

## CLAUSE 7

# Children in sex cases

**ALL CHILDREN** in sex cases, including defendants, are protected from identification under the Code. In this instance the Code goes further than the law: the Press must not identify children in cases involving sexual offences “even if legally free to do so”.

An essential element is a formula to prevent “jigsaw identification” – which could occur if media organisations observe in different ways the law intended to protect the anonymity of incest victims.

The law prohibits identification of any alleged victim of a sex offence but it does not specify the method of doing so. So, in incest cases, publications face a choice. They can describe the offence as incest, but not name the defendant, or they can name the defendant but omit the exact nature of the offence.

Until the formula was harmonised by the Code, there was a risk that both approaches might be used by different publications. The result was that, if two accounts were read together, the alleged victim could be identified. The Code effectively removed the choice by adopting a system widely used by the regional press that also won the support of broadcasters.

## WHAT THE CODE SAYS

1. 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.
2. 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.

*A public interest exemption may be available. [Click here.](#)*

Under the Code, the defendant is named but all references to incest are omitted. When followed by all media organisations, this means alleged victims are not identified.

Even so, reporting child sex cases means taking exceptional care to ensure that no reference might identify an alleged victim. This includes material covered by qualified privilege.

A weekly newspaper breached the Code when IPSO found that paraphrased quotations from the proceedings in an online version of a court report strongly implied a specific connection between the child and the defendant. IPSO said this was “highly concerning” and demonstrated a significant

failure on the newspaper's part. It was a clear breach of Clause 7.

The quotations were also likely to contribute to the identification of an alleged victim of sexual assault and IPSO found the online version of the article breached Clause 11 of the Code, which covers victims of sexual assault.

*A man v Wilts & Gloucestershire Standard: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00768-15](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00768-15)*

The clause is used principally to protect alleged victims but it applies equally to young witnesses.

Social media can provide a forum for discussion of court cases – and that can increase the risk of victims being identified, even though this is beyond the control of the newspaper publishing the original story.

IPSO took the opportunity to issue a warning about social media when it cleared a newspaper of a complaint under Clause 7 because its coverage fully complied with the Code. IPSO's complaints committee said: "The newspaper was not responsible for the comments made identifying the child on social media, which had been posted on an individual's unmoderated page in relation to a different article (albeit one that included substantially similar material).

"Nonetheless, the committee took this opportunity to draw to editors' attention the need for care in such cases to avoid creating a forum for speculation as to the victim's identity. While editors are not in a position to constrain the circulation of links to stories and commentary on them hosted on third-party websites, consideration should be given to whether stories involving victims of sexual assault can safely

be published on publications' social media sites – particularly where they will be open to comments."

*A woman v Dunfermline Press: [www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=03503-15](http://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=03503-15)*

As always in cases involving children, the public interest would need to be exceptional to justify identification. However, there are exceptional and rare instances where the names of children who have been involved in sex cases might be put into the public domain lawfully and the public interest justification is included in the Code to cover these.

If, for example, a court banned the media from naming a child defendant facing a sexual assault charge but decided, when he or she was convicted, that he or she could be identified, then his/her name would be legitimately in the public domain and there could be a public interest in publication.

Under-age mothers – who may in law be victims of a sexual offence even if no prosecution takes place – have also been known to put themselves in the public domain. This has happened in stories concerning teenage pregnancies, abortions and parenthood where examples of cases can assist in developing public policy.

Publication of these stories is never undertaken lightly and, in addition, Clause 6 covering the welfare of children should be taken into consideration. But it is important to remember that under the law no victim or alleged victim of a sexual offence who is under the age of 16 can waive his or her anonymity, and it also cannot be waived on his or her behalf by a parent or guardian.