



NUJ submission to the Impress code of practice consultation

September 2016

Introduction

The National Union of Journalists (NUJ) is the voice for journalism and for journalists in the UK and Ireland. It was founded in 1907 and has 30,000 members. The NUJ represents members working across the media – as staff, casuals and freelancers at home and abroad. NUJ members work in broadcasting, newspapers, news agencies, magazines, books, public relations, photography and new media.

The NUJ has strong views on the issue of press regulation believing it underpins the free and responsible media that is vital to democracy.

NUJ Ethics Council

The NUJ ethics council, which carries rulebook delegated authority for ethical matters including codes of practice, met and discussed the Impress draft code of practice on 23 September 2016.

Overall the code covers the key issues of standards that we would expect to see in such a code and we welcome the attempt at brevity and precision in the draft. However, we were concerned that several important matters were missed. These were:

- A “conscience clause” - the right for any journalist to refuse an assignment that potentially breaches the code. The NUJ seeks support for such a clause in all codes as we believe that journalists have a right to be involved by their managers in professional decision making and a right to be supported when resisting pressure to do something they believe is unethical. Many of the provisions of this draft code will be unworkable if they do not secure the active involvement of journalists in upholding them in their everyday work. A suitable part of the code in which to mention the right of journalists to refuse to take part in breaching the code would be after the section on ‘Public Interest’.
- There is no mention of financial journalism and the ways in which coverage of finance can bring be influenced by behind the scenes pressures or conflicts of interest.
- There is also, strangely, no mention of reporting the conclusion of libel cases involving the publisher as defendant.
- We are also concerned at the use of the word “must” in many of the clauses. Must is an imperative and allows for no discretion or difficult circumstances. A code of standards in journalism should be seeking to encourage professional journalists producing publications to

think more clearly about the content and understand better the impact of what is published on readers and other members of the public without reducing their practical freedom of speech or creativity.

- The use of “assent” rather than the more usual “consent” is surprising. Assent can often be inferred or implied but in the places in the code where this word is used a clear agreement is needed. Children, for instance, need to be very clear about what they are agreeing and consent can only be given if the person consenting is fully informed. For instance, assent could be achieved by asking a child “Can I just have a quick word?”, rather than gaining consent to: “...talk to you about your father’s impending trial for murdering six women?”
- The opening statement reminds publishers that the code is distinct from the law and that publishers are separately responsible for ensuring they comply with the law but then, in clause 6, uses in three sub-clauses the phrase ‘except as permitted by law’. In any reasonable view 6.1, 6.3 and 6.4 end up being redundant. We do not see the point of clauses that permit anything that is permitted by law., rather than reminding about the ethical issues that underpin the law.
- Finally, there is no mention of plagiarism.

Comments on individual clauses in the draft code:

Clause one - accuracy: There is no mention of a fair right to reply. This has been NUJ policy for many years as sensible way of offering readers, the public and those who are referred to in content a route to enabling readers to make their own judgements as to accuracy. It also offers the regulator a means of covering accuracy questions without itself becoming in every case the judge and jury on what might be an accurate fact.

Clause two – Attribution: As presently drafted it appears that the Code would endorse plagiarism as long as the original source is identified and credited. The code needs to make clear that such identification and crediting should abide by normal journalistic practices when referring to material published by others and that wholesale plagiarism is not acceptable.

Clause three - children: This clause risks being too detailed and is too restrictive. There need to be limits when the coverage concerns the child’s welfare, rather than a general story in which they might be a source, and this needs to be made clearer. Clause 3.2 also limits identification, and this could be interpreted to include photographs taken of children at public events or in public places such as fairs or sports events. There is no mention of limits on payments for their story nor that the general assumption should be no coverage on issues about their welfare unless strongly in the public interest. We are also concerned about anonymising stories on request. We would suggest that it should be left to publishers to determine policies with regard to removing metadata from stories to limit searches in order to protect adults from their juvenile indiscretions. We cannot support tampering with archived stories.

Clause four - discrimination: A code of standards for the media should go beyond asking the media to abide by the criminal law. Incitement to hatred is a criminal offence. The media should be expected to follow a rather wide standard than just avoiding conflict with this part of the criminal law which requires evidence of intent and of effect. In clause 4.3 needs a lower threshold to protect vulnerable groups from newspapers seeking to denigrate a groups’ otherness in order to win favour with their readership.

Clause five - harassment: This should link into a conscience clause allowing journalists to complain if they feel they are being pressured to breach this clause (or any other clause).

Clause six - justice: This is an area largely covered by the law and to say (clause 6.1, 6.3, 6.4) that you can do something if permitted by law makes the clauses pointless. The law is normally considered a far more draconian test of practice than a code. Clause 6.1 needs to remind editors of the need for papers to consider the rights of fair trial and presumption of innocence. Clause 6.3 should make it clear that convicted defendants or their agents should not benefit from their crimes by receiving payments for their stories. Witnesses or cleared defendants should only receive payments for their stories after all judicial proceedings are finished and that no payment contract should be offered before this. Clause 6.4 is too restrictive and requires a public Interest defence, bearing in mind the juries' decisions in recent trials, unless law is changed.

Clause 6.2 is too limited. There needs to be the standard jigsaw identification clauses to match broadcasting and other regulators:

In any press report of a case involving a sexual offence against a child -

i) The child must not be identified.

ii) The adult may be identified.

iii) The word "incest" must not be used where a child victim might be identified.

iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

We realise that Impress is concerned not to breach IPSO's claimed copyright, however this particular wording was agreed between publishers and broadcasters in order to protect incest victims well before there was an editors' code and is designed specifically to protect victims. Any other wording risks a potential jigsaw identification.

Clause seven - privacy: Clause 7.1.d is unnecessarily restrictive. Attributes such as age and occupation are useful descriptors for the public in understanding the nature and relevance of the story . Their public profile may be quite important to any story and should not be arbitrarily hidden. Those with public positions such as well-known business people, doctors, teachers and other professionals must expect such information to be made available.

Clause eight - sources: As this is a publishers' code, it is right that they are responsible for protecting sources. However, if it is the publishers' responsibility there needs to be more detail about whether the publisher insists on being notified of the confidential source or whether they would simply protect the journalist's right to have a confidential source. Clause 8.2 is problematic. Whilst journalists should not fabricate sources and to do so would be a disciplinary offence under our union's rules as well as any employment contract in publishing, and publishers have a similar duty to ensure their staff understand that, they cannot ensure journalists do not fabricate sources. We would be unhappy about any clause that would oblige a publisher to institute disciplinary proceedings against staff.

Clause nine - suicide: This clause covers both excessive detail of methods and speculation on motives. Both these are important limits and you should split them into two separate clauses rather than allow them to remain linked.

Clause ten - transparency: In clauses 10.2 and 10.3 it is not clear if this is limited to commercial interests or commercial and political interests. This might also be a good place to put a financial journalism clause.