according to all the circumstances.

The Code attempts to embrace the issues and manage the conflicts by two means.

First, in setting out the nature of privacy, it echoes the language of the Human Rights Act – the entitlement to respect for private and family life, home, health and correspondence. In June 2004 the Code added digital communications to this, thus underlining Clause 10's rules on the use of clandestine devices and subterfuge.

Second, the Code's ban on intrusive photography makes

WHAT THE CODE SAYS

i) Everyone is entitled to respect for their private and family life, home, physical and mental health, and correspondence, including digital communications.

ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.

iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

A public interest exemption may be available. See The Public Interest.

clear that consent would be needed to take pictures of individuals in public or private places where there is a reasonable expectation of privacy. This attempts to protect individuals by introducing a test of what is reasonable, with each case judged by its merits – the final arbiter of which is IPSO's Complaints Committee with its lay majority.

The Code's privacy clause has a Public Interest defence.

In 2021 the clause was amended to refer specifically to mental health. Mental health was already covered implicitly in the clause, but the amendment made this explicit and is a timely reminder of the changing attitudes in society – mental health is now openly acknowledged and the press can take some credit for driving that welcome transformation.

The wide discretion that the Code gives IPSO makes its decisions vital in setting public expectations of the press. Among the guiding principles it considers in reaching those decisions are:

- Privacy is not an absolute right. It can be compromised by conduct or consent. For example, when considering complaints of alleged intrusions, IPSO will take into account previous activity by the complainant. Clause 2 (ii) states: "…account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so …"
- Privacy is not a commodity which can be sold on one person's terms – the Code is not designed to protect commercial deals.
- Privacy does not mean invisibility. Pictures taken in genuinely public places and information already in the public domain can be legitimate. However, editors should take special care in relation to pictures of children. This is addressed in more detail in the chapter on Clause 6 (Children).
- Privacy may be outweighed by the public interest – such as when it is used to keep secret conduct that may reflect adversely on a public figure or role model. Those people should expect consequential media comment but it should be proportionate.

In 2018 Clause 2 was revised and 2 (ii) now requires the regulator to consider the extent to which the material complained about is already in the public domain or will become so. The revised clause is based on the existing wording of Clause 3 of the Public Interest section of the Code and is intended in part to address the challenge of effectively regulating global digital publications which are owned and domiciled in the UK but also have editorial operations in other jurisdictions producing content which can be viewed in the UK.

The amendment also clarifies the application of Clause 2 in practice. Privacy cases, particularly those involving images from social media, often hinge on the extent to which the content under complaint is in the public domain. The amendment is intended to help the public by making clear that a complaint under Clause 2 may not succeed if

the committee believes that information has been (or inevitably will be) so widely disseminated that it can no longer be considered private.

Social media

The issue of privacy has intensified recently in relation to social media. Every day millions of people post details of their lives, including pictures, on social media – and it can sometimes lead to complaints about invasion of privacy when they are re-published to illustrate a story.

IPSO has issued a set of guidelines that help journalists using social media to make key decisions and they also act as a guide for members of the public. They can be found here: www.ipso.co.uk/media/2173/ipso-social-media-guidance-final.pdf

IPSO advises journalists to ask the following questions if they intend to publish material taken from social media:

- To what extent, if at all, is the material in the public domain?
- If the material is in the public domain, who has placed it there?
- What privacy settings are in place for the material?
- Does the individual have a reasonable expectation of privacy in relation to the material?
- What is the nature of the material?
- Does it depict anything private, such as medical information or private activities?
- Might the publication of this information, in context, be intrusive into the subject's privacy?
- If it is intrusive, is there a public interest in publishing it?
- Are there particular reasons for exercising caution – for example, does the information feature or relate to a child; to an individual experiencing grief or shock; or does it also include an individual who is not relevant to the story?
- Are there any legal issues arising from publication of the material?

Social media settings can be changed and material can be deleted, so IPSO recommends that journalists keep a record of their actions at the time a story is reported. Those notes might include:

- Taking a screenshot of the material to be published, showing the date and privacy settings if possible.
- Keeping a contemporaneous note of any public interest discussion, where relevant.
- Pixelating or removing any individuals who might feature in a photo to be published but are not relevant to the story.

It is also worth bearing in mind that publishers have policies on social media, and journalists should be careful to follow them.

When IPSO considers an individual's reasonable expectation of privacy, it will take account of the complainant's "own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so" (Clause 2 (ii). IPSO suggests asking these questions:

Social media settings can be changed and material can be deleted, so IPSO recommends that journalists keep a record of their actions at the time a story is reported.

- Who posted the material? Who put the information in the public domain?
- How many people had access to it, and what was their relationship with the subject/person who posted the material?
- Would the poster have had a reasonable expectation that the material would not be circulated further?
- What disclosures of private information, if any, has the individual previously made?
- Does the information feature individuals who are not relevant to the story?

These were among the questions asked when IPSO considered a case involving a picture of a cup of coffee with an unusual frothy topping. A woman thought that the froth on the top of her coffee resembled a penis and she posted what the Daily Mail described as a "saucy" photo of it as a joke on Instagram.

The woman complained to IPSO saying she had been distressed by the publication, which amounted to a failure to respect her private life. She acknowledged that her Instagram page had not been set to private at the time.

IPSO said the image was posted publicly on the internet by the complainant. It did not disclose any private information about her, nor was the fact that she had posted the image private. Publication of information about her post did not raise a breach of the Code.

Ward v Daily Mail:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02168-14

The regulator will, of course, examine each case on its merits, and there will be occasions when publicly accessible information should not be published and others when protected information can be.

Publishing material that is already in the public domain may not be a breach of the Code. A man complained of a breach of the privacy clause when Mirror.co.uk used material from Facebook in an article headlined "False widow spider bite leaves man with horrifying blisters and organ failure".

The complainant said he had written a Facebook post about the spider bite for local friends and family. His post was visible only to his 30 friends, but they could then share the post more widely. The newspaper said the complainant's Facebook post had been openly available to the public and it noted that the opening sentences to the post were: "I don't ask much from people but I ask you to

please read this. I am not posting this to scare people simply to bring awareness".

IPSO said the images of the complainant's arm were graphic photographs of a medical condition that he was entitled to consider private. However, the complainant disclosed a number of details about the spider bite and the subsequent medical treatment on Facebook, including a similar image, in a manner which resulted in the post being widely shared. Given the manner of the complainant's public disclosure of the image of a burst blister, the publication of the photograph did not constitute a breach of Clause 2.

Beer v Mirror.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05019-15

In another case involving Facebook, a customer at a drive-through fast food outlet, who claimed to have seen a giant rat, videoed the person serving him. The video was subsequently posted on Facebook and was later used in a story by the Daily Mirror. IPSO said the video showed the worker carrying out a public-facing role at a drive-through window. The nature of her place of work was such that she was visible to those outside. She was in a public place, visible from the car park, and she was not engaged in any private activity. Furthermore, the video was already in the public domain on social media when the newspaper published the article on its website. The newspaper had not disclosed any private information about her.

Rainford v Mirror.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04459-15

Similarly, when a newspaper illustrated a story about a leisure club with a picture obtained from a Facebook page it was not a breach of the Code.

The newspaper said that when its journalist was researching the story, it accessed the complainant's Facebook page to find that "dozens" of her albums were publicly viewable. The newspaper wanted a photograph of her inside the club, and one of its sources (an employee of the club) provided one from her Facebook page. It said that, given the large number of publicly available photographs, it did not think that it would be a problem to use the one it published. It said that, having brought her complaint, the complainant made efforts to increase the security restrictions on her Facebook page.

IPSO said the photograph had been provided by an employee of the club, after the complainant chose to share it online. The subject matter of the photograph was innocuous, and its use did not demonstrate a failure to respect the complainant's private life. There was no breach of the Code.

Kopp v Medway Messenger:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01762-14

However, a story in the Daily Star Sunday headlined "England ace [the complainant] cheated on sweetheart with me" did breach the privacy clause because it included private text messages. The front-page article reported that the complainant told a woman that he was no longer in a relationship with his long-term girlfriend and engaged in an affair.

The article described how the woman became suspicious that the complainant was still in a relationship and contacted his girlfriend on social media. It was illustrated with images of the text messages the complainant exchanged with the woman, and her messages to his girlfriend.

IPSO emphasised that the woman chose to tell her story to the newspaper, and in doing so had exercised her right to freedom of expression, a right which is enshrined in the Code. However, to comply with the Code, the newspaper was required to demonstrate that any intrusion into the private life of the complainant caused by the publication of her story was justified.

IPSO was concerned that the article reproduced text messages which were said to have been sent by the complainant to the woman, and which contained information about which the complainant had a reasonable expectation of privacy. The complaint was upheld because the newspaper had failed to provide sufficient public interest justification for publishing the text messages.

A man v The Daily Star Sunday:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02299-17

'Reasonable expectation of privacy'

The privacy Clause states that it is "unacceptable to photograph individuals without their consent, in public or private places where there is a reasonable expectation of privacy".

The concept of a "reasonable expectation" of privacy is a problem confronted every working day by photographers on the front line of newsgathering and the picture editors who brief them and consider their pictures.

Perhaps the most difficult decision is whether a person in a public place has a reasonable expectation of privacy. This is a particular problem when the pictures involve celebrities, who develop their careers through exposure in the media. A celebrity might well consider that being photographed leaving a nightclub where there are likely to be photographers goes with the territory of being profitably in the public eye.

Equally, they may feel that being photographed when they are "off duty" in a supermarket car park with their family is not part of their celebrity job description. Splashing around on a public beach in full public view is different to sunbathing in your back garden and a head and shoulders picture does not show anything intrinsically private but a far more revealing picture may well do.

Decisions have to be made on an individual basis and must take into consideration the nature of the story that the photograph is illustrating. If it can be successfully argued that the public interest is engaged, then an element of intrusion can be justified.

The key questions IPSO will ask include:

- Did the picture show anything that was essentially private?
- Was the picture taken in a public or private place where there was a reasonable expectation of privacy?

- Was the photograph in the public interest?

Deciding whether there is a reasonable expectation of privacy will depend on the circumstances of each complaint. For example, IPSO has decided that you can have an expectation of privacy on some occasions when you are in view of the public – but not on others.

Monaco is a popular destination for the rich and famous and they are often photographed while they are there but IPSO ruled that Princess Beatrice of York had a reasonable expectation of privacy when she was pictured wearing a bikini on a yacht moored offshore.

Princess Beatrice said she was on a private boat when the photographs were taken, and was on a private holiday, undertaking private leisure activities. She maintained that those on board the boat were not visible to the naked eye from the shore, and the photographs had been taken with a long lens.

The publication did not accept a breach of the Code. It said that the photographs did not include any private information about the complainant and she had previously been photographed in a bikini on a number of occasions.

IPSO said the Code does not prohibit the use of long-lens photography. However, the use of a long lens may be a relevant factor when the Committee considers whether there has been an intrusion into an individual's privacy in a particular situation. IPSO said the images showed activities which formed part of her private life and it was satisfied that the complainant had a reasonable expectation of privacy at the time the photographs were taken.

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HRH Princess Beatrice of York v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04455-16

But while IPSO ruled that the deck of a boat off the coast of the French Riviera might be a private place, it took a different view of a busy public beach at Brighton, packed with sunbathers enjoying a heatwave, who were all clearly visible.

A woman complained when she was pictured wearing a bikini in newspaper coverage of fine weather.

IPSO said coverage of members of the public enjoying hot weather is a regular occurrence and the complainant had been photographed on a popular public beach and would have been seen by a large number of people, the majority of whom she would not have known.

The complainant had not been engaged in an activity that could be considered to be private in nature: she had been sunbathing while using her phone. There was no suggestion that the photographer had used a long lens camera, and the photographer had not captured anything that would not have been visible to anyone in the complainant's vicinity.

The article did not scrutinise the complainant or comment upon her further, and it did not draw attention to her specifically. The complainant had been identifiable but she had not been made the focus of the article and she had not been named.

Her image had been featured incidentally, and had been used to illustrate a story about the weather. In those circumstances, and given the location in which she had been photographed and the activity in which she had been engaged, the complainant did not have a reasonable expectation of privacy and the publication of this photograph did not represent an intrusion into her private life.

Hunter v thesun.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=17059-17

Similarly, IPSO rejected a number of complaints when Sir Andy Murray's baby daughter Sophia was photographed as his wife Kim took her through a press entrance to Wimbledon where photographers were waiting for arrivals.

IPSO said baby Sophia was being taken by her mother through a press entrance to Wimbledon, which was a major sporting event where there would inevitably be a very large number of spectators, and photographers. Her mother had been photographed at the same location during previous tournaments.

Sophia was simply being pushed in a pram, and while IPSO accepted that this showed her engaged in a family activity relating to her care, that activity was relatively unremarkable. Because of the complainant's age, and the fact that her face was only partially visible, IPSO did not consider the complainant was recognisable from the photographs, or that they disclosed any identifying or private information about her. IPSO ruled that in those circumstances Sophia did not enjoy a reasonable expectation of privacy.

Representatives of Sophia Murray v Daily Mail:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04551-16

Representatives of Sophia Murray v Telegraph.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04533-16

Representatives of Sophia Murray v The Sun:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04532-16

Representatives of Sophia Murray v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04531-16

A busy restaurant may – or may not – offer a reasonable expectation of privacy, as IPSO explained when considering a complaint brought by political commentator Paul Mason.

Mr Mason complained after The Sun published a story headlined "Working class zero: Paul Mason, Jeremy Corbyn's celeb guru, admits he wants to oust hapless leftie as he doesn't appeal to ordinary Brits". Mr Mason said a

freelance reporter and photographer had deliberately chosen a table next to him in a restaurant where he was having a private conversation with a journalistic source.

The newspaper said the freelance reporter and photographer were in Liverpool to cover fringe events at the Labour Party conference. They had gone to the restaurant for lunch and been seated at a table close to the complainant and were able to clearly hear his conversation when he talked about Jeremy Corbyn in a disparaging fashion. The newspaper did not accept that the complainant had a reasonable expectation of privacy in relation to his conversation and said there was a public interest in publication.

IPSO said there may be circumstances in which an individual has a reasonable expectation of privacy in a restaurant. Whether privacy may reasonably be expected in a restaurant will depend on all the factors relevant to a particular case, including the nature of the conversation and the role of the speaker.

Given Mr Mason's professional role and the nature and timing of his conversation at a party conference, IPSO did not consider that he had a reasonable expectation of privacy. IPSO did not uphold the complaint of a breach of privacy, or another complaint under Clause 10 (Clandestine devices and subterfuge).

Mason v thesun.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=13165-16

A secluded part of a garden is likely to be regarded as a private place – as the then Duke of York (now Mr Andrew Mountbatten-Windsor) successfully argued when the Daily Mail flew a helicopter overhead as preparations were made for a birthday party, which reportedly involved the Duke's daughter appearing as Snow White, accompanied by dwarves. The Duke was not at home at the time of the flight.

The Daily Mail argued that the story was in the public interest. It said the complainant's daughter was eighth in line to the throne and a senior member of the Royal Family. The public had an interest in being informed about a lavish party for her birthday, which she attended dressed as Snow White accompanied by seven dwarves, and which was always likely to attract attention. It noted that before publication it had contacted the complainant's former wife's press representative, who had raised no objections on privacy grounds to the reporting of the story.

The newspaper said that aerial photography was not intrusive: many news stories – such as storms, road accidents, plane crashes, festivals, sporting events and

A sheltered part of a person's garden is very likely to be regarded as a private place – but the exterior of a home may not be regarded as such if it is in plain view of the public.

public gatherings – were routinely and uncontroversially illustrated by aerial photography.

IPSO said the grounds of Royal Lodge were not publicly accessible, nor visible to the public, so the Duke had a reasonable expectation that the grounds would be respected as a private place. IPSO stressed that aerial photography can be a legitimate reporting tool and using it to photograph an individual's home or garden will not always amount to a breach of the Code. It emphasised that its decision on any particular complaint will be based on the circumstances.

In this instance, the helicopter's flight over the private space of the grounds of the Duke's home, to capture images of the preparations for the event he intended to hold there, was a clear intrusion, regardless of whether the complainant was there.

The effect of such an intrusion was to deprive him of the security of his private space, in which he could engage in activities away from the public gaze. Any public interest served by the information published in the articles was not proportionate to the intrusion caused by the flight.

HRH The Duke of York v Daily Mail:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04839-15

So a sheltered part of a person's garden is very likely to be regarded as a private place – but the exterior of a home may not be regarded as such if it is in plain view of the public.

When a gas blast ripped off two walls from a house, an agency photographer went on to land at the back of the property to shoot pictures showing the worst of the damage.

The complainant, who lived in the house, said the photographs were taken on her land at the rear of the house and no one had approached her about taking them. She said her bathroom and stairs were clearly visible in the photograph, and that this aspect of the property had not been visible to members of the public. She said the contents of her home were private and the photograph was intrusive.

Members of the public had joked about her bath, which was shown hanging off the side of the building. Her house had been looted, which the police warned her would happen after the pictures were published. The complainant said she did not object to the publication reporting on the incident, or the use of photographs taken from the nearby public road.

IPSO rejected the complaint and said that because of the extent of the damage, including the destruction of external walls, the visibility of some of the damage from a public road, the presence of emergency services and the fact that the explosion was a significant and legitimate news story, the complainant did not have a reasonable expectation that her property was a private place.

The furniture and other items depicted in the photographs were common household items which did not reveal any particular details about the complainant's private life, and the photographs only showed what could be seen by standing at the rear of the property. The photographer did not enter the building.

In addition, there was a public interest in illustrating the extent of the damage caused by the gas explosion, which highlighted the importance of gas safety. Because of the extent of the damage, it would not have been possible to do so without showing some of what had previously been the internal contents of the house. The gas explosion was the legitimate subject of news coverage, and illustrating the extent of the damage was in the public interest.

House v Express.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07063-15

House v The Times:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07060-15

House v Mirror.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07064-15

House v Grimsby Telegraph:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07065-15

House v Dailystar.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07056-15

House v The Daily Telegraph:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=07054-15

House v Daily Mail:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=06220-15

IPSO ruled it was a breach of the Code's privacy clause when a reporter, seeking comment after a tragic death, opened a house's unlocked external door and stepped into the porch area.

IPSO said: "Entering the complainant's porch through an external door clearly constituted intruding into a private area of her home: it could only be accessed through an external front door which had a doorbell to enable visitors to gain the attention of any residents without entering."

It added: "The fact of the door being unlocked did not, in the committee's view, make the porch a public space."

An asylum seeker who was photographed at a hotel near Heathrow, where he was housed, did not have a complaint upheld under Clause 2.

The man was pictured in the hotel car park, in clear view of the public and outside a protected area surrounded by hoardings.

IPSO said the photograph did not contain any information over which the man had a reasonable expectation of privacy: it simply showed him among a small group of people standing outside while his face was partially obscured by a mask.

IPSO concluded that the man had not been in a location in which he had a reasonable expectation of privacy: while the hotel was his current home, the surrounding car park was accessible to members of the public.

Rahnama v The Mail on Sunday
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01887-21

An airline pilot who was pictured at work – watching as police escorted passengers off his plane – also had his complaint rejected.

The article reported that a group of holidaymakers were escorted from a flight for allegedly abusing cabin crew who had told them that they would be limited to one alcoholic

Publishing details of a celebrity's home without consent could constitute a breach of the Code, especially because of security problems and the threat from stalkers.

drink each during the flight. The article included a photograph, which showed the complainant, the captain of the aircraft, watching police as they dealt with the incident on board.

The newspaper said the reported incident took place in the main cabin of the aircraft and had been witnessed by many members of the public, some of whom took photographs. It considered that there was a clear public interest in reporting on the story, which had involved the police. It noted that police, ambulance and fire service personnel are often photographed doing their work in response to public incidents.

IPSO said the image had not shown the complainant doing anything private. He was standing in the main cabin of the aircraft, in clear view of passengers and crew, as he carried out his professional duties as captain. He did not have a reasonable expectation of privacy in such circumstances.

Howell v Metro.co.uk:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04777-15

Public figures and their addresses

People such as showbiz celebrities or sports stars may need to create a professional image of themselves in the media. That does not undermine their right as individuals to privacy or mean the press could justify publishing articles on any subject about them. Their "private and family life, home, health and correspondence" are all protected by the Code, unless there is a public interest in publication.

Publishing details of a celebrity's home without consent, for example, could constitute a breach of the Code, especially because of security problems and the threat from stalkers. The key test in such cases is not whether the precise location has been disclosed but whether the information published would be sufficient to enable people to find the home.

David and Victoria Beckham complained when Mail Online published an article about their new home, identifying the general area where it was located, the name of the town it was close to, and identifying a nearby landmark. The Beckhams said the article and some of the photographs clearly identified its location to millions of readers.

The publication said the key test is whether the information

published would be sufficient to enable people to find the home, and whether the article put new information into the public domain about the location. In this case, it was clear that the article did not reveal any "new" information about the property.

IPSO said that in general, people do not have a reasonable expectation of privacy regarding their address. However, there are special circumstances in which the publication of details of an individual's home may be intrusive. IPSO did not uphold the complaint and said the details published were insufficient to identify the precise location of the property.

Beckham v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01729-17

Women's Aid issued a reminder that care should be taken not to disclose the address or location of a survivor of domestic abuse, or a confidential refuge address where survivors of abuse are housed.

Members of the public can also be sensitive about publication of details of where they live. A woman who consented to being photographed in her street as part of an interview with a newspaper complained to IPSO that she had later experienced attempted break-ins.

She said she had asked for her address not to be included in the story. The newspaper said the complainant had been happy to be interviewed at her home, and to pose for photographs in the street where she lived – and the house number was not included in the story.

IPSO said the complainant consented to being photographed on her street, and the photograph which was published did not identify the door number of her house. It concluded that, in all the circumstances, the inclusion of the complainant's partial address in the article did not break the Code.

Private health details of individuals, including public figures, are generally protected under the Code unless there is some public interest in revealing them.

Stanton v News & Star:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=03941-15

Revealing a private telephone number can also breach the Code. A man complained when the Argus (Brighton) inadvertently published his phone number in the caption of a picture. IPSO accepted that the caption had been published in error but that did not excuse the newspaper from its obligations under the Code.

Hyland-Ward v The Argus (Brighton):
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=05608-15

Pregnancy

There are limits on what can be said about celebrities, even though they are constantly in the public eye. Pregnancy, even for non-public figures, can rarely be kept secret for long but early speculation about whether someone is expecting a baby can be intrusive.

When Ant McPartlin and his partner brought a complaint about a speculative story about them expecting a baby, IPSO said that an individual may have a reasonable expectation of privacy in relation to information about a pregnancy, specifically in relation to information regarding a pregnancy in the early months, given the risks of complications.

It also acknowledged that the publication of speculation may itself be intrusive, depending on the full circumstances.

The article reported social media speculation that Anne-Marie Corbett might be pregnant and included photographs of the couple and comments made by members of the public on social media, including "she looks pregnant".

The complainants said that whether or not someone was pregnant was a deeply personal and private matter and reporting on a possible early pregnancy was particularly intrusive, due to the medically accepted heightened risk of miscarriage.

The publication said that it had not revealed the fact of a pregnancy, but had simply reported comments made by members of the public on social media, which it did not accept could be considered private information.

IPSO did not uphold the complaint. The publication had demonstrated that, when the article was produced, published photographs had given rise to widespread speculation by members of the public about whether the couple were expecting a child together.

The publication itself had not expressed a view on the credibility of these claims and it had not added details to the speculation or endorsed the views which had been expressed by the public.

The article was reporting on claims which were in the public domain and, given the way in which the claims were presented in the article, IPSO concluded that the article referring to the speculation was not an intrusion into the complainants' private lives.

McPartlin and Corbett v Woman
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=06605-18

Health

Private health details of individuals, including public figures, are generally protected under the Code unless there is some public interest in revealing them.

MP Sir Nicholas Soames complained when the Sunday Times published an article headlined "Soames's mystery weight loss has Commons chewing the fat". The article said that regulars in the House of Commons tearoom had their

own theory over Sir Nicholas's sudden weight loss: he had been fitted with a gastric band.

The complainant acknowledged that, as a public figure, he was subject to press attention but he had a right to privacy in relation to his health.

The newspaper denied that the article intruded into the complainant's privacy. Sir Nicholas's physical appearance had always been a central part of his public image, and it was not intrusive for the article to speculate over the reasons for the sudden visible weight loss of a prominent political figure.

Upholding the complaint, IPSO said it was not intrusive to report the mere fact that the complainant had recently lost weight. However, the article went further than this and speculated about possible medical causes for his weight loss. He had a reasonable expectation of privacy and IPSO was not satisfied that the newspaper had demonstrated a sufficient public interest to justify publication.

Soames v The Sunday Times:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00671-16

Commercial deals

If people compromise their own privacy – particularly in connection with a commercial arrangement – they may not be successful in a claim under the Code.

The parents of a sole surviving conjoined twin sold picture rights to the story but complained that it was intrusive and damaging to the child's welfare when another paper published unauthorised photographs of the baby.

The PCC disagreed and one of the grounds was that the parents had put the material into the public domain. The PCC said privacy was "not a commodity which can be sold on one person's terms".

Attard v Manchester Evening News:
www.pcc.org.uk/cases/adjudicated.html?article=MjA1MA

Court reporting

The press is generally free to report private details of people's lives if they are said in court and the judge has not made an order restricting coverage.

A newspaper received a complaint after publishing a court report headlined "The 'monster' dad who left his baby son severely disabled". The victim's grandmother complained that the newspaper had breached the child's privacy by

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detailing the injuries and the struggles he may face in future.

The newspaper said it had no intention to embarrass the child or to subject him to any unwanted or unnecessary attention. It considered that it had reported the court case accurately while abiding by the rules set down by the court. The newspaper said the judge announced before the case started that all the details of the case, including the victim's name, should be reported.

IPSO said there is a strong public interest in open justice. While reports on court cases involving child cruelty may be extremely distressing for family members and others to read, newspapers play an important role in informing the public about the nature of such offences.

Courts have the power to impose reporting restrictions, and the judge in this case had clearly given careful consideration to whether such restrictions should be imposed. He decided, however, that all the details of the case could be reported, including the child's identity.

Mooney v Grimsby Telegraph:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=04389-15

The public interest

As we have seen, the public interest is frequently considered by IPSO's Complaints Committee in privacy cases. No judgment is more difficult than when weighing the privacy of the individual against freedom of expression and intrusion in the wider public interest.

The two principal issues to be considered are:

- Is publication of the private information genuinely in the public interest?
- Is the degree of intrusion proportionate to the public interest served?

In an article about internet marriages, Mail Online included details of a woman's sexual preferences. IPSO supported reporting the story on the grounds of freedom of expression but it drew the line at the level of detail. It said the Complaints Committee "was not, on balance, satisfied that the publication of this sensitive personal information was justified. The public interest was not proportionate to the level of intrusion posed by the publication of intimate details".

Yates v Mail Online:
www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=02466-14