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Clinical governance The medical profession and the media

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Key content:

- In a climate of public obsession with private lives, the medical profession represents a rich source of human-interest stories.
- Preparation is necessary when dealing with the media.
- Engaging with the media as a medical expert can serve to educate the public and boost the reputation of both individual and profession.

Learning objectives:

- To gain practical guidance on how to deal with the media.
- To understand ways in which engaging with the media can be detrimental to the medical profession.
- To learn how to reduce the likelihood of damage from media involvement.

Ethical issues:

- What professional guidelines are there?
- How do issues of patient confidentiality affect engagement with the media?

Keywords law / media interview / newspapers / public relations / television

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Introduction; the legal life-jacket

I am a media lawyer. You would not expect me to have much, if any, knowledge of the difficulties of operating on a fetus in the womb or of the perils of investigating the cause of infertility without full patient consent. But I am aware of the difficulties of dealing with the media and the perils of engaging with them without fully considering the consequences. Given the high-profile work that you as medical professionals do, it is possible—even likely—that the media spotlight will be on you at some point during your career. Knowing how to handle yourself in such a potentially precarious situation can be as helpful to you in that delicate operation as a steady hand and a focused eye in surgery.

Many of the professionals whom I have been parachuted in to assist—doctors, teachers, tradesmen, as well as the more expected celebrities and personalities—had little expectation of becoming media fodder before they found themselves on the media menu. In a world where the public seems interested, even obsessed, with human-interest stories, perhaps they should have expected it. Had they done so and been prepared, they would at least have had a clearer idea of what lay ahead: forewarned is forearmed, after all. Interacting with the media can be a great opportunity if handled well, or a public relations disaster if not.

Brownie and Girl Guide as I was in my youth, I believe that keeping in mind their motto, 'Be prepared', is invaluable. I'm not a great flier: every time I board an aeroplane I check to see if there is a life-jacket under my seat. I have never needed one, thank goodness, but I check every time. Similarly, if it looks a little grey outside, I carry an umbrella. It doesn't mean I will need it but I have it there just in case. You don't have to carry your lawyer around with you like an umbrella but if you are aware of the circumstances in which you, as professionals, could face a media onslaught, then you know when to dodge the raindrops and when to run for cover to avoid a thorough dousing.

The medical profession and the media

Ironically, it is modern man's apparent obsession with the private lives of others that means that his own private life is no longer safe from prying eyes. The media—in its role as the eyes and ears of the public—is prepared to exploit that obsession, delving into the lives of celebrities, reality TV stars or mere mortals who stumble into its path. How you deal with any approach from the media could have a significant impact on your reputation. And

your reputation is vital to the confidence of those with and for whom you work.

There is no doubt that, as a result of the respected position you hold in society and the nature of the work that you do, medical practitioners are fertile ground for the media to plough. Human-interest stories fill the papers and the airwaves and what could be of more human interest than stories of health, wellbeing, birth, life and death? But bad news makes a better story than good, so throw into the mix a mistake on the part of the professional, add a little scandal or pathos, and the media will be all over it like a rash, probing into every corner of your surgery, your work history and your private life.

The reputation of the medical profession used to be almost unassailable but the public is becoming more prepared to find fault with the profession than it once was as the result of the image of doctors served up to them. *Dr Finlay's Casebook* has been replaced by programmes such as *House*, *ER*, *No Angels* and *Green Wing*, all showing the guts of life in a hospital and the underbelly of the medical profession. How far off the mark they are is immaterial if that is the diet that the public is fed. Television programmes and news stories show the profession and those who work in it as fallible. The media are not likely to overlook a good story with a bad ending. With stories of the downright horrific to the ethically challenging exposed in *Technicolor* in the tabloids, cracks in the profession's reputation began to appear. While lawyers labour under the burden of knowing that we are widely disliked—that's a fact of life—medical professionals have to bear the much heavier burden of being placed on a pedestal and treated as gods. If you make a mistake, our previous faith and love turns quickly into hate and vilification.

Some can shake off negative comments like water off a duck's back. But it becomes slightly more difficult to ignore those comments when they are shouted through the megaphone of the media. Reputations are about perception, not reality: any perception that you are incompetent, negligent or uncaring, that you are associating with a clinic that has a bad track record, or are having an inappropriate relationship with a patient, can be hard to ignore, let alone defend. Just being good at what you do may not be enough to convince colleagues and patients when the mighty media say otherwise.

The power of the media

Twelve years in the business, I have spent my legal career working in reputation management and media law. And I have come to the unsurprising conclusion that the power of the media must not be underestimated. Rolling, 24-hour news on the

television and radio has become background noise to our daily lives; myriad magazines and newspapers vie for our attention and the internet is alive with information.

There is no doubt that the modern media is a force to be reckoned with, reaching all but the most remote corners of the globe. But the media is not the fire-breathing monster that it is often painted. The word 'media' is no more than the plural of 'medium', the means of communicating information or news to the public. We need a free and fearless press in the interest of our democracy. While it can destroy reputations, the role of the media is essentially to protect society. And without a free press—of which, despite its frequent apparent failures, we should be proud—our courts, judiciary and politicians would not be under scrutiny and our democratic society would not be able to operate. At the coalface of dealing with the aftermath of sloppy journalism, I often bemoan the excesses of the tabloid press, which can be seen hacking away at the reputations of individuals until little more than a bloody mess remains. But this is the price we pay for having a free press, which informs, updates and educates us 24 hours a day. It can do this with impunity, free from the constraints suffered by much of the media around the world, save for the protection of laws relating to defamation, privacy and contempt of court.

A hostile media?

The media acts as the bloodhound and watchdog of society, investigating and reporting news, sniffing out and alerting us to corruption and wrongdoing and exercising its right to free speech in reporting the courts to ensure that justice is done and seen to be done. But if the media is such a beast, my advice to anyone not used to dealing with it is to treat it as they would someone else's dog. It may look harmless but it could bite. And, as a dog loves a bone, it will dig and sniff until it finds that skeleton hiding in the cupboard.

There's another reason why negative media attention may not be easy to ignore. News is no longer instant wrapping for fish and chips: long gone are the days when a story was forgotten by the time the chips went cold. A story that might once have had a single outing on the 6 or 10 o'clock news is now repeated numerous times throughout the day. And with the internet, the shelf-life of a story is now not a matter of hours but years, remaining on the newspaper's database indefinitely and forming part of the 'cuts' that journalists trawl on a particular subject when researching their next story. Any uncorrected inaccuracy can and generally will be trotted out every time you, your business, your work or your hospital features in a news article. Think back to the last story you read in the newspapers and ask yourself what you

remember of it. Chances are that it's the sensational headline rather than the detail. Now imagine that the article was about you, accusing you of negligence or unprofessional conduct. People believe what they read in the papers and they'll remember that damaging headline for years to come.

A friendly media?

But that's not the only way that the medical profession can rub shoulders with the media. The profession is often called upon to enlighten and educate the public, to explain new advances in medicine and to bust medical jargon that we don't understand. Engaging with the media as an expert on a reputable television or radio show, or writing or commentating in a local or national newspaper about medical matters of the day, can not only be of great importance to the public but can do your reputation no end of good. But even in this more comfortable environment, those accepting an invitation to speak or write should be wary of allowing flattery to blind them and should remember that the powerful megaphone that is the media will be magnifying everything they say, potentially to a very large audience.

The media is neither good nor evil, neither friend nor enemy: it is a way of communicating news and views to the public. Each person will have his or her own view about a particular programme or publication. A regular reader of the *Daily Mail*, for example, may applaud its views and be happy to be interviewed for one of its reports. A reader of *The Independent* may find the style wholly wrong for them and eschew an invitation to appear in the *Daily Mail's* pages. There are thousands of media outlets to choose from, from the national to the local, the professional to the lightweight, the hard-hitting, attack-dog-style interrogator to the accommodating interviewer. Any medical professional thinking about engaging with the media, even in an apparently harmless interview, should assess to whom they are speaking and their stance on the issue at debate, before they allow flattery to lull them into a false sense of security.

There are some guidelines that serve as a useful reminder, should members of the medical profession be presented with the welcome opportunity or unwanted prospect of engaging with the media.

The unexpected call

Box 1 provides some practical advice to members of the medical profession facing a potentially hostile media approach. You may be the subject of a patient complaint that is generating media interest, you may be involved in an internal investigation or you may be the subject of litigation. This advice will help to ensure that you do not assist any media

Don't panic	Do not allow the fact that there is a reporter on the other end of the phone or outside your office to panic you into giving a hasty and ill-considered response. Take your time and prepare before responding substantively.
Don't ignore the call	Knowledge is power: you're better off knowing what the news organisation intends to publish than fearing what they may publish. The story will not go away simply because you refuse to take the call but it may look as though you have something to hide.
Take advice	If the approach pertains to a patient, it is essential that you have your patient's full and unequivocal consent to discuss their matter and to provide any relevant information. The information provided to you by your patient is confidential and should not be disclosed without their consent. Even if you have obtained their consent, you should note that your patient may not be fully aware of the implications of allowing you to speak to the media or the circumstances in which the material may be used. Extreme caution should be exercised and, even if you consider that you have full consent, you should also speak to your professional body for confirmation as to your proposed course of action. The RCOG Communications & External Affairs department, the Medical Protection Society and the Medical Defence Union can—and I would advise that they should—be contacted before any decision is made to speak to the media. From a practical point of view, you should also alert your employer, family, friends, colleagues and anyone else who may be contacted on your behalf. You do not want anyone who may be approached to be caught off guard.
Ask questions, don't give information	While it is a journalist's job to extract information—and they are good at it—try to ascertain what it is they want to know from you and what they already know. Ask them—as responsible journalists they should comply with this—to put any allegations they may be intending to make to you in writing. Take notes on what is said, including dates, times, names, telephone numbers and email addresses for future reference.
Don't be rude	Don't make an enemy of the media: it's a cliché but they are, after all, only doing their job. You should not allow yourself through panic, frustration, fear or anger to be portrayed as defensive, aggressive or guilty. This would make great footage for the article or programme but disastrous publicity for you. If you consider that it is inappropriate to speak to them at that particular time, it is perfectly acceptable—and this will, in most cases, be understood and accepted by the media—to refer to the fact that you have patients waiting and that it is inappropriate for you to speak to them at that time.
Don't lie	Lying or failing to reflect the true position is easily done when you are panicked or unprepared. You may not be in possession of all the facts and a seemingly innocent comment can turn out to be far from the truth. Untruths will come back to haunt you. If you're unsure of the position, don't answer until you are.
'No comment' is a no-no	'No comment' can mean nothing at best and can imply guilt or liability at worst. It may be translated as 'refused to comment' or 'would not speak to the media'. Consider a more positive statement of your position or confirm that you are not at that time in a position to provide any information if that is the case.
On or off the record?	'On the record' means for publication and usually attributable directly to you. 'Off the record' is generally understood to mean that it is not to be published but you cannot guarantee, simply because you say that something is off the record, that it will not end up in print. There is a middle ground of 'nonattributable' or 'background' whereby you can tell a journalist something but make it clear that it is not to be attributed to you. But extreme care should be taken if you do not have a tried and tested, respected relationship with the media representative to whom you are speaking, as there can be misunderstandings. If you don't want to see it in print, or hear it on the television or radio, the advice is simple: don't say it.
How much time do I have?	Find out when the article or programme is going to press or is undergoing the final edit before going on air, also known as 'going to bed'. Take the out of office contact numbers for the reporter with whom you are dealing—and possibly also the telephone number for the news desk or news room. Ensure that you give the reporter a telephone number at which they can contact you out of office hours.
Weigh up the options	While the media work to publication deadlines, don't feel pressured into responding straight away—or at all—you will usually have some time and deadlines that are given are often 'false' deadlines to give the media time to deal with anything that you may say. This should give you some comfort that you will have some time to consider your options and should not be panicked into responding. But it should not be taken as an indicator that you should wait until the last minute before deciding on your strategy. If you do that, it may, indeed, be too late and your carefully prepared comment may never see the light of day. Weigh up the options, having considered the matter and taken advice. Yes, act quickly if possible: but quickly does not mean that you should panic.

Box 1

The unexpected call

organisation, intent on telling the story that they want, to your detriment.

The media interview

Box 2 is intended as helpful and practical advice to the medical professional approached by the media to provide some expert comment or analysis. This could be a great opportunity to raise your profile

and to impart to a lay audience the huge benefits that the profession provides to society and the constant strides that are being made in the field.

Post-publication remedies

Box 3 provides advice about practical measures that can be taken in the unfortunate event that engagement (or indeed not) with the media has

Box 2 The media interview

Who?	The media are not your enemy but neither are they your friends. They will have an agenda that may fit with yours but may not. Find out with whom you are dealing—their track record, their usual stance and the individuals concerned—before you decide to engage with them.
What?	What essential points do you want to make? Make notes in advance to focus your thoughts. Think of short, succinct sound bites to get your point across. Beware of defaming third parties. Ascertain whether there are any criminal proceedings afoot, for the purposes of avoiding contempt of court (could what you say tip the balance of any trial?). Ensure that if you are considering talking about any patient matter, you have your patient's consent and have taken advice. See Box 1 .
Where?	What will your environment portray to the public in a TV interview or newspaper photograph? Consider your environment for patient privacy (are any patients, photos or files obvious?) and for noise and distractions.
When?	Are you ready for an engagement with the media? Don't give an interview when you are rushed, tired or otherwise unprepared.
How?	How do you want to portray yourself to the public? Consider your audience and the interview subject matter and behave accordingly. Ensure that you are audible and clear; do not use technical jargon unless you explain it. Dress to be comfortable but professional and to reflect the image that you want to portray. Be wary of patterned clothes and loud, sparkling jewellery that could affect cameras and microphones.

Box 3 Post-publication remedies

Do nothing	Sometimes action can aggravate the situation. Sensibly weigh up the importance of the matter to you and the necessity to take action. But remember, if you don't correct an inaccuracy now, it will remain on the record indefinitely.
Informal complaint	This can be a sensible compromise, stating your position to the reporter, editor, publisher or broadcaster while maintaining good relations with the media organisation.
Formal complaint	Putting your concerns formally on record can help to ensure that inaccuracies are not published again. You may ask that any letter is filed and a legal warning may be noted and circulated internally.
Letter for publication	Letters pages are generally read by the public and exercising your right to reply where an inaccuracy has been published can help to mitigate some of the damage done by an inaccurate article. See the Press Complaints Commission Editors' Code of Practice. ¹
Clarification/apology	From the mouth of the newspaper or broadcaster, a clarification or an apology will carry weight and may address your immediate concerns. You may be able to achieve this through a period of sensible negotiation between the parties, on settlement of a legal complaint or threat of the same, or at the conclusion of a complaint to the regulators.
Complain to the regulators	Press Complaints Commission (PCC); Office of Communication (Ofcom) (see Telephone numbers and websites). Check their sites for the relevant deadlines IMMEDIATELY after the publication or broadcast to ensure no time is lost.
Litigation	Litigation should be the last resort: it should not be threatened lightly and it should only be threatened or pursued after advice.

resulted in a publication that requires some remedial action.

A relationship that is here to stay

We live in an increasingly litigious society, with the threat of 'compensation culture' constantly over our heads. Most professionals, sadly, are open to attack from patients, clients, customers and an increasingly aggressive media. Some professionals are testament to the benefits of standing up to the media to seek vindication. Doctors have been awarded damages of over £100,000 for allegations of improper conduct. More important than the money is the restoration of reputation: that's the real prize. Where the press correctly exposes wrongdoing, it is only right that the public is informed. But where reports are untrue, the claimant is entitled to a thorough vindication by way of a public apology, in addition to his or her damages.

Your reputation is your most valuable asset. It is the reflection of what you do and who you are in the estimation of others. The media can spread that reputation—good or bad—far and wide. As a vital part of our modern society, the media is not

going away. A rabid, slaving beast it may not be but to most it is an unknown creature. Any professional could find themselves in the eye of a potential media storm. And while we can often see the grey skies massing, we can never be one hundred percent sure when the clouds are going to burst. Perhaps best to take that umbrella along with you after all.

Whether it is wise for any individual or organisation to engage with the media in any particular circumstance will depend on the relevant facts: you will have to use your judgment in addition to taking advice from those around you. Media law—defamation, privacy, reputation management—is in a constant stage of flux, with the law changing quickly to cope with the dichotomy that arises out of the desire for greater amounts of information about others and the equally strong desire to limit the extent to which one's own information may be used. Accordingly, it is an interesting, yet potentially dangerous, time for anyone getting involved in the media and media lawyers, who are advising in choppy seas. While it is hoped that the information presented in this review will raise awareness of the issues to be considered, it cannot hope to be exhaustive and should not be relied upon in place of legal advice on any specific

queries. I'd advise you to take the legal life-jacket with you; but don't forget to learn how to swim.

Office of Communications (Ofcom). Telephone: +44 (0) 20 7981 3000 [www.ofcom.org.uk].

Telephone numbers and websites

Press Complaints Commission (PCC). Telephone: +44 (0) 20 7831 0022 [www.pcc.org.uk].

References

- 1 Press Complaints Commission. Editors' Code of Practice [www.pcc.org.uk/ccp/practice.html].

COMMENTARY

Managing the media: the RCOG press officer's point of view

There are many clichés about the media industry: it is sensational and shallow and those who work in it would do anything to get their story on the front page.

Some of you may have had bad encounters with the media: your words have somehow been twisted by a journalist or your thoughts misrepresented. As in any profession, there are the hacks and there are those you can trust. If you know how to work with them, it can be a rewarding experience.

Ms Melville-Brown provides useful insights to reputation management through the eyes of a lawyer. Notwithstanding her astute observations, there is another dimension to reputation management—one that aims to promote mutually beneficial relations by direct engagement via a planned programme. Here are a few thoughts on working with the media.

Always remember: your relationship with the media is symbiotic—they need the information, you provide it; they print the story, you get the coverage. It all sounds very simple but the key is, of course, in getting the journalist to write a positive story.

As a doctor, there are generally two occasions when a journalist will seek your views. The first is when they are writing about a medical condition and would like more information. The second is when there are new research findings that could change medical practice. In these instances, they need your expertise.

The vast majority of health and medical journalists double-check their facts and what they write is scientifically accurate. The success of the story depends on them getting it right and it is in their interest to be thorough; however, deadlines are tight and a prompt answer is always appreciated.

Occasionally they require comment on health policy or new government initiatives. This tends to be a bit more difficult to handle: you could be asked for your personal view, which may conflict with that of your employers. You need to be well briefed about policy implications and relevant developments at the Department of Health or NHS. Which brings me to the next point.

The secret to conducting a good interview is preparation. Prepare, prepare, prepare. Decide on three key messages you would like to stress. If you are led down a different path in the interview, there are ways to deal with this; however, this requires skill and I would recommend that anybody who has to act as a spokesperson undergoes media training.

When speaking to the press, be honest, open and clear. Do not prevaricate. If they sense you are trying to hoodwink them or are being evasive, they will make the interview tough on you.

There may be occasions during the interview when it turns hostile and you are asked to comment on an issue with ethical or moral undertones with which you are uncomfortable. Politely state that this was not what you are there to talk about and return to the subject at hand. It is important to agree on the areas for discussion prior to the interview. This gives you peace of mind, helps you to structure your responses and prevents any nasty surprises.

Seek the help of the press officers in your Trust. They know how the media works. More importantly, they know the responsible journalists and the ones to avoid. The RCOG press office is incredibly active and takes between three to five live press calls a day on average, some requiring much background research. We often work to very tight deadlines and a great deal of hard work goes into ensuring that press statements are backed up by a sound evidence base and are consistent with College policy. We only forward bona fide press queries to our spokespeople and we make certain that they are well briefed. Some of them are such adept media handlers that the help they need is minimal!

Your Trust press officers will provide you with the support you need, from briefing you on the query, to providing you with the press lines and positioning statement, through to making arrangements for the interview: use them. They are there to protect you. Have a system where the media approaches the press office in the first instance. That way, calls can be filtered and you will not be caught off guard. The tables by Ms Melville-Brown provide invaluable guidance on dealing with unsolicited media calls.

There is misunderstanding about the news agenda. The public perception is that all bad news is good news since it seizes our attention and sells more newspapers or increases viewing figures. There is a certain element of truth in this, borne out by the fact that we are

obsessed with celebrity and scandal. However, unless you move within those colourful circles, the chances are that attention on you, as an individual, will be low.

Cynical stories about maternal or perinatal deaths make the news but, equally, there are good stories about new cures and methods of treatment that offer hope.

I will add a caveat. Beware of investigative journalists. Many of them are very good at detective work. It is their job to rummage and uncover. Some newspapers and programmes are known for stretching the truth and for having a particular slant. If they find something, they will run a story on the grounds that it is in the public's interest. There have been instances where doctors have been involved in high-profile cases. If a story is about negligence claims and/or malpractice, seek advice from your Trust lawyers and press office.

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& External Affairs