

Thursday 29 September 2016

**Ref: MEND submission to IMPRESS Draft Code Consultation**

MEND is a not-for-profit company established to tackle Islamophobia and encourage British Muslim participation in media and politics.

MEND has been at the forefront of tackling misrepresentation of Islam and Muslims in the British media through participation in research, advocacy and public inquiries and via grassroots training in media literacy for Muslim communities.

We welcome the publication by IMPRESS of this draft Code and its consultation exercise. We are pleased to have this opportunity to contribute to it.

It is our hope that the final Code and the work of IMPRESS as a recognised regulator for the British print media will bring us closer to our goal of a fully Leveson compliant regulatory body for the print media industry.

Clause 1: ACCURACY

The draft code states:

- 1.2 Publishers must correct any significant inaccuracy with due prominence at the earliest opportunity.

The Code limits the scope of content that could qualify by restricting its applicability to material considered “significantly inaccurate”. There is no consideration to content that while technically accurate is nonetheless misrepresentative or misleading.

We cite the example of our complaint against The Sun newspaper in November 2015 in regards to the article “1 in 5 Brit Muslims’ jihadi sympathy”.

Our complaint against the representation of polling day by The Sun was upheld and our complaint rested on the fact that the statement published by the newspaper was “inaccurate” because it misrepresented the question and the response given by survey respondents thereby distorting the results.

The IMPRESS draft Code, by restricting the scope of application of Clause 1, Article 2 to “significant inaccuracy” omits inclusion of content which may qualify as accurate in a semantic fashion but which renders the result a distortion of facts or their wilful misrepresentation.

We would welcome a clear reference for publishers **“to correct any significant inaccuracy, misleading statement or distortion with due prominence at the earliest opportunity”**.

## Clause 4: DISCRIMINATION

The draft code states:

- 4.1. Publishers must not refer pejoratively to a person on the basis of that person's age, disability, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation or another characteristic which makes that person vulnerable to discrimination.
- 4.2. Publishers must not refer to a person's disability, gender reassignment or identity, pregnancy, race, religion or belief 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, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation.

### Article 1

We note the omission of the word "prejudicial" as is currently present in the Ipsos Editors' Code of Practice and which is mentioned in the Leveson Inquiry report in relation to print media output on minority groups in the UK.

Our own contribution to the Inquiry's evidence hearing drew attention to the impact of news output of a prejudicial nature and its cumulative effect of increasing prejudice against British Muslims.

We cite further from the segment of the Leveson report, where our written and oral testimony is referenced to illustrate the importance of recognising that the scope of the first Article in the Discrimination clause is unduly limiting with its mention only of "pejorative" reference to a "person's age, disability, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation or another characteristic."

The Leveson report states:

"The evidence demonstrates that sections of the press betray a tendency, which is far from universal or even preponderant, to portray Muslims in a negative light."

[...]

"Overall, the evidence in relation to the representation of women and minorities suggest that there has been a significant tendency within the press which leads to the *publication of prejudicial or pejorative references* to race, religion, gender, sexual orientation of physical or mental illness or disability" (emphasis added).

Pejorative is alone insufficient and it is incommensurate with examples of content not deemed pejorative but which can be construed as prejudicial.

We consider the omission on "prejudicial" in Clause 4 Article 1 as regrettable and seek for this to be remedied as set out below.

**Publishers must not refer pejoratively or prejudicially to a person on the basis of:**

- (i) **A person's age, disability, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation;**
- (ii) **Another characteristic which makes a person particularly vulnerable to unjustified discrimination or stigma.**

## Article 2

We welcome the scope of this Article and note its differentiation from the extant Ipsos Editors' Code of Practice which sets the threshold at "genuinely relevant". We regard the qualification that a reference be demonstrated to be "genuinely" relevant as highly subjective and are pleased to see that this subjective measure is not present in the IMPRESS Code.

## Article 3

### *Scope*

We strongly welcome the inclusion of a third party complaints mechanism in the form of group representation and collective remedy for groups affected by inaccurate, misleading, distorted material or material of a prejudicial or pejorative nature.

We have consistently advocated for a third party complaints clause and our written and oral evidence to the Leveson Inquiry recited examples of Muslims being frustrated by the process for seeking redress of grievance due to the limitations of the regulatory code.

We are pleased to see the scope of the Discrimination clause expanded to include groups. However, the scope of the draft Code is limiting in its recognition of specified groups, omitting a condition entered in Clause 4 Article 1.

Article 1 covers those defined by "age, disability, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation or another characteristic which makes that person vulnerable to discrimination", but Article 3 omits "or another characteristic which makes that person vulnerable to discrimination".

This would appear to be an inconsistency in the scope of the Code, extending rights to certain groups but not others and limiting the right to redress for some to individual protection, not group protection.

This is unjust and would result in unfair outcomes for some groups over others.

We would encourage Article 3 be amended to include all referred categories identified in Article 1:

### **Publishers must not incite hatred against any group on the basis of:**

- (i) The group's age, disability, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion or belief, sex or sexual orientation;**
- (ii) Or another characteristic which makes a person or group of persons particularly vulnerable to unjustified discrimination or stigma."**

### *Threshold*

We note the use of the term "incite hatred" in the wording of Article 3. We find this problematic because of the disparity in legal protection existing in the law in relation to groups defined by religion and those defined by race.

It is our understanding that the term "incite hatred" would rely, to some extent, upon the rendering of the term in criminal law in the operation of the Code.

Muslims are disadvantaged, as are all groups defined by religion, by the law on incitement to religious hatred which does not extend to them the same level of legal protection as those groups defined by race or covered by the law on incitement to racial hatred.

It is not clear how the Code would navigate this disparity in legal protection or indeed, whether the operation of the Code would replicate the unequal protection currently contained in the statute.

We would welcome clarity from IMPRESS on how the Code will ensure fair and equal outcomes against “inciting hatred” for all groups covered by Article 3.