

## Anonymous 6

Public Interest

### **Q6: What, if any, changes would you recommend IMPRESS make to this clause?**

Comment - The requirement to record contemporaneous notes is too prescriptive and burdensome upon the journalist/publisher and could place them in a position where they are hit with a documents order by a potential litigant to hand over such records to the other side with a view to using as supporting evidence against the said journalist/publisher. The requirement is far too rigorous and could have a chill effect on investigative journalism. It goes much further than the IPSO editors code which requires that editors need to demonstrate that they reasonably believed at the time of publication and during steps prior to publication that they would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.

The requirement to prepare a contemporaneous note goes too far and could be damaging to a particular investigation.

Publishers/journalists should be required to explain their decision-making process without the need for a contemporaneous note of that process, given the risk it could be used against them at a future date in any possible proceedings, legal or regulatory. The requirement should be to explain how/why the decision was reached at the time without any further prescriptive requirement for record keeping. It should be a matter for the publisher/journalist to decide how/if such records are kept and how to account for any decision made in relation to a public interest investigation.

Clauses iii and iv of public interest are vague and could prove onerous and problematic. I.e. iii explains their view that the action is likely to achieve the desired outcome; and iv, Explains their view that any likely harm caused by the act does not outweigh the public interest in the action. How does one define the "desired outcome" and predict the "likely harm" of an action? Clauses I and ii are reasonable but iii and iv could potentially open us up to legal action if, for example, the code committee's interpretation is different on an issue. E.g. if we argued our case, detailing a "desired outcome", and the committee subsequently decides differently, does their ruling then set a precedent for future cases? Could a complainer's lawyer use the committee's decision against a publisher in a legal action?

Sub-clause iii is at odds with the previous narrative which refers to hard-hitting investigative journalism. There is no guarantee and it is often against the odds that methods of investigation achieve the desired outcome. In its present form, sub-clause iii could be interpreted as journalists being required only to pursue a course of action if it is likely to succeed. This is totally contrary to the purpose of investigative journalism; to expose wrongdoing and to ensure those in power are held to account. Obviously they will be taking all steps to prevent exposure and it is often only

through the diligence, persistence and determination of investigative journalists working against the odds rather than on likelihood of success, that wrongdoing is finally exposed. Sub-clause iv is unduly restrictive and interferes with an investigative journalist's exposure of matters in the public interest by requiring the journalist to predict likely harm arising from that exposure and make a judgement on that basis. A decision has already been taken at sub-clause i that the matter is in the public interest. Considering whether any likely harm would outweigh the public interest places the journalist in the position of judging what could be unforeseeable. How is a journalist to predict what harm is likely?

Furthermore there is a risk that a decision made on any complaint regarding likely harm once events have occurred would be extremely subjective and a view taken that any such harm would have been foreseeable or likely to occur in the view of the journalist merely as a result of the benefit of hindsight. It would be extremely difficult, if not impossible, for a journalist to determine who is likely to be harmed. The use of the expression "any likely harm" is far too wide-ranging placing an enormous burden on the publisher.

Attribution

**Q10: What, if any, changes would you recommend IMPRESS make to this clause?**

This is ambiguous and should be framed in much clearer terms. Does it apply to press releases, advertising features, native advertising? Is it aimed at plagiarism?

**Q11: What recommendations would you make for guidance to this clause?**

An explanation about the types of content this is aimed at and possibly linking it with transparency at clause 10

Discrimination

**Q14: What, if any, changes would you recommend IMPRESS make to this clause?**

At the end of 4.3 insert "or other characteristic or status such as refugee / migration status.

Harassment

**Q16: What, if any, changes would you recommend IMPRESS make to this clause?**

at 5.2 c emphasis on "reasonable" request to desist.... and insert the following "recognising that journalists are obliged to speak to the subject of a story and to offer a meaningful opportunity to respond and give their side of the story.

Justice

**Q18: What, if any, changes would you recommend IMPRESS make to this clause?**

At 6.2 insert at end "unless legal consent to identify has been granted or there are no legal or ethical reasons for preventing identification." At 6.4 add at end "where justified by the public interest."

**Q19: What recommendations would you make for guidance to this clause?**

Would recommend guidelines for reporting sex offences such as incest cases similar to those in the IPSO code to ensure there is no risk of jigsaw identification if publishers are using different conventions. Re 6.4 The law is unclear in this area. Sun journalists were cleared on criminal charges for paying public officials as it was in the public interest. The clause as currently framed would also mean payment by the Daily Telegraph for information about MPs' expenses would be prohibited despite the obvious public interest in such information being exposed.  
Suicide

**Q24: What, if any, changes would you recommend IMPRESS make to this clause?**

removal of word "excessive"

**Q25: What recommendations would you make for guidance to this clause?**

Consider inserting more guidance re reporting of mental health and suicides e.g. NUJ Responsible Reporting on Mental Health, Mental Illness & Death by Suicide  
<https://www.nuj.org.uk/news/guidelines-on-reporting-on-mental-health-suicide/>  
<http://www.samaritans.org/media-centre/media-guidelines-reporting-suicide>

Transparency

**Q26: What, if any, changes would you recommend IMPRESS make to this clause?**

10.2 add the following "Such conflicts of interest should include involvement with public relations or lobbying organisations, agreements, financial or otherwise, with advertisers or other sources of funding....."