



Children's
Rights Alliance
for England

Proposed revision to the Editors' Code - March 2017

About the Children's Rights Alliance for England

[CRAE](#) believes that human rights are a powerful tool in making life better for children. We are one charity, based in London as part of [Just for Kids Law](#), working with over 150 organisational and individual members to promote children's rights. We fight for children's rights by listening to what they say, carrying out research to understand what children are going through and using the law to challenge those who violate children's rights. We campaign for the people in power to change things for children. And we empower children and those who care about children to push for the changes that they want to see.

Children's rights

We request that the Committee consider a number of amendments to the Editors' Code as part of its current review. These amendments are necessary to ensure the Code is compliant with children's rights.

The child rights in question are:

- The right to privacy conferred by Article 8 of the European Convention on Human Rights (ECHR), interpreted in line with the United Nations Convention on the Rights of the Child (UNCRC). (The European Court of Human Rights has been clear that the Human Rights Act Convention Articles should be interpreted in accordance with other international human rights treaties¹. The domestic courts have also stressed the need to read the ECHR rights compatibly with the UNCRC²);
- Article 1 of the UNCRC which defines the child as all those under eighteen years of age;
- Articles 2 and 3 of the UNCRC, which provide for non-discrimination, and the provision of "such protection and care as is necessary for his or her [the child's] well-being".
- Article 3 of the UNCRC, which is binding on administrative authorities and requires the best interests of the child to be a primary consideration in all matter affecting them;
- Article 16 of the UNCRC which provides children with the right to privacy;
- Article 40 of the UNCRC which provides children "alleged as or accused of having infringed the penal law" with the right to "have his or her privacy fully respected at all stages of the proceedings" and requires that such children are treated in a way that "takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society".

¹ *Neulinger v Switzerland* (2010) 28 BHRC 706, para 131 and *Demir v Turkey* (2009) 48 EHRR 54 at paras 69-73

² See, for example, *Dyer v Watson* [2004] 1 AC 379, PC, at paras 61 & 104-106; *R (R) v Durham Constabulary* [2005] 1 WLR 1184, HL, at paras 26-28; *R (E) v Governing Body of JFS* [2010] 2 AC 728, SC, at para 90.

Changes to the Editors' Code

To help to ensure these rights are met, at least the following changes need to be made to the Code:

- **Section 12 – Discrimination:** Age must be added to the list of protected characteristics. The depiction of children by the media is frequently misleadingly generalised and negative. The UN Committee on the Rights of the Child has expressed concerns about the depiction of children in the UK, stating in 2016: “The Committee recalls its previous recommendation that the State party take urgent measures to address the “intolerance of childhood” and general negative public attitude towards children, especially adolescents, within society, including in the media”³. The government has acknowledged the detrimental affect media representations of children can have on their wellbeing⁴. To help protect the rights of children to live free from discrimination and to have their wellbeing protected, the Code should be amended.
- **Section 9 – Reporting of Crime:** This section should include a requirement that editors consider the vulnerable position of child defendants when reporting on crime, particularly when deciding whether or not to identify them. There is currently no requirement that editors consider the needs of child defendants at all, despite the fact that these are some of the most vulnerable children in society and the Code purports to protect the vulnerable⁵. The Code does however require that the vulnerable position of child victims and witnesses is considered. While this is welcome, protection of defendants is also required if the Code is to avoid discriminating between different groups of children – which is contrary to Article 2 of the UNCRC – and if the Code is to be compliant with Article 3 of the UNCRC which requires that the best interests of the child is a primary consideration; currently the best interests of child defendants are absent. Considering the vulnerability of child defendants when deciding whether or not to identify them is also important in respecting the child’s enhanced right to privacy, particularly when involved in criminal proceedings (Article 8 ECHR, Articles 16 and 40 UNCRC). This has implications again for the best interests considerations in Article 3 and the Article 40 requirement that the reintegration of children in trouble with the law is promoted⁶.
- **Section 9 – Reporting of Crime:** A prohibition on identifying children pre-charge should be added to this section. There is currently no provision in English law to prevent children being identified pre-charge, reporting restrictions come into force once proceedings have commenced. Identifying children pre-charge is against their interests (contrary to UNCRC Article 3) and violates their rights to Privacy (Article 8 ECHR and Article 16 UNCRC), particularly their right to privacy in criminal proceedings (Article 40 UNCRC).

³ June 2016, UN Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland. Para 22

⁴ “Negative images that present young people as a nuisance can also undermine young people’s self-esteem as well as their confidence in their legitimate and valued place in society – also influencing adults and other young people to develop unwarranted feelings of mistrust” Department for Education (December 2011) Positive for Youth. A new approach to cross-government policy for young people aged 13 to 19, p. 5

⁵ See the Editors’ Codebook 2016, page 98: <http://www.editorscode.org.uk/downloads/codebook/codebook-2016.pdf>

⁶ The Committee on the Rights of the Child has recognised that maintaining a child’s privacy is crucial to fulfilling a child’s right to rehabilitation and reintegration: “No information shall be published that may lead to the identification of a child offender because of its effect of stigmatization, and possible impact on his/her ability to have access to education, work, housing or to be safe.” (Committee on the Rights of the Child (2007) General Comment No. 10: Children’s Rights in Juvenile Justice, para 64)

- **Public interest section:** the definition of a child should be amended to everyone under the age eighteen, not everyone under the age of sixteen, as is currently the case. Article 1 of the UNCRC is clear that a child is anyone under the age of 18, and the protections the UNCRC affords apply equally to all children so defined. Almost all the protections provided to children under English law apply to all children under the age of 18. The protections afforded to children under the public interest section of the Code should similarly apply to everyone under the age of eighteen. It is contrary to Article 2 of the UNCRC to discriminate against different groups of children.

We urge the Committee to adopt the above changes to the Code to ensure that the media in England and Wales respects the rights of children.

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