

Written submission to

The review of the Impress Standards Code and Guidance

Submitted by Jane Fae for Trans Media Watch, 20 February 2021

We would like to begin by thanking the Impress Code Committee for providing this opportunity to the public and representative organisations to comment on the working of the Impress Code of Guidance. At the same time, we must apologise in advance for the fact that our commentary will be expressed in generalities and not based, as far as we know, on experience of dealing with even one of the 172 publications (as at 29 January 2021) covered by your Code.

This reflects the fact that Trans Media Watch is the premier organisation focused on how news stories concerning trans and intersex people and issues are reported by UK media, including press, broadcasters and advertising. We are not limited in scope to dealing with any particular set of publications but we will tend to be called upon to comment or intervene in two circumstances:

- where something has gone wrong in the reporting of a particular story;
- where publications or journalists seek support to better understand the UK trans and intersex communities.

To the best of our knowledge, we have neither been called upon to assist, nor encountered any significant issue with any of the publications covered by yourselves. Whether that reflects virtue on their part, or simply the fact that the principal publications at present obsessed with the “threat” from trans people are mostly the national press and a handful of traditional current affairs magazines, we are unable to tell.

That said, we would like to make the following observations:

1. The Impress Code is not dissimilar to the IPSO Code. It carries many of the same headings, many of the same concerns and many of the same deficiencies, which we set out below.
2. The guidance section is significant since, as best we can ascertain, IPSO does not publish comparable guidance. Their process is therefore much less transparent: complaints go to a committee which comes back with a rationale of why it has/has not upheld the complaint.

Without direct experience of using your system, we are unable to comment on whether the Impress system is more robust. We hope that it is.

3. Despite this, the Impress approach, which derives from the same original source as the IPSO Code (PCC Code of Practice) incorporates similar weaknesses. In particular it focuses on complaints by and about individuals. This, a cynic might observe, is a mechanism designed to head off any libel case before it reaches the courts.

In the case of IPSO, this created a situation where members of the public could complain to correct inaccurate or misleading statements about the world in general. However, in the last couple of years, they appear to have moved to a point where they no longer accept such complaints put forward by members of the public. Rather, where a publication has carried inaccurate information about an individual's words or deeds it is for that individual alone to complain. This is the case even where an inaccuracy can be easily confirmed by reference to public record.

This is a significant watering down of the ability to correct inaccuracy or falsehood: since we have no experience of Impress on this, we would ask only that Impress reflects on its current practice and does not proceed down this road.

4. In tandem with this focus on individual rights, we are concerned that neither IPSO nor Impress seems prepared to recognise the standing of groups when it comes to complaint. Thus, an individual may complain where they have been misrepresented, harassed or treated unfairly. They may also complain where they have been subject to discriminatory treatment.

However, UK media continue to make sweeping generalisations about entire groups of people. That applies to both those with protected characteristics and to marginalised groups not so recognised in law: and there is no avenue for them to complain. Here we would include almost every other minority or marginalised group, including Muslims, travellers and gay people – all of whom are protected from discrimination by the Equality Act 2010.

Your call for evidence asks whether the Code “adequately reflects how discrimination is experienced by those with protected characteristics, [particularly in an online context]”.

5. Our answer to that is a loud and resounding no! Were we, for whatever reason, to commence a campaign of defamation against any high profile media figure – it is a simple matter for that individual to commence the costly libel proceedings.

If, by contrast, a newspaper were to talk about how “trans people” or “trans activists” want x – which of late seems to include almost any and every evil ranging from an end to free speech through to the corruption of youth and innocence – we have no recourse, either as individuals or as a community to complain.

6. It is bad enough that this should happen even once. However, research carried out by ourselves and others within the academic world (e.g., Prof Paul Baker at Lancaster University) – again on newspapers not covered by Impress – highlights that the volume of stories turning a negative and obsessive spotlight on ordinary trans people has multiplied by a factor of between 3 and 4 since 2012.

Worse: the vast majority of that coverage (by readership) appears to be negative or targeted against trans people – at least by a factor to 10 to 1.

Since 2016 the UK press has significantly shifted from starting to discuss the problems and dangers that trans people face, to asking what problems and dangers trans people cause.

7. In part, the above concern reflects a thing that may be beyond the scope of any single press regulator. That is the fact that even if it were possible to put right the misinformation carried in a single press story, it is the incessant and seemingly unstoppable tide of adverse

coverage that is the issue. That is not the fault of any single publication or editor, but is the cumulative effect of almost all papers joining in on what they see as a lucrative and sensational moral panic.

Nonetheless, we would wish to place on record that from extensive soundings within the trans community, this relentlessly negative focus is having a massively adverse effect on trans people's mental health. People are increasingly fearful of leaving the house. There has been a significant uptick in trans people seeking to leave the UK, as well as in numbers actually leaving.

In a survey, by TransActual, of issues that trans people consider major and significant, media pressure was identified as one of the top three (alongside healthcare and legal recognition).

Further, the fact that the UK media are cited as a significant reason why many members of a supposedly protected minority now consider the UK so hostile, they need to move elsewhere in the world is an utterly shameful reflection on the UK media as a whole.

8. There are two further tropes that we feel are inadequately dealt with either by yourselves or by IPSO. These are:
 - the demand for "balanced debate";
 - the failure of the media to distinguish between expert commentary on an issue, and contrarian fervour.

In respect of the first, there are two issues. First, we do not accept that the right of individuals to live their lives peacefully and lawfully without intrusion or misrepresentation should ever be a matter for "debate". Yet this trope seems now to have been introduced in respect of almost every aspect of trans people's lives – not just toilets, but sports, healthcare, legal processes, access to justice, freedom of speech, education and so on. Worse, it is justified by reference to substituting "issues" for "people".

We are bombarded with reference to "the trans issue", even though most people would acknowledge such usage to be deeply offensive if applied to ethnic minorities ("the black issue"/"the Jewish issue") or other protected groups.

"My right to exist is not a debate" is a comment we are hearing ever more frequently from trans people.

Second, we note an increasing tendency by journalists or media commentators to act as umpires, holding the ring between what are seen as two competing sides, as opposed to seeking out the facts on an issue. If someone says it is raining, it is not the role of a journalist to begin a debate on whether that is the case, but to look out of the window and check.

This is seen much in respect of medical treatment of trans people where the mainstream media reproduce statements that are either half-truths or, in some instance, flat out lies, sourced from extreme religious fundamentalist groups.

All of the above is made significantly worse by a tendency by mainstream media to increase its focus on comment pieces and, in many cases, to erode the distinction between comment and reporting.

9. In addition, mainstream media seem very keen to promote a false dichotomy. When, for instance, it comes to questions of whether trans women in the women's toilets are "an issue", there are, in fact three interested parties: trans people; those opposed to trans inclusion; and women who have no problem with a trans presence.

On this, as on many other issues, repeated polling suggests that the majority of women fall into the last category. Therefore, it might be assumed that a sensible "debate" would be between women who have a problem with trans people and women who do not.

This, though, is not what happens. Almost without exception, the question is framed as trans people vs. women – what dangers are trans people posing – and the most significant voice goes unheard.

As far as we are aware there has only been one recent "debate" that focused on the thoughts of women who have no issues with trans people. This was a debate that we put together and have since loaded onto YouTube. This was fascinating, both for the divergence it represents from how mainstream media treat the issue, as well as for the points of view that we have seen put almost nowhere else. For instance, the fact that those women most adversely impacted by "loo policing" tend to be butch women and women of colour.

In other words, by framing "debate" as they do, the mainstream media are silencing significant voices within other minority communities.

10. As for the second of the issues highlighted above, it is very clear that the press in the UK is increasingly careless as to the calibre and qualifications of individuals to whom it will turn as sources of information.

This applies equally to both trans "witnesses" called into a debate as well as to commentators opposed to trans inclusion. It might come as a surprise to some in the media that many issues around trans healthcare or discrimination law are highly specialised, technical, and not widely understood by trans individuals who have only recently "come out".

Asking the average trans person about the efficacy of HRT or what the law says on access to specific spaces is about as definitive as asking the average cancer patient to provide a reference evaluation of different forms of cancer treatments. Yet, this is what the press does daily, reporting on trans lives.

If that is bad, even worse is the way in which the media platforms individuals who have extreme views about trans lives but, for the most part, appear to be working off those same discredited and partisan sources of information that have been condemned by organisations that monitor hate and extremism in the USA and internationally.

This, in turn, takes us back to an issue from earlier in this document: the way in which the press treats accuracy. In many instances, it is the job of the press to do due diligence, research a subject and present the audience with the facts: and while the press cannot be required to be academic judge and jury of technical information that interviewees provide it there is also little excuse now for the glaring inaccuracy served up by many commentators, given how long this "debate" has gone on for.

This means that we have, over the years, become very aware that where a national paper

carries a significant inaccuracy, that will not be sufficient to attract a retraction or rebuke if that inaccuracy was introduced as statement by someone interviewed.

Historically, we are aware that the UK press, in contrast to that in the US, has been reluctant to take this approach. However, in an era when so much reporting is condemned as “fake news”, and following the egregious level of falsehood introduced into public discourse by President Trump, it may be that this is now changing. We hope so.

We would like to conclude with some comment on an issue with which you began your call for evidence. Specifically, you asked about Journalism Online and the use of social media.

In respect of the latter, we are concerned that many UK journalists seem increasingly to have become active participants in the seemingly ongoing gladiatorial contest that is Twitter and similar online spaces. In general, we are concerned that this is not a good thing, since no matter how careful a journalist, it is inevitable they will attract comment from individuals about whom they have written.

They will become part of the story and this is rightly considered detrimental to a journalist’s ability to maintain neutrality.

Despite that, our experience with online outlets (from Huffington Post to Byline Times and Bellingcat – who ARE covered by your code) is that these are an important new source of journalism and worthy of support because they introduce new perspectives that sit outside the somewhat monolithic edifice of traditional journalism, as well as new approaches to the gathering and evaluation of evidence (esp. in the case of Bellingcat).

We are sorry we are not able to be more helpful. In general terms, though, we feel that there is a major problem within the mainstream UK media in respect of how it deals with minorities – and none of the regulatory approaches on offer seem likely to do much to improve that in any meaningful way.

Finally, if you would like substantiation of any of the main points made above (in terms of source or data), please contact us and we will be happy to assist.