

MORE THAN DEFENCE

Medical
Protection



HANDLING THE MEDIA A GUIDE FOR DOCTORS



CONTENTS

HOW CAN MEDICAL PROTECTION HELP YOU DEAL WITH UNWANTED MEDIA ATTENTION?	4
How we can help	4
How the media may contact you	4
What you can do and what you need to know before responding	5
What happens next?	5
Photographers and camera crews	6
Protecting patients' privacy	6
Being filmed and photographed	6
Reporters at legal proceedings	6
WHAT CAN YOU SAY TO THE MEDIA?	8
Confidentiality	8
Specific comment	8
Involving others	9
Private clinics – supporting your team	9
Undercover journalism	10
Social media and online discussions	11
South African Press Council (SAPC)	12
WHAT CAN YOU DO IF IT ALL GOES WRONG?	13
Redress	13
How can you seek redress?	13
Misquoting	13
Factually incorrect articles	14
Interdict	14
Seeking redress for defamation arising from professional practice	14
Defending against a claim of defamation arising from professional practice	15
Defending against a claim of defamation arising from published work outside of professional of practice	15

INTRODUCTION



Dr Graham Howarth

Head of Medical Services in Africa

Media scrutiny of you and your practice of medicine can put your personal and professional reputation at risk.

Where a media query relates to issues that fall within the scope of the benefits of membership, the Medical Protection Press Office is on hand to provide expert advice throughout the process.

We know how difficult media scrutiny can be for members and those around them and the Press Office's role is to help alleviate the additional pressures from the media. Staffed by experienced communications professionals, the Press Office can liaise with reporters on your behalf, deal with enquiries, draft appropriate statements – and aim to correct any inaccuracies in the press, if necessary.

Early advice from the Press Office can help prevent issues escalating. We advise you to contact your case handler if you have received press interest about an ongoing case or contact the Press Office directly about any other issues.

Please get in touch as soon as possible so we can help you through all stages of attention.

Media advice is available 24 hours a day, seven days a week.

CONTACT DETAILS FOR MEDIA ASSISTANCE

 0800 982 766 (Toll free) available 24/7

 medical.rsa@medicalprotection.org (RSA office hours only).

HOW CAN MEDICAL PROTECTION HELP YOU DEAL WITH UNWANTED MEDIA ATTENTION?

HOW WE CAN HELP

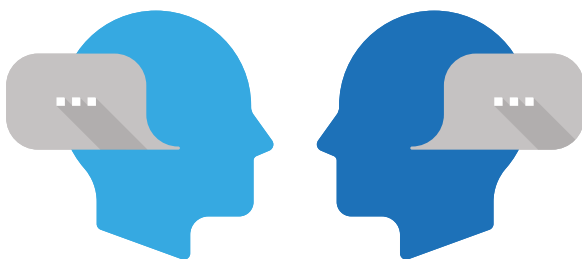
Our assistance is tailored depending on the circumstances, but we can generally help in the following ways:

- Provide experienced and expert advice on handling all stages of media attention
- Speak to a journalist on your behalf
- Liaise with the relevant press offices involved in your case, eg, your employer's press office
- Assist and advise your practice/clinic staff and your team
- Prepare press statements
- Monitor coverage and assist with any follow-up actions.

HOW THE MEDIA MAY CONTACT YOU

Journalists may contact you in a variety of ways:

- By email or phone
- Through social media, eg, posting a comment or question online
- Arriving at your home or place of work
- Through colleagues, friends or family members.



WHAT YOU CAN DO AND WHAT YOU NEED TO KNOW BEFORE RESPONDING

If you are contacted by journalists avoid responding straight away. Ask them to provide information on the exact issue on which they would like you to comment, along with their deadline. Take their contact details and say you will phone or email them back.

Even if you feel well-equipped to deal with the query yourself, we recommend you contact us for advice in the first instance and then liaise with your employer or practice.

Taking advice is particularly important if the query relates to an ongoing investigation or litigation. We can advise on how you can respond without prejudicing ongoing proceedings or patient confidentiality.

WHAT HAPPENS NEXT?

If you choose to answer the query yourself, take time to prepare your message and use plain language that cannot be misconstrued or taken out of context.

If you have sought Medical Protection's advice we can liaise with the journalist on your behalf, agree a statement with you, if one is needed, and issue it to the journalist(s). We can also deal with any follow-up enquiries and liaise between you and the publication.

Always assume that anything you say to a journalist could be published, nothing is "off the record."



PHOTOGRAPHERS AND CAMERA CREWS

If you are the subject of unwanted media attention, you might be confronted with a camera crew or photographer outside your home, place of work or hearing if you are facing regulatory or legal proceedings. Here is some advice on dealing with such a situation:

Protecting patients' privacy

If photographers or camera crews appear outside your practice, clinic or hospital, make sure you alert your staff or hospital management team. This way they can be prepared and take appropriate steps to make sure that patients' privacy is respected; informing patients of the situation when they book an appointment or in person when they arrive. An appropriate staff member, such as the manager or communications lead, should also warn photographers or camera crews not to take photos of patients or their vehicles, as this could identify them as being patients at the practice.

Being filmed and photographed

If the attention of the photographer or camera crew are focused on you, try to maintain your professional composure. Any images obtained would likely be used alongside the news stories they publish, so you should make sure you convey a professional image. In this situation, you should focus on where you are going and, if possible, avoid looking directly into the camera. You should not cover your face or react angrily; but be aware that smiling may also convey the wrong message. Remember, this would be the image that is viewed by the public, so a calm, professional and dignified appearance is the most appropriate.

Reporters at legal proceedings

Court proceedings usually take place in open court, rarely or occasionally in camera (private). Media may report on everything said in open court unless specifically prohibited by the presiding officer. As long as the journalist reports proceedings fairly, accurately and in context, there is not likely to be scope for redress. The media cannot publish comments that could affect how the judge decides the case.

Reporters could attend an in camera hearing, unless they are expressly excluded by the presiding officer. Even if they are not excluded, they could still be instructed as to what may or may not be published. Ignoring this instruction would lead to contempt of court. If in court or at a hearing, avoid discussing the case until you have the privacy of a room in which you are sure you will not be overheard.

If approached by a journalist while the hearing is ongoing, ask them to contact the Medical Protection Press Office for assistance with their query. Your lawyer can also help manage the press in these situations.

THE MEDICAL PROTECTION PRESS OFFICE IS COMMITTED TO DELIVERING THE HIGHEST QUALITY SERVICE, AND GUIDING YOU THROUGH ALL STAGES OF MEDIA ATTENTION

WHAT DETAILS SHOULD YOU FIND OUT IF YOU ARE CONTACTED?

- The journalist's name
- The name of the publication/ programme
- Exactly what they are seeking comment on
- Their deadline
- Their contact details – phone numbers and email address.

TOP TIPS



- Don't respond immediately – take time to consider your response or seek advice
- Maintain your professional composure
- Saying “no comment” sounds defensive. Ensure you come across as cooperative and inform the reporter that you will come back to them
- Contact the Medical Protection for advice and liaise with your employer or practice where appropriate.

WHAT CAN YOU SAY TO THE MEDIA?

CONFIDENTIALITY

Doctors are expected to protect patients' confidentiality, and follow the Health Professionals Council of South Africa's (HPCSA) guidance on dealing with media enquiries involving patients. Visit hpcs.co.za/Conduct/Ethics

Breaching confidentiality, whether inadvertently or not, could lead to a complaint, disciplinary action or regulatory sanction. However, there are ways in which you can respond to media enquiries whilst protecting your confidential details.

You should not comment on the specifics of a particular case but you can explain why – because of your ongoing duty to maintain patient confidentiality, or because the case is the subject of ongoing legal proceedings.

SPECIFIC COMMENT

There may be occasions where it is appropriate for you to make a specific comment. For instance, if you are in a situation where a patient has died, expressing your condolences or regrets to the family may be the right thing to do.

It is wise to keep statements succinct and factual; about 150 words is a general guide. Journalists often have limited space to report a story, and a lengthy statement is likely to be edited, which could distort the meaning or alter the emphasis.

Even if a patient has provided consent for you to discuss the matter in public, we would discourage you from doing this. You should consider how that might look to your other patients, your employer and the HPCSA if you were to discuss sensitive and confidential details in the press.

INVOLVING OTHERS

If you find yourself in a situation involving others, we recommend that you liaise with them and agree on a consistent message and approach to the media. It is advisable to warn all those concerned about the prospect of press scrutiny of their professional and personal lives. It might also be appropriate to let others close to you know in case they are approached by the media.

The media may also contact:

- Employers
- Colleagues and professional partners
- Those you live with, or friends and family
- Clinic staff.

PRIVATE CLINICS – SUPPORTING YOUR TEAM

In the event of unwanted media attention on you or your clinic, you can help support your team with the following steps:

- Appoint a nominated lead in your team to be the first point of call for all media enquiries to help ensure a consistent approach
- Brief the team so they know what they can and can't say – to reporters, and patients who may have seen media coverage.
- Ensure that the receptionist and person answering the phone knows there could be media calls and who to put the call through to
- Agree with relevant people who will say what and when
- Update Medical Protection, so that we can provide specific advice and monitor the situation through all stages of media attention.



UNDERCOVER JOURNALISM

Press

If you are the focus of an undercover investigation, for example, a journalist posing as a patient, it does not automatically release you from your duty to maintain patient confidentiality. Any response to the media should be handled in the same way as a query that arose from a genuine patient consultation.

In some cases it might be appropriate to ask the 'patient' to give consent for the details of the consultation to be commented on in the media, but take advice first from Medical Protection, or others who may need to be involved, such as practice partners or your employer.

According to the Independent South African Press Code engaging in misrepresentation can generally be justified only when it is in the public interest. Complaints can be made on the Press Council website under 'complaints procedure and complaints form' presscouncil.org.za/.



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SOCIAL MEDIA AND ONLINE DISCUSSIONS

The same standards of professionalism and confidentiality apply no matter what the medium of communication. Posting inappropriate comments or photographs, or describing a patient's care on a social media site can damage your reputation and lead to disciplinary action as well as unwanted media attention.

Patients posting damaging and negative comments about you on patient feedback sites could test your professionalism. In this situation, talk to your employer, supervisor, medical school or Medical Protection to discuss the situation and the best way forward.

With the rise of social media, news stories are frequently shared and discussed online. It is important to resist responding to any content that you are featured, as this could exacerbate matters and your comments could be reported on by the media.

Ensure your team is aware of the need to protect patient confidentiality and privacy.



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SOUTH AFRICAN PRESS COUNCIL (SAPC)

The Press Council, the Press Ombud and the Appeals Panel are an independent co-regulatory mechanism set up by the print and online media. They are there to provide impartial, expeditious and cost-effective adjudication to settle disputes between newspapers, magazines and online publications, on the one hand, and members of the public, on the other, over the editorial content of publications.

The mechanism is based on two pillars: a commitment to freedom of expression, including freedom of the media, and to high standards in journalistic ethics and practice.

The Council has adopted the South African Press Code to guide journalists in their daily practice of gathering and distributing news and opinion and to guide the Press Ombud and the Appeals Panel to reach decisions on complaints from the public. Member publications subscribe to the Press Council's Code of Ethics and Conduct for SA Print and Online Media.

For further information see presscouncil.org.za/.



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WHAT CAN YOU DO IF IT ALL GOES WRONG?

REDRESS

According to the South African Press Code, journalists are required to report news truthfully, accurately and fairly, with due regard to context and importance. Where a report is not based on facts or is founded on opinion, allegation, rumour or supposition, it should be indicated clearly.

Journalists are trained to write their copy within the law. Some journalists may write sensationally, but most are careful to remain accurate. Careful use of language (eg, “alleges”, “claims”) can imply incompetence or fault without explicitly stating it. Occasionally however, there may be cause for redress.

HOW CAN YOU SEEK REDRESS?

The Medical Protection Press Office will offer you objective professional advice, and talk you through your options to help put the situation right, or limit the reputational damage.

In many cases there is a greater opportunity to get speedy corrections of errors in online publications if there is proof of error. Sometimes the online copy may even be removed from the site. An online copy is ‘searchable’ and may be online indefinitely, so in many ways it is more important that this copy is correct, given the longevity of the information.

Where appropriate, we can seek a printed apology and a correction. If the article has significant factual errors, depending on the context of the published errors, an article correcting the false impression given in the original can be sought.

The opportunities for printed corrections are limited due to publication timeframes. You should also bear in mind that printed corrections and apologies can also prolong media interest.

MISQUOTING

Your comments may be taken out of context and edited to change their original and intended meaning, to fit the news agenda of the day. If this happens, there are two possible courses of redress open to you – seek an apology and/or a correction, or report the publisher to the Press Ombud. In the case of TV or radio, a complaint can be made directly to the broadcaster.



FACTUALLY INCORRECT ARTICLES

The scope for factual errors in media health stories is wide. Patients can sometimes present a skewed version of events due to grief or anger, or they might be driven by personal motivations or grievances.

The South African Press Code states:

‘The media shall make amends for presenting information or comment that is found to be inaccurate by communicating, promptly and with appropriate prominence so as to readily attract attention, a retraction, correction or explanation.’

An online article that has been amended for factual accuracy should indicate as such. In the event of an apology or retraction, the original article may remain, but the publisher must indicate in a prominent manner that it has led to an apology or retraction – and should link to both the apology or retraction and the original article.

No person shall be entitled to have an article which falls short of being defamatory, but is alleged by such person to be embarrassing, removed.

INTERDICT

A remedy of interdict can be considered by Medical Protection in the rare case of getting prior notice of an intended press release or media story that is inaccurate. If this happens it is important to act quickly and advise Medical Protection as soon as possible.

SEEKING REDRESS FOR DEFAMATION ARISING FROM PROFESSIONAL PRACTICE

- Members may find themselves subject to comments that they feel are defamatory.
- Defamation law is notoriously complex, and legal action in this area is costly and unpredictable.
- Legal action may also be counterproductive, and attract more attention and adverse publicity than the original article or comment.
- Because of this, it will not usually be in the interests of the member to pursue such actions.

DEFENDING AGAINST A CLAIM OF DEFAMATION ARISING FROM PROFESSIONAL PRACTICE

- Members may find themselves subject to action in defamation arising from their professional practice.
- MPS may be able to provide advice and assistance in defending the action, but are unlikely to provide assistance with any damages awarded in a claim in defamation against the member.

DEFENDING AGAINST A CLAIM OF DEFAMATION ARISING FROM PUBLISHED WORK OUTSIDE OF PROFESSIONAL PRACTICE

MPS membership does not include indemnity for claims arising from material published or broadcast by members, or on their behalf, or to which they have contributed. This does not affect a member's right to request assistance in relation to non-claims issues arising from such activity (for example a complaint to the professional regulator).

Published or broadcast includes, but is not limited to:

- television
- radio
- newspapers and magazines
- social media
- websites and blogs
- podcasts.

Members wishing to undertake such work should seek an indemnity from the broadcaster or publisher, or from your employer if speaking on their behalf.

MORE THAN DEFENCE

MEDICAL PROTECTION

South Africa Services, Hutton Court North, Cnr Jan Smuts Avenue and Summit Road, Hyde Park, Johannesburg, 2196, South Africa

South Africa Services, 1st Floor, Block B, North Park, Black River Park, 2 Fir Street, Observatory, Cape Town, 7925, South Africa

medicalprotection.org

HOW TO CONTACT US

PRESS OFFICE



0800 982 766 (Toll free)



medical.rsa@medicalprotection.org

MEDICOLEGAL ADVICE



0800 982 766 (Toll free)



medical.rsa@medicalprotection.org

If your call directly relates to a press query, please provide a brief summary of the events including dates, and ensure you have your membership details to hand.

In the interests of confidentiality please do not include information in any email that would allow a patient to be identified.

ABOUT MEDICAL PROTECTION

'Medical Protection' is a trading name of The Medical Protection Society Limited (MPS), a company limited by guarantee registered in England with company number 36142 at Level 19, The Shard, 32 London Bridge Street, London, SE1 9SG.

MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Membership provides access to expert advice and support and can also provide, depending on the type of membership required, the right to request indemnity for any complaints or claims arising from professional practice.

Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This can include clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.

Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.

MPS is not an insurance company. All the benefits of membership of MPS are discretionary as set out in the Memorandum and Articles of Association, and MPS® is a registered trademark.