

Draft guidance on reporting of sex and gender identity

Key Points

- The press should not make pejorative or prejudicial reference to an individual's sex or gender identity.
- Journalists may use various methods to ensure coverage of sex and gender identity is accurate. This may include, but is not limited to, providing contextualising information, presenting different opinions where relevant, and approaching second sources.
- Journalists should consider whether information about an individual's gender identity is genuinely relevant to an article. Examples of relevance could be where a quote needs to be contextualised or to explain the inclusion of a source.
- Language relating to gender and identity is nuanced, contextual and complex. Journalists should take care not to publish inaccurate and misleading information.
- It is important that journalists can report on children and the issues they are facing. The Code says that children under the age of 16 should be free to complete their time at school without unnecessary press intrusion. Consent is required from a child's parent or legal guardian for the publication of interviews or photographs where the child's welfare is involved.

About this guidance

IPSO produces non-binding guidance for journalists and editors to help raise editorial standards. IPSO determines which subjects to produce guidance on from its monitoring of editorial standards and the complaints it receives. Through monitoring this subject it has been identified that the reporting of sex and gender identity regularly features in the UK press.

The Editors' Code is not intended to reconcile the spectrum of opinion in the reporting of sex and gender identity. The Code strikes a balance between the rights of the public to freedom of speech and the rights of the individual not to face personal discriminatory abuse. Freedom of expression must embrace the right to hold views that others might find distasteful and sometimes offensive.

This document is designed to be a part of an editorial toolkit to assist decision-making on the reporting on sex and gender identity and includes case studies

of relevant decisions by IPSO's Complaints Committee. It is not intended to be prescriptive.

The case studies are summaries of the decisions of the Committee, and it is recommended that the decisions are read in full.

The Editors' Code

[The Editors' Code of Practice](#) sets the framework for the highest professional standards for journalists. This guidance does not replace or supersede the Code. It does not limit or restrict editorial decision making but may inform that decision making.

The Complaints Committee only makes decisions on whether the Editors' Code of Practice has been breached.

This guidance focuses on the application of Clause 1 (Accuracy), Clause 2 (Privacy), Clause 6 (Children) and Clause 12 (Discrimination).

The Public Interest

The Code recognises a public interest in freedom of expression and in the publication of material that raises or contributes to a matter of public debate.

Journalists can contribute to this public interest by producing a plurality of views and publishing opinions which may be critical, challenging or could be considered by some to be offensive. However, care must be taken to ensure an individual's rights are not infringed.

Journalists have the fundamental right to freedom of expression which includes the right to inform, to be partisan, to challenge, to shock, to be satirical and to entertain.

Clause 1 (Accuracy)

Accuracy is the foundation of reporting and the public rely on the press to keep them informed on important topics. Given the differing views held in relation to sex and gender and the complexity in language regarding the reporting of gender identity, most complaints received by IPSO relate to Clause 1. IPSO has identified themes to navigate this area so that journalists and editors understand how the Committee considers complaints on topics relating to the reporting of sex and gender identity.

Reporting of policies/guidance

Accurate presentation of policy or guidance is vital to keeping the public well-informed. Journalists and editors must take care not to publish inaccurate, misleading, or distorted information when reporting on changes to policy, or guidance relating to gender identity and the transgender community.

The case of [Parrott v Norwich Evening News](#) related to an article which reported on guidance issued by an NHS trust on the language to be used in relation to pregnancy and childbirth. The Committee upheld the complaint on the basis that the article had misrepresented the guidance by suggesting that it required the use of gender-neutral language in more scenarios than it did.

Negotiating different views on how to describe someone's gender identity

The Code does not specify appropriate or acceptable terminology. It requires that any references to an individual's sex or gender identity are accurate and not prejudicial or pejorative. When presenting comments as direct quotations, journalists should take care to report accurately what was said and consider whether consent from the interviewee is required if changes are made, to avoid misrepresenting an individual's comments.

Further, journalists and editors should consider the impact such changes may have on the interviewee. Where appropriate, journalists may wish to ask individuals how they prefer to be addressed or identified, or about their preferred terminology relating to other aspects of sex or gender identity.

In the case of [A woman v Daily Mail](#), the Complaints Committee recognised that the choice of language by a victim of sexual assault to refer to her attacker was significant. The publication had changed the pronouns used in direct quotations attributed to the woman about her experience of the assault from "he/him" to "she/her". The Committee found no breach of the Editors' Code as the complainant had agreed to the change before publication.

Reporting on conflicting views

Publications are free to publish accounts of disputes about these issues. However, care must still be taken with the presentation of conflicting views.

The case of [Fair Play for Women v kentlive.news](#) related to an article that presented allegations of transphobia as fact by summarising a social media post as having constituted "transphobic abuse".

The Committee recognised transphobia has no single, simple manifestation and can include a range of behaviours and arguments. The complaint was upheld as the article had asserted that the complainant had engaged in this "abuse" as fact without making clear the basis of this characterisation, which the Committee found was misleading.

Comment pieces

The press, while free to campaign, be partisan, and express an opinion, is also entitled to publish the views of individuals. Reporting on sex and gender identity can generate wide and fierce debate. Journalists and editors are free to inform, scrutinise and challenge on this topical issue.

The case of [Duah v metro.co.uk](https://www.duahmetro.co.uk) related to a comment piece by a trans advocate that criticised the adequacy of evidence relating to alleged safety risks due to gender self-identification.

The Committee noted that expressing criticism of groups or individuals holding a particular point of view is not prohibited by the terms of the Code; nor is the press required by the Code to be balanced or unbiased. The Committee was satisfied that, in the context of a polemical comment piece, the writer's characterisation of the "gender critical" movement was clearly distinguished as their opinion rather than established fact.

Articles may cause hurt or offence or be the basis of criticism. However, publications must demonstrate that care is taken over the accuracy of any claims of fact.

The case of [Pascoe v spectator.co.uk](https://www.pascoe.co.uk) related to a columnist clearly presenting their own perception and interpretation of guidance produced by a charity for supporting LGBT+ children and young people. The complainant perceived this to be misleading and a breach of

Clause 1. The publication offered the opportunity to write an online article which resolved the complaint.

Questions relating to Accuracy

Journalists and editors should consider the following:

- Is the terminology being used likely to create a misleading or inaccurate impression?
- Has any comment, conjecture or characterisation been clearly identified and distinguished?
- Is the basis for any characterisation included within the article?
- If there are claims of fact in an opinion piece, has the publication ensured that care has been taken over the accuracy of these claims?

Intrusion

Privacy is a fundamental right integral to our society and way of life and this is protected in Clause 2 (Privacy) of the Editors' Code. Everyone is entitled to respect for their private and family life, including physical and mental health. However, the reasonable expectation of privacy can be affected by the public interest, material in the public domain, and the person's disclosures.

Factors that editors may wish to consider

- Whether or not the individual made their gender identity or sex known
- If the information in the article is already in the public domain, or has been disclosed by the subject of the article
- Whether the individual has a reasonable expectation of privacy in relation to the information or photographs
- The nature of the information
- Might the publication of this information, in context, be intrusive into the individual's sex or gender identity
- If there is a genuine public interest in the publication of the information
- The degree of any intrusion proportionate to the public interest served

Children

The Code says pupils should be free to complete their time at school without unnecessary intrusion.

The protections provided under Clauses 2 (Privacy) and 6 (Children) apply to all children in education irrespective of their gender identity, sex, and sexual orientation. Publishing material relating to an individual child's welfare, including their gender identity, engages the protections under Clause 6.

The Committee has acknowledged there is significant public interest in the reporting of children's gender identity. However, sensitivity must be observed when reporting on the welfare of a specific child or children. The Code, in providing additional protections for children, acknowledges their particularly vulnerable position. Exceptional public interest is required to over-ride the normally paramount interest of children under 16.

In [The Radcliffe School v Milton Keynes Council](https://www.miltonkeynes.co.uk), the article included a child's words about allegations of bullying in her school environment and linked these allegations to the recent death of her sibling. The Committee noted that the child's words used in the article were taken from a social media post.

The Committee acknowledged that there was a significant public interest in reporting on allegations of bullying and homophobia at the school and the role that they might have played in the child's death. The Committee determined the public interest in publishing the comment was not so exceptional as to override the interests of a child, given the extremely sensitive subject matter and the child's vulnerable circumstances, immediately following the death of a sibling.

The Committee determined there was a breach of Clause 6 (Children) as the social media post in question was presented as the sibling's response to the allegations of homophobia and bullying at the school. Therefore, its publication in this context constituted an interview under the terms of Clause 6 and thus the permission of a responsible adult was required to publish.

Questions relating to children

Journalists and editors should consider the following:

- Does the information relate to a child's welfare?
- Would publishing the information intrude unnecessarily into a child's time at school?
- Has consent been obtained by the parent or guardian to publish the information or photographs?
- If publishing the material does appear to raise a breach of the Code, is there an exceptional overriding public interest for publishing it?
- Are you able to demonstrate that the public interest was considered before publication and by whom?

Reporting of gender diverse defendants

The reporting of transgender and gender diverse defendants is currently a contentious topic that features in many debates.

Journalists and editors should be mindful of the principles under the Code remain the same regarding accuracy, privacy, and discrimination. The rights of the defendant to be free of unjustified intrusion into privacy and discrimination are enshrined in Clause 2 (Privacy) and Clause 12 (Discrimination) respectively.

Journalists and editors should take a view of how to meet the obligations under the Code when reporting on this topic.

Factors that editors may wish to consider

- The way that the defendant is identified in court, including the name used and the pronoun used by court officials and/or any witnesses
- Any guidance provided by the court about a defendant's gender identity
- The nature of the alleged offence and whether the individual's gender identity was relevant to the allegations;
- The defendant's gender identity at the time of the alleged criminal activity
- Any relevant public interest, including the public interest in protecting public health or safety in the face of a major incident

Clause 12 (Discrimination)

Within the gender diversity spectrum, there are a wide range of terms to refer to someone's identity. Clause 12 prohibits prejudicial or pejorative reference to an individual's sex and gender.

References to someone's gender identity and/or sex may be pejorative, even in the absence of any pejorative term. Editors should consider carefully the relevance and presentation of information relating to an individual's sex or gender identity. This could give rise to a complaint.

Journalists and editors should take care when discussing characteristics of an individual as the meaning could be perceived as pejorative in relation to characteristics specifically protected by Clause 12.

The case of [Trans Media Watch v The Sun](#) related to a comment piece that commented on the gender identity of a Parliamentary candidate.

The Committee concluded that the column belittled the candidate, her gender identity, and her disability, mocking her for no

other reason than these perceived "differences". It was discriminatory and unacceptable under the Code. Although the column did not contain any specific pejorative term, its meaning was pejorative in relation to characteristics specifically protected by Clause 12.

The newspaper was required to publish an adjudication on the same page as the original column and on the newspaper's website.

Questions relating to discrimination

Journalists and editors should consider the following:

- Are references to a protected characteristic — for instance, someone's gender identity or sex — genuinely relevant to the story?
- Could any of the references to a protected characteristic be considered pejorative or prejudicial?

Resources

IPSO is aware of the differing stances taken by different UK bodies and have included some information that journalists and editors may find it helpful to be aware of and consider.

Journalists and editors should be aware that this is a changing area of legislation and policy and should consider keeping abreast of any developments.

Statutory Information

[The Equality Act 2010](#)

[The Gender Recognition Act 2004](#)

Court Reporting

[The Crown Prosecution Service
Trans Equality Statement](#)

[Courts and Tribunals Judiciary
Equal Treatment Bench Book](#)

Sports

[UK Sports Councils](#)