

## **Editors’ Code of Practice Committee—written evidence (FOJ0012)**

### **Submission to the House of Lords’ Communications and Digital Committee’s inquiry on the future of journalism**

#### **Introduction**

This submission by the Editors’ Code of Practice Committee urges the Communications and Digital Committee to recognise and endorse the importance of editorial standards in the rapidly changing digital news media landscape.

The Code Committee calls on the investigation to support the principle that the public should be able to trust in the news that they consume.

As the committee chair, Lord Gilbert of Panteg, observed, social media has allowed new organisations to disrupt the news market and also gives individuals a greater freedom to publish news and analysis themselves.

This development produces welcome diversity but it also raises the danger in some cases of the public being misled by providers of fake or distorted news.

In contrast, we would point out that the Editors’ Code of Practice sets high standards for the media organisations who follow it and it also offers accountability and redress.

#### **About the Editors’ Code of Practice**

The Editors’ Code of Practice is the foundation stone of the UK press self-regulatory system. It sets out the rules that the voluntarily subscribing newspaper and magazine industry members have pledged to accept.

It is by those self-imposed standards that newspapers and magazines can be held to account via the Independent Press Standards Organisation (IPSO), which is the regulatory body for the overwhelming majority of the industry.

The Code is reviewed by the Editors’ Code of Practice Committee, which has been restructured to include a stronger lay membership, as well as editors representing the national and regional newspaper and magazine industry.

Its current membership comprises:

Neil Benson, independent chairman; Ian Carter, The KM Group; Christine Elliott, independent lay member; Chris Evans, Daily Telegraph; David Jessel, independent lay member; Anna Jeys, Reach, Birmingham; Gary Jones, Daily Express; Donald Martin, Newsquest Scotland; Gary Shipton, JPIMedia; Kate Stone, independent lay member; Emma Tucker, Sunday Times; Harriet Wilson, Condé Nast Publications; Ted Young, Metro; the chair and CEO of IPSO; secretary: Jonathan Grun.

The Editors’ Code of Practice first came into force on January 1, 1991. It resulted from the Government’s acceptance of the report of the Committee on Privacy and Related Matters, in June 1990, which recommended that the Press Complaints Commission “should publish, monitor and implement a comprehensive code of practice for the guidance of both the press and the public.”

In his Report into the Culture, Practices and Ethics of the Press (November 2012), Lord Justice Leveson acknowledged the central position of the Code in press regulation: "The new regulatory regime must have a standards code. The current Editors' Code has been widely praised by those in the industry. It has been developed by the industry over the last two decades and has adapted to take account of new concerns and issues that have arisen... I recommend that the standards code must ultimately be the responsibility of, and adopted by, the Board advised by a Code Committee which may comprise both independent members of the Board and serving editors."

The Editors' Code of Practice is a living document and has evolved over time to reflect changes in society. There have been more than 30 amendments to the Code over its 30-year history, the most recent being last year when the Code was changed to further strengthen protection for victims of sexual assault.

### **How the Editors' Code requires publishers to set high standards in journalism**

Publications regulated by IPSO are contractually required to apply the Code to editorial material in both printed and online versions of their publications. They are also required to take care to ensure that the Code is observed rigorously by all editorial staff and external contributors, including non-journalists. Individual journalists are also contractually required to observe the Code and publishers provide training and updates to ensure staff are aware of their responsibilities.

Editors must maintain in-house procedures to resolve complaints swiftly and, where required to do so, cooperate with IPSO.

The Code applies to all editorial content, whether in print or online and this is a tried and tested method of dealing with the complex problem of online harms. The Government is considering ways of tackling the wider problem of harmful content online and has said it remains committed to protecting freedom of expression and is currently looking at means by which journalistic content could be excluded from the new online harms regulatory regime. There is no virtue in making journalism, which is already regulated by an effective code of practice, also subject to a second, possibly contradictory code. The Code Committee hopes this inquiry will examine that key issue for the future of journalism and support an exemption for regulated journalistic content.

### **The harmful effect of unregulated news content online**

In contrast to the publishers who subscribe to the Editors' Code, much of the "news" provided via unregulated websites and social media is not produced to meet any editorial standards at all. Rumour and conspiracy theories dressed up as news can spread rapidly – and can damage public awareness and understanding of important issues.

A current example of such misinformation on the subject of the coronavirus was highlighted by The Guardian, which reported that a tweet wrongly claimed that antibacterial hand sanitiser is useless against the virus, arguing that such products only work against bacteria. It was reported to have acquired a quarter of a million likes and almost 100,000 retweets, suggesting a reach of millions of users, before it was deleted, by which time the damage was done.

[https://www.theguardian.com/world/2020/mar/04/fake-coronavirus-tweets-spread-as-other-sites-take-harder-stance?utm\\_source=Society+of+Editors+Members&utm\\_campaign=e1510daaf8-](https://www.theguardian.com/world/2020/mar/04/fake-coronavirus-tweets-spread-as-other-sites-take-harder-stance?utm_source=Society+of+Editors+Members&utm_campaign=e1510daaf8-)

[EMAIL\\_CAMPAIGN\\_2020\\_03\\_05\\_05\\_04&utm\\_medium=email&utm\\_term=0\\_8056757ee1-e1510daaf8-180746825\)](mailto:EMAIL_CAMPAIGN_2020_03_05_05_04&utm_medium=email&utm_term=0_8056757ee1-e1510daaf8-180746825)

The committee will be aware that as the coronavirus became a major health concern the Government set up a unit to counter such false claims about the epidemic.

### **Conclusion**

Experience has shown that for almost 30 years the Editors' Code of Practice has set high standards and has evolved to meet changes in society.

The Editors' Code of Practice Committee would urge this inquiry to note that such high editorial standards are more important than ever as digital media services develop.

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## **Appendix**

### **THE EDITORS' CODE OF PRACTICE**

*The Independent Press Standards Organisation (IPSO), as regulator, is charged with enforcing the following Code of Practice, which was framed by the Editors' Code of Practice Committee and is enshrined in the contractual agreement between IPSO and newspaper, magazine and electronic news publishers.*

#### **Preamble**

The Code – including this preamble and the public interest exceptions below – sets the framework for the highest professional standards that members of the press subscribing to the Independent Press Standards Organisation have undertaken to maintain. It is the cornerstone of the system of voluntary self-regulation to which they have made a binding contractual commitment. It balances both the rights of the individual and the public's right to know.

To achieve that balance, it is essential that an agreed Code be honoured not only to the letter, but in the full spirit. It should be interpreted neither so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it infringes the fundamental right to freedom of expression – such as to inform, to be partisan, to challenge, shock, be satirical and to entertain – or prevents publication in the public interest.

It is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of their publications. They should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists.

Editors must maintain in-house procedures to resolve complaints swiftly and, where required to do so, cooperate with IPSO. A publication subject to an adverse adjudication must publish it in full and with due prominence, as required by IPSO.

#### **1. Accuracy**

- i) The press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.
- ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and — where appropriate — an apology published. In cases involving IPSO, due prominence should be as required by the regulator.
- iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.
- iv) The press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.
- v) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

#### **2. \*Privacy**

- i) Everyone is entitled to respect for his or her private and family life, home, 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.

### **3. \*Harassment**

- i) Journalists must not engage in intimidation, harassment or persistent pursuit.
- ii) They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on property when asked to leave and must not follow them. If requested, they must identify themselves and whom they represent.
- iii) Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

### **4. Intrusion into grief or shock**

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

### **5. \*Reporting suicide**

When reporting suicide, to prevent simulative acts care should be taken to avoid excessive detail of the method used, while taking into account the media's right to report legal proceedings.

### **6. \*Children**

- i) All pupils should be free to complete their time at school without unnecessary intrusion.
- ii) They must not be approached or photographed at school without permission of the school authorities.
- iii) Children under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.
- iv) Children under 16 must not be paid for material involving their welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.
- v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

### **7. \*Children in sex cases**

1. The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences.
2. In any press report of a case involving a sexual offence against a child –
  - i) The child must not be identified.
  - ii) The adult may be identified.
  - iii) The word "incest" must not be used where a child victim might be identified.
  - iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

### **8. \*Hospitals**

- i) Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.
- ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

### **9. \*Reporting of crime**

- i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.
- ii) Particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.

iii) Editors should generally avoid naming children under the age of 18 after arrest for a criminal offence but before they appear in a youth court unless they can show that the individual's name is already in the public domain, or that the individual (or, if they are under 16, a custodial parent or similarly responsible adult) has given their consent. This does not restrict the right to name juveniles who appear in a crown court, or whose anonymity is lifted.

#### **10. \*Clandestine devices and subterfuge**

i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held information without consent.

ii) Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

#### **11. Victims of sexual assault**

The press must not identify or publish material likely to lead to the identification of a victim of sexual assault unless there is adequate justification and they are legally free to do so. Journalists are entitled to make enquiries but must take care and exercise discretion to avoid the unjustified disclosure of the identity of a victim of sexual assault.

#### **12. Discrimination**

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 story.

#### **13. Financial journalism**

i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.

ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.

iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

#### **14. Confidential sources**

Journalists have a moral obligation to protect confidential sources of information.

#### **15. Witness payments in criminal trials**

i) No payment or offer of payment to a witness – or any person who may reasonably be expected to be called as a witness – should be made in any case once proceedings are active as defined by the Contempt of Court Act 1981. This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or has entered a guilty plea to the court; or, in the event of a not guilty plea, the court has announced its verdict.

\*ii) Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be expected to be called as a witness, unless the information concerned ought demonstrably

to be published in the public interest and there is an over-riding need to make or promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances should such payment be conditional on the outcome of a trial.

\*iii) Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

#### **16. \*Payment to criminals**

i) Payment or offers of payment for stories, pictures or information which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues.

ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

## **The Public Interest**

There may be exceptions to the clauses marked \* where they can be demonstrated to be in the public interest.

1. The public interest includes, but is not confined to:
  - i. Detecting or exposing crime, or the threat of crime, or serious impropriety.
  - ii. Protecting public health or safety.
  - iii. Protecting the public from being misled by an action or statement of an individual or organisation.
  - iv. Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.
  - v. Disclosing a miscarriage of justice.
  - vi. Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.
  - vii. Disclosing concealment, or likely concealment, of any of the above.
2. There is a public interest in freedom of expression itself.
3. The regulator will consider the extent to which material is already in the public domain or will become so.
4. Editors invoking the public interest will need to demonstrate that they reasonably believed publication – or journalistic activity taken with a view to publication – would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.
5. An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.