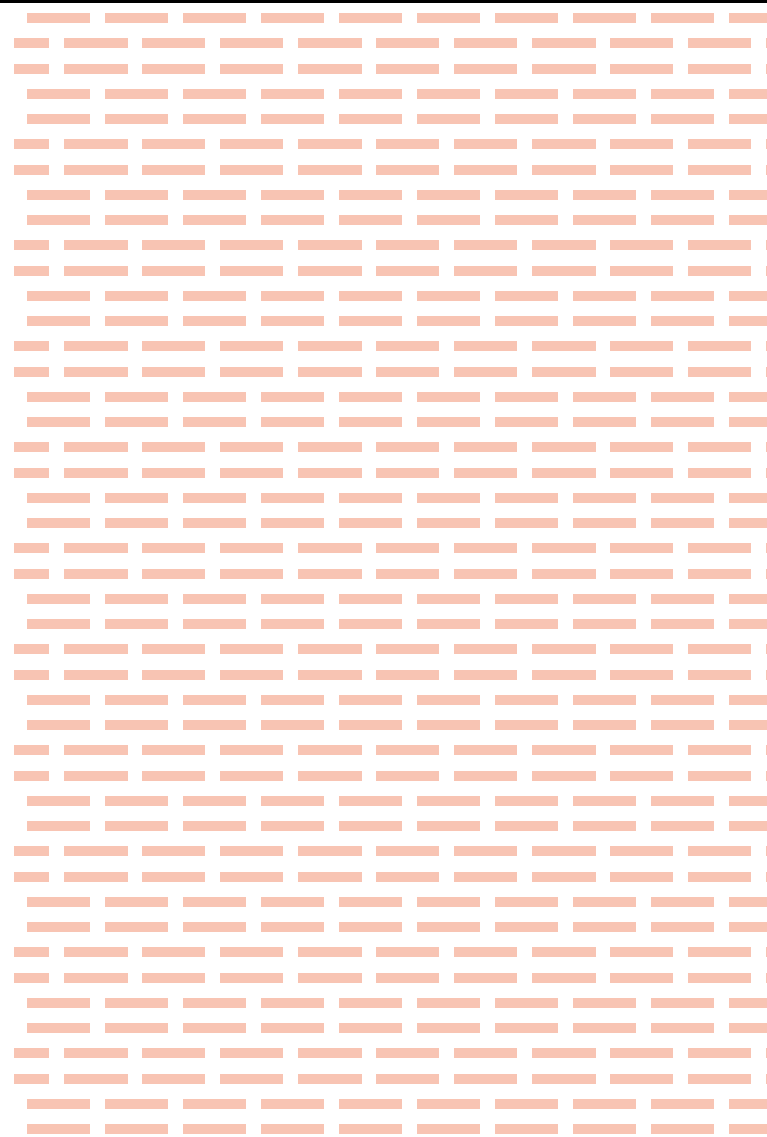


The logo consists of the word "IMPRESS" in a bold, white, sans-serif font, centered between two horizontal white bars of equal length.

IMPRESS

GUIDANCE ON THE IMPRESS STANDARDS CODE



Introduction

On these pages, you can read IMPRESS's guidance on the Standards Code (the Code) and its clauses. Each section of the guidance begins with the relevant section of the Code.

This guidance is intended to provide general advice to publishers, editors and journalists on how to understand and implement the Code. It is also intended to provide advice to members of the public on the meaning of the Code requirements that IMPRESS expects publishers and journalists to uphold.

This guidance is not intended to vary, substitute or extend the requirements outlined in the Code. It does not form part of the Code. This means that IMPRESS will not accept a complaint made against this guidance where the complaint does not also amount to a breach of the Code.

Some sections of the guidance include notes which provide further practical advice for publishers and journalists and are intended to be a useful guide to understanding and interpreting the Code.

This guidance is general and does not anticipate the facts of specific complaints, though where useful, it provides illustrative examples of conduct that may breach the Code. Nothing here should be taken as prejudging the outcome of any adjudication or investigation for which IMPRESS is responsible. Each complaint will be dealt with on its merits and considered on a case-by-case basis.

Some clauses of the Code are qualified by a public interest justification. This means that a publisher's failure to observe a clause can be justified by an outweighing or countervailing public interest matter. Some clauses attract an exceptional public interest justification, where a publisher must demonstrate that there is a particularly compelling reason for failing to observe a requirement of the Code. Those clauses that can attract a public interest justification or an exceptional public interest justification are identified in the Code and in this guidance.

The Code should be followed not only to the letter but also in the full spirit of this guidance.

Some issues covered in the IMPRESS Standards Code are also subject to civil and criminal law. This guidance does not constitute legal advice.

“The Code should be followed not only to the letter but also in the full spirit of this guidance.”

PREAMBLE TO THE IMPRESS STANDARDS CODE

Journalism plays a crucial role in society. Every day, journalists report significant events, policies and controversies, expose wrongdoing, challenge unfairness and satirise, amuse and entertain. Such power comes with responsibility. IMPRESS aims to ensure that journalists behave responsibly, while protecting their role to investigate and report freely.

All publishers regulated by IMPRESS agree to abide by the following rules, which together constitute the IMPRESS Standards Code. This Code seeks to balance the rights of the public, journalists and publishers. The Code should be read alongside

the guidance, which provides information about what these rules mean in practice.

This Code is intended to be:

- (a) A practical working tool that enables journalists, editors and publishers to do their jobs;
- (b) Easily understood by the public; and,
- (c) Effectively enforceable through IMPRESS's powers and remedies as a regulator.

Publishers will be held directly responsible for compliance with

this Code, which applies to all content and newsgathering activities for which publishers are responsible under the terms of their Regulatory Scheme Agreement with IMPRESS, regardless of the medium or platform of publication. All references here to publishers apply equally to anyone acting under a publisher's authority. All references here to journalists apply equally to anyone acting in a journalistic capacity.

This Code is distinct from the law and publishers are separately responsible for ensuring that they comply with the law.

Guidance on the preamble

- i The preamble to the IMPRESS Standards Code does not include requirements for publishers and journalists. It acts as an introduction to the Code, outlining its purpose and remit.

Who is responsible for upholding the Code?

- ii Publishers are ultimately responsible for upholding the IMPRESS Standards Code. This means that complaints may be made to IMPRESS against a publication, not against an individual journalist, although the conduct of an individual journalist may form the basis of a complaint. Complaints may be made under the Code regarding content written or otherwise produced by editors, journalists and others working under the editorial control of a publisher. Complaints may also be made regarding conduct pursued as part of 'news-gathering activities', such as conduct that may engage the harassment clause or the privacy clause.
- iii The IMPRESS complaints scheme is contained in the IMPRESS Regulatory Scheme, available on the IMPRESS website.

What can be the subject of complaints?

- iv The Code regulates news-gathering activities

and news-related material published online and in print by IMPRESS publishers. This extends to audio-visual material, photographs, headlines and user-generated content including comments on news stories.

- v The Code is not intended to penalise the publication of direct or reported speech, even where the content of that speech may otherwise breach the Code. For instance, a publisher may decide to publish a quote from a politician where the content of the quote is discriminatory and engages Clause 4, or inaccurate, engaging Clause 1. As long as the quote is a fair representation of what was said and is clearly attributed, this would not on its face breach the Code.

Public domain

- vi A vast range of material is published every day by publications or individuals that is not regulated under the Code. Sometimes, news publishers may want to re-publish or refer to information that breaches the Code but is already in the public domain. This may be a factor in determining whether a particular publication is in the public interest, but it is not necessarily a justification for publishing certain material.

IMPRESS aims to ensure that journalists behave responsibly, while protecting their role to investigate and report freely.

In certain circumstances, there may be a public interest justification for a particular method of newsgathering or publication of an item of content that might otherwise breach the Code. Where a public interest exception may apply, this is identified in the relevant clause. A public interest means that the public has a legitimate stake in a story because of the contribution it makes to a matter of importance to society. Such interests include, but are not limited to, the following:

- (a) The revelation or discussion of matters such as serious incompetence or unethical behaviour that affects the public;
- (b) Putting the record straight where an individual or organisation has misled the public on a matter of public importance;

- (c) Revealing that a person or organisation may be failing to comply with any legal obligation they have;
- (d) The proper administration of government;
- (e) Open, fair and effective justice;
- (f) Public health and safety;
- (g) National security;
- (h) The prevention and detection of crime; and
- (i) The discussion or analysis of artistic or cultural works.

The following provisions apply where a publisher is about to undertake an action that they think would

otherwise breach the Code, but for which they believe they have a public interest justification. The action might be a particular method of newsgathering or publication of an item of content. Before undertaking the action, the publisher should, where practicable, make a contemporaneous note, which establishes why they believe that:

- (a) The action is in the public interest;
- (b) They could not have achieved the same result using measures that are compliant with the Code;
- (c) The action is likely to achieve the desired outcome; and
- (d) Any likely harm caused by the action does not outweigh the public interest in the action.

Guidance on the Public Interest

- 0.11 What is the 'public interest'? And how can we tell the difference between journalism that is in the public interest and journalism that simply interests the public?
- 0.12 To have an interest in something can mean (1) that you are curious about it; or (2) that you have a stake in it. When we talk about the 'public interest', we are using the latter rather than the former meaning of the word.
- 0.13 The first meaning of 'interest' is the most common. We use it all the time. 'Did she really say that?' 'What was he wearing?' 'Have you seen them together?' 'That's so interesting!' A lot of journalism satisfies our natural interest, or curiosity, about what is happening in the world around us. That does not necessarily mean it is in the public interest. Nor does it mean that publishing it would breach this Code, or the law. It may simply provide useful information or harmless entertainment.
- 0.14 We have an 'interest', or stake, in issues that concern us as members of the community or society as a whole. For instance, if you hold shares in a company, you have an interest in that company. Similarly, if you live in a certain town, you have an interest in the way your council is run. If you are a citizen of a particular country, you have an interest in the way your country is governed. These issues may not always be very interesting but you have a stake in them nonetheless. This is the second meaning of 'interest' that lies behind the phrase, 'public interest'.
- 0.15 Some journalism may be unethical and, on its face, may amount to a breach of the Code. Journalists and news publishers might intrude into someone's private life. They might unethically use clandestine listening devices or engage in subterfuge in order to establish the facts of a story. This kind of activity would normally constitute a breach of the Code, because of the harm that it causes. But if a news publisher can demonstrate that they were acting in the public interest, their actions might be justified. Some clauses in this Code are subject to a possible public interest qualification.
- 0.16 The public interest may be used to justify publications or activities that would otherwise constitute a breach of the Standards Code when the benefits to society outweigh the harm caused by the publisher.
- 0.17 The Code provides examples of specific matters that may engage the public interest, but these should be taken as illustrative. They are simply examples of matters in which we have a stake as members of society. We have an interest in detecting crime and protecting public safety. Journalistic activities that pursue these objectives, despite having the potential to cause some harm, may be in the public interest.
- 0.18 Some types of public interest journalism inform public debate and democratic participation and allow us to hold the state to account. The state includes central government, Parliament, local authorities, the courts, the police and other bodies carrying out public functions.
- 0.19 There may also be a public interest in matters relating to private bodies, such as companies, banks, trade unions, charities and sports clubs. As stakeholders in society and the economy, we have an interest in the sound administration of such organisations. Moreover, many public functions are these days 'contracted out' to private companies, for example, in the provision of care homes, social housing, or event security. Where private bodies are carrying out public functions in this way, their operations are necessarily of more public concern.
- 0.20 However, there is not necessarily a public interest in journalism merely because it relates to a public figure or a well-known personality. Public figures such as politicians, senior civil servants or religious leaders may expect to come under scrutiny from news publishers. But, public figures, including celebrities, also have a right to a private life (see Clause 7: Privacy). Articles or journalistic activities that invade people's privacy, or harm their reputations are not justified simply because those people are public figures or well known to the public.
- 0.21 The Code states that there may be a public interest in 'putting the record straight where an individual or organisation has misled the public on a matter of public importance.' This suggests that publishers may investigate an individual or organisation where they believe that the public might otherwise be misled, for instance, if a water company released incomplete information about its safety record, or a religious leader, with influence

over the actions of her followers, falsely purported to practise ‘family values’. It does not give news publishers a licence to correct any inaccurate impression created by an individual, or to publish private information simply because someone has chosen to keep it a secret.

- 0.22 In deciding whether an individual has ‘misled the public’, a publisher should consider whether the person concerned had deliberately and voluntarily created a false impression or whether they may have created such an impression while trying simply to fend off intrusive and embarrassing questioning about their private life. The Code also speaks of misleading the public ‘on a matter of public importance’. This simply means that the matter must be something that is relevant to the public interest. For example, in *Campbell v MGN Ltd* [2004], the Court found that it was in the public interest to reveal that Naomi Campbell had misled the public into thinking that she did not use illegal drugs. This was because of the importance of drug use as a public health issue and her particular influence as a role model. But having an inaccurate impression about, for example, the health of a celebrity or the state of their marriage may not be considered a matter of public importance.
- 0.23 Ordinary members of the public may also find themselves subject to media attention. Whether there is a public interest in the

publication of private information about them will depend not simply on the status of the person concerned, but also on the significance of the information revealed by publication.

- 0.24 The Code also refers to the analysis and discussion of artistic or cultural works. Such analysis or discussion will not generally raise the possibility of breaches of the Code. But it may do so where the reviewer, for example, refers to private facts about an artist or author as a means of better understanding their work. The Code makes clear that such references are an aspect of public interest journalism and must be weighed in the balance against the individual’s rights to privacy and possible risks to their reputation.

Contemporaneous note

- 0.25 The recommendation that journalists maintain a contemporaneous note, or audit trail, of their activities or publication of a news story is not a strict requirement, but is good practice. Such an audit trail may, for instance, identify who gave permission for the action taken, and what discussion there was of the justification for it. This assists journalists in accurately recording the public interest rationale for behaviour that may be contrary to the Code. It also encourages journalists to think carefully at the time about why and whether a given action is justified in the public interest.

- 0.26 The Code recommends that where a publisher believes there is a public interest justification for an action, or for the publication of a news story that would otherwise breach the Code, they should make a contemporaneous note explaining the justification. The Code provides a list of factors that should be in the note.

- 0.27 Publishers should not go on ‘fishing expeditions’, that is, allow journalists to intrude upon the privacy of individuals on the off-chance that one of these intrusions might reveal important information. The link between the publication or journalistic activity and the public interest should be clear and compelling.

- 0.28 ‘Contemporaneous’ should not be read strictly as meaning that a note must be written simultaneously to the journalistic activity. It means that a note should be made as soon as is physically practicable after an event or interview. This note may take the form of a private note, diary entry or an email to a colleague or editor. It may be a brief paragraph, or longer, depending on the circumstances. The date on which the note was made should be clear.

- 0.29 A failure to make a contemporaneous note is not in itself something that could form a complaint against a publication. However, such a failure will make it harder for a publisher to substantiate any public interest justification in response to an alleged breach of the Code.

1. ACCURACY

- 1.1.** Publishers must take all reasonable steps to ensure accuracy.
- 1.2.** Publishers must correct any significant inaccuracy with due prominence, which should normally be equal prominence, at the earliest opportunity.
- 1.3.** Publishers must always distinguish clearly between statements of fact, conjecture and opinion.
- 1.4.** Whilst free to be partisan, publishers must not misrepresent or distort the facts.

Clause 1.1

- 1.11 The Code does not create an absolute duty to publish only incontrovertibly true facts. Instead, it means that publishers must take such steps as are reasonable in the circumstances to verify the truth of the information presented. For instance, a journalist wouldn't be expected to check every statistic in an Office of National Statistics (ONS) report. However, information provided by a single anonymous source would need careful checking.
- 1.12 When assessing whether reasonable steps have been taken, consideration should be given to: (1) the significance of any possible inaccuracies and their likely consequences; (2) the likely reliability of the source(s) being used; (3) the attempts made to corroborate a story; (4) the urgency of publishing the story; (5) whether reasonable attempts were made prior to publication to contact any people whose reputations may be at stake and to publish their comments.
- 1.13 It is also important to note that a story may mislead through the omission of a crucial fact, or facts, as well as through the inclusion of inaccuracies.

Clause 1.2

- 1.14 This clause requires publishers to correct 'significant inaccuracies'. The significance of an inaccuracy can be judged by its consequences for a person's reputation as

well as its impact on the story as a whole. Where someone's reputation is not at stake, significance is determined by examining the extent of misrepresentation or distortion of factual information and its impact upon the story. Publishers should consider whether an inaccuracy goes to the heart of the story, or only concerns a minor or peripheral matter, for example, a detail about a minor player in a news article. In all cases, however, they will need to think of the harm the error or inaccuracy might cause.

- 1.15 This clause also includes headlines and images, which must be accurate representations of the stories they accompany. Taken together, text and photographs may be an accurate representation of the facts; viewed in isolation, they can misrepresent things. Care should be taken in the writing of headlines and the placing of photographs. How an image is presented, including how it is captioned, and how it is cropped or otherwise altered, may also amount to a significant inaccuracy.
- 1.16 Whether there was a significant inaccuracy may be judged by considering whether the story, taken as a whole, was likely to create a false impression.
- 1.17 After publication, corrections to significant inaccuracies must be made promptly and with due prominence. This requirement depends upon a number of factors. The starting point is that 'due prominence' is 'equal prominence'. This means that a front-

Publishers must take such steps as are reasonable in the circumstances to verify the truth of the information presented.

page story should be corrected on the front page (and/or in an equivalently prominent part of a website). However, in particular cases, there may be reasonable grounds for not giving a correction equal prominence to the original breach. These may include instances in which the inaccuracy did not go to the heart of the story, was unlikely to cause serious harm, or where the pressing importance of a breaking news story justifies displacing the correction from a front page.

- 1.18 The governing principle is that the prominence of the correction must be proportionate to (a) the prominence and importance given to the original story and (b) the seriousness of the inaccuracy being corrected.
- 1.19 Prompt correction may be as important as due prominence. The longer a false impression is allowed to linger, the more firmly it may become embedded in the public consciousness – and the more likely it is to be picked up and amplified by other media, including social media.
- 1.20 Under the Code, factual inaccuracies can include those stated in an opinion piece. In 2016, for example, Daily Mail columnist Katie Hopkins falsely accused a British family of having links to a terrorist organisation. While a journalist may publish their opinions on, for instance, the causes of and policy challenges posed by terrorism, they must not present false information as facts in opinion pieces. A story may contain allegations but these must be clearly identified as such.

Notes: Publishing corrections

IMPRESS requires corrections to 'significant inaccuracies' to be published, but it may be appropriate for publishers to issue corrections for other errors, too. The term 'correction' is used for an amendment or rectification to a published story that contained an error. A correction involves a published response necessary to tell the reader that an error has been made. It may also outline any action taken by the publisher to remedy the mistake.

A correction should be proportionate to the scale of the error. A simple correction may be where a journalist has wrongly located the city of Manchester in Yorkshire. The correction should reflect the seriousness and scope of the original error, when and where the error occurred in the publication, and put the mistake right by telling the reader that Manchester, in fact, lies on the other side of the Pennines and was once part of Lancashire. If the error appeared in paragraph six of a front-page news story and every other aspect of the story was correct, it would probably not be necessary to run the correction on the front page. If the publication has a regular column for corrections, somewhere the reader can expect to find them, it would be appropriate to run it there.

If, however, the front-page story wrongly stated in the headline, subheadings and text, that Ebola had broken out in Manchester and that 100 people had died and a further 500 were in intensive care, thus causing panic on the streets, this would probably amount to a 'significant inaccuracy'. In that case, IMPRESS would most probably consider that a

major front-page correction was necessary. Such a correction would need to address every factual error, might possibly state the origins of the story, for instance, if it had been lifted from an unverified source on an obscure website, and would also include an unreserved apology to the people of Manchester.

Where a serious inaccuracy, like the Ebola example, occurs online, the placement of a correction is challenging. A publisher should consider where the story first appeared, the amount of time it was available online, as well as how many people had viewed the article. A story may sit as the lead on a website for four hours or 24 hours before slipping down the front of the site or being moved to another part of it on a different webpage. The correction may be pinned or displayed on the news publication's homepage for a reasonable period of time to give readers an opportunity to see it.

Apologies, if they are to mean anything, should be reserved for the most significant errors. A geographical error is rarely likely to require an unreserved apology in the scale of things, although some Mancunians may not agree.

This guidance on corrections and apologies is distinct from the powers of IMPRESS under its Regulatory Scheme to direct corrections and apologies (with due prominence, normally meaning equal prominence), as part of a decision taken on a complaint.

Opportunity to reply

- 1.21 The Code does not require publishers to give individuals a so-called 'right' of reply. However, it may be appropriate for publishers to provide such an opportunity where there has been a significant inaccuracy. A right of reply may be offered as an alternative to, or in addition to, a correction. It should not be used as a way to open debate on a particular issue.

>> **DOWNLOAD Best Practice Note on Opportunity to Respond.**

Clause 1.3

- 1.22 "Everyone is entitled to his own opinion, but not to his own facts", said US Senator Daniel Patrick Moynihan. This reminds us that factual accounts must have a basis in evidence, whereas opinions are not subject to proof. So while people can, as it were, make up their own opinions, they can't make up their own facts.
- 1.23 This also applies to newspapers. Maintaining the distinction between fact and opinion is vital to responsible, quality journalism. A fact is susceptible to proof; an opinion is not. A conjecture is a statement on a factual matter that makes clear the assertion is based on incomplete information. Opinions include beliefs, judgments, evaluations, predictions, moral judgments, critical assessments, feelings, or the expression of a world-view. In some cases, the distinction is clear-cut: for example, straight news reporting is generally concerned with factual matters; book reviews with giving a critical opinion on the worth or value of a book. Overall, the standard by which the distinction

is judged should be based upon the reaction of the hypothetical ordinary, reasonable reader who has a general knowledge and experience of the world. A reader must be able to tell from the tone, context and language whether the information represents the journalist's or someone else's judgment or whether it is presented as information that is true regardless of anyone's opinion about it.

- 1.24 Although the accuracy provisions relate predominantly to assertions of fact rather than opinion, it may be a breach of the Code (as well as the law of libel) to publish seriously disparaging opinions about named individuals that are not supported by facts. A higher threshold for this requirement applies to politicians: whilst entitled to a reputation, politicians must demonstrate greater tolerance to criticism than ordinary members of the public.

Clause 1.4

- 1.25 This clause safeguards a journalist's right to present partisan opinions in comment pieces. IMPRESS's members are in a fundamentally different position from broadcasters such as the BBC: publishers are free to present their own opinions on the issues of the day and they are not required to engage in 'balanced' or 'impartial' reporting. Even so, the Code requires members to ensure the information underpinning the expression of their opinions and their 'take' on a given story is accurate. In other words, members should not use the distorted, false or misleading representation of the facts to further their own world-view.

Factual accounts must have a basis in evidence, whereas opinions are not subject to proof.

2. ATTRIBUTION & PLAGIARISM

12

- 2.1.** Publishers must take all reasonable steps to identify and credit the originator of any third party content.
- 2.2.** Publishers must correct any failure to credit the originator of any third party content with due prominence at the earliest opportunity.

Clause 2.1

- 2.11 Publishers must take practical steps to identify and credit the author of published content. This will help to avoid publication of content where, for instance, an article is wrongly attributed to a particular author.
- 2.12 Crediting or attributing content to the person or organisation who created that content is important for ensuring the reliability and authenticity of content. Where a publisher is unaware of the creator, the publisher must take reasonable steps to discover and identify the creator. Taking 'reasonable steps' may involve making inquiries of the provider of the content, whether that is an agency, journalist or other source, and/or attempting to contact the subjects pictured or referenced. This extends to content taken or submitted from social media. If a publisher, having taken those steps, is unable to locate the creator of a news story, the content should be accompanied by a note that makes this clear.

- 2.13 Publishers must not simply republish press releases, without attribution, as though the press release had been created by the publisher.
- 2.14 This clause should be read in light of Clause 8.2, which requires publishers to take reasonable steps to ensure that journalists do not fabricate sources.

Clause 2.2

- 2.15 Where content is inaccurately credited or there is a failure to credit the creator of the content, publishers must correct this with due prominence at the earliest opportunity. These terms have been explained in the guidance to Clause 1: Accuracy. Online, a correction could take the form of an amendment to a picture's caption, a note at the foot of an article and a link to the original piece.

There is no public interest qualification to this clause.

Publishers must take practical steps to identify and credit the author of published content.

3. CHILDREN

14

- 3.1.** Except where there is an exceptional public interest, publishers must only interview, photograph, or otherwise record or publish the words, actions or images of a child under the age of 16 years with the consent of the child or a responsible adult and where this is not detrimental to the safety and wellbeing of the child. While a child should have every opportunity to express his or her wishes, journalists have a responsibility to consider carefully the age and capacity of the child to consent. Unless there is a detriment to the safety and wellbeing of a child, this provision does not apply to images of general scenes.
- 3.2.** Except where there is an exceptional public interest, publishers must not identify a child under the age of 16 years without the consent of the child or a responsible adult unless this is relevant to the story and not detrimental to the safety and wellbeing of the child.
- 3.3.** Publishers must give reasonable consideration to the request of a person who, when under the age of 16 years, was identified in their publication and now wishes the online version of the relevant article(s) to be anonymised.

Clause 3.1

- 3.11 One of the most sensitive areas for any journalist is the coverage of news articles involving children and young people. This guidance is intended to assist journalists to ensure that coverage strikes a balance between protecting children from exploitation and granting them a voice in the media, while allowing for exceptional cases in which the public interest requires reporting on a child in a way that would normally breach the Code.
- 3.12 A journalist must obtain the consent of a child under the age of 16 or a responsible adult when interviewing, photographing or otherwise recording the words or actions of a child. Ideally, journalists should obtain the consent of both parties, but this will not always be practicable. Additionally, some older children may have the capacity to provide consent, and the consent of a responsible adult may not be necessary. This recognises the autonomy and media literacy of many children and young people. Even where a responsible adult provides their consent, a publisher should still attempt to seek the consent of the child.
- 3.13 It will not always be practicable to seek consent for photographs of children in general scenes such as street parties or protests. Where the image of a child or several children cannot reasonably be said to cause 'detriment to their safety and wellbeing', photographers do not need to seek permission from the child or children or a responsible adult. An image of children at a public street fair, for example, will

generally be permissible unless the children are involved in some intimate or harmful act.

Responsible adult

- 3.14 A journalist may obtain the consent of a parent or other legal guardian. Responsible adults may also include law enforcement officers or protection workers who have an official role in the protection of a child's welfare.

Detrimental to the safety and wellbeing of the child

- 3.15 The concept of 'safety and wellbeing' involves considering a child's physical, emotional and social wellbeing. This consideration should focus on the immediate lives of children but also take account of their future lives. The context and nature of the story will be key. When reporting on a tragic or traumatic incident such as a violent crime, emergency situation or natural disaster, journalists should be particularly aware of the child's emotional involvement and of their vulnerability to being exploited or misrepresented by a news article. The qualification that 'journalists have a responsibility to consider carefully the age and capacity of the child to consent' reflects this consideration. Even where a young person is over the age of 16, publishers should remain mindful of a person's vulnerability. Vulnerability may be intrinsic, for instance, where English is their second language, or situational, for instance, where the person is discussing a distressing experience.

- 3.16 **This clause attracts an exceptional public interest qualification.** This clause is not breached if an overwhelming public interest in the act or publication complained of outweighs the harm.

Clause 3.2

- 3.17 A journalist must reflect on the likely consequences of identifying a child, including whether it would make a critical contribution to a reader's understanding of the story or merely enhance an aspect of the story. This principle is particularly salient when considering whether it is necessary to include a photograph that identifies a child. While a photograph of a child may be evocative, a journalist must be satisfied that it does not harm a child's safety and wellbeing and is crucial to conveying the meaning and/or importance of the story.
- 3.18 Where a publisher is unable to gain consent to identify a child but believes publication of their image is critical to convey the meaning of the story, they should consider pixelating the face of the child.
- 3.19 Publishers must also take care not to indirectly identify children. This may occur through so-called 'jigsaw identification', where the public can piece together someone's identity because of the number and type of details supplied.
- 3.20 **This clause attracts an exceptional public interest justification.** This clause is not breached if an overwhelming public interest in the act or publication complained of outweighs the harm. An example may be publishing the photograph of the body of Alan Kurdi, the three-year-old child who tragically drowned in the Mediterranean in 2015, without the consent of a responsible adult. Publication of this photograph may be said to

be justified by an exceptional public interest qualification because of the importance of debates on migration to Europe at the time and the extent of the outcry from leaders and the public following high numbers of migrant deaths in the Mediterranean.

Clause 3.3

- 3.21** Publishers must 'reasonably consider' requests to anonymise content from people who were under 16 when the content was first published. Only the subjects of the news articles themselves can make such requests, and the onus is on them to demonstrate why they should no longer be identified.
- 3.22** When responding to a request, a publisher should consider whether:
- (a) s/he is persuaded that the story in its original form affects the applicant in the way complained of;
 - (b) s/he has properly considered the evidence provided by a complainant;
 - (c) a story or reported incident is part of an historic event, the importance of which, and the need to chronicle the fact of, may outweigh the detrimental effect to the applicant; and/or,
 - (d) the costs of altering the online story are disproportionate to the benefits to be gained from it.

There is no public interest qualification to this clause.

Notes: Gaining the consent of a child under the age of 16 years

A practical challenge for journalists is how and whether to seek the consent of a child who is under the age of 16. In normal circumstances, the permission of a responsible adult will be sufficient to interview, photograph or otherwise record the images or words of a child. However, in some circumstances, a journalist may only be in a position to gain the consent of a child to interview them for a news article. In such cases, journalists should do their best to ensure that the child understands the nature of their involvement or representation in the print media. This would involve the journalist clearly identifying themselves, and explaining the purpose of their inquiry and the nature of the news article in which the child would feature.

A child should only be deemed capable of giving consent where they can make a reasonable assessment of the advantages and disadvantages of being interviewed, quoted, and/or having their picture appear in a news article. This depends upon their age and maturity as well as other contextual factors such

as whether they are under emotional stress, for instance, in the wake of a traumatic incident.

A journalist can gain verbal consent – though this should later be noted for future reference – or written consent by way of a standard form or a note with the name of the child and/or responsible adult.

The requirement in Clause 3.1 is subject to an exceptional public interest qualification that may justify a failure to observe the clause only in extraordinary circumstances. For example, the still of video footage of a Syrian toddler, identified as Omran Daqneesh, caked in dust and blood, sitting in the backseat of an ambulance in Aleppo was widely published in 2016. Given the intense worldwide scrutiny and humanitarian interest in the events in Aleppo – specifically, the human cost of the conflict – a failure to secure the consent of Omran or a responsible adult before publication may well have been justified on exceptional public interest grounds.

4. DISCRIMINATION

17

- 4.1.** Publishers must not make prejudicial or pejorative reference to a person on the basis of that person's age, disability, mental health, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion, sex or sexual orientation or another characteristic that makes that person vulnerable to discrimination.
- 4.2.** Publishers must not refer to a person's disability, mental health, gender reassignment or identity, pregnancy, race, religion or sexual orientation unless this characteristic is relevant to the story.
- 4.3.** Publishers must not incite hatred against any group on the basis of that group's age, disability, mental health, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion, sex or sexual orientation or another characteristic that makes that group vulnerable to discrimination.

Clause 4.1

- 4.11 Clauses 4.1 and 4.2 relate to the treatment of individuals, not groups. IMPRESS will accept complaints under Clauses 4.1 and 4.2 from anyone personally and directly affected by an alleged breach of these clauses and/or from a representative group affected by an alleged breach where there is a public interest in IMPRESS considering their complaint.
- 4.12 Clause 4.1 refers to 'protected characteristics'. Protected characteristics are a person's identifying features such as age or race. The Code adopts those protected characteristics listed in Chapter 1 of the Equalities Act 2010.
- 4.13 Publishers are required not to use language that is prejudicial or pejorative, even where such language may be in common use. 'Prejudicial' language refers to unfair references to a person based on their identifying characteristics with the intention of undermining them. 'Pejorative' language refers to adverse or derogatory language based on a person's protected characteristics. Some prejudicial terms, such as 'illegal asylum seeker', may engage Clause 1: Accuracy as there is no such thing as an 'illegal asylum-seeker'. Third parties are able to bring complaints of inaccuracy to IMPRESS under Clause 1.
- 4.14 The reference to 'race' in the list of protected characteristics may include a person who identifies as being from the Gypsy, Roma and Irish Traveller communities. Examples of

other 'characteristics that make that person vulnerable to discrimination' may include socio-economic status, immigration status, or receipt of welfare and benefits payments. Publishers should be aware that some characteristics that make a person vulnerable to discrimination are transient such as some people's experience of mental illness. The clause includes religious belief but excludes political beliefs. It is not, therefore, intended to cover negative references to a person holding extreme political views.

Clause 4.2

- 4.15 Publishers must only reference a person's protected characteristic(s) where relevant to the story. This is not intended to prevent journalists from providing information about a subject that builds a picture helpful to a reader's understanding of the context.

Clause 4.3

- 4.16 A representative group or an individual may bring a complaint under this clause. Hate speech refers to all forms of expression that spread, incite, promote or justify hatred based on intolerance, and includes insulting, abusive or threatening words related to a person's protected characteristic. Language that qualifies as hate speech is that which is intended to, or is likely to, provoke hatred or to put a person or group in fear. The disputed words, therefore, must be more than provocative, offensive, hurtful or

Publishers are required not to use language that is prejudicial or pejorative, even where such language may be in common use.

objectionable: this provision is about hate speech, not speech that merely hurts feelings. It includes, but is not limited to, speech that is likely to cause others to commit acts of violence against members of the group or discriminate against them (for example, by refusing to serve them in a shop). However, the ‘threat’ that certain groups will ‘burn in hell’ should not be seen as constituting hate speech: threats must be of adverse consequences in this life, not an after-life.

4.17 This clause does not apply to groups identified by their political or ideological beliefs, therefore terms such as ‘Tory scum’ or ‘rabid lefties’ would not constitute breaches of the Code. It is intended to allow for freedom to engage in even the fiercest attacks upon and criticisms of the political views and beliefs of others.

4.18 In interpreting this clause, it is important also to bear in mind that the law defines incitement to racial hatred more broadly than incitement to hatred on grounds of religious belief and sexual orientation. This is because of the importance of allowing for free and vigorous debate on all matters concerning religious belief, observance and practice and on matters of sexual morality and of respecting the freedom of traditional religious communities to, for example, voice their convictions that sex outside heterosexual

marriage is sinful. IMPRESS’s approach to this Code provision will be similar.

4.19 When applying this provision to non-racial groups, and especially to those groups who are not covered by existing UK hate speech laws, IMPRESS will interpret it narrowly and cautiously and with a strong presumption in favour of freedom of expression. In relation to religious groups in particular, this clause will be interpreted in line with section 29J of the Racial and Religious Hatred Act 2016, which gives a list of matters that do not constitute incitement to hatred:

‘discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practices of their adherents.’

4.20 Thus, under Clause 4.3, beliefs or practices may be subject to the fiercest criticisms, insults or ridicule. It is people who are protected by this clause, not religion itself.

4.21 Publishers and journalists should be aware that they are also covered by the criminal law prohibiting incitement to hatred on the grounds of race, religious belief or lack of religious belief, and sexual orientation.

There is no public interest qualification to this clause.

5. HARASSMENT

20

- 5.1** Publishers must ensure that journalists do not engage in intimidation.
- 5.2** Except where justified by the public interest, publishers must ensure that journalists:
 - a. Do not engage in deception;
 - b. Always identify themselves as journalists and provide the name of their publication when making contact; and
 - c. Comply immediately with any reasonable request to desist from contacting, following or photographing a person.

Clause 5.1

- 5.11 This clause recognises the harm that may be caused by journalistic activities such as aggressive interview techniques or threatening methods of obtaining an interview or photograph, including pursuit on foot or in a vehicle. Intimidation is the attempt to coerce a person into doing something – for example, participate in an interview or give a statement to a journalist. It may include blackmail, physical intimidation or verbal abuse, and repeated and unwelcome demands for media participation.
- 5.12 In the course of investigating a news story, journalists should approach the subject to verify the facts and seek comment. This may involve approaching a person at their home, workplace or a public place in person or by email or telephone. However, if that approach is rejected, it will, in many circumstances, be unreasonable to continue to pursue the person.
- 5.13 Intimidation may involve harassment. Harassment is the physical or other pursuit of a person in circumstances where the pursuer knows or ought to know that the individual wishes to be left alone. Any continued pursuit by a journalist, or the use by a publisher of material obtained in this way (for instance, from a photographic agency), may breach this clause and may also fall foul of the criminal or civil law. Conduct that amounts to harassment may include

the pursuit of a person via electronic contact, such as sending a person repeated and unsolicited emails. Publishers are entitled to publish the fact that a person refused to cooperate with a journalist, but they cannot use non-cooperation to justify harassment. Harassment may also include a failure to respect a request to leave private property. As with certain other provisions of the Code, politicians must expect to be subject to greater levels of questioning by journalists, including in public places, such as the street, than others, due to the nature of the role they perform.

There is no public interest qualification to this clause.

The following three clauses are complementary, and a breach of one may constitute a breach of an aspect of another.

Clause 5.2a

- 5.14 Publishers must not use clandestine or underhanded methods to obtain information. This clause applies even if no information obtained in this way is published. The prohibition also applies when publishers obtain information from others, including ‘agents or intermediaries’, who have used such methods. The use of clandestine methods of obtaining information or the interception of communications may also constitute a criminal offence. Publishers should take

legal advice before contemplating any such activities.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest guidance: engaging in deception

- 5.15 Investigative journalism may sometimes rely on methods that are deceptive, such as the use of clandestine devices and subterfuge. However, such methods can cause great harm, and should be used only as a last resort when conventional methods are not practicable.
- 5.16 In order to justify the use of clandestine devices or subterfuge, a publisher should be able to show that at the time they had a reasonable belief that:
- (a) significant information would be discovered through these means and they were not part of a ‘fishing trip’, in which multiple breaches of this Code were committed on the off-chance that one of them might result in information of public interest;
 - (b) the material could not have been obtained by other, less intrusive, means such as contacting the subject of the story directly; and
 - (c) the means used were proportionate to the significance of the information to be obtained.

5.17 These steps complement the requirement in the public interest section of this Code for a publisher to make a contemporaneous note of a public interest qualification for a specific act or publication.

Clause 5.2b

5.18 Journalists must identify themselves as journalists to interviewees, sources or other persons relevant to their journalistic activities unless such action would jeopardise their safety, or the safety of others. This must be done at the earliest opportunity.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest guidance: identifying journalists

5.19 It may be necessary for a journalist to conceal their identity to ensure their safety and the safety of others such as informants, or where they may be about to reveal criminal activity or conduct that would lead to significant harm to an individual or group.

Clause 5.2c

5.20 A reasonable request to desist from contacting, following or photographing a

person may include consideration of the following factors:

- (a) The profile of the subject, including whether they hold public office and/or any vulnerabilities they may have;
- (b) The conduct of the journalist in pursuing the subject, including their language and tone;
- (c) The subject matter of the news story or investigation, including whether it exposes unethical or illegal practices; and
- (d) Whether the conduct breached any other provision of the Code, or committed any criminal offence such as harassment.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest guidance: request to desist from contacting, following or photographing a person

5.21 A journalist does not breach the Code if they have reasonable grounds to conclude that a request to desist is an attempt to evade legitimate journalistic inquiries on a matter of public interest.



This clause recognises the harm that may be caused by journalistic activities such as aggressive interview techniques or threatening methods of obtaining an interview or photograph.



6. JUSTICE

23

- 6.1** Publishers must not significantly impede or obstruct any criminal investigations or prejudice any criminal proceedings.
- 6.2** Publishers must not directly or indirectly identify persons under the age of 18 who are or have been involved in criminal or family proceedings, except as permitted by law.
- 6.3** Publishers must preserve the anonymity of victims of sexual offences, except as permitted by law or with the express consent of the person.
- 6.4** Publishers must not make payments, or offer to make payments, to witnesses or defendants in criminal proceedings, except as permitted by law.

Clause 6.1

- 6.11 Publishers generally have the right to publish fair, accurate and contemporaneous reports of criminal proceedings. Open justice is a fundamental principle of a democracy to ensure public confidence in, and understanding of, legal processes.
- 6.12 Under Clause 6.1, publishers have two distinct duties. The first is to avoid publishing material that poses a real risk of prejudicing the outcome of a criminal trial. This can include making direct allegations of the guilt or innocence of a person, or publishing other material that could be seriously prejudicial to a trial, for example, the defendant's previous convictions or other evidence that is or would be typically excluded at trial. This is subject to possible defences at law such as section 5 of the Contempt of Court Act 1981 on the discussion of public affairs.
- 6.13 The second duty is to avoid doing anything that impedes or obstructs a criminal investigation. This could include interfering with evidence, publishing confidential details of an investigation such as the fact of a confession or other information that could alert suspects to an investigation and allow them to evade detection or arrest. It may also include publishing accounts that are so misleading that they may waste police time.
- 6.14 The law on court reporting can be extremely complex, especially in matters of contempt.

This clause aims to encapsulate the ethical principles that inform the law of contempt and other relevant laws. It should not be treated as an attempt to distil or summarise every aspect of the law. Publishers should be aware that, subject to possible defences, there is strict liability in criminal law for publishing material that causes a substantial risk of serious prejudice to active criminal proceedings, which begin when the accused is arrested, a warrant is issued for their arrest, a summons is issued for them to appear in court, or they are charged orally. Strict liability is a legal standard that requires no proof of fault. This means a person can be found guilty of a crime without the need to prove their intention to prejudice a trial.

Clause 6.2

- 6.15 Publishers must not identify children under the age of 18 who are, or who have been, involved in criminal or family law proceedings. This includes circumstances when a child is a victim, defendant, or witness in a criminal proceeding. In rare circumstances, this prohibition may not apply, such as where a child appears in an adult court or where a judge lifts court reporting restrictions.
- 6.16 Publishers must not identify children who are victims or witnesses in cases involving sex offences, regardless of whether the court or a responsible adult allows publication. Publishers must also take care not to indirectly identify children. This may occur

Publishers generally have the right to publish fair, accurate and contemporaneous reports of criminal proceedings.

through so-called 'jigsaw identification', where so many pieces of information about a person are published in the same publication that the public can work out their identity. It is particularly important not to mention any family relationships between a defendant and child victim, or to use the word 'incest' which implies a familial relationship.

Clause 6.3

- 6.17 Publishers must not reveal the identity of victims of sexual offences. This clause applies irrespective of the outcome of any criminal trial. Publishers must take care not to allow 'jigsaw identification' in the same publication by publishing enough information that the public can work out an individual's identity. Information such as the age, health and clothing of the individual, or the location and specifics of the attack, may be enough to identify the victim. Where practical, journalists should cooperate to prevent jigsaw identification across publications.
- 6.18 Publishers should also take care not to commission journalists to carry out interviews among the victim's neighbours

as these may allow the individual to be identified by the public.

- 6.19 Victims of sexual assault may voluntarily allow themselves to be identified – for example, as part of a campaign against low conviction rates for sexual offences.
- 6.20 News reporting should not blame the victims of crime for the criminal conduct of a perpetrator, or insinuate blame for that conduct.

Clause 6.4

- 6.21 This clause prohibits the making of payments or offers of payments to witnesses where criminal proceedings are active. Active criminal proceedings begin when the accused is arrested, a warrant is issued for their arrest, a summons is issued or they are charged orally.
- 6.22 Witnesses may be interviewed after a trial but it is not appropriate for a journalist to approach them with an offer of payment while the trial is ongoing, even if they intend to conduct the interview only after the trial is over.

- 6.23 This clause is designed to reduce the risk that criminals might benefit from their crimes or that criminal activity might be glamorised through the payment or offer of payment to convicted or self-confessed criminals or their associates. It is also intended to reduce the risk of witnesses and defendants distorting their evidence in court.

- 6.24 Not all payments to criminals or their associates will fall foul of this prohibition. The clause does not prohibit payments per se to individuals with a criminal record or to their family, friends and colleagues. It only relates to payments for stories, pictures and information that exploit, glorify or glamorise crime. This clause does not necessarily prohibit the publication of such material, so long as any payment is made not to the criminal or their associates but, for instance, to a charity.

Clauses 6.2, 6.3 and 6.4 are not breached if the act or publication complained of is permitted in law.

There is no public interest qualification to these clauses.

7. PRIVACY

- 7.1** Except where justified by the public interest, publishers must respect people's reasonable expectation of privacy. Such an expectation may be determined by factors that include, but are not limited to, the following:
- a. The nature of the information concerned, such as whether it relates to intimate, family, health or medical matters or personal finances;
 - b. The nature of the place concerned, such as a home, school or hospital;
 - c. How the information concerned was held or communicated, such as in private correspondence or a personal diary;
 - d. The relevant attributes of the person, such as their age, occupation or public profile; and
 - e. Whether the person had voluntarily courted publicity on a relevant aspect of their private life.
- 7.2** Except where justified by the public interest, publishers must:
- a. Not use covert means to gain or record information;
 - b. Respect privacy settings when reporting on social media content; and
 - c. Take all reasonable steps not to exacerbate grief or distress through intrusive newsgathering or reporting.

Clause 7.1

- 7.11 This clause applies both to the publication of private information and to journalistic activity that interferes with a person's privacy. It may be breached by photographing someone who has a reasonable expectation of privacy regardless of whether any images are subsequently published.
- 7.12 Whether a person has a reasonable expectation of privacy will be specific to the circumstances. People may have a reasonable expectation of privacy not only in private places but also when doing private things (such as visiting a doctor or therapist) and may reasonably expect their letters, emails, phone calls, text messages and web browsing history to be kept private.
- 7.13 People may also have a reasonable expectation of privacy in a public place, when they are engaging in an activity that is part of their private or family life. For example, a family on a shopping expedition are not hidden from view but they may have a reasonable expectation that they will not be photographed and, further, that those photographs will not be published. Being noticed fleetingly by passers-by, whilst remaining anonymous, is very different from seeing photographs of yourself, in which you are identifiable, published for posterity. Conversely, there may be no reasonable expectation of privacy in some contexts, such as when appearing at an event for publicity

purposes or when not doing anything related to family or private life.

- 7.14 Information that is already in the public domain will not generally give rise to a reasonable expectation of privacy. However, private photographs or videos that capture intimate moments or images may still attract a reasonable expectation of privacy even though they have been previously publicised. This is because of the special quality of images and photographs. This does not mean that a publisher can deliberately reveal hitherto private information to argue that the information is now in the public domain. Information may still be regarded as being subject to a reasonable expectation of privacy where some people know of it, provided it is not generally known. Clause 7 provides a list of non-exhaustive factors that explain when a person may have a 'reasonable expectation of privacy'. These are intended to guide publishers but are not exclusive.
- 7.15 There may be overlap between this clause and others. For instance, the use of clandestine devices or subterfuge may be a breach of both Clause 7 and Clause 5.
- 7.16 Children should always be treated as a special case. This means that children may have a heightened expectation of privacy, depending on the circumstances. The fact that a child has famous parents does not in itself justify intruding into that child's privacy.

Information that is already in the public domain will not generally give rise to a reasonable expectation of privacy.

- 7.17 The clause is intended to cover 'jigsaw identification' of a person's private information where it may result in the person's privacy being invaded.
- 7.18 This clause requires publishers, when deciding whether a person had a reasonable expectation of privacy, to take account of whether they had 'voluntarily courted publicity on a relevant aspect of their private life'. However, a person who has sought publicity in the past may still have a reasonable expectation today. For example,

the claimants in the *PJS* [2016] case had voluntarily disclosed in media interviews the fact that their marriage was not conventionally monogamous. The Supreme Court did not consider that this prevented them from having a reasonable expectation of privacy in relation to a 'threesome' with another couple.

7.19 Only information given voluntarily about a person's private life is relevant to the issue of privacy. The fact that, for example, an actor had sought publicity for a new film, or a footballer had given interviews about football, would not usually be relevant. Similarly, if a public figure has published information about their health – for instance, in order to raise public awareness of the importance of screening for cancer – it does not mean that they have waived their right to keep all of their health and medical data private.

7.20 However, someone who has made a career out of exposing the intimate details of their private life may have a lower expectation of privacy, at least in relation to any area or areas of their life that they have exposed. This should not apply where the information has been publicly disclosed on an anonymous basis. For instance, the revelation of the identity of the anonymous NightJack blogger may, if done today, amount to a breach of Clause 7. The so-called NightJack blogger was a police officer who authored a blog about police conduct and investigations. The blog was written anonymously until he was identified by a newspaper. The

author applied for an injunction restraining continued publication of his identity, but it was refused.

7.21 Journalists should take great care when conducting any inquiries in institutions such as hospitals, private clinics and residential homes. People in such institutions may reasonably expect a high level of privacy. This expectation may also apply to the friends, family or colleagues of patients or residents. Publishers may record someone's non-cooperation with a story but cannot use their non-cooperation to justify pursuing them in a hospital or similar institution.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest Guidance: Privacy

7.22 There may be a public interest justification for a breach of privacy if the breach was proportionate to the public interest in the information obtained.

7.23 For instance, it may be in the public interest to reveal the fact that a public figure in a position of authority has initiated a sexual affair with a vulnerable junior colleague. However, this clause may still be breached where a journalist publishes intimate details or photographs of any sex acts between the couple. Further, there may be a public interest in publishing some aspects of a scenario, but not other details. For instance, the public are unlikely to need to see photographs or be

informed of salacious details to understand what has taken place.

Clause 7.2a

7.24 Publishers must not use covert or clandestine methods of obtaining information and must not publish material obtained by such methods (see also: Clause 5.2(a)). The clause applies even if no information obtained in this way is ever published. Covert means may include eavesdropping or the use of a microphone to record a conversation without the other person's knowledge or consent. Examples also include the use of false identities and the use of equipment such as hidden cameras, hidden microphones and phone or computer hacking to facilitate surreptitious behaviour.

7.25 The prohibition on using covert means to obtain information also applies when publishers obtain information from others, including 'agents or intermediaries', who have used such methods. The use of clandestine methods of obtaining information or the interception of communications may constitute a criminal offence. Publishers should take legal advice before contemplating any such activities. Further, the public interest qualification to this clause (outlined below) does not act as a defence to any relevant criminal offence such as computer hacking.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public Interest guidance: use of covert means

7.26 Investigative journalists may sometimes need to use covert means including the use of clandestine devices and subterfuge. However, such methods can cause great harm, and should be used only as a last resort. In order to justify the use of covert means, devices or subterfuge, a publisher should be able to show that at the time he or she had a reasonable belief that:

- (a) relevant, significant information would be discovered through these means;
- (b) these means were not part of a 'fishing trip' carried out on the off-chance information of public interest might be discovered;
- (c) the material could not have been obtained by other, less intrusive, means such as contacting the subject of the story directly; and
- (d) the means were proportionate to the significance of the information to be obtained.

Clause 7.2b

7.27 Journalists should not knowingly publish material that has been acquired by breaching a person's social media privacy settings. This means that where a journalist obtains material that is clearly sourced from social media, they should take reasonable steps to gain consent before using it. On the other

hand, using material that an adult had already posted on social media to the 'world at large' would not, on its face, amount to a breach of this clause.

7.28 It will not always be evident whether a person has intended to restrict access to information on social media, as privacy settings will vary depending on the platform and the individual's literacy on social media. In some cases, however, it will be evident that a person used restricted privacy settings to limit the audience that could view their material (for example, where a person on Facebook posts only to a small and limited group of Facebook 'friends'). In such cases, it would be a breach of this clause for a journalist to extract material posted without the person's consent.

7.29 This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest guidance: respect privacy settings

7.30 It may be in the public interest to publish material obtained from a highly protected social media account in circumstances where the public importance of the information outweighs the way it was obtained.

Clause 7.2c

7.31 This clause is not aimed at preventing the publication of stories involving death and shocking events. Instead, it looks at how a journalist approaches such stories. Journalists

should be particularly careful to avoid making any approaches that may result in the harassment of a person who is suffering from grief or shock, or towards their friends, colleagues or wider families. They should also be careful to avoid exacerbating such people's grief or shock by publishing unnecessary or sensational details of an event. Knocking on a person's door to gain first-hand details for a story is an acceptable method of newsgathering, provided this is done in a reasonable and sensitive manner.

7.32 In most circumstances, publishers should wait until death has been formally confirmed and the family has been notified before identifying any deceased person. However, in some cases this may not be practicable, for example, where police must publicly identify a deceased person in order to find next of kin.

This clause is not breached if the public interest in the act or publication complained of outweighs the harm caused.

Public interest guidance: taking reasonable steps not to exacerbate grief or distress

7.33 An example of where the public interest in publishing a story may outweigh the grief and distress caused to persons identified in the story or their relatives, is where a negligent act such as faulty car-engine design results in multiple deaths and accidents. In such a case, reporting on the circumstances leading to a car accident, and to the death of its passengers, may be in the public interest.

8. SOURCES

30

- 8.1** Publishers must protect the anonymity of sources where confidentiality has been agreed and not waived by the source, except where the source has been manifestly dishonest.
- 8.2** Publishers must take reasonable steps to ensure that journalists do not fabricate sources.
- 8.3** Except where justified by an exceptional public interest, publishers must not pay public officials for information.

Clause 8.1

- 8.11 This clause requires publishers to take every step to preserve the identity of sources who have communicated their wish to remain anonymous. This means that publishers must have a system – for example, a secure database – to ensure that the identity of confidential sources is protected. This duty can only be waived where a source proves to have been manifestly dishonest, for instance, where he or she has clearly fabricated information.

- 8.12 When publishing documents, journalists should ensure that all identifying material is removed. A journalist looking for comment as a result of information received from a confidential source should not forward even an edited form of an email in case there is underlying metadata that could identify the source.

There is no public interest qualification to this clause.

Clause 8.2

- 8.13 Publishers must not invent sources. Where journalists propose to use anonymous sources, it would be best practice to have a system to ensure this happens only in

exceptional circumstances, and is signed off by a senior editor.

There is no public interest qualification to this clause.

Clause 8.3

- 8.14 Publishers must not pay public officials such as police officers or judges for information. This prohibition guards against the perception that financial rewards may influence, or be seen to influence, decision-making and aims to protect the principle that public officials should act according to their public duties rather than for private gain. This is not intended to cover legitimate payments to public officials such as payments required for freedom of information (FOI) or land title requests.

- 8.15 **This clause attracts an exceptional public interest justification.** This clause is not breached if an overwhelming public interest in the act or publication complained of outweighs the harm. This may arise where there is a news article of particular public significance, for which a publisher cannot elicit information other than by paying a public official. An example may be payments made to an official for information leading to the disclosure of the extent of the MPs' expenses scandal.

Notes: On- and off-the-record conversations with journalists

Publishers must take care when reporting so called 'off-the-record' conversations. If a journalist encourages a member of the public to be interviewed 'off-the-record', they must not subsequently publish information that explicitly or implicitly identifies them. Journalists must take particular care to clarify the nature of 'off-the-record' and 'on-the-record' conversations when interviewing members of the public who have little or no experience of dealing with the media. There is a distinction between non-attributable sources and content obtained through 'off-the-record' disclosures. 'Off-the-record' will mean that the content cannot be used at all. While the information provided by a non-attributable source may be published, it cannot be attributed to a named person.

Even where quotes or other content are non-attributed, journalists may include as much information as is safely practicable to give readers a clear picture of the quality of the source. For instance, rather than quoting a 'member of the government', a journalist may indicate a source was a 'cabinet minister' or 'junior minister'.

9. SUICIDE

32

- 9.1** When reporting on suicide or self-harm, publishers must not provide excessive details of the method used or speculate on the motives.

Clause 9.1

- 9.11 Publishers must not provide too much detail of the methods used in suicides or instances of self-harm to the extent that it could lead to imitation. Publishers must exercise extreme care when naming and describing unusual or novel methods of suicide. These requirements may be particularly important where the person is a celebrity and therefore more likely to influence the behaviour of others.
- 9.12 'Excessive details' means details that are beyond what is necessary to convey the meaning of the story to the reader. The Samaritans' Media Guidelines for Reporting Suicide explain that, 'While saying someone hanged themselves or took an overdose is acceptable, detail about the type of ligature or type and quantity of tablets used is not'.

- 9.13 This clause recognises the vulnerability of those with suicidal tendencies and the possibility that they may act upon information reported in the media to take their own lives. It also recognises the vulnerability and curiosity of children and young people reading this information.
- 9.14 This clause is not intended to stop reporting of suicide and self-harm and the circumstances surrounding these events. The media play an important role in discussing mental health and providing people and groups with an opportunity to discuss the challenges in this field. However, this clause requires publishers to be mindful of the language and details used in such reporting.
- There is no public interest qualification to this clause.

Notes: Reporting of suicide

When reporting on a coroner's inquest involving a suicide, publishers should not over-simplify or distort the coroner's findings, particularly as they relate to motive.

Publishers should not use sensational language that glamorises suicide or self-harm. Publishers should not reference particular suicide 'spots' such as bridges where suicides are common. Reports on suicide should also consider the impact of a news story on affected parties, specifically friends and family.

Publishers should not publish the content of suicide notes and should be cautious when re-publishing content from social media such as comments on Facebook tribute walls as such messages can inadvertently glamorise suicide, particularly for vulnerable young people.

Publishers should avoid the use of terms such as 'copycat suicides', 'suicide hot spots' and 'suicide clusters' as these are sensational.

When reporting on suicide or self-harm, publishers should include the number of a helpline. Expert advice on media reporting of suicide is available from the Samaritans' Media Advisory Service and on the Samaritans' website.

10. TRANSPARENCY

34

- 10.1** Publishers must clearly identify content that appears to be editorial but has been paid for, financially or through a reciprocal arrangement, by a third party.
- 10.2** Publishers must ensure that significant conflicts of interest are disclosed.
- 10.3** Publishers must ensure that information about financial products is objectively presented and that any interests or conflicts of interest are effectively disclosed.
- 10.4** Publishers must correct any failure to disclose significant conflicts of interest with due prominence at the earliest opportunity.

Clause 10.1

- 10.11 The distinction between editorially independent content and content that has been influenced by, or may be perceived to have been influenced by, a sponsor must be made clear. Any commercial arrangement between a sponsor or other third party and the author of a news article, and any editorial influence by a sponsor or third party over content, must be clearly identified.
- 10.12 This clause relates to editorial content, not to advertising. Advertising standards are regulated by the Advertising Standards Authority.

Clause 10.2

- 10.13 Publishers must take all reasonable steps to identify a significant conflict of interest. A significant conflict of interest is one that generates a benefit for a journalist or publisher and which could be perceived as influencing the perspective and content of an article, including its tone and the selection of facts. Any failure to do so must be corrected at the earliest opportunity with due prominence.
- 10.14 After publication, declarations of significant conflicts of interest must be made *promptly* (at the earliest opportunity) and with *due prominence*. 'Due prominence' will usually mean 'equal prominence'. Thus, a front-page story that failed to include a declaration of a significant conflict of interest should be corrected on the front page (and/or in an equivalently prominent part of a website).

Clause 10.3

- 10.15 The aim of Clause 10.3 is to protect the integrity of news articles that report on financial products. Financial products include bonds, shares, mortgages and other instruments used to buy and sell cash.
- 10.16 The clause requires journalists to present financial news in an impartial way. It prevents them from gaining an unfair financial advantage from access to information that the general public are not privy to. Journalists and news publishers may receive financial information, such as company reports, in advance of the public. This clause prohibits them from using such information for their own, or their family's benefit. It requires them to declare any significant financial interest they or close members of their family have in any shares or securities they are writing about. Such a disclosure must be 'effective', that is, clear and unambiguous to the reader. In some cases, a one-line disclaimer at the bottom of a news story that identifies a conflict of interest will be 'effective'; in others, a publisher may feel it best to maintain a register of journalists' interests on its website.
- 10.17 Further, journalists should not trade in shares or securities they have written about or intend to write about in the future. This is designed to prevent 'share tipping', where journalists or publishers exert an influence on the value of shares in which they have an interest.

Notes: Commercial content

All commercial content must be clearly labelled.

Generally, there are three types of content that may be understood to be commercial in nature. The first is where a payment is made, or where an in-kind arrangement exists – such as where a hotel pays for the accommodation of a journalist who reviews that hotel – but no editorial control is exerted by the third party over the content of the article. This means that the journalist's hotel review is their own, independent, opinion. The second is where a payment is made, or an in-kind arrangement is agreed to, and where some degree of editorial control is applied by the third party. The third type of content is where a third party exerts full editorial control over an article by, for instance, commissioning an article, selecting the writer, and influencing the content of the article. This last type of content may be labelled as 'paid content', a 'paid advertorial', 'sponsored content', or 'advertiser content'.

Clause 10.4

- 10.18 Where a conflict of interest that is central to a news article is not disclosed, this fact should be drawn to the attention of readers through a correction published as soon as is practicable.

There is no public interest qualification to this clause.

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