

LOYALISM AND THE MEDIA

A REPORT BY JWB CONSULTANCY

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A Report into Loyalism and the Media

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“The way in which an individual, an organisation, or an industry treats its critics can reveal a lot about its culture. Openness to legitimate criticism is the hallmark of many thriving organisations and industries. By contrast, defensiveness and intimidation in response to legitimate criticism tends to be a feature of closed-minded and entrenched industries. The phone hacking scandal as a whole revealed that large parts of the press tended to the latter: over the course of five years, much of the press showed a complete unwillingness to engage with those critics who pointed to evidence of unlawful and unethical practices within one newspaper, and to practices which are likely to have taken place in others too. Indeed, rather than engaging with those critics, much of the press subjected them to intense scrutiny, occasionally amounting to intimidation.”

Lord Justice Leveson, Leveson Report [2012]

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Background and Acknowledgements

This report is a very brief overview of a complex area. It is a personal piece of work produced over two days but drawing on over two years of a strategic process of representing clients on media cases, much of which included long drawn out IPSO challenges to various publications. I have held many- often robust- discussions with journalists, some of whom have argued that by using the regulatory system, we are guilty of abusing and manipulating the press regulatory process in order to constrain journalism. I do not agree, but nevertheless appreciate the opportunity to hear and consider such viewpoints. The most important people in all of this for me are those who have stepped forward- some of them after more than two decades or more of silence in the face of relentless allegations and dehumanisation- to bring challenges. The outcome of some of those cases are a matter of public record, others were resolved via confidential settlements (acceptable to the complainants) which must remain private in order to respect the privacy of those persons, but also to respect the integrity of the IPSO or other legal/complaints processes.

Introduction

This report is a small snapshot of the extremely complex issue of Loyalism's relationship with the media. It does not purport to be an analysis reflective of all of loyalism, or indeed any specific constituent part of it. There will be those with differing viewpoints; I would welcome debate and challenges from such persons; every viewpoint is equally legitimate and worthy of consideration. If anyone wishes to write a counter theory or challenge any of my arguments, then I would encourage that.

The knowledge and background of this report is derived primarily from the advocacy and PR work of JWB Consultancy through the period of 2018-2020 and draws heavily on first-hand experiences in terms of cases and complaints brought on behalf of clients, many of whom are prominent members of the loyalist community and some of whom who are ex-prisoners. Naturally, some of the cases have concluded with public judgments issued, therefore there is more flexibility in terms of going into the detail of those cases. The same applies to cases settled pre-adjudication by virtue of the publication of corrections or clarifications. Those instances are a matter of public record.

This report focuses primarily on the overarching issue of fairness in terms of media reporting. It therefore naturally focuses on questions of media law and draws heavily on the regulatory system in place via the Independent Press Standards Organisation ('IPSO'). This regulatory system applies to most print media in Northern Ireland, and that is therefore the primary focus of the report. The BBC and UTV are regulated differently, but those issues are for the most part beyond the scope of this report.

The issue of media engagement is a thorny one within loyalism. There is a deeply embedded mistrust of the media, much of it born out of decades of quite frankly appalling journalism by Sunday tabloid newspapers. This has become even more pronounced post 1998 and has for the most part has been a crucial component of a very deliberate agenda to criminalise loyalism whilst simultaneously legitimising republicanism. There is no arena whereby this is more pronounced than within the Sunday tabloid press in Northern Ireland.

This therefore poses a challenge to the loyalist community; the criminalisation and dehumanisation of the loyalist community will continue in the Sunday tabloids in perpetuity unless it is challenged. It is a fallacy to think that after decades the Sunday tabloids would wake up one week and decide to show loyalism some

respect or to apply the proper journalistic principles of fairness, and indeed the requirements under the Clauses of the Editors' Code. It should come as no surprise that much of the media treat silence as acceptance; if they get away with making scurrilous allegations without any challenge, then of course they will keep doing it.

Therefore if you want to break the cycle, the only way to do so is by challenging the status quo; by making sure that every line of every story is scrupulously accurate, and if it isn't then challenge it, whether that be via the publication's internal complaints process, via IPSO or in serious cases via civil proceedings. It is only via this approach that there will be accountability, and with that comes boundaries and accordingly things begin to change.

I understand the deep mistrust of many within loyalism of the media. Engagement and challenging the media is often viewed in a very narrow prism and more often than not 'engagement' gets confused with 'leaking'; those are two very different things. I do appreciate nevertheless that given the often-malicious stories carried by Sunday papers that it is only natural that some of those who have been targeted by said publications would be concerned about engaging in any shaping or form.

I have held the view, and argued it publicly for many years, that the way to counter those feeding malicious stories to the media in an effort to sow division or further negative agendas, is to shut down the vacuum within which they operate. If everyone across all sections of loyalism engages with the media in terms of requesting to be contacted in advance of any adverse allegations or stories being published, and everyone challenges any negative stories via the legal and regulatory process, then there is nowhere for those with a malign purpose to go.

Those feeding malicious stories thrive in the darkness; they succeed because there is a vacuum left by silence and disengagement, a dark hole they fill with their gossip and tittle tattle, and sometimes even worse. The best disinfectant is sunlight. If everyone steps into that vacuum, the room to manoeuvre for malicious agendas shrinks away.

If loyalism adopts an open posture in terms of the media, then if there is an allegation to be made, the person against whom it is being made- or a representative body- can legitimately demand to be contacted in advance of any such allegations. Upon contact being made, the relevant journalist can, if it is the case, be advised their story is inaccurate (and that, in the absence of any corroboration of their 'sources' claims, will cause most to pause) or if the story warrants it, a comment can be provided. A story without a comment from one of the subjects of the story is by default unbalanced; by mere virtue of providing a comment even in the form of a denial, all of a sudden the whole shape of the story changes to the advantage of the

person who otherwise would have been voiceless within the text of the story. If that process does not yield fairness, or notwithstanding the engagement it nevertheless results in inaccurate allegations- despite the journalist clearly being told they are inaccurate- then there is a pretty strong case against the publication right away.

It is not hard to see how the power of anonymous sources can be easily dissolved. Journalists cannot actually get away with just printing the wild allegations or malicious stories fed by anonymous sources if they are challenged on it. The only reason such practices have been normalised is because they have for so long went unchallenged.

It is however foolish to think every IPSO challenge will succeed. There are many cases which will ultimately be lost, but to fret about that would be to confuse the ultimate objective; it isn't to win every IPSO case, it is use the accountability mechanisms to set boundaries, ensure fairness and ultimately to change things. All the cases- those won, and those lost- ultimately contribute to making things better.

I challenge any person to tell me that things are for the most part not better for loyalism in terms of the Sunday tabloids in 2020 than they were in 2018. By the same token, accountability is a mechanism for just that- it is not a weapon to destroy the media. That is never going to happen, and in any event if loyalism is to succeed in making political change then positive media messaging is essential; that requires good relationships with the media.

There are many fantastic journalists in Northern Ireland, the vast majority of whom operate to the highest standards of the profession. The daily papers especially may not always print that with which we agree, but it is hard to find many instances of unprofessionalism or overt maliciousness. The small number of examples in this report, nearly all of which are drawn from Sunday papers, are not reflective of media in Northern Ireland, indeed some of the worst excesses described in a minority of the instances referenced aren't even reflective of tabloid journalists in general.

It is also fair to note that there are very few journalists in Northern Ireland who it could be said allow their personal prejudices to turn into obsessive vendettas. The vast majority are simply seeking to make a living and seek to do their job to the best of their ability. Sometimes that human element- which applies both ways- gets lost in the dark hole vacuum which grows deeper as disengagement becomes more entrenched.

As much as the challenge to loyalism is to step forward and fight back via accountability mechanisms, there is also a very real challenge to the media, especially those in Sunday papers who have spent many years dehumanising

individuals and printing stories (many of which were wildly inaccurate) that caused much hurt and upset if not to the individuals themselves, then most certainly to friends and family. The media must engage with loyalism on the footing of treating individuals from loyalist backgrounds, including ex-prisoners/combatants, with dignity and equality.

There is a clear disparity in how loyalists and republicans are treated by the media, much of it a result of an unconscious bias after over two decades of indoctrination flowing from the Belfast Agreement and the 'peace process'. Whilst not the subject of this report, there is a necessity within the trajectory of the 'process' to dehumanise, delegitimise and criminalise loyalism, whilst simultaneously legitimising republicanism. A strong, vibrant and capable loyalism with the capacity to engage in the media, political and legal arena is an impediment to the progress of the process, therefore that is why there is such vitriolic resistance to any and all efforts from loyalism to engage in civic society or professional areas such as journalism or the law.

I am convinced loyalism is misunderstood by most of the media, perhaps deliberately. There has never really been any in depth analysis of this, although *Ulster Loyalism and the British Media*¹ went some way to trying to unpick this most complex of issues. That book was published in 1998; I fundamentally believe there is much to unpick from the post-98 period.

The loyalist community must tell our own story and make our own case in the public arena. If we do not, then others will make our case for us, and more often than not will do so in less than favourable terms. That is the basic theory which underpins my fundamental belief in the importance of turning the tide in terms of media coverage of loyalism.

The way to challenge disagreeable, inaccurate or at times even malicious journalism is through in the first instance engagement, and thereafter recourse to the legal and regulatory process. Threats to journalists are entirely wrong and must be roundly condemned by all right-thinking members of society. A free press is essential, and no person should be intimidated, threatened or subjected to fear of violence on the basis of reporting, writing, or for that matter expressing a legitimate opinion.

There is an unrelated ongoing Police Ombudsman case which contends that the PSNI have a statutory duty to investigate death threats issued against persons, which at the moment they do not do so to a satisfactory standard. In relation to the more specific issue of threats against journalists, I believe the PSNI should be forthcoming with intelligence assessments as to the credibility and source of such

¹ *Ulster Loyalism and the British Media*, Alan F. Parkinson 1998

threats. The validity of threats purporting to be issued from loyalists should be robustly tested, and if indeed such actions emanate from within loyalism then the criminal justice process should be brought to bear on any perpetrators. If, however, it is found those from outside of the loyalist community are undertaking such actions in furtherance of other agendas, then this should be clarified by the PSNI and the perpetrators brought before the courts.

Notwithstanding the clear concerns as to how some of minority sections of the media exercise their power, nothing in this report should be taken as seeking to in anyway impinge upon the crucial constitutional principle of a free press.

In light of that I conclude this introduction by recalling an enduring summary of the importance of a free press:

“A free press is the unsleeping guardian of every other right that free men prize; it is the most dangerous foe of tyranny ... Under dictatorship the press is bound to languish ... But where free institutions are indigenous to the soil and men have the habit of liberty, the press will continue to be the Fourth Estate, the vigilant guardian of the rights of the ordinary citizen.”

Sir Winston Churchill

Jamie Bryson

November 2020

1 - The Public Interest

“The point of paramount importance for present purposes, however, is that there is a fundamental public interest in respect by the press for and obedience to the law. A press considering itself to be above the law would be a profoundly anti-democratic press, arrogating to itself powers and immunities from accountability which would be incompatible with a free society more generally. All who have the privileges and responsibilities of holding power to account, including police, politicians and press, must themselves champion and uphold the accountabilities they proclaim for others. The rule of law, in other words, ‘guards the guardians’ and is a guarantor of the freedom of the press, not an exception to it.”²

Lord Justice Leveson, Leveson Report [2012]

1.1 It is apparent that there is a skewed version of the ‘public interest’ when it comes to Sunday tabloids. There is a broad public interest justification in reporting on crime (within lawful constraints), however that broad test is often misapplied so as to contrive to make it stretch much further. The public interest in reporting on crime does not extend to salaciously carrying gossip which seeks to stir up tension between various alleged criminals, or indeed between different constituent groups within the loyalist community.

1.2 If, for example, a publication focused their energies on publishing stories which carried gossip, rumours and clear antagonistic language which had the effect of creating tension and thus the potential for violence between loyalist and republican groups, there would rightly be outcry. No one would suggest it was in the public interest to perpetually carry maliciously fed rumours which could have the effect of igniting cross community conflict, indeed the author of such publications would be roundly condemned as endangering the peace.

1.3 However, if precisely the same situation is applied to stirring up intra-community tension, then this is passed off as public interest journalism. That is

² Leveson Report, Part B Chapter 2 paragraph 5.6

illogical; if it would be irresponsible to flagrantly contrive rumours and gossip designed to stir tension between loyalist and republican communities, then why is it responsible to do precisely the same thing if the purpose is to stir tension between different sections of loyalism, or indeed for that matter different sections of republicanism. Responsibility for a peaceful society applies on an intra-community as much as a cross-community basis.

- 1.4 Sunday tabloids in Northern Ireland- almost every week- carry stories which reports on (apparently) potential feuds or violence between various sections of loyalism. The rather meek defence offered is that there is a public interest in reporting on alleged crime, or community tension. Notwithstanding the broad-brush narrative which maliciously seeks to make loyalism a by-word for crime, that defence is- with respect- arrant nonsense. Reporting on crime is different than seeking to stir up tension between persons and/or groups. Quite often Sunday newspapers are doing more to create tension rather than simply reporting on that. There must therefore be a more careful analysis of the public interest test.
- 1.5 In a January 2020 case four individuals ³ within the loyalist community were explosively reported in an 'Exclusive' report within the Sunday World to be ready to "go to war" with each other. Three of these individuals were clients. In fact, none of the persons had any issue with each other, and indeed all were on good terms. All three clients complained, outlining the erroneous nature of the story, and making clear none of them had any issue whatsoever with any of the other named persons, including the fourth individual who was not a client. A confidential settlement of the complaint was arrived at which was satisfactory to the complainants.
- 1.6 Notwithstanding the eventual remedy, the damage was already done and the potential for needless, and indeed dangerous, intra- community tension was

³ Sunday World Northern Ireland Edition 05 January 2020

created by the very same publication which would argue their actions were in the public interest.

1.7 It is unclear how even reporting mere claims (usually by faceless ‘sources’ whose credibility cannot be tested) of community tension, which often amounts to little more than hearsay or tittle tattle blown all out of proportion, is in the public interest given how such a contribution could have the effect of sparking intra-community conflict. That serves no one’s interest, therefore if a fine balancing act is required in order to judge whether reporting on potential community tension is in the public interest if such tension reasonably exists, it is clear that inaccurate or contrived reporting on tension which doesn’t exist is plainly not in the public interest.

1.8 There has been a tendency for publications to believe that a ‘we are reporting on crime’ defence automatically renders the story valid in the public interest, and furthermore renders any requirement for accuracy null and void.

1.9 This is an entirely erroneous approach; leaving aside the moral and ethical issues, it is inconsistent with the IPSO Editors Code ⁴. Reporting on alleged crime operates in conjunction with accuracy (Clause 1). A defence of claiming to be reporting on crime does not therefore dislodge the fundamental requirements under Clause 1.

1.10 In short, regardless of whether the media is reporting on someone they believe to be involved in crime, or not, they must still observe the requirements of accuracy. There is no public interest defence under Clause 1⁵, if a story is inaccurate then there is no public interest in publishing it, regardless of to whom it relates.

1.11 In June 2020 the Sunday World carried a front page interview⁶ with an individual described in Court by his own legal team as having “underlying

⁴ IPSO Editors Code of Practice www.editorscode.org.uk

⁵ Clause 1 Page 12 IPSO Editors Code of Practice www.editorscode.org.uk

⁶ Sunday World Northern Ireland Edition 07 June 2020

mental health problems” and labelled by the Judge as a “danger to the public” who was “living in a parallel universe”⁷.

1.12 This interview platformed an individual who clearly had mental health problems, presenting him as a ‘vigilante’ who was going to carry out violent attacks. The publication, without any due diligence whatsoever, further labelled a number of premises and property this individual had already attacked as being linked to paramilitaries. This complete fabrication was a figment of the imagination of the only source for the story- the vigilante himself- and the most basic due diligence would have revealed that the attacks had been carried out on a number of well established family owned business who had no links to any crime whatsoever. The publication also failed to reveal that one of the attacks was on the home of a pregnant woman, whose home was attacked by this self-styled vigilante by a breeze block being thrown through her window.

1.13 Further amongst the plethora of inaccuracies within the article it failed to reveal that the individual they were platforming was subject to charges on a range of criminal offences (in contrast to the persons he was relentlessly pursuing as part of some misguided vendetta, none of whom had any criminal convictions nor had ever been arrested for any offences). The individual was also subject to a court ordered restraining order, which was designed to curb his obsessive pursuit of his victims. Given that the persons the individual claimed he was to attack were alleged to be loyalists, this was enough to satisfy the publication his actions were worth platforming. It appeared violence was to be uncritically platformed, so long as the violence was to be targeted at members of the loyalist community. At no point in the article was the self-styled vigilante challenged on his actions or subjected to any critical questioning.

1.14 This particular article drew condemnation from the Justice Minister and a range of political figures. The PSNI also expressed alarm as to the irresponsible

⁷ <https://www.belfasttelegraph.co.uk/sunday-life/news/ill-kill-loyalist-dealer-vows-ex-wannabe-mp-in-dock-38873609.html>

nature of the journalism in engagement with community representatives. It is difficult to discern where the public interest lies in platforming and legitimising an individual with underlying mental health issues, in circumstances whereby he is threatening to engage in acts of violence- whilst already subject to a court ordered restraining order to protect his victims. There also questions around the exploitation of a vulnerable individual.

1.15 Following a substantive complaint, the publication was forced into printing a clarification⁸. Notwithstanding this remedy, the vigilante- encouraged and emboldened by the platform provided by the publication- only days later was again arrested for threats against one of the victims of his actions. In July 2020 the same individual was arrested again and remanded in custody following a malicious lone graffiti spree which targeted a number of persons. Reporters linked to the publication which had platformed this individual 'liked' the graffiti attacks following images of the criminal damage being uploaded to Twitter by a series of co-ordinated troll accounts. This creates the impression that some within the media aren't merely reporting the news, but rather are activists adopting partisan causes or personal vendettas.

1.16 Whilst IPSO does not regulate the private social media accounts of journalists, almost every publication has a social media policy. At times there are patent double standards at play whereby evidenced gathered suggests that some of those in the media most vocal about clearly unacceptable social media abuse simultaneously operate in an echo chamber alongside some of the most vile and abusive trolls on social media. On occasions such trolls are even deployed in various formats (email campaigns, targeted harassment etc.) to further individual agendas. It appears often the standard deployed is that trolls, targeted abuse and harassment is fine so long as it the 'right' kind of person being abused.

1.17 The worrying impression is that sections of the media- primarily Sunday tabloids- are potentially by virtue of irresponsible actions placing persons lives in

⁸ Sunday World Northern Ireland Edition 28 June 2020

danger. Evidence across the last decade does suggest that there are occasions whereby a less than responsible approach has been adopted in relation to violence, so long as the violence has been targeted at loyalists subjectively deemed by sections of the media to be 'legitimate targets'. This is a wider issue around the selective acceptance of violence, but suffice for this report to raise the issue in general terms in the hope that more editorial consideration will be given to the approach taken- in short; is all violence unacceptable and to be condemned and challenged, or is some violence ok so long as it is targeted at those the relevant publication has deemed to be a 'legitimate target'? It isn't hard to see the legal, moral and ethical rabbit hole the latter approach will take journalism down.

1.18 Paragraph 5.2 of Part B Chapter 2 of *Leveson Volume 1* is instructive in terms of the requirement for the press to uphold the rule of law:

"5.2 Chief amongst these is the requirement that press freedom promotes, and operates within, the rule of law which itself is often described as the cornerstone of a democratic society.²

Although the democratic function of the rule of law is primarily associated with the idea of government in accordance with the law, the doctrine's deeper implications concern the need for accountability and constraint of all power in a modern democracy: "Be you never so high, the law is above you"

1.19 Plainly therefore the media acting as a cheerleader for a vigilante, or indeed taking sides in any dispute whereby violence may be inflicted by either of the parties, is at odds with the fundamental principles of press freedom.

1.20 There has also been a persistent narrative of irresponsibly labelling various loyalists as 'state agents' or 'informants'. In many cases named loyalists have been linked to alleged ciphers included in reports compiled by independent inquiries or reports by statutory bodies. In the first instance it is worth noting that a public interest test is applied prior to the publication of such reports, clearly if ciphers have been used it is been deemed to be in the public interest for

this to be so. It is somewhat confusing as to what public test the media apply to enable them to begin guessing ciphers and naming persons.

1.21 It is further notable that in many cases ciphers do not indicate informants. To take one high profile example of the *de Silva report*⁹- a number of persons have been publicly labelled informants on the basis of being linked, at times maliciously, to various ciphers. A proper reading of the *de Silva report* illuminates that at no stage does it state that the persons identified by cipher were informants, in fact in some cases quite the opposite. Despite this an entirely false narrative around the report was developed by the media and given this was not challenged until 2019, the narrative had become embedded. Following extensive correspondence in 2019 on behalf of several clients, which made significant legal arguments around the processes being adopted, the practice of falsely labelling persons as informants has been almost completely eradicated.

1.22 This issue was addressed by Lord Chief Justice Declan Morgan in *AB v Sunday World* at paragraph 25;

"[25] We have accepted in this case that investigative journalism should be free to publicise allegations of criminal conduct on the part of the appellant. The allegation that he was a state agent raises different issues. These issues relate both to the private life of the appellant and to the public interest in ensuring that others with valuable information can be confident that they can provide this to the relevant authorities without fear of disclosure. This appellant has been convicted of robbery. He was questioned about, but not charged with, his involvement in a murder. He has acted as a spokesman for dissident groups but no charges have arisen from that activity. Although the position might change in the event that he was convicted of murder we consider that there is a considerable public interest in the deterrence of publication of any allegation that he was a state agent."

1.23 It is plain from paragraph 25 of *AB* that in the vast majority of cases there is no public interest in publishing an allegation labelling someone as an informant.

⁹ Report into the killing of Pat Finucane by Desmond de Silva QC, published 2012

If the allegations turn out to be false, then plainly there is no public interest in publishing falsehoods about any citizens, however LCJ Morgan also held that even if it were to be the case that an individual was an informant, there was still no public interest in naming him/her as such, save for the most exceptional of circumstances.

1.24 A simple analytical overview will demonstrate these kinds of allegations being made repeatedly against loyalists (both individually and corporately) vis-à-vis republicans. This is worthy of much wider analysis beyond the scope of this report, however one credible theory is that- given the nationalist leaning nature of much of the media in Northern Ireland- this narrative is part of a wider agenda to legitimise the actions of the IRA. The core 'legitimisation' agenda behind republicanism's efforts to rewrite the past is to present loyalists as 'state killers' engaged in extensive collusion with the security forces. In a July 2018 article published on Unionist Voice¹⁰ this issue was explored in greater depth, with specific critical focus on nationalist publications *Unquiet Graves*¹¹ and *Lethal Allies*¹². The producer of the film Sean Murray was afforded a right of reply on Unionist Voice¹³ to set out his position and to challenge critics of the film.

1.25 It appears there is at least a strong *prima facie* argument that the application of the public interest test is applied different to sections of the loyalist community in comparison with the rest of society, including most notably the republican community.

¹⁰ <https://unionistvoice.com/opinions/editorial-the-myth-of-the-glenanne-gang-perpetuated-by-republican-propaganda-by-jamie-bryson/>

¹¹ A 2018 film making a range of allegations around collusion made by Sean Murray, the son of IRA terrorist Sean 'Spike' Murray. One of the main contributors to the film was Paul O'Connor, exposed initially on Unionist Voice as being a former IRA terrorist. Mr O'Connor admitted his IRA membership in November 2019 in the Irish News.

¹² A nationalist publication making a range of allegations on 'collusion' published in conjunction with the Pat Finucane Centre, of which former IRA terrorist Paul O'Connor was a director.

¹³ <https://unionistvoice.com/opinions/opinion-sean-murray-responds-to-a-recent-article-criticising-his-glenanne-gang-film/>

2 – Equality of treatment for the loyalist community

2.1 Over the course of the past two years there has been significant push back in relation to ISPO¹⁴ complaints being brought on behalf of members of the loyalist community. The most ferocious pushback has been in relation to complaints brought by, or which are incidental to, individuals against whom the publications advance allegations of membership of proscribed loyalist paramilitary groups such as the UVF¹⁵, or UDA¹⁶. A number of individuals are as a matter of public record ex-prisoners and were involved within the conflict. There are others who have no paramilitary convictions whatsoever.

2.2 Due to the media narrative perpetuated post 1998, loyalism is- according to the acceptable narrative- synonymous with crime. This once again requires much greater analysis beyond the scope of this narrow report, however, there has been a different standard applied to loyalists in comparison to republicans. Whilst the latter are legitimised as ‘freedom fighters’ or ‘volunteers’, loyalists are ‘state sponsored killers’, ‘mobsters’ or ‘terrorists’. You need only peruse the pages of both the daily and Sunday newspapers in Northern Ireland, or tune into the BBC, to see the subtle difference in terminology. Loyalists murdered people in cold blood, whilst republicans killed people as part of the conflict. Loyalists were ‘terrorists’ and ‘state sponsored killers’ whilst republicans were ‘combatants’ or ‘volunteers’.

2.3 This goes beyond the conflict related terminology. If a loyalist engages in the professional class they are labelled by political affiliation, whereby republicans are not, instead being identified by the merit of their work first and foremost. For example, a loyalist making a documentary is a ‘loyalist film maker’, whereby a republican (such as for example Sean Murray) making a film is described purely in neutral terms as a

¹⁴ Independent Press Standards Organisation www.ipso.co.uk

¹⁵ Ulster Volunteer Force

¹⁶ Ulster Defence Association

'film maker' ¹⁷. On mainstream media in Northern Ireland a commentator from the loyalist community is a 'loyalist commentator', whereby a commentator from the nationalist community is simply a 'commentator', thus giving the nationalist contribution the veil and enhanced credibility of perceived neutrality.

2.4 We see also this play out by the manner the media present as neutral support for nationalist projects, which in fact comes from nationalist activists. For example, when actor Stephen Rea came out in support of republican documentary *Unquiet Graves*, the headline and article simply referred to 'Oscar nominated actor Stephen Rea'¹⁸. To the uninformed reader this would suggest an entirely neutral Oscar nominated actor was supporting this cause, leading to a natural tendency to therefore lend more credibility to the issue. However, what the article omitted to inform the reader is that Stephen Rea was married to IRA terrorist Dolours Price, one of the Old Bailey bombers. In 2017, referring to Unionist First Minister Arlene Foster, Mr Rea said "f**k her"¹⁹.

2.5 Each year all publications under the regulatory jurisdiction of IPSO must provide an annual statement, which can be publicly viewed via the IPSO website²⁰. In the Sunday World's 2019 annual statement²¹, an extremely worrying theme began to develop. In the submission on behalf of the publication, it stated the following:

"We have had to seek guidance from IPSO because of an unusual set of circumstances. We have received a number of complaints issued on behalf of known organised crime figures and paramilitary leaders. Our concern is they are using the Code to keep us quiet, to stop us writing about them and investigating their activities. It is a situation that is unique to the North of Ireland, these are individuals we have been writing about for some years and we feel this is an abuse of the Code.

¹⁷ <https://www.irishnews.com/news/northernirelandnews/2020/10/05/news/criticism-of-glenanne-film-has-hurt-families-says-film-maker-2087140/>

¹⁸ <https://www.irishnews.com/news/northernirelandnews/2020/10/14/news/oscar-nominated-actor-pledges-support-for-documentary-maker-2097078/>

¹⁹ <https://www.belfasttelegraph.co.uk/news/northern-ireland/actor-reas-f-word-rant-over-foster-provokes-dup-rebuke-36005189.html>

²⁰ <https://www.ipso.co.uk/monitoring/annual-statements/>

²¹ https://www.ipso.co.uk/media/1934/sunday-world-annual-statement-2019_for-pub.pdf

It was important for us to give context to IPSO. We met with IPSO in London in January and in a very constructive meeting we explained the abuse of the Code.”

2.6 Aside from the somewhat perplexing use of the terminology ‘North of Ireland’ to refer to Northern Ireland, which appears to be somewhat of a political statement by the publication corporately (as the submission is on its behalf), there are several concerning features in the Sunday World’s annual statement. In the first instance they allege that individuals whom they claim are ‘crime figures’ or ‘loyalist paramilitaries’ are guilty of an abuse of the code, by mere virtue of availing of the legitimate and lawful complaint mechanisms within IPSO.

2.7 This brings us to a salient point; if the code exists for all citizens equally, then how could bringing a legitimate well-grounded complaint under the grounds of the code amount to an abuse of same? It is also worth noting that cases brought under the code often settled between the parties with a clarification or a right of reply offered, or with an IPSO adjudication. In 2020 in the case of *Matthews and McCann v The Sunday World*²² perhaps the most scathing IPSO judgement ever was issued in favour of the complainants.

2.8 That particular case involved an appalling and hurtful article targeted against a loyalist family who had lost a loved one. In a malicious and inaccurate publication, the Sunday World wrongly linked the death to heroin, and the family felt they had been targeted as part of a witch-hunt against them. In shocking fashion, the publication further published images and referred to the death of a 16 year old child- who had died a number of years previous- without even the courtesy to contact the child’s mother prior to re-igniting her grief by splashing her little boy all over the pages of a tabloid newspaper.

2.9 It is worth including some of the most relevant paragraphs from the ruling, which raises serious ethical questions for the standard of journalism within sections of the Sunday World;

²² <https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=03710-19>

“22. The newspaper had based the article solely on the account of confidential sources; it had not taken steps to obtain on-the-record corroboration for the claims about Gary Matthews Jnr’s death, which had nonetheless been presented as fact. The Committee noted in particular that the newspaper had reported as fact that Gary Matthews Jnr had died as the result of an overdose prominently on the front page, and repeated this position in the article’s headline, and in the article itself, without corroboration of sources’ claims. This represented a failure to take care not to publish inaccurate information in breach of Clause 1(i). Further, it was significantly misleading to report as fact that Gary Matthews Jnr had died by overdosing on heroin, when this was based on the unverified claims of sources. There was a failure by the newspaper to take care over the article’s accuracy in breach of Clause 1(i), and these points represented significant inaccuracies requiring correction under Clause 1(ii).

23. One of the photographs had been inaccurately captioned; it had identified the man pictured as Gary Matthews Jnr, when in fact it was his son, Kenan Matthews. This represented a further failure by the newspaper to take care over the article’s accuracy in breach of Clause 1(i) and a significant inaccuracy requiring correction under Clause 1(ii).”

The wording of the front-page correction included the following damning paragraphs:

“IPSO found that the publication had reported the unidentified sources’ claims as fact and had failed to corroborate the sources’ accounts with official channels, or approach the complainants or family members for comment prior to publication. The article had reported as fact that Gary Matthews Jnr had died as a result of a heroin overdose but the publication could not produce the required evidence to support this position. The inaccuracy had featured in a prominent position on the front page and was repeated at various points within the article. The article also misidentified Gary Matthews Jnr in the caption of a photograph; the image itself was of Kenan Matthews.

IPSO found that the handling of the complaint by the Sunday World fell below the standards expected of a member publication. There were repeated delays when adhering to deadlines set by IPSO and this had warranted referral to IPSO’s Standards Department.”

2.10 It is worthy of note that the editor at the relevant time did engage with the family and took swift remedial action in the form of removing the front page from online platforms. In the IPSO process- as is laid out within the judgment- the editor offered a clarification, which was acceptable to the family. Unfortunately, this was then withdrawn, presumably by senior management within Independent News Media, who for whatever reason decided to try and defend the indefensible. It was this approach which led directly to the scathing ruling.

2.11 The publication- as laid out in the ruling- sought to argue they could not publish a clarification to correct their error, because to do so would lead to online criticism of their journalist. This was even more bizarre given the complainants and their wider family had from the very outset- despite the agony caused by the awful story- issued a dignified public statement²³ and publicly urged people not to abuse or troll the journalist, but rather to have faith in the IPSO process. The publication's attempted defence surely amounts to one of the most absurd defences ever offered in any legal or regulatory case. No public apology for one of the worst stories ever published against a grieving family (evidenced by the scathing IPSO judgment) has ever been issued.

2.12 The publication had also sought to justify their story- inaccuracies and all- by falling back on claiming the deceased was related to prominent loyalists, whom the publication had alleged were paramilitaries- an allegation strenuously denied. This leads us to the fallacy within the Sunday World's annual statement; do they seriously assert that notwithstanding whether the Editors' Code is breached or not, if the alleged breach relates to someone *they* have concluded is a loyalist paramilitary (this raises further issues around the evidential burden required to be discharged coming to such a conclusion and which objective standard would be applied) then such a person should not be entitled to the protections of the Editors' Code, or a remedy for a breach.

²³ <https://unionistvoice.com/news/news-distraught-family-issue-public-statement-following-sunday-world-article/>

2.13 That suggestion is breath taking. It is a charter to permit publications to subjectively create a hierarchy of an Editors' Code, deciding- naturally to suit their own purposes- when it is to be applied, and when it is not. It is a flagrant, and somewhat astonishing, attempt to evade scrutiny and accountability. Plainly it seeks to frustrate the operation of the Editors' Code and wider IPSO process.

2.14 If we nevertheless follow it to its logical conclusion, we arrive at question the Sunday World fail to answer in their annual statement- do they assert that they should be permitted to print inaccurate stories about those they assume to be criminals or loyalist paramilitaries? If they do, then this opens pandoras box and leads to a whole minefield of ethical questions about equality under the law, discrimination and how the hierarchy of persons deserving fair treatment is to be worked out. If they do not make such an assertion, then what is the problem with IPSO being open to all citizens equally?

2.15 The Sunday World statement refers to an "abuse of the code". It is hard to see how this stands up to scrutiny, especially in circumstances whereby all complaints that I am aware of which have been brought by those from an alleged loyalist background have all been well grounded, and often the publication was unable to substantiate their story- and allegations of paramilitarism- with any supporting evidence whatsoever.

2.16 If the publication was acting within the Editors' Code (and indeed their own internal code of practice) and producing high quality journalism treating all persons fairly and equally, then there would be no means by which to complain.

2.17 The suggestion of creating a hierarchy whereby the Editors' Code would apply to some persons and not to others, is worrying. This also raises potential discrimination issues around targeting those from a particular political background and seeking to single them out for special treatment.

2.18 Power corrupts, and it would be incredible if media organisations were to be permitted to derogate from their obligations under the Editors' Code in relation to any specific section of our society.

2.19 One of the key issues, which has now been accepted, is that all persons should be afforded the opportunity to comment in advance of serious allegations being advanced against them, and where appropriate any denials carried. The practice of Sunday papers had often been to make all sorts of wild allegations against persons, without making any effort to contact the subject of such allegations in advance to hear their side of the story, or offer a right of reply. Whether they like it or not, they have afforded the right of reply and carried a denial of IRA membership for Gerry Adams, it is therefore questionable as to how there would be any justification for failing to extend the same courtesy to those from within the loyalist community.

2.20 To their credit, the Sunday World and Sunday Life since being informed on behalf of a number of persons that they would wish the opportunity to comment if any allegations were to be advanced, have made reasonable efforts to make contact in advance of adverse allegations being advanced, and offered a fair opportunity to comment. This is to be commended and is a positive change, despite a small minority still clearly being resistant to such basic good practice. One would question why anyone would be resistant to maintaining the highest standards, and furthermore- in terms of Independent News Media anyway- complying with the requirements as set out within the internal Code of Conduct.

2.21 It should be noted that despite the publications respecting such arrangements in relation to a number of persons who have indicated their desire to be contacted prior to the publication of any allegations in order to avail of a right of reply, they still- to my knowledge- do not actively seek to contact other persons prior to the publication of articles. This is a matter for individuals to pursue of their own accord, and I suppose there is a balance to be struck. If an individual is being subjected to articles in the newspaper about them and chooses not to seek to challenge any

inaccuracies, then rightly or wrongly eventually silence will be mistaken for acceptance.

2.22 Regardless of some half-hearted effort by various publications to suggest that the repetition of the allegations over many years means they should be presumed to be accurate, there is no provision whereby inaccuracies can be defended on the basis they have been repeated for years, or that another publication has repeated the same inaccuracies.

2.23 Taking the time and effort to make contact with the subject of a story is nevertheless basic courtesy. It is easy to sit at a computer and write stories which may have life changing consequences for individuals and/or their families, and simply disregard the human impact of such publications. It may be burdensome, but fact checking, hearing both sides of the story and offering the subject of an adverse allegation the chance to comment is a core component of credible journalism.

2.24 Indeed, a quick glance at the Independent News Media Editorial Code of Practice would illuminate that by their own admission giving the subject of a negative story a right of reply is a basic tenet of 'good and responsible journalism':

"4. Hear the Other Side: It is a basic tenet of good and responsible journalism to put any critical or damaging claim or allegation to the subject before publication.

2.25 It is difficult to see any justification for failing to try and make contact with the subject of a story pre-publication (save for exceptional circumstances), and if such a purported justification was advanced- especially if it seeks to create a hierarchy of treatment for different persons- then it should be subjected to the most robust public and regulatory scrutiny.

2.26 Furthermore it is even more difficult to comprehend how any publication under the jurisdiction of Independent News Media could articulate any kind of argument for derogating from that which is, by their own admission, a basic tenet of good and responsible journalism. The logic therefore is a failure to follow this basic

procedure- save for in the most exceptional circumstances- would be bad and irresponsible journalism.

2.27 If you are going to assess people based on their background as to whether they are entitled to avail of the Editors' Code, or to be entitled to a right of reply, then there must be an objective standard for that. And that standard would then need to be applied across the board. If that standard was, for example, excluding persons with criminal convictions, then that criteria would have to specify which convictions would be excluded- in short it would necessitate creating a hierarchy of acceptable and unacceptable criminal offences, which in of itself would open up a minefield. If, to take another example, anyone convicted of membership of a proscribed organisation is to be excluded, then that would mean excluding a large percentage of Sinn Fein party members and political representatives. Again, the potential minefield is not hard to envisage.

2.28 There is no small print within the IPSO code which allows publications to derogate from its core Clauses based on the characteristics, background or even criminal record of the individual involved. Therefore, publications must apply the code equally to all persons, without discrimination or creating a subjective hierarchy of treatment.

2.29 IPSO must resist all pressure placed upon it to assist publications in seeking to disapply the code based on some invented subjective criteria designed to facilitate the evasion of accountability under the Editors Code. An IPSO complaint from a loyalist housing estate in East Belfast or the Shankill Road, regardless of the background of the individual making it, should be treated in the same manner as one submitted from 10 Downing Street, or Buckingham Place. All citizens must be equal under the Code.

2.30 Despite the issues in terms of Sunday papers and the criticisms within this report, it is important to highlight positive aspects of the engagement in relation to bringing forward complaints. The Sunday World complaints system- which is accessible prior to escalating to IPSO- is professional and speedy in terms of issuing a full response to any complaints. The correspondence is always courteous, and any

disagreements are respectful and well argued within the relevant submissions. The same can be said of the Sunday Life in terms of swiftly seeking to remedy any complaints or errors and doing so in a professional manner.

2.31 The main focus of this chapter has been primarily around the Sunday World and to a lesser degree the Sunday Life. It is those publications from which most complaints within the loyalist community arise. That is not to say there are not issues in terms of balance in relation to other outlets, but for the most part it's difficult to criticise any of Northern Ireland's daily newspapers, or online news such as Belfast Live. Whilst the coverage may not always be agreeable, it is nevertheless journalism of a high standard which would rarely stray into salacious gossip, rumour mongering or advancing wild allegations without providing the subject an opportunity to comment in advance.

3 – Press Regulation and Accountability

3.1 The IPSO regulatory system is described on its website within the ‘What we do’ section²⁴ in the following terms:

3.2 *“The Independent Press Standards Organisation (IPSO) is the independent regulator for the newspaper and magazine industry in the UK. We hold newspapers and magazines to account for their actions, protect individual rights, uphold high standards of journalism and help to maintain freedom of expression for the press.”*

3.3 In the same section IPSO’s remit is laid out. It is worth republishing it in full for the purposes of accuracy:

- We make sure that [member newspapers and magazines](#) follow the [Editors' Code](#).
- We investigate [complaints](#) about printed and online material that may breach the Editors' Code.
- We can make newspapers and magazines [publish corrections or adjudications](#) if they breach the Editors' Code (including on their front page).
- We monitor [press standards](#) and require member newspapers and magazines to submit an [annual statement](#) about how they follow the Editors' Code and handle any complaints.
- We can [investigate serious standards failings](#) and can fine publishers up to £1 million in cases where they are particularly serious and systemic.
- We operate a [24-hour anti-harassment advice line](#).
- We run a low cost compulsory [arbitration scheme](#) to settle legal disputes.
- We provide [advice for editors and journalists](#).
- We provide [training](#) and [guidance](#) for journalists so they can uphold the highest possible standards.
- We provide a [Whistleblowing Hotline](#) for journalists who feel they are being pressured to act in a way that is not in line with the Editors' Code.
- We work with charities, NGOs and other organisations to support and improve [press standards](#).

3.4 IPSO is run by a Board, Complaints Committee and Investigation Staff supported by administrative assistants. You can read the full Articles of Association of the Independent Press Standards Organisation on their website²⁵.

²⁴ <https://www.ipso.co.uk/what-we-do/>

²⁵ <https://www.ipso.co.uk/media/1814/ipso-articles-of-association-2019.pdf>

3.5 The Rules and Regulations of IPSO outline the procedures to be followed in handling complaints, and the powers of the relevant complaints committee. The Rules and Regulations can be found on IPSO's website.²⁶

3.6 Rule 53 and 54 empowers IPSO to commence a standards investigation of its own initiative, or on the recommendation of various parties, including a third party (eg. a member of the public or representative with sufficient *locus standi* in terms of having been affected by the relevant publication). The relevant provisions in full are as follows:

"53. The Regulator may require that a Standards Investigation takes place in one or more of the following circumstances:

53.1 where the Regulator reasonably considers that there may have been serious and systemic breaches of the Editors' Code (a Systemic Failure);

53.2 where there has been one or more failure or failures to comply with the requirements of the Regulator's Board;

53.3 in exceptional circumstances, where the Regulator reasonably considers that an investigation is desirable because substantial legal issues or Editors' Code compliance issues are raised about the practices of a Regulated Entity or Regulated Entities;

53.4 where an annual statement identifies significant issues of concern, either in relation to a single incident, a Regulated Entity's compliance processes or a pattern of significant, serial or widespread breaches of the Editors' Code;

53.5 where, on analysis of statutory authority reports into press standards, in the view of the Regulator there have been substantial Editors' Code compliance issues identified at one or more Regulated Entity.

54. Investigations may be started by the Regulator on its own initiative, or in response to recommendations from the Complaints Committee, complaints or suggestions received from

²⁶ <https://www.ipso.co.uk/media/1815/ipso-regulations-2019-v-sep19.pdf>

employees of Regulated Entities or a third party or from an individual using the whistleblowing hotline save that it shall be at the Regulator's sole discretion as to whether or not to commence a Standards Investigation."

3.7 The Sunday World were already referred for a Standards investigation²⁷ in conjunction with the *Matthews* case, however a large portfolio of evidence has been built in relation to that particular publication with a view to giving consideration to requesting a formal overarching IPSO inquiry on the grounds of there being a series of systematic and serious breaches of the Editors code. IPSO has the power to fine a publication up to £1 million.

3.8 An IPSO complaint may be lodged online or via emailing the regulatory body. Once received IPSO will refer the matter to the publication for their comments, and if appropriate seek to mediate a settlement at that early stage. If that is not possible IPSO will then carry out a preliminary review of the complaint to determine whether an arguable case exists for asserting there has been a breach of the Code. If it is found there is an arguable case, then the matter will proceed to an IPSO investigation and thereafter to adjudication. The complainant or their representative will have the opportunity to make substantive written submissions on points of both fact and law.

3.9 The vast majority of publications have their own internal Code of Practice which regulates the Editorial standard. By way of an example the Independent News & Media Editorial Code of Practice is publicly available from viewing the Sunday World annual statement on the IPSO website²⁸.

3.10 The publication's own internal Editorial Code of Practice regulates the conduct of their journalists, therefore straying outside the Code could lead to internal disciplinary action up to, and including, dismissal.

3.11 For ease of reference, key extracts of the Independent News Media Code are republished here

²⁷ See ruling *Matthews & McCann v Sunday World* [2020]

²⁸ https://www.ipso.co.uk/media/1793/sunday-world-ipso-statement-2018_for-pub.pdf

*“4. **Hear the Other Side:** It is a basic tenet of good and responsible journalism to put any critical or damaging claim or allegation to the subject before publication. This requirement will also assist in defending any defamation action.*

Where allegations are being made, the individual or organisation concerned should always be given a fair opportunity to respond to the allegations before publication.

Journalists should always describe the allegations in sufficient detail to enable an informed response. They should also give sufficient time for a response. The response should be reflected fairly and accurately. You may not get one. You may even get an emphatic denial which may give you pause for thought. Records should be kept of attempts to get a reply if one is not forthcoming. There may be circumstances where getting a response is not feasible, practical or realistic. There must be strong reasons for believing that the subject matter is sufficiently newsworthy and in the public interest to justify publication in the absence of a response.

In such cases, the Group Head of News, Managing Editor or Group Editor-in-Chief must always be consulted.”

3.12 As is apparent from the extract above, the Independent News Media Group states, in its own words **“it is a basic tenet of good and responsible journalism to put any critical or damaging claim or allegation to the subject before publication”**. It is hard to argue with this principle, and presumably harder still for those operating under it to seek to depart from this basic tenet of good and responsible journalism.

CONCLUSION

This report is narrowly focused, and draws on the experiences of a specific community. As outlined at the beginning, it does not purport to be reflective of all of loyalism, or even a particular part of it. It raises issues of concern which have been encountered in the course of challenges brought against media reporting in Northern Ireland relating to the loyalist community.

There is clearly work to be done in terms of how the loyalist community engages with the media, and vice versa. However it is my view clear that certainly within sections of the press in Northern Ireland- including from my own personal experience with sections of the NUJ- there is a deeply embedded hostility to the loyalist community, in comparison with the manner the republican community is feted, and the actions of the IRA is legitimised, or at the very least explained away.

A much broader piece of work is required- drawing on a much wider range of sources and evidence- to fully assess the treatment of loyalism by the media. This report focuses almost exclusively on specific mistreatment- primarily by Sunday tabloids- but even that focus is quite narrow and relies for the most part on evidence gathered from first-hand experience in bringing media complaints within a very specific timeframe (2018-2020).

It is in my view imperative that- at the very least- loyalism, and indeed all of society, avails of the accountability mechanisms to ensure the press exercise their vast powers responsibly and most importantly that they do so with impartiality and absent any malice. That is not an effort to curtail a free press, rather the outcome of the press operating within reasonable boundaries is that a free press will be strengthened and operate in the public interest.

We have some fantastic journalists in Northern Ireland. Only a very small minority operate with total disregard for the basis tenets of journalism, such as accuracy and impartiality. It is that minority that feeds a hostility within loyalism to the media in general. In short, credible journalists find it hard to build relationships with the loyalism community due to mistrust created by the actions of some of their colleagues.

There is nothing wrong with disagreement and robust public debate, and I hope this piece of work will contribute to that. Even if it does not, it will stand as a written account detailing the experiences of many in the loyalist community who have been treated appallingly.

Appendix 1 – NUJ Code of Conduct

CODE OF CONDUCT

A JOURNALIST

Members of the National Union of Journalists are expected to abide by the following professional principles

- 1** At all times upholds and defends the principle of media freedom, the right of freedom of expression and the right of the public to be informed.
- 2** Strives to ensure that information disseminated is honestly conveyed, accurate and fair.
- 3** Does her/his utmost to correct harmful inaccuracies.
- 4** Differentiates between fact and opinion.
- 5** Obtains material by honest, straightforward and open means, with the exception of investigations that are both overwhelmingly in the public interest and which involve evidence that cannot be obtained by straightforward means.
- 6** Does nothing to intrude into anybody's private life, grief or distress unless justified by overriding consideration of the public interest.
- 7** Protects the identity of sources who supply information in confidence and material gathered in the course of her/his work.
- 8** Resists threats or any other inducements to influence, distort or suppress information, and takes no unfair personal advantage of information gained in the course of her/his duties before the information is public knowledge.
- 9** Produces no material likely to lead to hatred or discrimination on the grounds of a person's age, gender, race, colour, creed, legal status, disability, marital status, or sexual orientation.
- 10** Does not by way of statement, voice or appearance endorse by advertisement any commercial product or service save for the promotion of her/his own work or of the medium by which she/he is employed.
- 11** A journalist shall normally seek the consent of an appropriate adult when interviewing or photographing a child for a story about her/his welfare.
- 12** Avoids plagiarism.

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www.nuj.org.uk

 The NUJ believes a journalist has the right to refuse an assignment or be identified as the author of editorial that would break the letter or spirit of the code. The NUJ will fully support any journalist disciplined for asserting her/his right to act according to the code.

Appendix 2 – IPSO Editors’ Code of Practice

EDITORS CODE - IPSO

About the Editors' Code

The Editors’ Code of Practice sets out the rules that newspapers and magazines regulated by IPSO have agreed to follow.

The Code is written and administered by the Editors’ Code Committee and enforced by IPSO.

The latest version of the Editors’ Code of Practice came into effect on 1 July 2019.

The Code

The Code – including this preamble and the public interest exceptions below – sets the framework for the highest professional standards that members of the press subscribing to the Independent Press Standards Organisation have undertaken to maintain. It is the cornerstone of the system of voluntary self-regulation to which they have made a binding contractual commitment. It balances both the rights of the individual and the public's right to know.

To achieve that balance, it is essential that an agreed Code be honoured not only to the letter, but in the full spirit. It should be interpreted neither so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it infringes the fundamental right to freedom of expression – such as to inform, to be partisan, to challenge, shock, be satirical and to entertain – or prevents publication in the public interest.

It is the responsibility of editors and publishers to apply the Code to editorial material in both printed and online versions of their publications. They should take care to ensure it is observed rigorously by all editorial staff and external contributors, including non-journalists.

Editors must maintain in-house procedures to resolve complaints swiftly and, where required to do so, co-operate with IPSO. A publication subject to an adverse adjudication must publish it in full and with due prominence, as required by IPSO.

1. Accuracy

i) The Press must take care not to publish inaccurate, misleading or distorted information or images, including headlines not supported by the text.

ii) A significant inaccuracy, misleading statement or distortion must be corrected, promptly and with due prominence, and – where appropriate – an apology published. In cases involving IPSO, due prominence should be as required by the regulator.

iii) A fair opportunity to reply to significant inaccuracies should be given, when reasonably called for.

iv) The Press, while free to editorialise and campaign, must distinguish clearly between comment, conjecture and fact.

v) A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

2. *Privacy

i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.

ii) Editors will be expected to justify intrusions into any individual's private life without consent. In considering an individual's reasonable expectation of privacy, account will be taken of the complainant's own public disclosures of information and the extent to which the material complained about is already in the public domain or will become so.

iii) It is unacceptable to photograph individuals, without their consent, in public or private places where there is a reasonable expectation of privacy.

3. *Harassment

i) Journalists must not engage in intimidation, harassment or persistent pursuit.

ii) They must not persist in questioning, telephoning, pursuing or photographing individuals once asked to desist; nor remain on property when asked to leave and must not follow them. If requested, they must identify themselves and whom they represent.

iii) Editors must ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

4. Intrusion into grief or shock

In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. These provisions should not restrict the right to report legal proceedings.

5. *Reporting Suicide

When reporting suicide, to prevent simulative acts care should be taken to avoid excessive detail of the method used, while taking into account the media's right to report legal proceedings.

6. *Children

- i) All pupils should be free to complete their time at school without unnecessary intrusion.
- ii) They must not be approached or photographed at school without permission of the school authorities.
- iii) Children under 16 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents.
- iv) Children under 16 must not be paid for material involving their welfare, nor parents or guardians for material about their children or wards, unless it is clearly in the child's interest.
- v) Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

7. *Children in sex cases

The press must not, even if legally free to do so, identify children under 16 who are victims or witnesses in cases involving sex offences.

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.

8. *Hospitals

- i) Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.

ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

9. *Reporting of Crime

i) Relatives or friends of persons convicted or accused of crime should not generally be identified without their consent, unless they are genuinely relevant to the story.

ii) Particular regard should be paid to the potentially vulnerable position of children under the age of 18 who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.

iii) Editors should generally avoid naming children under the age of 18 after arrest for a criminal offence but before they appear in a youth court unless they can show that the individual's name is already in the public domain, or that the individual (or, if they are under 16, a custodial parent or similarly responsible adult) has given their consent. This does not restrict the right to name juveniles who appear in a crown court, or whose anonymity is lifted.

10. *Clandestine devices and subterfuge

i) The press must not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or emails; or by the unauthorised removal of documents or photographs; or by accessing digitally-held information without consent.

ii) Engaging in misrepresentation or subterfuge, including by agents or intermediaries, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

11. Victims of sexual assault

The press must not identify or publish material likely to lead to the identification of a victim of sexual assault unless there is adequate justification and they are legally free to do so. Journalists are entitled to make enquiries but

must take care and exercise discretion to avoid the unjustified disclosure of the identity of a victim of sexual assault.

12. Discrimination

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.

13. Financial journalism

i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.

ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.

iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

14. Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

15. Witness payments in criminal trials

i) No payment or offer of payment to a witness – or any person who may reasonably be expected to be called as a witness – should be made in any case once proceedings are active as defined by the Contempt of Court Act 1981. This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or has entered a guilty plea to the court; or, in the event of a not guilty plea, the court has announced its verdict.

*ii) Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be

expected to be called as a witness, unless the information concerned ought demonstrably to be published in the public interest and there is an over-riding need to make or promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances should such payment be conditional on the outcome of a trial.

*iii) Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

16. *Payment to criminals

i) Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, must not be made directly or via agents to convicted or confessed criminals or to their associates – who may include family, friends and colleagues.

ii) Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

The Public Interest

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

1. The public interest includes, but is not confined to:

Detecting or exposing crime, or the threat of crime, or serious impropriety.

Protecting public health or safety.

Protecting the public from being misled by an action or statement of an individual or organisation.

Disclosing a person or organisation's failure or likely failure to comply with any obligation to which they are subject.

Disclosing a miscarriage of justice.

Raising or contributing to a matter of public debate, including serious cases of impropriety, unethical conduct or incompetence concerning the public.

Disclosing concealment, or likely concealment, of any of the above.

2. There is a public interest in freedom of expression itself.

3. The regulator will consider the extent to which material is already in the public domain or will become so.

4. Editors invoking the public interest will need to demonstrate that they reasonably believed publication - or journalistic activity taken with a view to publication - would both serve, and be proportionate to, the public interest and explain how they reached that decision at the time.

5. An exceptional public interest would need to be demonstrated to over-ride the normally paramount interests of children under 16.

