

# Guidance for journalists: Using material from social media

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This guidance provides a framework for thinking through questions about using material taken from social media and some examples of relevant decisions by IPSO's Complaints Committee.

## Key points

- A number of clauses in the Editors' Code of Practice are relevant including Clause 1 (Accuracy), Clause 2 (Privacy), Clause 4 (Intrusion into grief or shock) and Clause 6 (Children).
- Consider what extent the material is in the public domain, who has placed it there, and whether there are any privacy settings.
- Think about the nature of the material: does it show anything private or are there any reasons to exercise caution?

# Key considerations

## 1. To what extent, if at all, is the material in the public domain?

- a) If the material is in the public domain, who has placed it there?
- b) What privacy settings are in place for the material?
- c) Does the individual have a reasonable expectation of privacy in relation to the material?

## 2. What is the nature of the material?

- a) Does it depict anything private, such as medical information or private activities?
- b) Are there particular reasons for exercising caution – for example does the information feature or relate to a child; or to an individual experiencing grief or shock; or does it also include an individual who is not relevant to your story?
- c) Are there any legal issues arising from publishing the material?

## Editors and journalists may want to take the following actions before publishing information taken from social media:

- taking a screenshot of the material to be published, showing the date and any privacy settings if possible
- keeping a contemporaneous note of any discussion around the public interest in publishing information, where relevant
- pixelating or removing any individuals who might feature in the photo to be published but are not relevant to the story.

# What can be published?

Journalists must not assume that the absence of privacy settings means that information can be published. The nature of the material, the context of the story and what the material features, must also be considered.

If a journalist uses information from an individual posts on social media when no privacy settings are in place and the information does not depict anything private (see *Ward v Daily Mail*), IPSO is unlikely to decide there has been a breach of the Code.

Engaging in subterfuge to obtain information can generally only be justified in the public interest and then only when the material cannot be obtained by other means.

IPSO will expect editors to explain how the information was sourced; if it is published online without privacy settings, editors should be prepared to demonstrate this, for example by retaining screenshots.

...It depends on how many people have seen it

Clause 2 (Privacy) of the Editors' Code states that in considering complaints about intrusion, "account will be taken of the complainant's own public disclosures of information".

The public interest section of the Code requires that IPSO "consider the extent to which material is already in the public domain or will become so".

Most social media sites allow individuals to control how their information is published and who might be able to see that information – for example, posts can be visible to "friends" or "friends of friends".

Alternatively, material may be published to a large community of like-minded people who are unknown to each other beyond their shared interest, but choose to communicate within a defined space, either within a "private group" on a site like Facebook, or a specialist site that requires a login and password.

Regardless of the mechanism that individuals use to share information, journalists should consider to what extent information was in the public domain, and who placed it there, before publishing it. This may include consideration of how many people would have been able to view the

material, their relationship to the subject of the material and/or the person who posted it, and whether the person who posted it and/or the subject would have had a reasonable expectation that it would not be circulated further (see *Beer v Mirror.co.uk* and *McHale v The Sun*).

If IPSO receives a complaint about the publication of information taken from social media, IPSO will consider these same factors as part of deciding whether publication of the information is intrusive. Another factor that IPSO will take into account in deciding whether an individual's privacy has been breached is the extent to which the individual has already made personal information of a similar quality publicly available.

For example, IPSO would take into account any public comments the individual has

made in deciding whether or not their privacy has been breached by the publication of the information taken from social media.

### Key points

- 1. Who posted the material? Who put the information in the public domain?*
- 2. How many people had access to it, and what was their relationship with the subject/person who posted the material?*
- 3. Would the poster have had a reasonable expectation that the material would not be circulated further?*
- 4. What disclosures of private information, if any, has the individual made?*
- 5. Does the information feature individuals who are not relevant to the story?*

# ...And it depends what it shows

## Private information

All individuals are entitled to respect for their private and family life, home, health and correspondence.

Sometimes individuals may share information on social media which depicts private activities or shows private information, for example medical information. Before publishing anything taken from social media, editors and journalists should consider whether the information depicts anything private.

Journalists are not prevented from publishing material that may expose an individual to ridicule or embarrassment, but they may wish to consider whether the information they are publishing would cause acute embarrassment to the individual in question.

The gratuitous publication of such information might

constitute an intrusion requiring a demonstrated public interest to avoid a breach of the Code.

## Key questions

- 1. What is the content of the photo or information to be published?*
- 2. Might the publication of this information, in context, be intrusive into the subject's privacy?*
- 3. If so, is there a public interest in publishing this information?*

## Children

The Editors' Code contains stringent requirements that are intended to ensure that children are protected from unnecessary intrusion. Any coverage of a child's personal circumstances must be contemplated with extreme caution and with due regard for the requirement that "in cases involving children under 16, editors must

demonstrate an exceptional public interest to override the normally paramount interests of the child”.

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. The strong protection under the Code for children means that what might constitute an interview in relation to children is broader than simply where a journalist directly solicits comment or information from a child. It could cover either the republication of material solicited by third parties or cases where the comments published were unsolicited. However, this part of the clause only relates to comments concerning a child’s welfare (see *Lightfoot v Leicester Mercury*). Editors should also be aware that some children may misrepresent their age on social media accounts. Editors should

exercise caution if it appears that a child is younger in age than they claim to be.

### Key questions

- 1. Does the social media account belong to a child?*
- 2. Does the information relate to a child’s welfare?*
- 3. Is it possible to identify the child from the information?*
- 4. Would publishing the information intrude unnecessarily into a child’s time at school?*
- 5. If publishing the material does appear to raise a breach of the Code, do you have an exceptional public interest for publishing it?*

## Intrusion into grief or shock

There may be occasions when editors and journalists use information taken from social media to illustrate stories which involve personal grief or shock. Editors and journalists must take care in these circumstances to handle publication sensitively. Publication might be insensitive if it included the following:

- mocking or ridiculing the deceased or the manner of their death;
- photos which show the deceased engaged in embarrassing activity; or
- gory information at a time of grief.

Particular care should be taken with the selection of photos of the recently deceased, so editors and journalists should consider how much time has elapsed since the incident being reported upon happened. In

addition, editors and journalists should also consider what the photos show and the context of the individual's death (see *Farrow v Lancashire Evening Post*). Care should also be taken when publishing information from social media in relation to breaking news, so that those caught up in events are not identified before their families have been made aware of what is happening.

## Key questions

1. *Are you intruding into an individual's personal grief or shock by publishing the information?*
2. *Are you handling publication sensitively?*
3. *How much time has elapsed since the incident being reported upon happened?*
4. *Is it appropriate to contact the family?*



## Accuracy

Information on social media may be misleading and it may also be difficult to verify. Increasingly, news of major incidents has been followed by the creation of hoax social media or fundraising accounts, purporting to identify individuals caught up in the incident. Journalists should be wary of sources on social media carrying this information and take steps to verify the information before publishing.

Journalists should also take care when looking at non recent social media posts. IPSO has upheld complaints about articles which gave a misleading impression based on the publication of non-recent social media posts.

## Legal issues

IPSO's role is to uphold the Editors' Code of Practice and this guidance focusses on supporting compliance with the Code. Editors should also consider legal issues, such as copyright or contempt of court, in deciding whether or not to publish information taken from social media.

# Case studies

## [Beer v Mirror.co.uk](#)

Alex Beer published two photographs on Facebook of his injuries from a spider bite. The post went viral and was subsequently published by Mirror.co.uk, which was the article complained about. The complainant said that one of the two photos published had been uploaded onto his wife's Facebook page, which had quite high privacy settings and was not accessible to his friends.

The Complaints Committee recognised that the images of injuries were graphic photographs of a medical condition that he was entitled to consider private. However, the complainant had disclosed a number of details about the spider bite and the subsequent medical treatment on Facebook in a way which suggested that the complainant wanted the information shared publicly,

to raise awareness. The Complaints Committee was unable to determine where one of the two photos had been uploaded. Nevertheless, the content of this photograph did not differ significantly from the other photo and did not therefore disclose any further private information. As a result, there was no breach of the complainant's privacy.

## [Jarvis v Express.co.uk](#)

John Jarvis complained to IPSO about an article which reported that his son had been reported missing and that his son's last post on Facebook featured him drinking alcohol in Marrakech. The complainant said that his son's post related to a night out in Bristol some months previously and was not related to his time in Morocco. In addition, he said that publishing the information intruded into the family's distress.

The Complaints Committee ruled that the article was significantly inaccurate. The newspaper had failed to check the dates of Connor Jarvis' Facebook post and not realised that the post it quoted was not current. Consequently, it had given a significantly misleading impression of his actions shortly before his disappearance.

### [Lightfoot v Leicester Mercury](#)

Jason Lightfoot complained after comments that his 15-year-old stepdaughter posted on an online petition about her school's uniform policy were published online by the Leicester Mercury. He was concerned that her name had been printed along with her comments without his consent. The comments had been made on a website which was open to the public to view. Nonetheless, noting the concerns of the complainant and other parents,

as a gesture of goodwill, the newspaper removed all pupils' names from the online article before it went to print.

Given the particularly strong protection for children, the Committee made clear that in honouring the full spirit of the Code, what constitutes an "interview" for the purposes of Clause 6 (iii) is broader than circumstances in which a journalist directly asks for comment or information from a child, and could include information which was not provided directly to the journalist by the child, but placed voluntarily online by the child. However, the Committee determined that as the comments were innocuous, did not relate to her or any other child, and related directly to the uniform of the school, the comments did not relate to her welfare. As such, there had been no unnecessary intrusion into her time at school and

there was no breach of Clause 6. Further, as the comments did not reveal any information about her private life there was no breach of Clause 2.

### [Farrow v Lancashire Evening Post\\*](#)

Kate Farrow complained about an article published by the Lancashire Evening Post covering the inquest into her stepdaughter's suicide. The online version of the article was illustrated by a number of photographs, taken from her stepdaughter's (Ms Potts) Facebook page. Kate Farrow said that the photographs were "disproportionate" and inappropriate in number and nature. The newspaper said that the story and photographs, which had been taken from an open Facebook page, had been supplied by a press agency and were published in good faith.

The complaint was upheld in relation to some elements. However, the complaint was not upheld in relation to the use of images. The images that were included in the online article had been taken from Ms Potts' open Facebook profile; they were not explicit or embarrassing, but simply showed her posing for photographs at home and on holiday. The presentation of the images had not sought to mock or ridicule Ms Potts; and their publication did not constitute insensitive handling of the story in breach of Clause 5.

### [McHale v The Sun](#)

John McHale complained about an article published online by The Sun which related to his son's suicide. Amongst other issues, the complainant was unhappy with the publication of photographs and information, including his own comments, taken from his Facebook page.

The complainant believed that this breached Clauses 1 and 2 of the Code. The comments and photos had been posted onto an open Facebook page and, as such, in the newspaper's view were in the public domain. The Committee determined that republishing the photos and comments that were made by the complainant on public social media pages about the death did not represent an unjustified intrusion into the complainant's private life.

### [Ward v Daily Mail\\*](#)

Emily Ward complained that a diary piece published about an image she posted on Instagram was inaccurate and was a breach of her privacy as she was not an individual in the public eye. The Committee did not uphold the complaint. The Committee ruled that, as the image and caption did not contain personal information

and had been posted by the complainant, there was no breach of Clause 3.

### [Gorman v Daily Star](#)

Pauline Gorman complained to IPSO after a photo of her daughter was published on the front page of the Daily Star identifying her as one of the people missing or dead following the terror attack in Manchester Arena; the caption identified her as "missing" and referred to her by a false name.

The Committee upheld the complaint and required the publication of an adjudication. The complainant's daughter's details had been appropriated and used by a hoax Twitter account. The newspaper had relied on information provided by a trusted agency. While there was no reason to doubt that the newspaper had acted in good faith, it was ultimately responsible for the inaccuracy.

The newspaper had taken no further steps to establish the accuracy of the claims on the Twitter account. In addition, the circumstances, and the claim that an individual had been caught up in this incident, meant that it was vitally important that the newspaper took sufficient care to ensure the accuracy of the claim.

