

The Editors' Code of Practice Committee Code Review PCAA Foundation submission

Background:

The Parliamentary Committee Against Antisemitism Foundation (PCAAF) is a registered charity centred on the principle that the struggle against prejudice and discrimination is not just the responsibility of the victims.

The PCAA Foundation provides secretariat support to the All-Party Parliamentary Group Against Antisemitism.

1. The Editors' Code of Conduct:

Clause 12 of the Editors' Code of Conduct relates to discrimination. It states that:

i) The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.

ii) Details of an individual's race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story¹ (The Code).

However, as stated in the Editors' Codebook, this “*does not cover generalized remarks about groups or categories of people*” (p.74, the Editors' Codebook).²

The Public Interest section (p.96) of the Editors' Codebook states that there is:

“a public interest in freedom of expression itself and IPSO will consider the extent to which information is already in the public domain or will become so. A public interest defence cannot be put forward for seven clauses of the Code. Put simply, there could be no public interest justification for breaking these clauses of the code:

- *Clause 1 – Accuracy*
- *Clause 4 – Intrusion into grief or shock*
- *Clause 11 – Victims of sexual assault*
- *Clause 12 – Discrimination*
- *Clause 13 – Financial journalism*
- *Clause 14 – Confidential sources*
- *Clause 15 (i) – Witness payments in criminal trials And IPSO will need convincing that public interest is an adequate defence in complaints involving the other nine clauses.”*

2. Recommendations:

The PCAA Foundation believes there should be appropriate recourse for groups

¹ http://editorscode.org.uk/the_code.php

² <http://editorscode.org.uk/downloads/codebook/codebook-2016.pdf>

that are subjected to discrimination, through the Editors' Code.

There have been a number of parliamentary and other reports urging a change to the Editors' Code of Practice in this regard.

In its Tenth Report³, the Parliamentary Joint Committee on Human Rights (JCHR) focused specifically on Clause 12 of the Editors' Code and the status of groups that had been discriminated against. This report cited numerous organisations that recommended the Code be strengthened, including the Commission for Racial Equality (now part of the Equality and Human Rights Commission). The former Press Complaints Commission's (PCC) stated position was that affording the equivalent protection to groups as existed for individuals would impede freedom of expression. Individuals of a group if subjected to alleged discrimination therefore had little other option than to complain under Clause 1 (Accuracy) of the Code. The PCC informed the JCHR that it had "not come up with a form of words" which could protect both groups from discrimination and freedom of expression. There was a general reluctance from the PCC to extend the reach of Clause 12 despite the JCHR noting that other jurisdictions had more robust protection within self-regulatory frameworks (Australia, for example, does not differ in approach between individuals and groups⁴). The JCHR found that for the PCC "Its existing system is not sufficiently robust to protect asylum seekers and other vulnerable minorities from the adverse effects of unfair and inflammatory media stories".

In 2013, following rounds of written and oral evidence, an All-Party Parliamentary Inquiry into Electoral Conduct was published. The report by 12 cross-party MPs and Peers looked again at the Editors' Code. Having reviewed the evidence and referring to the aforementioned JCHR report, the committee wrote: "it is quite clear that for too long, concerns about the extent and efficacy of the PCC Code in relation to discrimination have gone without serious consideration or answer. As this report went to press, discussions about the future of press regulation were ongoing. Attempts to secure a sensible balance between the defence of freedom of expression and the protection from discrimination should be a consideration for Government as part of those debates and we urge the PCC to reconsider their position" (Recommendation 12, All-Party Parliamentary Inquiry into Electoral Conduct, p.68)⁵. Subsequent to the publication of the report, its chair Natascha Engel MP wrote to the Secretary of the Editors' Code Committee with details of the panel's recommendations but no action was taken.

In 2015, another cross-party publication, the All-Party Parliamentary Inquiry into Antisemitism report - hailed by the Prime Minister, Leader of the Opposition, the Archbishop of Canterbury and many other leading figures in British public life – recommended:

"that the Editors' Code of Practice be reviewed and that the relevant section be extended to give recourse for groups to complain about discrimination on the grounds of race or religion whilst ensuring a sensible balance for freedom of speech" (p.79,

³ <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/8102.htm>

⁴ <http://www.presscouncil.org.au/document-search/guideline-reporting-of-race/?LocatorGroupID=662&LocatorFormID=677&FromSearch=1>

⁵ http://antisemitism.org.uk/wp-content/uploads/3767_APPG_Electoral-Parliamentary_Report_emailable.pdf

*All-Party Parliamentary Inquiry into Antisemitism 2015*⁶).

In the course of researching the 2015 report, contact was made with the Independent Press Standards Organisation (IPSO). On Monday 29 December 2014, the Director of Complaints and Pre-Publication Services at IPSO commenting on the Editors' Code of Practice stated that “there is a change that may be relevant to your interests, and that relates to who can complain about cases of alleged discrimination against individuals. IPSO can, of course, take complaints from individuals who believe that they have been discriminated against on the grounds set out in Clause 12, which include race and religion. In addition to that, however, IPSO is specifically empowered to take forward complaints from representative groups affected by an alleged breach of the Code, where the alleged breach of the Code is significant and there is a public interest in our doing so. There still has to be an individual who is the subject of the alleged discriminatory material, but this mechanism recognises that others may be affected by such discrimination, indirectly.”⁷

The 2015 All-Party Parliamentary Inquiry commended IPSO on these changes, writing that “this is an important and welcome step forward. The fact that there is at least some recourse for groups is welcome. It is only logical that having accepted such rights for groups that an extension to the relevant section of the Code on discrimination be made (All-Party Parliamentary Inquiry into Antisemitism 2015, p.79)”.

It does not appear that this position has been made clear nor stated publicly within the Code or the Editors' Codebook.

Specific Recommendations

1. We recommend that explicitly, either as part of Clause 12 or as part of the ‘Public Interest’ section of the Codebook, the following caveat be published:

“IPSO is specifically empowered to take forward complaints from representative groups affected by an alleged breach of the Code, where the alleged breach of the Code is significant and there is a public interest in our doing so.”⁸

2. In addition, we recommend that an explicitly clear rationale for assessing or failing to assess a report from a representative group under the discrimination clause in the above circumstances should be provided in an appropriate place.

3. We strongly recommend that where articles meet a public interest test (which IPSO would determine), groups should have recourse to complain without an individual having been discriminated against. We recommend that any public interest test should include a measure of discriminatory impact as well as intent or otherwise. Having the requisite test would ensure an appropriate balance between freedom of expression and protection from discrimination. It is illogical to have a policy whereby groups can be affected by discrimination against an

⁶ <http://www.antisemitism.org.uk/wp-content/themes/PCAA/images/Report-of-the-All-Party-Parliamentary-Inquiry-into%20Antisemitism-1.pdf>

⁷ IPSO Correspondence

⁸ IPSO Correspondence

individual but cannot be subjected to/ have recourse to address collective discrimination in the absence of an individual attack.

4. Finally, we recommend that IPSO establish and convene annually or as necessary an expert reference group comprising organisations including the Community Security Trust, Tell Mama and Stonewall in order that the Editors' Code can be reviewed at regular periods against examples like the articles listed below.

3. The Case for Action:

What follows are examples of where Jews, Muslims and migrant communities have been discriminated against as a group rather than on an individual basis. Some of the articles below resulted in public discussion and debate about the groups concerned which in turn inspired or encouraged racist, antisemitic and islamophobic discourse. Certainly, at least serious consideration would need to be given to the public interest in carrying forward complaints from the groups concerned in these circumstances.

- 1) In 2015, Katie Hopkins wrote a now notorious opinion piece in The Sun that likened migrants to “cockroaches”. IPSO uses this case as an example of a complaint being assessed according to Clause 1 of the Editors' Code (Accuracy) as opposed to Clause 12 (Discrimination). In its finding about the article, the organisation stated that “as no individual was identified in the article, IPSO did not accept a complaint under Clause 12 but it considered the article under Clause 1 – Accuracy”. The article was judged by IPSO to be “a polemic, which expressed strong and, to many people, abhorrent views of asylum-seekers and migrants generally” (p.75, the Editors' Codebook). The article was referred to police for investigation as potential incitement to racial hatred.

Hopkins dehumanised a group of people, specifically referenced in earlier parliamentary reports as insufficiently protected as a collective from discrimination in the press. In the past, groups subjected to dehumanization include the Jews, branded rats by the Nazis and the Tutsis, branded cockroaches by Hutus involved in the Rwandan genocide. This article in that context, surely, could and should have been considered a matter of public interest and one which could have been taken under the clause on discrimination. A common sense approach dictates that it was not a matter of accuracy.

- 2) On 27th July 2010, Christina Patterson wrote a comment piece for The Independent⁹. She stated that “when I moved to Stamford Hill, 12 years ago, I didn't realise that goyim were about as welcome in the Hasidic Jewish shops as Martin Luther King at a Klu Klux Klan convention.” She continued to refer to religious and other practices of Muslims and Jews as groups throughout the piece. In a subsequent

⁹ <http://www.independent.co.uk/voices/commentators/christina-patterson/christina-patterson-the-limits-of-multi-culturalism-2036861.html>

article in the Independent by Jerome Taylor on 30th February 2010¹⁰, he noted the impact of Patterson's article in other spheres. He wrote that "Damian Thompson, a well-known Catholic blogger who regularly defends Israel and Judaism in his writing, came to Patterson's defence and said it was right to highlight the sense of superiority some Jews have towards gentiles."

The Community Security Trust deconstructed Patterson's article¹¹, highlighting that it treated Muslims and Jews "as nothing more than uncivilised mirror images of one another; and ranges, seamlessly, from genital mutilation to castigating Jews in Volvos with mobile phones, bad manners and "*chosen*" people haughtiness". The CST explains however that the word "goyim" has been used by journalists to "invoke the notion that Jews believe others to be inferior beings" and that the "motif of "chosen people" (and therefore "goyim") is a core historical element of antisemitism throughout the ages." For comparison, CST provide a direct reference to an overtly antisemitic far-right piece. Some advice from the CST about the context of Patterson's article might have helped IPSO judge this matter under the Editors' Code clause on discrimination.

- 3) In February 2002, the cover of an edition of the New Statesman showed a gold Star of David impaling a Union flag with the title: "A kosher conspiracy?" A subsequent article written by David Lister in The Independent stated that "the General Secretary of the Labour Party, David Triesman said the cover was "one of the most offensive images" he had seen." "It gathers together a symbol of Jewishness (not of Israel), conspiracy, and wealth in ways candidly redolent of the extreme right."¹²¹³ Again, with expert advice on the antisemitic motifs and provenance it relied upon, this piece would undoubtedly have been considered as discriminatory against Jews.
- 4) Kelvin Mackenzie wrote a Sun Column On 'Holidaying In Muslim Countries in November 2015'¹⁴. He stated that "the Muslim attitude to Westerners has always been: We like your money and are prepared to hide our disdain for your woman wearing revealing clothes and your love of a drink just as long as you put food on my table." Of course there are a multiplicity of views and attitudes across the Muslim community as indeed there would be in any community but this goes beyond lack of accuracy. It is a harmful, damaging, abhorrent and discriminatory stereotype and should have been considered as such given the impact it had.

¹⁰ <http://www.independent.co.uk/news/uk/home-news/manners-multiculturalism-and-the-battle-of-stamford-hill-2040039.html>

¹¹ <https://cst.org.uk/news/blog/2010/08/02/volvos-pushchairs-and-the-jewish-threat-to-multi-cultural-britain>

¹² <https://www.theguardian.com/media/2002/feb/07/pressandpublishing.politics>

¹³ <http://www.independent.co.uk/news/media/new-statesman-admits-mistake-over-kosher-conspiracy-cover-9130124.html>

¹⁴ http://www.huffingtonpost.co.uk/2015/11/13/kelvin-mackenzie-the-sun-muslim-holiday-twitter_n_8554674.html