

Independent Child Safeguarding Review of Magnum Photos

Summary of Findings and Recommendations

Andrew Puddephatt, 10 May 2021

1. Introduction

This independent child safeguarding report was commissioned by Magnum in January 2021 as part of a broader programme to address genuine concerns about material held in Magnum's archive. The author is entirely satisfied that Magnum takes these criticisms seriously and is taking responsible action.

This review looks comprehensively at Magnum's activities and makes recommendations to ensure children are properly protected and the right elements are in place for Magnum to develop new child protection policies. The process of review involved:

- Reading an extensive range of criticisms of Magnum made online;
- Interviews with prominent critics;
- Interviews with Magnum staff and photographers;
- Reviewing a selection of 900 images of children;
- Reviewing all of Magnum's internal policy documents, by-laws and decision-making processes;
- Analysing the existing steps being taken to address the criticisms;
- Drafting recommendations and providing the elements of future child protection policy.

Andrew Puddephatt OBE, is an internet policy expert specialising in human rights online and freedom of expression in particular. He is Chair of the Internet Watch Foundation which partners with the internet industry to remove illegal images of children being sexually abused. Throughout the process Magnum co-operated fully providing all the information requested and giving access to the relevant people.

Out of scope is any determination on the legality of images which has been advised directly by a specialist team at the Internet Watch Foundation. No illegal images have been found.

2. Context

Any approach to child safeguarding must be informed by a clear understanding of the potential harms and an awareness of the wider industry context. As a photographic agency, Magnum naturally champions the universal human right to freedom of expression, yet this must be done in a way that minimises harm to others – in this case children. There is nothing incompatible in this, but it does require careful thought in the making, storing, labelling and publishing of photographs.

The photographic and creative industries are relatively informal sectors. Freelancers travel the world often working independently and without direct oversight from organisations, regulators, or professional standards bodies. At the same time successful photographers can develop considerable power and influence in their field. These characteristics increase the risks around safeguarding and make it more difficult address issues when things do go wrong.

The potential for harm to children comes from interactions with children in the making of images and the subsequent presentation of images in an historic archive: photographs of vulnerable children (e.g. illegal immigrants) have the potential to retraumatise or stigmatise those individuals; editorial images of child trafficking may have the reverse effect of normalising criminal activity; images which feature child nudity or sexualised content may attract paedophiles. Further, images featuring graphic or adult content will cause harm if viewed by children.

Understandably some of the fiercest criticisms of Magnum relate to editorial images of vulnerable children, and in particular the victims of child sex abuse. The background context here is that the availability of illegal imagery has increased immensely with the internet and there is low general awareness of this extremely serious problem. Just last year the Internet Watch Foundation found around 150,000 global URLs containing illegal images of children, mostly of young white western girls. There is also still a flourishing tradition of paedophiles travelling from Europe and North America to physically abuse children in South and South-East Asia with relative freedom. Any responsible publisher of imagery needs to be aware of the scale of this problem and take active steps to avoid inadvertently encouraging criminal activity.

Victims of abuse will often feel that their harm is compounded by the repetitive use of their photograph, particularly if they are identifiable. Facial recognition systems mean that people can be identified much more easily than at any time in history. And photographs can be circulated and reproduced beyond the control of the copyright owner. A modern approach to child protection must begin with an understanding of this context.

3. Key findings

3.1. Magnum is taking responsible steps to address child protection concerns. Immediately after concerns were raised last year, Magnum launched a broad programme of work. It restricted public access to its archive, commissioned a criminal lawyer to give an opinion on the legality of images, and initiated a full review of the archive to examine various complex ethical themes. Magnum commissioned this independent child safeguarding review in January 2021 and joined the Internet Watch Foundation to ensure ongoing monitoring.

3.2. Magnum lacked the editorial policies of a publisher. In opening its historic archive to the public roughly ten years ago, Magnum became a publisher in a way that it did not fully understand at the time. Publishing editorial images of victims of child sex abuse for instance, and doing so without restrictions or the privacy protections guaranteed in UK

law, has the potential to encourage paedophiles and to compound the harm to victims. It can also attract criticism that children of different ethnicities can be treated differently. One example is a series of photos in Magnum's archive that documents the realities of underage boys who are available for sex on a named beach in South East Asia. Whilst most people would be deeply upset by these scenes, they also have the potential to alert paedophiles to a location where they can abuse children.

- 3.3. There has been insufficient oversight of metadata tagging. Whilst Magnum photographers contribute the caption information to stories, the metadata tags are the responsibility of the company, via contractors. There are currently around 64,000 tags in use which help users find specific images. Several years ago, the responsibility was outsourced to a third-party crowd-sourced solution without sufficient oversight from Magnum. Roughly 35,000 tags date back to this period and are highly variable in quality: some were offensive or inappropriate terms in themselves, and others were legitimate terms incorrectly applied to images. The existing contractor operates to guidelines developed by Magnum, however the old problems were never fully cleared up. There remains insufficient quality assurance around this process particularly when it comes to revising outdated terminology and controlling the use of sensitive words.
- 3.4. These challenges are not unique to Magnum. Managing an historical archive is one of the most challenging issues at the moment as archivists in media and cultural institutions will attest. The key questions in managing an archive are: what material is removed, what material is protected from general view, and how material can be properly contextualised. In the photography industry, many of the large professional image licensing platforms make challenging images of children openly available without apparent protections or editorial filters. This appears to be the industry norm. Whilst Magnum's images are legal, and the vast majority also acceptable in context, there were a small number of images that raised questions as to their suitability to in the archive. Balancing freedom of expression with protecting children's rights is mostly straightforward, but boundary issues such as these require careful reflection.

4. Recommendations

Freedom of expression is a fundamental human right and a central tenet of Magnum's philosophy. Yet this right is not absolute and carries certain duties and responsibilities. Commonly accepted limitations to freedom of speech relate to the right to privacy and preventing harm to others. The following recommendations will hopefully support Magnum as it develops more structured approach to child protection.

- 4.1. **Informed consent.** When photographing children under 18 years old, reasonable steps should be taken to secure the responsible adults' informed consent as a child cannot legally provide this. This can come in many forms – in writing, verbally or even visibly through gestures – and it is good practice for photographers to make a written record of the consent as soon as practicable. Informed consent is most important when taking pictures of children in private places, particularly if that involves vulnerable or abused children. Where children are photographed in circumstances of abuse, there should

also be a clear public interest rationale that is set out unambiguously when submitting the photograph to Magnum's archive (e.g. to expose child exploitation).

There is no legal power to prevent photography or filming of children in public settings (e.g. the street, a public rally, procession, sports event etc) but it is still good practice where possible to seek informed consent from a responsible adult, or to consult with event organisers who can make this information available to participants. Photographers should allow any responsible adult to request that their child not be photographed, and also respect the child's own wishes as well.

- 4.2. **Ethics panel.** A small internal ethics panel should be appointed by Magnum's board to oversee the evaluation of new and archival images working to a clear child protection and vulnerable persons' framework and with the option to refer to external experts. UK legal frameworks can safely be considered international best practice for Magnum's working purposes and any photograph that raises legal concerns should be immediately referred to the Internet Watch Foundation, or to the relevant authorities. If the image is confirmed to be illegal, it must be immediately destroyed and reported to the authorities if it has not been already.

The decisions of this ethics panel should be audited annually or biannually and the photographers/ employees responsible for decision-making should receive appropriate training and support. This forms the final part of a 'triple check' system in which photographers first give ethical consideration at the moment of taking the photograph and subsequently when submitting material to the Magnum archive.

- 4.3. **Access restrictions.** One effective way Magnum can minimise harm is by restricting access to sensitive images in the archive and making them available only to those with legitimate reason to see them. This limits the risk of retraumatising or stigmatising individuals, reduces the chances of inadvertently triggering readers, and puts barriers up against paedophiles. For images of victims of child sex abuse that remain in the public domain, the identity of the child should be obscured unless there is an overwhelming public interest in the face being shown – in which case the reason should be clearly stated.

- 4.4. **Tagging and context.** Any archivist, in any field, will agree that how an archive is labelled, accessed and searched is the single most difficult issue they face. The values of society change over time and the way images or text are perceived inevitably changes as well. This requires not just a one-off exercise in reviewing the tagging system but also clear editorial control by Magnum over the presentation of work in the future. As part of this, all tags, keywords, and labels which are sexually suggestive about children or signify pathways for potential abusers should be removed. Ethical keyword guidelines and a referral/ QA process should be developed, including a list of excluded terms.

It is best practice for sensitive editorial images to be given as much context as possible including the situation in which it was taken, the rationale for the photograph, and, if the subject involves illegal acts, what action was taken if any, including if there was a reference to local law enforcement or an alert to a relevant NGO. The point here is not

to prevent the photographing of sensitive or exploitative issues but to make the photographer think clearly about their responsibilities in these circumstances. Magnum should consider where warning information may be appropriate, including around graphic or adult content, and restrict the licensing of sensitive images to responsible partners in a fully rights-managed process. These images should never be sold or made available royalty-free.

4.5. Policy and training. Magnum is taking positive and proactive steps in relation to child safeguarding and these should be set out in policy and made available to all Magnum members, employees, and on the Magnum website. This should include guidance to photographers when working with children, as well as a definition of the types of images that raise serious concerns and the criteria for assessing such images in the archive. Magnum should consider creating a way for people to raise a concern about an image with a clear management responsibility to respond to those concerns within a specific period of time. In support of this, Magnum photographers and employees should also be provided a thorough briefing on child protection issues to ensure they are fully aware of the context in which they make and publish work.

5. Conclusion

Throughout the process of review the author was confident that Magnum took the public allegations and criticisms seriously and is developing effective mechanisms to address each one. With nearly a million pictures in the archive and 64,000 tags to work through, inevitably this has taken longer than they would have liked but there is a recognition that sensitive images have the potential to cause harm and should be managed responsibly. Since summer 2020 Magnum has made considerable progress and is moving in the right direction to address the genuine concerns that others have expressed. Within the wider context of the photographic and creative industries more generally this is encouraging and will hopefully lead to a wider debate about those industries' responsibility towards children and all vulnerable groups.