

## **2020 Editors' Code of Practice Review Report**

### **Introduction**

This report sets out details of the Review of the Editors' Code of Practice that was conducted during 2020. The Review was carried out by the Editors' Code of Practice Committee, which draws up the Code of Practice. The Code is policed by the Independent Press Standards Organisation and is regarded as the cornerstone of self-regulation of the press.

The committee is composed of editors and lay members and the independent chair is Neil Benson.

Other members are:

National newspapers: Chris Evans (Daily Telegraph); Gary Jones (Daily Express); Emma Tucker (Sunday Times); Ted Young (Metro).

Regional newspapers: Ian Carter (The KM Group); Anna Jeys (Reach, Birmingham); Gary Shipton (JPIMedia).

Scottish press: Donald Martin (Newsquest Scotland).

Magazines: Harriet Wilson (Condé Nast Publications).

Lay members (ex officio) are: Lord Faulks (Chairman, IPSO); Charlotte Dewar (CEO, IPSO).

Independent lay members appointed by IPSO's appointments panel are: Sarah de Gay; Christine Elliott; Kate Stone.

The committee's secretary is Jonathan Grun.

In line with its constitution, the Editors' Code of Practice Committee carries out a triennial review of the Code of Practice. The review involves a public consultation, which on this occasion attracted over 1,000 submissions.

The Code committee considered the submissions and produced a recommendation that has been approved by the boards of the Regulatory Funding Company and the Independent Press Standards Organisation.

The Code committee welcomed the wide range of views expressed in the submissions, some arguing from diametrically opposed standpoints, which proved to be a living example of the importance of freedom of expression in society. The Editors' Code strikes a balance between respecting the rights of individuals, while also protecting the fundamental right to freedom of expression. In an era of increasing intolerance of different opinions, the freedom of the press is under threat from those who do not recognise that debate and the expression of lawfully held views is a vital feature of a free society. Instead, some wish to control the narrative in their favour or shut down any opposition to their views. Society as a whole would be poorer if that happened.

There are other threats to a well-informed society. The emergence of unregulated digital media means there is a danger of the public being misled by providers of fake or distorted news. In contrast, the Editors' Code of Practice sets high standards for the press organisations that follow it and it also offers accountability and redress through the work of the independent regulator.

Many of the submissions in this consultation raised issues that have resulted in a positive exchange of views, which the committee believes will lead to greater understanding, including a clearer perception of the role of a free press. Although in individual cases this process may not lead to a change in the Code – because suggested amendments may not work in practice or might unduly restrict freedom of expression – it can influence the way that editors approach stories in future.

Consideration of points raised has also led to examples of best practice being featured in the revised Editors' Codebook, the handbook to the Code and how it is interpreted by IPSO. Stories have to be treated on their merits, so imposing unduly restrictive changes to the Code is not practical, whereas highlighting non-binding best practice can be a real assistance to editors.

Submissions to the Code review will be published in due course on the Editors' Code of Practice Committee website: <http://editorscode.org.uk/index.php>

The Code committee has recommended a change to the Code after considering representations by

charities campaigning on mental health.

Clause 2 (Privacy) will be amended to include a reference to mental health and will now read (amendment in red):

**2. \*Privacy**

*i) Everyone is entitled to respect for ~~his or her~~ their private and family life, home, physical and mental health, and correspondence, including digital communications.*

*ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.*

*iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.*

The committee believes that this will improve understanding of the protection that the clause provides for individuals. Mental health was already covered implicitly in the clause, but the amendment makes this explicit and is a timely reminder of the changing attitudes in society – mental health is now openly acknowledged and the press can take some credit for driving that welcome transformation.

The change also aligns the wording of Clause 2 (Privacy) with Clause 12 (Discrimination), which already refers to physical and mental health.

All of the issues raised during the consultation were considered by the Editors' Code of Practice committee. They included the subjects in the following sections.

**Clause 12 (Discrimination)**

There were calls from some campaigners for the clause to be amended to include complaints concerning groups. In contrast, others requested that to protect press freedom the clause should remain unchanged and continue to offer protection to individuals. Other requests included adding a prohibition on incitement to hatred and adopting definitions of antisemitism and Islamophobia. The Code committee concluded that accepting complaints about generalised comments regarding groups would limit freedom of expression and prevent a free press examining and debating key issues.

It noted that incitement to hatred is already a criminal offence and the Code seeks to supplement the law, not to echo or replace it.

The committee concluded that Clause 12 provides protection against prejudicial or pejorative references without the need for reference to definitions of Islamophobia or antisemitism.

**Transgender issues**

The committee considered requests for detailed restrictions to be imposed on reporting transgender stories but concluded that provisions in the Code, including Clause 1 (Accuracy), Clause 2 (Privacy) and Clause 12 (Discrimination), allow editors to report and debate this issue, while still protecting the rights of individuals. The committee noted that reporting transgender issues has already been addressed in an IPSO guidance note and there are links to this from the Editors' Codebook and an online version of the Code: <https://www.ipso.co.uk/member-publishers/guidance-for-journalists-and-editors/transgender-guidance/>

**Suicide**

The Code committee was grateful for a number of detailed submissions on reporting suicide. Subjects, including the suicide of celebrities, new methods of suicide, comments on social media and signposting to sources of help, were considered and the committee decided that these items of best practice would be reflected in the next edition of the Codebook.

**Sexual offences against women**

There were detailed submissions prescribing rules for reporting sexual offences against women. The committee was grateful for the submissions, which shone a light on a key issue of our times, but was unable to accept recommendations that would seriously affect the ability of the press to examine each story on its merits and report it accordingly, particularly when reports of judicial proceedings must comply with the law governing contempt of court.

The victims of sexual assault are protected by the law and the Code also offers protection, most often through Clause 11 (Victims of sexual assault), Clause 7 (Children in sex cases), Clause 1 (Accuracy), Clause 2 (Privacy), Clause 4 (Intrusion into grief or shock) and Clause 6 (Children).

The committee noted that IPSO has also published guidance on reporting sexual offences that deals with many of the issues raised in submissions. For example, there is advice on the caution needed if comments are allowed on online stories.

It says: "The Editors' Code does not set out the language which must be used to describe sexual offences. However, when reporting on sexual offences, journalists are reporting on extremely sensitive and personal matters. Editors and journalists should not lose sight of the fact that victims will often be in a particularly vulnerable position. Care should be taken not to choose terminology which sensationalises the offences, apportion blame or implies that the victims consented to the sexual act.

"If you are interviewing a victim, you should consider the impact of the interview on the victim and what support you will make available to them. This could include letting the victim choose the location for the interview, or signposting the victim to appropriate additional support."

The guidance can be found here:

<https://www.ipso.co.uk/member-publishers/guidance-for-journalists-and-editors/guidance-on-reporting-of-sexual-offences/>

### **Reporting terrorism**

Submissions called for changes to the Code to prevent the publication of extremist propaganda and prevent terrorists being glorified or glorified.

The committee concluded that editors take very seriously how terror incidents are reported, which can be challenging in rapidly developing stories. The press regulated by IPSO plays a vital role in informing the public as the story unfolds – and in the era of fake news that has never been more important. The Code also offers protection to individuals when such stories are reported. Clause 1 (Accuracy), Clause 2 (Privacy), Clause 3 (Harassment), Clause 4 (Intrusion into grief or shock), Clause 6 (Children), Clause 8 (Hospitals) and Clause 12 (Discrimination) are among the clauses that could be invoked in complaints about coverage of events.

Editors decide how each story is covered on its merits and the committee concluded that engagement and discussion is a better option than inserting inflexible and unduly restrictive clauses into the Code.

The committee also noted that IPSO has issued guidance for covering major incidents, including terrorism, which can be found here: <https://www.ipso.co.uk/member-publishers/guidance-for-journalists-and-editors/reporting-major-incidents/>

### **Victims of crime**

The Code committee welcomed submissions containing suggestions regarding reporting on victims of crime as part of a process of improving understanding of such human tragedies. The committee noted that editors exercise their discretion in reporting distressing cases and must answer to complaints that may be brought under Clause 4 (Intrusion into grief or shock). It concluded that dialogue on such issues was preferable to restrictive additions to the Code.

### **Climate change**

Climate change campaigners put forward a number of suggestions, including a revision to the Code in relation to opinion pieces. The committee noted that the Code does make clear that Clause 1 (Accuracy) applies to all editorial content, whether in the news columns or opinion pieces. The Editors' Codebook explains that Clause 1 (iv) protects the press's freedom to editorialise and campaign, but it also demands that the press must distinguish between comment, conjecture and fact. That may lead to opinionated columnists being asked to justify the factual basis for cases they are arguing. In the news columns it might result in a complaint because a claim has been presented as a fact. It also noted that the Codebook does have a link to the non-binding advice on reporting science stories by the Science Media Centre:

<https://www.sciencemediacentre.org/wp-content/uploads/2012/09/10-best-practice-guidelines-for-science-and-health-reporting.pdf>

**Accuracy**

Submissions called for corrections to have equal prominence to the original story and that the Code should specify that the regulator has the power to require apologies and direct the size and placement of those apologies.

The committee concluded that the Code of Practice incorporates the principle of proportionality when it specifies “due prominence” in relation to remedies for breaches of the Code.

Equal prominence rather than due prominence would prevent IPSO judging each case on its merits and deciding what the appropriate course of action should be. There have been adjudications and corrections signaled on the front page when it was considered appropriate.

Mandatory equal prominence would also deal a blow to the successful corrections column that provides a place for readers to find corrections. IPSO has said of the column: “It signifies a commitment to accuracy; it provides information to readers about how to make complaints; and if it appears consistently, it contributes to the prominence of corrections by ensuring that readers know where to find them.”

The committee considered that forced apologies would be meaningless. At present IPSO cannot order an apology but can find a breach of the Code if one is not offered. It should be noted that in some cases a publication will sincerely believe it has not broken the Code, even after it has been found to be in breach and has complied with IPSO’s directions. In these circumstances an “apology” would ring hollow and run against the principles of freedom of expression.

**Political impartiality**

A number of submissions from private individuals called for the Code to require impartial political reporting, particularly at election time. The committee concluded that the Code acknowledges that there is a fundamental right to freedom of expression – such as to inform, to be partisan, to challenge, shock, be satirical and to entertain. It also states that the press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact. In these circumstances the committee considered that a change to the Code was inappropriate.

**Privacy**

There was a call for the Code to be amended so that the public interest guidance gives the same weight to the right to privacy as it gives to freedom of expression. The committee noted that this was already the case. The committee concluded that there is a presumption that people’s privacy will be observed and a detailed and compelling case will need to be produced before IPSO is persuaded that the public interest is being served by what would otherwise be a breach of the Code.