

Editor's Code of Practice Committee – Code Review

The Antisemitism Policy Trust is a charity that works to educate and empower parliamentarians and policy makers to address antisemitism. For more than fifteen years, the Trust has provided the secretariat to the All-Party Parliamentary Group (APPG) Against Antisemitism. The Trust has advised the government, policy makers, corporates, regulators, and many others on policies relating to antisemitism, hate crimes and online abuse. On the subject of journalism, our main concern is with antisemitic content present in, promoted by, or left without address by media outlets.

Discrimination

The Antisemitism Policy Trust has serious concerns about the discrimination clause (12) in the Editors' Code. According to the code, discrimination does not apply to groups, only to individuals. Our concerns about this were expressed in a previous submission to IPSO on the Editors' Code of Practice in 2020. Our submission included many examples of cases in which Jews, Muslims and migrant communities have been discriminated against as a group, rather than on an individual basis. Furthermore, our Chief Executive, Danny Stone, took part in a consultation event for IPSO in Sutton Coldfield, winning the audience vote in favour of our stated position, albeit the Code did not change. Not all expressions of discrimination fall under hate speech, much of it is lawful, even though it can be hateful and promote prejudice among consumers. One example is a reference to migrants as 'cockroaches' in the Sun.¹

A study by researchers from the London School of Economics conducted in 2021, found that the Daily Mail have used negative and baseless narratives about Muslims during the COVID-19 pandemic.² The study found that other outlets have also employed anti-Muslim narratives during the pandemic and strengthened Islamophobic tropes.³

¹ <https://news.un.org/en/story/2015/04/496892>

² <https://blogs.lse.ac.uk/politicsandpolicy/press-reporting-muslims-covid19/>

³ <https://blogs.lse.ac.uk/politicsandpolicy/press-reporting-muslims-covid19/>

The Daily Express is an example of a media outlet that chose to stop using Islamophobic and anti-immigrant narratives based on commercial considerations. These included an effort to attract advertisers that would otherwise refrain from publishing in media outlets that demonise against groups that possess protected characteristics.⁴

Whilst we agree that criticism of political views and beliefs is an integral component of the right to freedom of expression, and that offensive, even outrageous comments are part of our democratic discourse, we are concerned that some publications will publish antisemitic content, such as tropes about Jewish power, without redress, including under the pretense of criticism against Israel or Zionism. We have no objection to criticism of the Zionist movement or ideology or criticism of Israel but there should be recourse under the code for someone racially abusing Jews as a collective. It is certainly the case that such rhetoric appears, repeatedly, in publications that are regulated by IMPRESS: for example, 5pillars referenced ‘Zionist plots’ and ‘Zionist’ Jewish organisations in the UK as working to gain control and influence over politics.⁵ The Canary similarly referenced a ‘Zionist cancer’ and ‘political Zionists.’⁶ There is no reason to think that IPSO is somehow unlikely to preside over such content, simply because the regulatory ambit is somewhat different. Indeed, IMPRESS is currently setting a higher standard in relation to having a clause pertaining to discrimination against groups, and there has not been widespread outcry about a limiting of free speech by that regulator.

Due to the recurrence of discrimination against groups in the media, we strongly recommend, similar to the recommendation we have presented in our previous submission, that there should be appropriate recourse for groups that are subjected to discrimination, through the Editors’ Code.

As our previous submissions have made clear, there have been a number of parliamentary and other reports urging a change to the Editors’ Code of Practice in this regard and the National Union of Journalists supports the same position:

⁴ <https://www.thedrum.com/news/2019/08/07/after-axing-anti-immigration-stories-the-daily-express-hopes-advertiser-reappraisal>

⁵ for example: ‘Yet another Zionist plot to smear Scottish pro-Palestine activists is exposed.’ <https://5pillarsuk.com/2020/09/07/yet-another-zionist-plot-to-smear-scottish-pro-palestine-activists-is-exposed/> ; ‘Corbynite candidate for Labour leader agrees to Zionist lobby demands.’ <https://5pillarsuk.com/2020/01/13/corbynite-candidate-for-labour-leader-agrees-to-zionist-lobby-demands/>

⁶ <https://pressgazette.co.uk/the-canary-blames-attacks-by-political-zionists-for-failing-business-model-as-cuts-fall/>

1. In its Tenth Report⁷, the Parliamentary Joint Committee on Human Rights (JCHR) focused specifically on Clause 12 of the Editors' Code and the status of groups that had been discriminated against. This report cited numerous organisations that recommended the Code be strengthened, including the Commission for Racial Equality (now part of the Equality and Human Rights Commission). The former Press Complaints Commission's (PCC) stated position was that affording the equivalent protection to groups as existed for individuals would impede freedom of expression. Individuals of a group if subjected to alleged discrimination therefore had little other option than to complain under Clause 1 (Accuracy) of the Code. The PCC informed the JCHR that it had “not come up with a form of words” which could protect both groups from discrimination and freedom of expression. There was a general reluctance from the PCC to extend the reach of Clause 12 despite the JCHR noting that other jurisdictions had more robust protection within self-regulatory frameworks (Australia, for example, does not differ in approach between individuals and groups⁸). The JCHR found that for the PCC “Its existing system is not sufficiently robust to protect asylum seekers and other vulnerable minorities from the adverse effects of unfair and inflammatory media stories”.
2. In 2013, following rounds of written and oral evidence, an All-Party Parliamentary Inquiry into Electoral Conduct was published. The report by 12 cross-party MPs and Peers looked again at the Editors' Code. Having reviewed the evidence and referring to the aforementioned JCHR report, the committee wrote: “it is quite clear that for too long, concerns about the extent and efficacy of the PCC Code in relation to discrimination have gone without serious consideration or answer. As this report went to press, discussions about the future of press regulation were ongoing. Attempts to secure a sensible balance between the defence of freedom of expression and the protection from discrimination should be a consideration for Government as part of those debates and we urge the PCC to reconsider their position” (Recommendation 12, All-Party Parliamentary Inquiry into Electoral Conduct, p.68)⁹. Subsequent to the publication of the

⁷ <http://www.publications.parliament.uk/pa/jt200607/jtselect/jtrights/81/8102.htm>

⁸ <http://www.presscouncil.org.au/document-search/guideline-reporting-of-race/?LocatorGroupID=662&LocatorFormID=677&FromSearch=1>

⁹ http://antisemitism.org.uk/wp-content/uploads/3767_APPG_Electoral_-Parliamentary_Report_emailable.pdf

report, its chair Natascha Engel MP wrote to the Secretary of the Editors' Code Committee with details of the panel's recommendations, but no action was taken.

3. In 2015, another cross-party publication, the All-Party Parliamentary Inquiry into Antisemitism report, hailed by the Prime Minister, Leader of the Opposition, the Archbishop of Canterbury and many other leading figures in British public life – recommended:

“that the Editors’ Code of Practice be reviewed and that the relevant section be extended to give recourse for groups to complain about discrimination on the grounds of race or religion whilst ensuring a sensible balance for freedom of speech” (p.79, All-Party Parliamentary Inquiry into Antisemitism 2015).¹⁰

4. In the course of researching the 2015 report, contact was made with the Independent Press Standards Organisation (IPSO). On Monday 29 December 2014, the Director of Complaints and Pre-Publication Services at IPSO commenting on the Editors' Code of Practice stated that “there is a change that may be relevant to your interests, and that relates to who can complain about cases of alleged discrimination against individuals. IPSO can, of course, take complaints from individuals who believe that they have been discriminated against on the grounds set out in Clause 12, which include race and religion. In addition to that, however, IPSO is specifically empowered to take forward complaints from representative groups affected by an alleged breach of the Code, where the alleged breach of the Code is significant and there is a public interest in our doing so. There still has to be an individual who is the subject of the alleged discriminatory material, but this mechanism recognises that others may be affected by such discrimination, indirectly.”¹¹
5. The 2015 All-Party Parliamentary Inquiry commended IPSO on these changes, writing that “this is an important and welcome step forward. The fact that there is at least some recourse for groups is welcome. It is only logical that having accepted such rights for groups that an extension to the relevant section of the Code on discrimination be made (All-Party Parliamentary Inquiry into Antisemitism 2015, p.79)”. It does not appear that this position has

¹⁰ http://antisemitism.org.uk/wp-content/uploads/3767_APPG_Electoral_-Parliamentary_Report_emailable.pdf

¹¹ IPSO Correspondence

been made clear nor stated publicly within the Code or the Editors' Codebook.

As referenced above, a number of other organisations and platforms, which deal with the publishing of content, have embedded in their codes of practice clauses to curb discrimination against groups:

IMPRESS, the Independent Monitor for the Press, includes within its Standards Code, which are the standards set out for journalists, three antidiscrimination clauses, including a clause to stop discrimination and hatred of any group on the basis of protected characteristics:

„Publishers must not incite hatred against any group on the basis of that group's age, disability, mental health, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion, sex or sexual orientation or another characteristic that makes that group vulnerable to discrimination.”

4.2. Publishers must not refer to a person's disability, mental health, gender reassignment or identity, pregnancy, race, religion or sexual orientation unless this characteristic is relevant to the story.

4.3. Publishers must not incite hatred against any group on the basis of that group's age, disability, mental health, gender reassignment or identity, marital or civil partnership status, pregnancy, race, religion, sex or sexual orientation or another characteristic that makes that group vulnerable to discrimination.”¹²

6. The Office of Communications: According to OFCOM, material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services or BBC ODPS except where it is justified by the context.

¹² <https://www.impress.press/standards/>

7. British Board of Film Classification: The BBFC is similarly clear on group discrimination. It says, “potentially offensive content relating to matters such as race, gender, religion, disability or sexuality may arise in a wide range of works, and the classification decision will take account of the strength or impact of their inclusion”. “The context in which such content may appear also has a bearing on the decision”. Works with such content may receive a lower category where discriminatory language and behaviour is implicitly or explicitly criticised; or the work has a historical setting within which outdated attitudes or outmoded expressions would be expected; or the work is obviously dated, with little or no appeal to children; or the work seeks to challenge discriminatory attitudes and assumptions. Works with such content may receive a higher category where discriminatory language and behaviour is accompanied by threat or violence; or where there is a clear power imbalance; or where such behaviour is left unchallenged; or where discriminatory attitudes and assumptions are normalised. Where discriminatory language or behaviour occurs, this will normally be indicated in ratings information.

8. The National Union of Journalists has made clear its position on these matters, including when criticising IPSO for past decisions.¹³ The NUJ continues to argue that “complaints that do not name specific individuals but disparage whole groups of people in society, whether they are migrants, asylum seekers, women, disabled or LGBT people, should be a potential breach of the code of practice.” Professor Chris Frost, chairman of the Ethics Council of the National Union of Journalists, said the problem was mostly confined to the national press and that while freedom of expression was “vitally important” it “needs to be controlled” when it comes to newspapers.

¹³ <https://www.nuj.org.uk/news/nuj-condemns-ipso-decision-on-describing-migrants-as/>

He said: “In order to sell newspaper, one of the best ways to do that, time has shown and all the research shows, is to raise issues of fear.” “People buy newspapers when they believe there is a risk, whatever that may be, far more than they do when everything is nice and comfortable and happy.” “So newspapers have over the years had to develop the idea that there is a risk for which they either prove a solution or at least try to ameliorate what that risk is so then people will continue to buy the newspapers.”

He added: “One of the easiest ways to do that is to pick a group which is an ‘other’ group and at the moment a good one is Muslims, because of Isis, and terrorists based around Isis, it’s easy to say this is a group of which we should be fearful.”

9. Online social media platform, Facebook, includes a clause against hate speech in their Community Standards,¹⁴ to stop attacks on groups with protected characteristics:

“We do not allow hate speech on Facebook because it creates an environment of intimidation and exclusion and in some cases may promote real-world violence. We define hate speech as a direct attack on people based on what we call protected characteristics — race, ethnicity, national origin, religious affiliation, sexual orientation, caste, sex, gender, gender identity, and serious disease or disability. We also provide some protections for immigration status. We define attack as violent or dehumanizing speech, statements of inferiority, or calls for exclusion or segregation.”

10. Online social media platform, Twitter, includes in its “rules and policies” clauses against hate speech and discrimination against both “a person” and a “group” of people:¹⁵

“Violent threats: We prohibit content that makes violent threats against an identifiable target. Violent threats are declarative statements of intent to inflict injuries that would result in serious and lasting bodily harm, where an individual could die or be significantly injured, e.g., “I will kill you”.”

¹⁴ https://www.facebook.com/communitystandards/objectionable_content

¹⁵ <https://help.twitter.com/en/rules-and-policies/hateful-conduct-policy>

“Wishing, hoping or calling for serious harm on a person or group of people: We prohibit content that wishes, hopes, promotes, or expresses a desire for death, serious and lasting bodily harm, or serious disease against an entire protected category and/or individuals who may be members of that category”

“We prohibit targeting individuals with content that references forms of violence or violent events where a protected category was the primary target or victims, where the intent is to harass.”

“We also prohibit the dehumanization of a group of people based on their religion, age, disability, or serious disease.”

“We consider hateful imagery to be logos, symbols, or images whose purpose is to promote hostility and malice against others based on their race, religion, disability, sexual orientation, gender identity or ethnicity/national origin.”

Comments Boards

The Trust calls for the Editor’s Code to apply to comments boards of online publications. Currently, newspaper comments boards remain unregulated, including under the proposed Online Safety Bill. The Antisemitism Policy Trust has worked with Government, civil service and other anti-racism organisations for years, to highlight the abuse on newspaper website comments forums. For example, as secretariat to the APPG Against Antisemitism, the Trust worked with the Department of Communities and Local Government (now DLUHC) towards a moderation guide delivered by the Society of Editors in 2014¹⁶ which was inspired by discussion on this form of harm.

A study looking at comments relating to reports by news outlets in the UK, France and Germany in 2021, found that antisemitism proliferated in comments sections on social media profiles of articles that pose as a ‘trigger,’ such as reporting on events in Israel, primarily on violent clashes between

¹⁶ <https://www.societyofeditors.org/wp-content/uploads/2018/10/SOE-Moderation-Guide.pdf>

Israel and the Palestinians.¹⁷ UK publications attracted roughly twice as many antisemitic comments compared with French and German publishers. Furthermore, a study by Hacked Off found that IPSO refused to act on ‘complaints related to content in newspapers’ in unmoderated comments sections, despite the fact that racist and misogynistic abuse has appeared on these platforms.¹⁸

The charity found many examples of antisemitic and other racist and extremist content on comments boards. For example, when The Sun covered rapper Wiley’s Twitter ban, following antisemitic comments made by the rapper, some readers commented by using antisemitic tropes, including of Jewish control over the media and banking.¹⁹ These comments remained on the Sun’s website for at least five days.²⁰

Considering this, comments boards on publishers’ websites can also be fertile ground for promoting antisemitism. Currently, some publishers, such as The Times, moderate their comments boards, but they are not legally obligated to do so – for others there are concerns about liability, time and resources. However, even though comments are made by readers, not journalists, we believe that they should be subjected to moderation and in line with the Editor’s Code, albeit with some adjustments (for example, readers should not be expected to have the same level of accuracy as

¹⁷ <https://decoding-antisemitism.eu/publications/second-discourse-report/> p.9-10

¹⁸ <https://hackinginquiry.org/ipsoabjectfailure/>

¹⁹ <https://bills.parliament.uk/publications/46682/documents/1890> (this document contains highly abusive language)

²⁰ <https://bills.parliament.uk/publications/46682/documents/1890> (this document contains highly abusive language)

journalists, but harmful, extremist or racist disinformation and conspiracy theories should have no place in comments boards).

Finally, in what is a rather egregious oversight, IPSO offers ‘religion guidance’ but has completely omitted Jews from this: <https://www.ipso.co.uk/resources-and-guidance/religion-guidance/> . There is no link to the Office of the Chief Rabbi or the Board of Deputies of British Jews.

Specific Recommendations

1. We strongly recommend that the Editor’s Code of Practice should include, as part of Clause 12, the following addition, or an addition to the effect of:

“iii) The press must avoid prejudicial or pejorative reference to a group’s, race, colour, religion, sex, gender identity, sexual orientation or to any physical or mental illness or disability.

IV) Details of a group’s race, colour, religion, gender identity, sexual orientation, physical or mental illness or disability must be avoided unless genuinely relevant to the story.”

2. We strongly recommend that The Editor’s codebook, within the section explaining Clause 12 on Discrimination, is updated to include additional information on discrimination against groups with protected characteristics, which should also protect such groups from any public interest defence used to justify discrimination.
3. We recommend that complaints from groups be accepted by IPSO. We strongly recommend that explicitly, either as part of Clause 12 or as part of the ‘Public Interest’ section of the Codebook, the following caveat be published:

“IPSO is specifically empowered to take forward complaints from representative groups affected by an alleged breach of the Code, where the alleged breach of the Code is significant and there is a public interest in our doing so.”

4. In addition, we recommend that an explicitly clear rationale for assessing or failing to assess a report from a representative group under the discrimination clause in the above circumstances should be provided in an appropriate place.
5. We strongly recommend that where articles meet a public interest test (which IPSO would determine), groups should have recourse to complain without an individual having been discriminated against. We recommend that any public interest test should include a measure of discriminatory impact as well as intent or otherwise. Having the requisite test would ensure an appropriate balance between freedom of expression and protection from discrimination. It is illogical to have a policy whereby groups can be affected by discrimination against an individual but cannot be subjected to/ have recourse to address collective discrimination in the absence of an individual attack.
6. We recommend that IPSO establish and convene annually or as necessary an expert reference group comprising organisations including either the Antisemitism Policy Trust or Community Security Trust, Tell Mama and Stonewall in order that the Editors' Code can be reviewed at regular periods against examples like the articles included above.
7. We recommend a review of the religious guidance page be undertaken with immediate effect, and a full and detailed, updated page be published.
8. We recommend special provision be made to address comments boards on newspaper websites.

The Trust will be happy to discuss this further.

Yours sincerely,



Limor Simhony
Policy and Research Manager
The Antisemitism Policy Trust