

Sex and gender identity

Guidance for journalists and editors

Key Points

- The press should not make pejorative or prejudicial reference to an individual's sex or gender identity.
- Journalists may use various methods to ensure coverage of sex and gender identity is accurate. These may include, but are not limited to, providing information, presenting different opinions where relevant, and approaching second sources.
- Journalists should consider whether information about an individual's gender identity is genuinely relevant to an article. Examples of relevance could be where a quote needs to be contextualised or to explain the inclusion of a source.
- Language relating to gender and identity is nuanced. Journalists should take care not to publish inaccurate and misleading information.
- Journalists can report on children and the issues they are facing. The Editors' Code says children should be free to complete their time at school without unnecessary press intrusion. Consent is required from a child's parent or legal guardian for the publication of interviews or photographs where a child's welfare is involved.

About this guidance

IPSO determines which subjects to produce guidance on from its monitoring of editorial standards and the complaints it receives. Through monitoring this subject, it has been identified that the reporting of sex and gender identity regularly features in the UK press. This guidance focuses on the reporting of transgender individuals but many of the issues raised can be applied to the reporting of those across the gender diversity spectrum such as individuals who are non-binary, gender fluid, intersex and agender.

The Editors' Code is not intended to reconcile the range of opinion in the reporting of sex and gender identity. The Code strikes a balance between the rights of the public to freedom of speech and the rights of the individual not to face personal discriminatory abuse. Freedom of expression must embrace the right to hold views that others might find distasteful and sometimes offensive.

This non-binding guidance is designed to be a part of an editorial toolkit to assist decision-making on the reporting on sex

and gender identity and includes case studies of relevant decisions by IPSO's Complaints Committee. It is not intended to be prescriptive, and a list of definitive terms has not been included.

The case studies are summaries of the decisions of the Committee. It is recommended that the decisions are read in full.

The Editors' Code

[The Editors' Code of Practice](#) sets the framework for the highest professional standards for journalists. This guidance does not replace the Code. It does not limit editorial decision-making but may inform it. The Complaints Committee only makes decisions on whether the Editors' Code of Practice has been breached.

This guidance focuses on the application of Clause 1 (Accuracy), Clause 2 (Privacy), Clause 6 (Children) and Clause 12 (Discrimination).

The public interest

The Code recognises a public interest in freedom of expression and in the publication of material that raises or contributes to a matter of public debate.

Journalists have the fundamental right to freedom of expression which includes the right to inform, to be partisan, to challenge, to shock, to be satirical and to entertain.

Journalists can also contribute to this public interest by producing a plurality of views and publishing opinions which may be critical, challenging or could be considered by some to be offensive.

However, care must be taken to ensure an individual's rights are not infringed. Editors will need to consider the public interest before publication.

Clause 1 (Accuracy)

Accuracy is the foundation of reporting and the public rely on the press to keep them informed on important topics. Given the breadth of views and complexity in language, most complaints on gender identity relate to Clause 1.

IPSO has identified themes to navigate this area so that journalists and editors understand how the Committee considers complaints on topics relating to the reporting of sex and gender identity.

Reporting of policies/guidance

Accurate presentation of policy or guidance is vital to keeping the public well-informed. Journalists and editors must take care not to publish inaccurate, misleading, or distorted information when reporting on changes to policy or guidance relating to gender identity and the transgender community.

The complaint of [Parrott v Norwich Evening News](#) related to an article which reported on guidance issued by a NHS trust on the language to be used in relation to pregnancy and childbirth. The Committee

upheld the complaint on the basis that the article had misrepresented the guidance by suggesting that it required the use of gender-neutral language in more scenarios than it did.

Negotiating different views on how to describe someone's gender identity

The Code does not specify appropriate or acceptable terminology. It requires that any references to an individual's sex or gender identity are accurate and not prejudicial or pejorative.

When presenting comments as direct quotations, journalists should take care to report accurately what was said and consider whether consent from the interviewee is required if changes are made, to avoid misrepresenting an individual's comments.

Further, journalists and editors should consider the impact such changes may have on the interviewee. Where appropriate, journalists may wish to ask individuals how they prefer to be

Clause 1 (Accuracy)

addressed or identified.

In the complaint of [A woman v Daily Mail](#), the Complaints Committee recognised that the choice of language by a victim of sexual assault to refer to her attacker was significant. The publication had changed the pronouns used in direct quotations attributed to the woman about her experience of the assault from “he/him” to “she/her”. The Committee found no breach of the Editors’ Code because the complainant had agreed to the change before publication.

Reporting on conflicting views

Publications are free to publish accounts of disputes concerning sex and gender identity. However, care must still be taken with the presentation of conflicting views.

The complaint of [Fair Play for Women v kentlive.news](#) related to an article that presented allegations of transphobia as fact by summarising a social media post as having constituted “transphobic abuse”.

The Committee recognised transphobia has no single, simple manifestation, is to some extent subjective and can include a range of behaviours and arguments. The complaint was upheld because the article asserted that the complainant had engaged in this “abuse” as fact. It did not make clear the basis of this characterisation, which the Committee found was misleading.

Comment pieces

The press is free to campaign and be partisan. It is also entitled to publish the opinions of individuals, such as comment pieces. 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.

The complaint of [Duah v metro.co.uk](#) related to a comment piece that criticised the adequacy of evidence relating to alleged safety risks due to gender self-identification.

Clause 1 (Accuracy)

The Committee noted that expressing criticism of groups or individuals holding a particular point of view is not prohibited by the terms of the Code; nor is the press required by the Code to be balanced or unbiased. The Committee was satisfied that, in the context of a polemical comment piece, the writer's characterisation of the "gender critical" movement was clearly distinguished as their opinion rather than established fact. The complaint was not upheld.

Articles may cause hurt or offence or be the basis of criticism. However, publications must demonstrate that care is taken over the accuracy of any claims of fact.

The complaint of [Pascoe v spectator.co.uk](#) related to a columnist presenting their own interpretation of guidance produced by a charity for supporting LGBT+ children and young people. The complainant perceived this to be misleading and a breach of Clause 1.

During IPSO's investigation the publication offered the complainant the opportunity to write an online article. The complainant said that this would resolve the matter to her satisfaction. As the complaint was successfully mediated, the Complaints Committee did not decide whether there had been a breach of the Code.

Questions relating to Accuracy

Journalists and editors should consider the following:

- Is the terminology or statistics being used likely to create a misleading or inaccurate impression?
- Has any comment, conjecture or characterisation been clearly identified and distinguished?
- If there are claims of fact in an opinion piece, has the publication ensured that care has been taken over the accuracy of these claims?

Intrusion

Privacy is a fundamental right integral to our society and way of life and protected in Clause 2 (Privacy) of the Editors' Code.

Everyone is entitled to respect for their private and family life, including physical and mental health. However, what constitutes a reasonable expectation of privacy can be affected by the public interest, material already in the public domain, and the person's own disclosures.

Journalists and editors should consider the following:

- Whether or not the individual made their gender identity or sex known.
- If the information in the article is already in the public domain or has been disclosed by the subject of the article.
- Whether the individual has a reasonable expectation of privacy in relation to the information or photographs.
- If publication of the information, in this context, would be intrusive into the individual's sex or gender identity.
- If there is a genuine public interest in the publication of the information.
- The degree of any intrusion is proportionate to the public interest served.

Children

The Code says pupils should be free to complete their time at school without unnecessary intrusion.

The protections provided under Clauses 2 (Privacy) and 6 (Children) apply to all children in school. This is irrespective of their gender identity, sex, or sexual orientation. Publishing material relating to an individual child's welfare, engages the protections under Clause 6.

The Committee has acknowledged there is significant public interest in the reporting of children's gender identity. However, sensitivity must be observed when reporting on the welfare of a specific child or children. The Code, in providing additional protections for children, acknowledges their particularly vulnerable position. Exceptional public interest is required to override the normally paramount interest of children under 16.

In [The Radcliffe School v miltonkeynes.co.uk](https://www.miltonkeynes.co.uk), the article included a child's words about allegations of bullying in her school environment and linked these allegations to the recent

death of her sibling. The Committee noted that the child's words used in the article were taken from a social media post.

The Committee acknowledged that there was a significant public interest in reporting on allegations of bullying and homophobia at the school and the role that they might have played in the child's death. However, the Committee also acknowledged the extremely sensitive subject matter and the child's vulnerable circumstances, following the death of a sibling. It determined the public interest in publishing the comment was not so exceptional as to override the interests of a child.

The Committee determined there was a breach of Clause 6 (Children) as the social media post in question was presented as the sibling's response to the allegations of homophobia and bullying at the school. Therefore, its publication in this context constituted an interview under the terms of Clause 6 and thus the permission of a responsible adult was required to publish.

Children

Questions relating to children.

Journalists and editors should consider the following:

- Does the information relate to a child's welfare?
- Would publishing the information intrude unnecessarily into a child's time at school?
- Has consent been obtained by the parent or guardian to publish the information or photographs?
- If publishing the material does appear to raise a breach of the Code, is there an exceptional overriding public interest for publishing it?
- Are you able to demonstrate that the public interest was considered before publication and by whom?

Reporting of court proceedings

The court reporting of transgender, non-binary, gender fluid, agender and intersex individuals is currently a contentious topic that features in many debates.

Journalists and editors should be mindful that the principles under the Code remain the same regarding accuracy, privacy, and discrimination. The Code does not seek to restrict the right to report legal proceedings. The rights of the defendant to be free of unjustified intrusion into privacy and discrimination are enshrined in Clause 2 (Privacy) and Clause 12 (Discrimination) respectively.

When reporting on court proceedings, journalists and editors should be aware of self-identification. Journalists and editors should take a view of how to meet the obligations under the Code.

Factors that editors may wish to consider:

- The way that the defendant is identified in court, including the name and pronouns used by court officials and/or 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.
- The defendant's gender identity at the time of the alleged criminal activity.
- Any relevant public interest, including protecting public health or safety in the face of a major incident.

Clause 12 (Discrimination)

There is a wide range of terms to refer to someone's sex and gender identity.

However, Clause 12 prohibits prejudicial or pejorative reference to an individual's sex and gender identity.

Even in the absence of any pejorative term, references to someone's gender identity and/or sex may be pejorative. Editors should carefully consider the relevance and presentation of information relating to an individual's sex or gender identity. This could give rise to a complaint.

Journalists and editors should take care when discussing characteristics of an individual. The discussion could be perceived as pejorative in relation to characteristics specifically protected by Clause 12.

The complaint of [Trans Media Watch v The Sun](#) related to a comment piece that commented on the gender identity of a Parliamentary candidate.

The Committee concluded that the column belittled the candidate, her gender identity, and her disability, mocking her for no other reason than these perceived "differences".

It was discriminatory and unacceptable under the Code. Although the column did not contain any specific pejorative term, its meaning was pejorative in relation to characteristics specifically protected by Clause 12.

The newspaper was required to publish an adjudication on the same page as the original column and on its website.

Questions relating to discrimination

Journalists and editors should consider the following:

- Are references to someone's sex or gender identity genuinely relevant to the story?
- Could any of the references to sex or gender identity be considered pejorative or prejudicial?

Resources

IPSO is aware of the differing stances taken by different UK bodies and has included some information that journalists and editors may find helpful to be aware of and consider.

Journalists and editors should be aware that this is a changing area of legislation and policy and should consider keeping abreast of any developments.

Statutory Information

[The Equality Act 2010](#)

[The Gender Recognition Act 2004](#)

Court Reporting

[The Crown Prosecution Service
Trans Equality Statement](#)

[Courts and Tribunals Judiciary
Equal Treatment Bench Book](#)

Sports

[Sports Council Equality Group](#)