



Response to IPSO consultation:

Guidance on reporting of sex and
gender identity

Sex Matters is a human rights organisation campaigning
for clarity about sex in law, policy and language

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Introduction

In 2016 the Independent Press Standards Organisation (IPSO), a voluntary regulator for media outlets, published *Guidance on researching and reporting stories involving transgender individuals*, which was produced with input from trans lobby groups and no one else. The non-binding guidance was supposed to help its member organisations understand what the general principles set out in IPSO's *Code of Practice for Editors* meant for researching and reporting stories involving trans-identified people.

At the time, IPSO's main concern was with tabloid stories that treated trans-identified people as fodder for intrusive speculation. The guidance it produced took no account of other issues in play when media organisations discuss issues of sex and gender, such as equality and human-rights law, sex differences, freedom of belief and speech, and child safeguarding. It presented "gender identity" as an objective fact that journalists should treat as overriding sex, and anything other than complete acquiescence with self-identification as bigoted. "An individual's gender identity... must not be referenced unless genuinely relevant to the story," it said – in other words, people should in most instances be identified in the terms they choose, whether or not those terms might mislead the outlet's audience.

Among the points it says editors should consider are these:

- If known, have you used the pronouns the individual uses to describe themselves in your story?
- Has the individual made their transgender status known?
- If not, is the revelation of their status necessary to the story?
- Have you taken care not to publish inaccurate or misleading information?
- Does the article include unnecessary information, such as irrelevant references to previous identities, publication of pictures of individuals pre-transition, or references to medical details?

IPSO says that guidance was not prescriptive, but merely intended to draw editors' attention to tricky issues that, in its experience, often arise when reporting on trans people. But in the years since it was published, media outlets have tended to interpret it as meaning that they risk complaints and an adverse ruling by IPSO unless they use "preferred pronouns" for all trans-identified people, refer to transwomen as female/women and transmen as male/men, and avoid any mention of the sex of people who don't identify as their sex, or of people's trans status unless the story is specifically about their transition.

One result has been confusing, misleading and offensive stories in which male paedophiles and rapists who identify as trans are described as women. Another has been inaccurate and incomprehensible reporting on policy debates over issues such as whether men who identify as

women should be held in male prisons or in female ones, or whether trans-identified men should be allowed to compete in women's sporting events. Reporting on gender-identity indoctrination in schools and the scandal unfolding in paediatric gender medicine was made more difficult by the de facto injunction against using scientifically accurate language. IPSO was certainly not the only culprit in all this, but its poorly conceived and written guidance played a part.

In 2022 IPSO said it was updating that guidance. On 9th February 2023 it released a draft replacement for public consultation: [Guidance on reporting of sex and gender identity](#). Sex Matters has written a response.

Overview

The draft guidance has a wider scope than the previous guidance, covering "reporting of sex" as well as "reporting of gender identity" rather than, as previously, "reporting stories involving transgender individuals".

It recognises that "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."

However, it does not define the concepts of sex and gender identity, or consider how the fact that they are different types of information means that the Editors' Code applies differently to each.

The draft guidance highlights three core key principles of the Editors' Code: **accuracy**, **privacy** and **discrimination**. But it does not address the crucial question of how they relate to each other: whether publishing accurate information about someone's sex conflicts with respecting personal privacy when that person states that they have a gender identity that differs from their sex, or whether (as some activists argue) referring to sex in such instances can constitute "discrimination".

Overall, it is not an improvement on the flawed guidance published in 2016. In fact, it is worse. It is so vague, and so unrelated to the genuine issues that arise when outlets seek to report on sex and gender identity, that it is highly unlikely to provide any meaningful support for editors and journalists seeking to stand up to lobbyists' demands for unnatural linguistic changes, or any reassurance for members of the public seeking to hold media outlets to account for misleading or biased reporting on gender-related issues.

It will do little or nothing to achieve its stated aim of supporting editors and journalists to improve the quality of editorial decision-making and to raise editorial standards in the area of

sex and gender identity. Rather, it will create a chilling effect on accurate reporting and robust debate.

The question editors want answered is this: when is it acceptable to mention a trans-identified person's (biological) sex? For example, is it acceptable when that person is a male rapist seeking admission to a women's prison; a male athlete seeking to compete as a female; or a heterosexual man self-describing as a lesbian?

In each of these cases the man's sex is more relevant to other people than his gender identity is. Female prisoners are harmed when incarcerated alongside men; female athletes lose out when male ones are allowed to compete with them; and lesbians by definition do not consider men as acceptable sexual partners, no matter how those men identify.

The draft guidance states that it seeks to strike "a balance between the rights of the public to freedom of speech and the rights of the individual not to face personal discriminatory abuse." However, it encourages an expansive conception of what might constitute "discriminatory abuse" that will in practice encourage editors and journalists to set aside considerations of freedom of speech and their duty to be accurate.

The previous guidance asked editors to consider in relation to trans-identifying people: "Is the terminology being used pejorative or prejudicial?" The new guidance goes further, warning that: "References to someone's gender identity and/or sex may be pejorative, even in the absence of any pejorative term."

This is a charter for self-censorship. It is highly irresponsible to give such vague and expansive guidance when journalists and the media are already under intense pressure from lobby groups not to report clearly and accurately on sex and gender issues.

The draft guidance reminds editors of their obligation not to publish "inaccurate or misleading information" when it comes to sex and gender identity. But it does not say anything about what that injunction means for the use of words such as male, female, man, woman, boy, girl, he and she. Most readers understand these to refer to sex, and it is therefore impossible for media outlets to avoid being inaccurate and misleading unless they use sexed words correctly. Transactivists, however, claim that using sexed words accurately means being inaccurate, misleading or pejorative about trans-identified people's gender identity. This central conflict is not even acknowledged, let alone resolved.

The right balance

Do you agree or disagree that:

The guidance has struck the right balance between upholding the principle of freedom of expression with the ability to provide redress for people who believe they have been treated unfairly.

Strongly disagree

IPSO's Complaints Committee makes decisions only on whether the Editors' Code of Practice has been breached. However, the draft guidance goes beyond the Editors' Code. It will create and reinforce a chilling effect on freedom of speech.

It warns that: "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.**"

Advising editors to avoid doing something because it *might give rise to a complaint* is nowhere near the right balance between protecting freedom of speech and ensuring legitimate redress. The consideration should be whether something would be likely to give rise to a complaint *that is upheld* (i.e. a breach of the Editors' Code).

The guidance fails to engage with the way activists have pressed outlets to use sexed terms (man/woman, male/female, pronouns) to refer to self-declared gender identity. The result of this pressure has been supposedly factual, neutral coverage that in reality takes an ideological position, describing some people of one sex as members of the other in ways that distort the truth and mislead audiences.

IPSO must make clear that it is not giving credence to the idea that *any* reference to a trans person's sex is automatically discriminatory. The specific case the new guidance refers to in fact supports a much narrower approach. *Trans Media Watch v The Sun* refers to a tasteless joke at the expense of a blind transsexual parliamentary candidate.

Editors need much clearer guidance on how to meet the code's principles on accuracy, privacy and discrimination. Specifically, IPSO should make clear that:

- using the words man/male and woman/female to describe a person's sex is **justified by the accuracy clause**
- such reference is **not a breach of the privacy clause**, since sex is information that is in the public record and very rarely has the nature of being a secret

- the **discrimination clause** of the Editors' Code does not require outlets to explicitly justify the relevance of information about a person's sex in order to include it in their reporting
- it is **not discriminatory or pejorative** to make statements of fact about a person's sex, in line with the accuracy clause.

Accuracy

Do you agree or disagree that:

The guidance accurately summarises the application of Editors' Code to the reporting of sex and gender identity.

Strongly disagree

The guidance purports to consider the meaning of four of the clauses for reporting on sex and gender identity, but does not define the terms "sex" and "gender identity" or actually explore the issues.

These terms have different meanings, and are different types of information:

Sex (male/female, man/woman, girl/boy) is an objective fact, and a matter of public record that is almost always known for any individual featured in a story. It is referred to in everyday speech (including through the use of pronouns he/she and his/her, and titles such as Mr/Mrs/Ms). It is not sensitive or private information.

Gender identity is a subjective feeling or an idea. People who believe that they possess a gender identity can use a wide range of words to refer to it, including the words that other people use for the two sexes, novel coinages such as "non-binary" and "transgender", and neopronouns such as the singular "they".

Most people who identify as transgender (or transsexual, gender-diverse and so on) do not wish to be referred to accurately by their sex and, wanting instead to be referred to by their "gender identity", as if they were the opposite sex, or as if they had no sex at all.

There is an inherent conflict between these wishes and journalists' commitment to accuracy. IPSO's guidance should spell this out.

The draft guidance also introduces the term "the transgender community", which suggests that all people who identify as transgender are members of a single community who think alike. There is no reason to think this.

Clause 1 (Accuracy). The draft guidance explains that this requires publications to be accurate on both sex and gender identity. What it is not clear about is that most people use words such

as man and woman, and pronouns such as he and she, to refer to sex, not to gender identity (and most people don't think of themselves as having a gender identity). Lobby groups that promote gender-identity ideology, meanwhile, demand that these words are instead used to refer to gender identity, not sex.

It is not possible to do both, and the draft guidance does not offer any suggestions on what publications should do to resolve this. It will therefore be of little or no help to editors and journalists, who face competing demands from activists of different stripes and are well aware that their audience is unlikely to use identity-related words in the way promoted on university campuses.

Under Clause 1 (Accuracy), the draft guidance states: "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". This is not in line with either the spirit or the letter of the Editors' Code, which states: "The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text."

If a person is male (a man), it is misleading and inaccurate to give the impression that they are female (a woman), even if this is how they would prefer to be addressed or identified (and *mutatis mutandis* for women who identify as men). A journalist's responsibility is not to the sensibilities of the people who feature in stories, but to their audience.

It also states: "[The Editors' Code] requires that any references to an individual's sex or gender identity are accurate and not prejudicial or pejorative." Any point about prejudicial or pejorative references should be made under Clause 12. The principle of accuracy stands on its own.

Clause 2 (Privacy). The draft guidance lays out several considerations with respect to privacy, but again without explaining how they apply differently to sex and gender identity. It says that among the factors editors may wish to consider are "whether or not the individual made their gender identity or sex known" and "whether the individual has a reasonable expectation of privacy in relation to the information".

The fact of a person's sex is not private. Media reports routinely refer to people as men and women (by using those terms and the pronouns he and she) without consideration of whether their sex is specifically relevant to a story. This is because sex is not private information.

It is sometimes possible to refer to someone with neutral terms (such as describing them as a teacher, police officer, spokesperson, individual, defendant and so on) in stories where their sex is not relevant. But even in such stories there is no general prohibition against identifying a person's sex.

If a person's sex is specifically relevant to the story – as it will invariably be if the story concerns a field where sex differences are significant, such as sport, crime or achievements in business

– then it is essential to include this information and to ensure readers are not misled into thinking that the person is the opposite sex.

A person's gender identity, if they regard themselves as having one, or aspects of their personal life such as cross-dressing, may be private. But this draft guidance again skirts the real issue: what language journalists can or should use to describe the sex of a person who identifies as being of the opposite sex (or indeed non-binary – of neither sex).

When it comes to Clause 2 (Privacy), IPSO's new guidance needs to make three points:

- There is nothing to stop a journalist referring to someone's actual sex, even if that is not how the person identifies.
- There is no reasonable expectation for privacy about a person's sex.
- If an individual's sex is relevant to the story outlets should mention it, since to do otherwise would be to mislead their readers.

The sole exception to this is the 6,000 or so people who hold gender-recognition certificates, where someone who discloses information regarding their biological sex, or their previous identity, that has been obtained "in an official capacity" may be committing a criminal act. If someone has a gender-recognition certificate and is living in "stealth" (that is, their sex is not known to others), they may have a reasonable expectation of privacy about their sex. The guidance should advise that in this situation editors will be expected to justify intrusions into an individual's private life without consent. However, journalists are unlikely to have obtained the information "in an official capacity" and so would not themselves be criminally liable.

Clause 6 (Children). Similar considerations apply to reporting on children.

When reporting about children journalists should take care not to report contentious opinion as fact – for example that a specific child is "trans", or that there exists an identifiable group of children who can be described as "trans children". These are specific, novel and ideologically driven interpretations. An alternative interpretation – and one that has significantly more evidence to support it – is that some children go through a period of gender questioning or gender distress which they may well grow out of (see the interim report of the ongoing independent official Cass Review of paediatric gender medicine).

When reporting about children with a transgender identity, their sex should be reported clearly and accurately. It is not accurate to call a male child a "girl" or a female child a "boy".

Clause 12 (Discrimination). The guidance does not accurately reflect the Editors' code. It states that this clause "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."

What the Editors' code actually says is:

- i. The press must avoid prejudicial or pejorative reference to an individual's race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.
- ii. Details of an individual's race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.

That is there is no requirement to "carefully consider" the relevance of a person's sex to a story. A person's sex is a straightforward matter of public record, and part of any basic description of them. Unlike sexual orientation, mental illness or gender identity, it is not private information.

The suggestion that "references to someone's gender identity and/or sex may be pejorative, even in the absence of any pejorative term" is included without further detail or justification, and is not supported by the Editors' Code. **This statement should be removed.**

IPSO must be aware that trans lobby groups present the mere reference to the biological sex of a trans-identified person as discriminatory, abusive, and pejorative, when it is in fact simply accurate. The expansive description of potentially pejorative references will be seized on by such campaigners as cause for unwarranted complaints, and is highly irresponsible.

In order to give editors clear guidance in this area, IPSO must face up to the tension between accuracy and privacy (as IPSO does in its published guidance on suicide). It must make its terms explicit and provide protection against complaints for those reporting sex accurately wherever it is relevant to a story.

The draft guidance fails to appreciate what motivates arguments that accurate references to the sex of a person with a trans identity are "pejorative", namely the conviction that such references are assertions of disbelief in the validity of the person's gender identity, or imply that the person is lying. This conviction is unjustified. **Reference to a person's sex is always a simple statement of fact, and in many cases is essential to ensure that a story is accurate and not misleading.**

For example, stating that a particular athlete who is seeking to compete in the female category is male is relevant to discussions of the fairness of including trans-identified male people in female sporting categories. Stating that a specific prisoner seeking to be housed in the female estate is male is similarly relevant to considerations of the safety and human rights of female prisoners.

None of this is to imply that the athlete's or prisoner's gender identity is not valid and real to them.

Structure

Do you agree or disagree that:

The guidance is well-structured to support journalists in their reporting and editorial work.

Disagree

The guidance is reasonably structured in relation to the principles of the Editors' Code and existing complaints. But within this structure the text is vague, largely consisting of platitudes stated and restated without any concrete instances of what the principles of the Code mean when it comes to the core questions, namely how outlets should:

- refer to people who do not identify as their sex in stories where those people's sex is relevant – for example, concerning a trans-identified male who seeks to compete in women's sports or gain transfer to a women's prison
- decide whether to refer to sex or to stated gender identity in areas where sex differences are large (for example sports, crime, senior business appointments)
- decide what language to use when covering live policy debates between those who think women's spaces, sports and services should be open only to biological women, and those who think biological men should gain entry on the basis of declared identity.

Accessibility

Do you agree or disagree that:

The guidance is accessible and usable for all audiences.

Strongly disagree

The guidance obfuscates rather than clarifies, and frequently contradicts itself, sometimes in a single sentence, by ignoring the impossibility of using sexed words to refer to gender identity while being accurate and comprehensible to readers.

It is likely to encourage unreasonable complaints, which will have a chilling effect on freedom of speech.

Clarity

Do you agree or disagree that:

The language used in this guidance is clear and fair.

Strongly disagree

The guidance does not define its core terms: sex and gender identity. It is therefore unable to be clear. It purports to give similar answers to questions about information on a person's sex and about information on a person's gender identity, when in fact it treats them differently.

It suggests expansively that basic words about sex, used accurately, may be pejorative and discriminatory if the person those words are used about identifies as transgender. This is neither clear nor fair.

Other comments

Please use this space for any other comments about this guidance.

The guidance provides specific advice in relation to reporting of gender-diverse defendants. Although it states that "the principles under the Code remain the same regarding accuracy, privacy, and discrimination", it goes on to suggest that journalists should report a defendant's sex inaccurately if this is the practice of the court.

There is no justification for this within the Editors' Code.

Journalists have an obligation to ensure that any report of what was heard and seen in court is accurate and not misleading. If a court wishes to compel journalists to withhold information from the public domain, it must do this via court order.

If what happened in court was that a male defendant was addressed and referred to as a woman, then this is what journalists have an obligation to report, as it is an accurate description. Journalists should not simply report verbatim based on the words used in court, if it is known that these words do not reflect the defendant's sex.

The guidance suggests that journalists should consider:

- the way that the defendant is identified in court, including the name used and the pronoun used by court officials and 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.

This guidance is misdirection. The question is simply whether journalists should report the sex of defendants accurately, and the answer is Yes (Clause 1 requires accuracy). Names, pronouns and guidance given by the court about a defendant's gender identity do not change the accurate answer to the question of the defendant's sex.

The draft guidance also asks journalists to consider "the defendant's gender identity at the time of the alleged criminal activity". This is a fundamental misunderstanding of the claim being made in statements about gender identity.

Gender identity is a purely subjective characteristic. If a male rapist says that his gender identity is "female", then that is his gender identity (it does not change his sex). If a male rapist says that at the time of the rape his gender identity was female (but he had not told anyone), there is no way to refute this. **Journalists should report people's sex accurately, and should also report any claims someone makes about their gender identity where those claims are relevant.**

The draft guidance includes the Equal Treatment Bench Book as a reference. This publication is non-statutory guidance that was produced by the Judicial College with advice from transgender lobby groups. It does not reflect the law and is subject to considerable controversy (See Sex Matters (2022). [Why are judges still calling rapists "she" in court?](#)).

That judges are regulating themselves to use misleading language in court does not mean that journalists should do so. IPSO should uphold the principle of accuracy above all.

Suicide

The IPSO guidance on the reporting of suicide should also be cross-referenced. It states that care should be taken to limit the risk of vulnerable people being influenced by coverage of suicide and choosing to end their own lives.

Under Clause 1 (Accuracy) publications are entitled to report claims and speculation about issues such as this, but should take care to present them as such. Journalists should consider the source of these claims, the credibility of that source and whether the information can be verified from another source, before deciding on whether and how they will report these claims.

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