



Private lives and the public interest

Bob Woods' privacy was breached, the Australian Press Council has ruled

The publication in February of photographs of former Senator Bob Woods and his wife in the garden of their family home provided a striking illustration of breach of privacy by the media and provoked debate about whether Woods' public figure status justified the breach.

Woods was embroiled in public controversy on two fronts at the time of the backyard conversation. Allegations of misuse of parliamentary expenses were soon followed by the revelation of his affair with a Liberal party staffer, the demise of which was made public when an apprehended violence order was taken out against Woods, who counter-attacked with allegations of harassment by his former lover.

Photographs

The *Daily Telegraph* and the *Herald Sun* published photographs depicting an apparently unhappy exchange between husband and wife. The Woods' privacy was breached in two ways: the obtaining of the photographs and their publication. The conversation took place in the garden of their home - a quintessentially private place where they had a legitimate expectation of privacy. The *Sunday Age* reported that 'the photographer had sat on the roof of a car for eight hours, peering over the back fence of the Woods' home. He had apparently been photographing them for half an hour before they noticed'. The incident highlights the invasive potential of technology used in the news gathering process, such as long-range lenses, which are now the subject of an explicit clause in the Code

of Practice of Britain's Press Complaints Commission. Publication of the photos exposed the private encounter to an audience, akin to the publication of personal information.

The rights of public figures

Invasion of privacy is one of the major ethical dilemmas for journalists and is frequently played out in the context of private information about public figures. Considerations of public interest and accountability mean that breaches of privacy may be more readily justified in the case of public figures. But the issue is susceptible to shallow analysis that too readily discounts the right to privacy and invokes the public interest to justify any intrusion. Public figures do not relinquish all privacy and public figure status is not, of itself, sufficient justification for breach of privacy. The information disclosed must be relevant to the assessment of issues in which the public has a legitimate interest, for example, a politician's the fitness for office, public performance or propriety. In most cases, intimate private information would not meet this criterion of relevance.

In the Woods case, the circumstances surrounding his resignation and matters brought into the public domain through the legal system were matters of legitimate public interest, but photographs of a private discussion between the Senator and his wife in their own backyard were not.

Frank Devine thought otherwise, arguing that the photographs would have inspired respect and approval for Mrs Woods and that allegations that Woods had spent public money in the conduct of his affair 'estab-

lished an unrebuffable public interest in his private life'. This begs the question how such photographs could contribute in any way to consideration of the issue of misuse of public money.

Press Council complaint

A complaint of breach of privacy was made to the Australian Press Council (APC) in relation to the *Daily Telegraph's* coverage. In its defence, the newspaper argued that the photographs were legally obtained without trespass, and that the public interest and the public's right to know justified their publication. Senator Woods was a public figure involved in issues of legitimate interest to the public. His wife, too, was involved in the issues being aired before the public.

The APC (adjudication no 916) decided that publication of the photographs was a blatant breach of privacy. The issue was whether it was justified by the public interest. In the APC's opinion, it was not: there was 'no compelling public interest in the obtaining and publication of pictures of this kind'. Displaying the characteristic brevity of APC adjudications, the decision provides no analysis of the concept of the public interest or the reasoning underpinning the conclusion. But the decision was a correct one and sends a signal that media claims to be acting in the public interest and in furtherance of the public's right to know do not always withstand scrutiny. □

Jenny Mullaly