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## **Facing up to the Ethical Issues surrounding Facebook Use**

**Glenda Cooper asks if the increasing use of social networking sites as the first port of call when a story breaks – to find photographs, information about people's lives, frank views they may have expressed – is the other end of a (very long) continuum to phone hacking?**

Life as a nurse in the NHS can be tough: long hours, difficult patients, stressful jobs. It's no wonder that a young nurse called Rebecca Leighton looked forward to her nights out; as she put it herself she was a 'happy-go-lucky kinda gal, loves the wkend if im not workin and having a laugh with the people i call friends for a reason [sic]'.<sup>1</sup> Like thousands if not millions of other twentysomethings she posted pictures of herself on Facebook at parties – some pouting for the camera, others with arms thrown around her fiancée pulling silly faces, one swigging straight from a bottle of wine.

But Leighton never thought to protect her privacy settings on the social networking

site; so when in 2011 there were unexplained deaths at the hospital she worked at – Stepping Hill, near Manchester – and she was initially questioned and then charged with contaminating saline bags with insulin, her unguarded words and comments flew straight into the wider public domain via the newspapers.

What could she complain about? Unlike celebrities such as J. K. Rowling, Steve Coogan and Hugh Grant – and families such as the McCanns and the Dowlers – who have told the Leveson Inquiry in detail about how they were bugged, stalked and hacked, Leighton had put all this private detail into the public domain herself. Phone hacking is illegal. The state of mind that allowed journalists to use such a device routinely, with not even a cursory pretence that it was in the public interest, ended up reducing the subjects of stories to objects, and those who had sometimes only the most tenuous of links to them forming what columnist Joan Smith called ‘collateral damage’.<sup>2</sup>

But is the increasing use of social networking sites as the first port of call when a story breaks – to find photographs, information about people’s lives, frank views they may have expressed – the other end of a (very long) continuum to phone hacking? Such sites have proved an invaluable short cut for hard pressed desks and reporters, both broadsheet and tabloid, trying to find information at short notice on tight budgets. But what ethical questions does plundering webpages without permission of their originators raise in modern day journalism?

While there can be no comparison between phone hacking and use of such sites – one illegal and intruding on completely private messages, it is worth considering this:

there were 800 phone hacking victims at latest estimate.<sup>3</sup> As of July 2011, there are 29.9m Facebook accounts in the UK.<sup>4</sup> What kind of journalism are we getting if every part of your life is only a mouseclick away from being splashed across the front page of a national paper? ‘The irony is that tabloids are obsessed with writing about “people”,’ says Smith, ‘yet they forget that those they are writing about are people. They turn them into two dimensional figures.’<sup>5</sup>

### **‘It’s Always Bad Weather in my Memory’**

When a crime or a tragedy occurred in the (mythic) old days, as a hack to get your hands on that coveted photo album, to delve deep into a person’s private life, to get that key detail to raise your story from the mundane to the compelling, it would involve some legwork on the ground (either from yourself, or if you worked for a rich enough paper, a substitute rookie or agency reporter) performing those journalistic rites of passage: the doorstep and the deathknock. These shorthand terms refer to the practices of waiting outside someone’s house for a comment, or trying to persuade a grieving family to talk about the deceased.

Apart from a few – such as Wensley Clarkson who recounts in *Tabloid Tricks*,<sup>6</sup> vivid tales of camping out anywhere from Cecil Parkinson’s front door to the home of a couple who had both undergone a sex change at the *Sunday Mirror* and *Mail on Sunday* – most journalists recall such experiences with a shudder. ‘I hated [deathknocks]. To do them, I found I had to get myself into a dark place on a par with the family – as best I could,’ says one former *Sun* journalist.<sup>7</sup> ‘I will never forget the look of disgust on the man’s face when I asked whether he’d like to comment on camera after his daughter’s suicide,’ adds a freelance television reporter.<sup>8</sup> ‘In my

memory it is always bad weather when I had to do doorsteps or deathknocks – whether that was the case or just the miserable feeling that you associate with having to knock on a door in those situations,’ recalls one former local journalist who now works as a national newspaper news editor. ‘Nobody ever tells you what to do apart from a general remark to “just be careful not to be insensitive” – you’re just left hanging.’<sup>9</sup>

Those who get sent to do such stories are often, ironically the youngest and least experienced reporters for local papers or agencies. Not just because this is a job that no one else wants to do, but because they are seen as more likely to get the story. ‘As a news desk you try to send people with empathy,’ says the news editor (ibid). ‘You may have very good reporters but they may not be so good on a human level. We would often send young journalists [on doorsteps and deathknocks] because they would seem less threatening than a grizzled old hack, and people might be more likely to talk to them.’

‘I turned up outside the house of the sister of two young men killed in the construction of the Channel Tunnel,’ recalls the former *Sun* journalist of his first deathknock for his local paper.

It was in the heart of Kent’s former mining community and my paper had been against the mining strike. The snapper, a veteran of many years standing, refused to get out of the car because he knew we would be abused. I knocked and they opened the door and the family dog escaped. It was one of those painfully prosaic moments in the midst of a human tragedy as I and the sister, in her

slippers, ran around trying to contain the barking dog. I don't remember the details, other than I was too scared to be dishonest or artful and I, therefore, probably came across honestly. I got the full biographical details and a good story ... From then on I was always sent on death knocks.

While the positive side was that he felt that he could almost act as a counsellor for people who wanted to talk, there was a darker side: 'I was doing this for my own ends. I would get round this by trying to be clear that I was there for the paper and that they should only tell me what they wanted – if they wanted. But I am never sure that the relationship was transparent. Could they really know their own mind?'

### **'A Reporter has let Themselves Down Badly if they don't do a Facebook search'**

Over the past decade, the growth of social networking sites changed all this. Today Facebook, Twitter, MySpace, Bebo – even in what now seems the prehistoric Friends Reunited – have all been plundered for words and images in the past decade. Any 'collect' [a family photograph from the past] that you see in a newspaper these days is likely to have come from Facebook. As Paul Fievez, a former night picture editor blogged:

Within seconds of a story breaking, news and picture desks are all assigning reporters, photographers and picture researchers to log-in to Facebook, Twitter, Linked-In, Friends Reunited. All of the other social networks and personal web-sites are Googled and scoured for pictures and information. If there is a live web-cam, pictures are grabbed and frequently published without any regard to copyright. Likewise, any images on the social sites and personal

blogs or web-sites of anyone involved are all also grabbed before anyone has a chance to close the site down, and are then published, syndicated, used on television, re-published or broadcast repeatedly.<sup>10</sup>

The view of most journalists is that of veteran *Guardian* investigative reporter David Leigh – if you put something in the public domain then it's fair game. As he said in an interview in 2009: 'If you want to put stuff about yourself up in the public domain ... and people can make what use of it they like. I don't see any point in complaining about it. If you don't want the information out there, don't put it out there.'<sup>11</sup>

The news editor agrees: 'As a news editor I would expect my reporters to find pictures on Facebook – a reporter has let themselves down badly if they don't do the Facebook search.'

Yet when Kevin Marsh was Editor-in Chief of the BBC College of Journalism, he noted that there was a fundamental disconnect between how journalists and users saw social networking sites. 'There's no doubt most teenagers don't think when they post to Facebook they don't think it is public ... they see it as a public private space. It's like a conversation in the pub – it's in a public space, but not everyone and their uncle can eavesdrop.'<sup>12</sup>

That misunderstanding between private and public tripped up not only Leighton, but another twentysomething girl, Amanda Knox, convicted and then cleared on appeal of the murder of the British student, Meredith Kercher. Knox proved gold dust for journalists looking for colour with her nickname 'FoxyKnoxy' – that she put on her MySpace page, where she had also posted short stories that involved a drugging and

rape scenario of a young girl, and a picture of herself posing with a gun. A YouTube video of her drunk at university also emerged, all fodder for articles such as the *Daily Mail*'s exposé of 7 November 2007: 'FoxyKnoxy: Inside the Twisted World of Flatmate Suspected of Meredith's Murder.'<sup>13</sup> Invasion of privacy? If so, like Leighton, Knox had effectively invaded her own.

### **Privacy and 'Contextual Integrity'**

Yet we are still grappling with the notion of what privacy is – and isn't – in relation to social networking sites. As the privacy theorist Helen Nissenbaum<sup>14</sup> points out the fundamental problem here is a breakdown in what she calls "contextual integrity". Privacy means different things in different situations, and that privacy is violated when people do not respect two types of contextual norms – those of appropriateness (what information may be shared) and those of flow and distribution (whom the information is shared with). So you share problems with your sex life with your friends, your good works for charity with your elderly aunt, your medical health with your doctor, your financial problems with your bank manager, and your work-related goals with your boss. In many circumstances it would be highly inappropriate to share your sex life with your elderly aunt, or your medical problems with your bank manager.

The problem with sites such as Facebook is that could easily happen. There is what Grimmelmann<sup>15</sup> calls a 'flattening' of relationships – there are not the divisions in social relationships that there are in real life. So you may be 'friends' with your friends, your elderly aunt, your doctor and your boss on Facebook – and without sufficient privacy controls they may all learn information about you they would not

usually have access to. When that is taken further and pilfered by the media, then those contextual norms are transgressed.

Peterson cites the example of the *Daily Mail* which in 2007, published dozens of photos of girls who had drunk too much, claiming the girls had boasted of their bad behaviour on social networking sites. The photos, says Peterson, had been lifted from a Facebook group called '30 Reasons Girls Should Call It A Night'. He claims one student pictured, taken by surprise as she had not posted the photos herself, found herself beleaguered by calls from overseas organisations offering money for sexually explicit interviews and a Google search of this student's name still returns the *Daily Mail* article as the first result.<sup>16</sup>

### **Regulators and Social Networking Sites: Publish at your own Risk**

The reality was, however, that women such as Knox and Leighton had probably never considered that their unguarded photographs and comments would have a wider circulation than friends and acquaintances. 'Foxy Knoxy was a nickname actually to do with Amanda Knox's style of playing soccer, but the way it was used caused immense damage to her in the early part of the trial,' says Smith. 'She was portrayed as a sexually voracious woman and during her appeal the prosecutor even called her a witch.'

With Rebecca Leighton, there were plenty of candid photographs on Facebook which played up to the party girl image the media wanted. 'We used a Facebook picture because there was no official one released and no snatched one,' says Neal Keeling who led the *Manchester Evening News's* team and who has broken many of the

developments in the case. ‘But we just captioned it “nurse Rebecca Leighton” unlike the *Mail* who then added in all sorts of comments based on her Facebook wall. It’s shortcut journalism: “We can’t get the family or friends to speak so we’ll nick stuff off Facebook.”’<sup>17</sup>

Yet most journalists will instinctively side with Leigh: if you don’t want it used, don’t publish. And in many cases so far, the Press Complaints Commission has agreed: for those who willingly put material in the public domain, even if intending it only for a small audience, they run the risk the mainstream media will utilise it, if the public interest argument can be put forward. Even if a person has attempted to protect their photographs/comments from general view by privacy settings, that does not mean they cannot be used according to the PCC. For example, the *People* reported comments made by John Hayter, a serving police officer on his Facebook and Friends Reunited pages after the controversial death of Ian Tomlinson at the G20 protests in April 2009: ‘I see my lot have murdered someone again. Oh well, shit happens.’<sup>18</sup> His profiles on these sites were not publicly accessible, but the PCC ruled in *Goble v People* 2009 there was a clear public interest in seeing how serving police officers viewed Tomlinson’s death.

Equally there are some stories where the use of networking sites is clearly unethical. For example, a story in the *Sunday Express* claimed survivors of the Dunblane massacre, now turning 18, had ‘shamed’ the memory of the deceased with ‘foul-mouthed boasts about sex, brawls and drink-fuelled antics’ posted on their social networking sites. The newspaper justified its decision to publish on the basis that the boys’ identities had been made public in 1996 when the shooting happened. The PCC

warned, however, that the boys had been out of the spotlight for 13 years and concluded: ‘Even if the images were available freely online, the way they were used – when there was no particular reason for the boys to be in the news – represented a fundamental failure to respect their private lives.’<sup>19</sup> As Pam Dix, of the group Disaster Action, which supports the bereaved and survivors of disasters, says, this goes way beyond notions of privacy:

We would consider this kind of usage to have a detrimental impact on the emotional and, indeed, potentially the mental health of those whose information has been trawled and used. The notion that 16-year-olds are fair game, in a way that children are not, is also something that needs to be addressed (as per Charlotte Church’s evidence to the [Leveson] inquiry).<sup>20</sup>

And Marsh recalled at the time of Benazir Bhutto’s murder, he became aware of another phenomenon because Bhutto’s son Bilawal was at college with Marsh’s son:

There were hundreds of false Facebook and My Space sites ‘set up by Bilawal’ to try to get information or photographs. They were set up by journalists saying things like ‘I’ve lost all my photos of my mates, can you repost them’. I can’t think of the real life equivalent of that. It’s like breaking into someone’s house and stealing their photo album.<sup>21</sup>

Those cases may seem clear-cut. But what about the case of Toby Rundle – an Oxford undergraduate found hanged who earlier had set up a MySpace page which included the question: ‘Who I’d like to meet – God, just to ask him what I’d done wrong’? It

was, his mother said, after his sudden death, a spoof page and it should not have been used by journalists as it gave the wrong impression of her son. But the PCC ruled: ‘One of the hazards of posting information online is that it can remain permanently and publicly accessible, and that a degree of control is lost once it is uploaded.’

Or what about the experience of teenager Charlotte Noble, this time in a case looked at by Ofcom? After her father was killed in an air crash, UTV used a picture of Charlotte on Facebook, although her mother’s privacy settings were ‘strict’. Because UTV said they had obtained the photograph through someone who was a friend of Mrs Noble’s on Facebook, Ofcom took the view that because Mrs Noble had placed the photograph on Facebook – a social networking site – and granted her ‘friends’ access to it, the privacy of the photograph was significantly compromised.<sup>22</sup>

### **Pushing Open an Ajar Door**

Some media organisations are becoming increasingly aware that smash-and-grab raids on personal data on the internet raise these difficult questions. Recent stories to prove problematic have included images of Ian Redmond, the bridegroom killed in a shark attack in the Seychelles, and victims of the M5 crash that were taken from Facebook. Elisabeth Ribbans, managing editor of the *Guardian*, argues that, while it can be acceptable for the media group to use information sourced this way, there should be a clear public interest in doing so and the argument that something is already ‘out there’ is very nuanced one. When Redmond was killed in August 2011, the *Guardian* newsdesk held off publishing the Facebook photograph of the Redmonds’ wedding that many other news organisations were using, and felt they should seek guidance from the family. Ribbans says:

We contacted the Foreign Office to see if [Ian's widow] Gemma Redmond had expressed any views on the use of that picture; they weren't aware of any views and it seemed we were the only news organisation to have approached them about it. They asked Gemma on our behalf and she provided an image of the couple on their honeymoon with specific permission for the *Guardian* to use it. As a result we were able to proceed comfortably with a sensitive story. It was definitely the right thing to do in this particular case.<sup>23</sup>

The BBC has also updated its guidelines on how use of material from social networking sites should be used. It comments:

Whilst some in the media might argue that, once an individual has begun a declarative lifestyle ... they cannot expect to be able to set limits on that, people making content for the BBC should ask themselves whether a door that is only ajar can justifiably be pushed further open by the media ... And it should be considered that the use of social media content by the BBC often brings that content to a much wider public than a personal website or social media page that would only be found with very specific search criteria.<sup>24</sup>

However, others argue that there is a fundamental misunderstanding often by (older) journalists about how many younger people understand privacy, Marsh's previous comments notwithstanding. As the news editor says:

BBC guidelines risk making people more squeamish than they need to be – not realising that kids are different. There's a real age divide in how bothered people are about privacy. Look at the phenomenon of tribute pages that spring up on Facebook for example after someone dies, and what kids write publicly about – with the expectation this is going to be used. The parents of those kids would probably not want those feelings or thoughts expressed in public in the same way.

And Leigh raises the valid point that for many, the discussion journalists should be having does not concern privacy on the internet when it comes to using such pictures, but one of money:

If you put a picture up, are you authorising people to copy your picture? You give away the information, but do you give away the right to reproduce the picture? If you put a picture of yourself drunk or sober on Facebook and some broadcaster wants to purloin it, that's because it's got a commercial value to them and you should have the rights over whether willing to sell it or not..

Yet in privacy terms, there may be more restrictions out there than journalists fully realize. While most of the discussion around privacy has related to celebrities (e.g. the Douglas case,<sup>25</sup> concerning the wedding pictures of Michael Douglas and Catherine Zeta Jones), the 2004 victory of Naomi Campbell over the *Mirror* after they printed pictures of her coming out of Narcotics Anonymous<sup>26</sup> and the case of von Hannover<sup>27</sup> (in which the European Court of Human Rights ruled respect for the private life of Princess Caroline of Monaco had been breached by photographs of her shopping or

on holiday in public places<sup>28</sup>) one case for journalists to ponder may be the 2003 case of *Peck v UK*.<sup>29</sup>

Geoffrey Peck was a man suffering from depression when late at night he took a knife and went to Brentford High Street where he tried to slit his wrists. The council had installed CCTV, and when an operator saw what was happening, they called the police and summoned medical help. To show the usefulness CCTV could have, the council later released both still photographs and short clips to local newspapers and TV.

But the ECHR found that releasing these photographs and films without Peck's consent and without assurances his identity would be masked infringed his right to privacy under Article 8 (the right to privacy). He was in public but he was not involved in a public event or a public figure. He might have expected to be spotted by a passerby but not to have the image published and broadcast to thousands.

The court ruled that the fact that the footage was taken whilst Mr Peck was in a public street did not exclude it from being regarded as a private situation, and giving footage to the media meant it was viewed far more widely than Mr Peck could possibly have foreseen. Those media organisations who push open an ajar door could potentially find themselves on the wrong side of the law as a result.

### **'If I were a patient, I'd want answers'**

Rebecca Leighton's name was almost inevitably prefixed with the words 'party-loving', thanks to such Facebook comments as 'Bad bad day follow(ed) by wine is a

must', or 'Oh what will tonight bring...drunken nurses'. After charges concerning the contamination of the saline were dropped and Leighton was released, she reflected on how she had been portrayed by the media. 'I was just out with my friends having a good time. Everybody I know does that. I've not done anything different to what anyone else would, you know a 27-year-old girl, that goes out with her friends,' she tried to explain.<sup>30</sup>

It may be difficult to sympathise with Leighton, who has since been sacked from Stepping Hill for stealing drugs. But stealing tramadol does not make her a murderer – nor does it mean her whole life is up for grabs.

Of course, the old-style doorstep should not be sentimentalised; witness the treatment of 'Allo 'Allo actor Gordon Kaye back in 1990.<sup>31</sup> And anyone who has seen the press pack in full cry after a story might even wonder whether they might prefer journalists to invade their virtual personal space rather than their real life personal space (JK Rowling told Leveson she had only worn a swimsuit on a beach twice since 1998 because of paparazzi,<sup>32</sup> Robert Murat, the man falsely suspected of being involved in the disappearance of Madeleine McCann talked of being besieged in his home 'a fox being pursued by a pack of hounds'<sup>33</sup> ).

Yet, when journalists and photographers act in this way, there are remedies for restraint; and most people feel that human beings should not be hounded in this way, even if papers did not remain as penitent as they first promised after the death of Diana, Princess of Wales. But what if someone is pursued online? Joan Smith, who interviewed several survivors of the Yorkshire Ripper face-to -face and spent a week

after the London Iranian embassy siege of 1980 with the embassy caretaker to reconstruct the event, believes that using technology in this way gives journalists a lot of control. ‘You [a journalist] become a silent watcher. It's an immensely powerful role and easy to forget the public interest justification ... There is a huge disconnect between people putting stuff about themselves on web pages, thinking they're talking to their friends, and not realizing they are a potential source for journalists.’

The former *Sun* journalist is clear about what he would feel like relying on Facebook alone for stories:

I would be telling myself that it was ‘ok’ because the pictures were in the public domain. But I know I’d be conning myself ... To speak to and for real people means you have to meet them and feel what they feel ... How can I translate the true pain and emotions of a family if I rely on a picture and some stylized words that capture a moment in time from Twitter or Facebook? Also, there is nothing to hold me to account other than my conscience and, under pressure from a Fleet St editor, a conscience is a luxury most hacks can’t easily afford.

For those who do find their online lives turned into print, the effects can be long lasting. As for Rebecca Leighton, after the early coverage she ended up initially being refused bail for her own protection, then after her release ended up living with her parents. She claims she feels now that she can’t walk down the street on her own because she feels so scared.

Meanwhile at the time of writing, another nurse, a 46-year-old man has been arrested on suspicion of murdering three patients at Stepping Hill and 18 counts of causing grievous bodily harm with intent is on bail until September 2012.

‘The charges have been dropped against Rebecca Leighton.’, says Neal Keeling of the *MEN* whose team continued to pursue the Stepping Hill story when many other media organisations failed to. ‘The media got obsessed with their angel of death story and have not investigated fully. If I was a patient I’d want answers.’

## Notes

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<sup>1</sup> Becki Leighton’s Facebook page <https://www.facebook.com/profile.php?id=533118996>, accessed on 27 November 2011

<sup>2</sup> Smith, Joan (2011) I was targeted as collateral damage, *Guardian*, 22 November 2011 Available online at <http://www.guardian.co.uk/media/video/2011/nov/22/joan-smith-collateral-damage-phone-hacking-video>, accessed on 13 December 2011

<sup>3</sup> O’Carroll, Lisa (2011) Phone hacking victims to number 800, *Guardian*, 10 December. Available online at <http://www.guardian.co.uk/media/2011/dec/10/phone-hacking-victims-800>, accessed on 13 December 2011

<sup>4</sup> Arthur, Charles (2011) Facebook grow slows for a second month, *Guardian*, 13 June 2011 Available online at <http://www.guardian.co.uk/technology/2011/jun/13/facebook-growth-slows-for-second-month>, accessed on 13 December 2011

<sup>5</sup> Interview via telephone, November 2011

<sup>6</sup> Clarkson, Wensley (2011) Tabloid Tricks. Available online at <http://www.wensleyclarkson.com/>, accessed on 13 December 2011

<sup>7</sup> Interview, London, 28 November 2011

<sup>8</sup> Telephone interview, 30 November 2011

<sup>9</sup> Phone interview, 30 Nov 2011

<sup>10</sup> Fievez, Paul (2011) Borrowed photos (2) Gentlemanrangers. Available online at [http://gentlemenrangers.com/page\\_325.html#pf220](http://gentlemenrangers.com/page_325.html#pf220), accessed on 30 November 2011

<sup>11</sup> Whittle, Stephen and Cooper, Glenda (2009) *Privacy Probity and Public Interest*, Oxford: Reuters Institute for the Study of Journalism

<sup>12</sup> Whittle and Cooper op cit

<sup>13</sup> Fernandez, Colin and Hale, Beth (2007) Foxy Knowy: Inside the twisted world of flatmate suspected of Meredith’s murder, *Daily Mail*, 6 November. Available online at <http://www.dailymail.co.uk/news/article-492092/Foxy-Knoxy-Inside-twisted-world-flatmate-suspected-Merediths-murder.html>, accessed on 13 December 2011

<sup>14</sup> Nissenbaum, Helen (2004) Privacy as Contextual Integrity, *Washington Law Review*, Vol. 79 p. 119

<sup>15</sup> Grimmelmann, J. (2009) Saving Facebook NYLS Legal Studies Research Paper No. 08/09-7, *Iowa Law Review*, Vol. 94 p. 1137

<sup>16</sup> Peterson, C. (2010), Losing Face: An Environmental Analysis of Privacy on Facebook, MIT. Available online at <http://ssrn.com/abstract=1550211> or <http://dx.doi.org/10.2139/ssrn.1550211>

<sup>17</sup> Interview via telephone, 4 December 2011

<sup>18</sup> Nemes, Amy (2009) My lot have murdered someone again, *People*, 26 April. Available online at <http://www.people.co.uk/news/uk-world-news/2009/04/26/my-lot-have-murdered-someone-again-s-happens-93463-21308828/>, accessed on 29 November 2011

<sup>19</sup> Mullan, Weir, Campbell v Scottish Sunday Express, 2009. Adjudication available online at <http://www.pcc.org.uk/news/index.html?article=NTc5Mw>, accessed on 13 December 2011

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<sup>20</sup> Via email, 29 November 2011

<sup>21</sup> Whittle and Cooper op cit

<sup>22</sup> See Ofcom Broadcast Bulletin 189 12 September 2011. Available online at <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb189/obb189.pdf>, accessed on 13 December 2011

<sup>23</sup> Via email, 28 November 2011

<sup>24</sup> BBC *Editorial Guidelines: Pictures from Social Media Sites*. Available online at <http://www.bbc.co.uk/editorialguidelines/page/guidance-social-media-pictures>, accessed on 30 November 2011

<sup>25</sup> Douglas v Hello! (2005) EWCA Civ 595

<sup>26</sup> Campbell v Mirror Group Newspapers (2004) UKHL 22

<sup>27</sup> Von Hannover v Germany (2004) ECHR

<sup>28</sup> It's worth noting however that two cases have been seen (particularly and hopefully by the media) as the pendulum swinging back from favouring Article 8 and Article 10 – the cases of *Axel Springer AG v Germany*<sup>33</sup> and *Von Hannover v Germany* no 2<sup>34</sup> in February 2012. In the first, the Grand Chamber ruled that after *Bild* was stopped from revealing the arrest and conviction of a well-known actor for drugs possession, it was a violation of Article 10, given there was a degree of public interest and the actor was well-known and the article had only been published after the information had been given out by the police. In the second, *Frau im Spiegel* had taken pictures of Princess Caroline on a skiing holiday while her father Prince Rainier was very ill; she claimed this was a breach of Article 8, but the Grand Chamber ruled that the photographs were not offensive, had not been taken in what they termed 'unfavourable circumstances' and contributed to a debate in the public interest

<sup>29</sup> Peck v United Kingdom (2003) EMLR 15

<sup>30</sup> Interview with Rebecca Leighton, This Morning ITV, 19 September 2011. Available online at <http://www.itv.com/thismorning/life/innocent-saline-nurse-rebecca-leighton/>, accessed on 13 December 2011

<sup>31</sup> Kaye, well known for his role as Rene Artois in the comedy series 'Allo 'Allo, had sustained serious head injuries in a car accident in January 1990. While in hospital, he was 'interviewed' by a *Sunday Sport* journalist. Kaye failed in his attempt to stop the *Sunday Sport* publishing the 'interview'

<sup>32</sup> Leveson Inquiry: JK Rowling Driven Out of Her Home by Journalists, Huffington Post, 24 November 2011. Available online at [http://www.huffingtonpost.co.uk/2011/11/24/leveson-jk-rowling-journalists-drove-me-out-of-home\\_n\\_1111978.html](http://www.huffingtonpost.co.uk/2011/11/24/leveson-jk-rowling-journalists-drove-me-out-of-home_n_1111978.html), accessed on 15 December 2011

<sup>33</sup> White, Michael (2009) Madeleine McCann claims nearly destroyed my life says Robert Murat *The Guardian*, 6 March. Available online at <http://www.guardian.co.uk/media/2009/mar/06/tabloids-madeleine-mccann-robert-murat>, accessed on 15 December 2011

### **Note on the contributor**

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