



Code of Practice for Newspapers and Magazines

Handbook
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Foreword by the Chairman of the Press Council and the Press Ombudsman

At the beginning of the third three-year term of the Press Council of Ireland and the Office of the Press Ombudsman, it is timely that a Handbook should be published illustrating, in practical terms and in accessible language, the operation of the Code of Practice for Newspapers and Magazines.

It is important to note that this Code of Practice has not been written by the Press Council or the Press Ombudsman, but by journalists themselves (including editors), and is the expression of best professional practice in journalism to which all our member publications have committed themselves.

The Code has remained unchanged in any significant respect since it was first drafted under the aegis of the Press Industry Steering Committee during the 2003-2007 period, when the discussions that created the Office of the Press Ombudsman and the Press Council were in train.

The body which has oversight of the Code is the Code Committee of the Press Council of Ireland. The membership of this Committee comprises the nominees of journalistic interests, including National Newspapers of Ireland, Magazines Ireland, the Regional Newspaper Publishers Association and the National Union of Journalists (NUJ). The Press Ombudsman is an ex-officio member, and the Chairman is Mr Brendan Keenan, formerly of Independent Newspapers.

The fact that journalists have, in the Code, set the standards of professional practice by which they are prepared to let their actions be judged, is one of the core principles of the structures for press accountability which were set up in 2007, began operations in January 2008, and were officially recognised by the Oireachtas in 2010.

Equally significant is the fact that decisions about complaints under the Code are now made, not by journalists themselves, but by the independent Press Ombudsman, and, on appeal, by the Press Council, on which journalists are represented, but on which they do not have the majority voice. This guarantee of independent judgment is the other core principle of our system.

It is important to remember that editors are responsible for all the material in their print editions and material that has been posted to the web as part of editorial policy and as the result of an editorial decision. This includes photographs, cartoons, news agency material, freelance contributors and readers' letters.

These introductory remarks are for guidance only. They do not expand on the Code and are not binding on the Press Council or the Press Ombudsman.

Mr Dáithí O'Ceallaigh
Chairman, Press Council of Ireland

Professor John Horgan
Press Ombudsman

Introduction

This Handbook is intended for the information of editors, journalists and the general public. Detailed information about how to make a complaint is available on our website at www.pressombudsman.ie. The staff of the Office of the Press Ombudsman are always available to help editors, journalists and members of the public with advice about the implementation, observance, and general implications of the Code of Practice.

This Handbook gives examples of complaints that have been upheld under each Principle of the Code. It is not exhaustive, and all decisions of the Press Council and Press Ombudsman can be found at www.presscouncil.ie or www.pressombudsman.ie. The names of individual complainants and publications are not cited in this Handbook because the emphasis is on the Principles of the Code upheld and the reasons for each decision. Full details of each case are available at the link referenced at the end of each example.

The Handbook does not contain details of complaints that were considered and investigated but not upheld, because the reasons for not upholding a complaint are as many and various as the complaints themselves, and do not easily fall into specific categories. For instance, complaints may not have been upheld if the matter complained of was not sufficiently significant (Principle 1), if comment, conjecture, rumour or an unconfirmed report were clearly reported as such, and not as fact (Principle 2), if the publication showed that it strove for fairness, and that the material published, and the manner in which it was obtained, was in the public interest (Principle 3), if the material published did not breach the privacy of an individual, or did so in the public interest (Principle 5), if a court report was fair and accurate (Principle 7), or if the publication showed that it took, or offered to take, sufficient remedial action to resolve a complaint, even if the action taken or the offer made, is not accepted by the complainant as adequate. Where an offer to take such action has been rejected by the complainant but has been accepted as sufficient by the Press Ombudsman or, on appeal, by the Press Council, its subsequent implementation is at the discretion of the publication involved. Sufficient remedial action by a publication can take many forms, such as the publication of a correction, a clarification or apology, a right of reply, or the amendment or deletion of online material.

The Press Council and the Press Ombudsman are not censors. They – and the Code of Practice – are dedicated equally to the development and strengthening of best professional practice in journalism, and to defending the public good of a free press.

There are many complaints which have been the subject of successful conciliation between the Office of the Press Ombudsman, the complainant, and the publication concerned. In such cases, the Office contacts the editor directly and where the editor's response is, in the opinion of the complainant, a satisfactory response to the complaint, it is not necessary for a formal decision about a breach of the Code to be made.

Complaints can be successfully conciliated, for example, by the agreement of the publication to print a correction, clarification or apology, by the publication of a right of reply, either in the form of a letter to the editor or otherwise, a private letter from the editor to the complainant, an assurance about future coverage of the subject matter of the complaint or the amendment or deletion of online material. There is no limit to the range and type of agreement that can be reached through the conciliation

process that will successfully address complaints flexibly and creatively. Details of all conciliated cases are available at www.pressombudsman.ie

Mediation is also available as a method of resolving complaints. This provides the editor (or his/her representative) and the complainant an opportunity, on a strictly confidential basis, to meet in order to develop a shared understanding of the complaint and to work, if possible, towards reaching a mutually satisfactory resolution to the problem.

In the case of complaints that are successfully conciliated or mediated, or where the Press Ombudsman has decided that the publication has taken, or has offered to take, sufficient remedial action to resolve a complaint, no decision is taken about whether or not the article concerned was in breach of the Code of Practice. Formal decisions that the Code has or has not been broken are made only in the case of complaints that are upheld or not upheld, as the case may be.

The Preamble to the Code of Practice for Newspapers and Magazines

Preamble

The freedom to publish is vital to the right of the people to be informed. This freedom includes the right of a newspaper to publish what it considers to be news, without fear or favour, and the right to comment upon it.

Freedom of the press carries responsibilities. Members of the press have a duty to maintain the highest professional and ethical standards.

This Code sets the benchmark for those standards. It is the duty of the Press Ombudsman and Press Council of Ireland to ensure that it is honoured in the spirit as well as in the letter, and it is the duty of publications to assist them in that task.

In dealing with complaints, the Ombudsman and Press Council will give consideration to what they perceive to be the public interest. It is for them to define the public interest in each case, but the general principle is that the public interest is invoked in relation to a matter capable of affecting the people at large so that they may legitimately be interested in receiving and the press legitimately interested in providing information about it.

The Preamble, although not one of the “Principles” of the Code of Practice, is a core component of the Code. This is because it sets out the basic values on which the Principles of the Code are based and, in a number of important respects, indicates clearly how these Principles are to be applied and is therefore relevant to many decisions.

The first of these basic values relates to the freedom of the press, and its importance and value in society. The second contains the all-important definition of the phrase “in the public interest”, which appears in a significant number of Principles. It is clear from this definition that what is “in the public interest” is not the same thing as “what the public is interested in” although, of course, these categories may at times overlap.

The reason why “in the public interest” is defined so closely, and so unambiguously, is that it is, in some of the Principles, the sole justification for publishing material that might otherwise be in breach of the Code. In effect, it allows for the possibility of limited modification of the standards generally expected of journalists and editors where there is a greater good – the public interest – that can justify an exception to the general rule.

In the past, decisions about what was or was not “in the public interest” were generally made by journalists or editors on their own initiative. Since the adoption of the Code, however, it is now clear that this central question is to be defined by the Press Council and Press Ombudsman.

It does not follow that every article published needs to have a “public interest” justification as provided for in the Preamble. Newspapers and magazines habitually publish many articles – in practice the majority of their articles – which inform, educate, or entertain their readers without requiring any such justification.

Finally, it is worth noting that the Press Council, the Press Ombudsman and all member publications have a duty under the Preamble to the Code to honour the Code in the spirit as well as in the letter. This underlines the fact that the Code is, essentially, a document which values sincerity, honesty, and fair dealing as much as the specific prescriptions it necessarily contains.

Decisions of the Press Ombudsman

Principle 1 – Truth and Accuracy

1.1 In reporting news and information, newspapers and magazines shall strive at all times for truth and accuracy.

1.2 When a significant inaccuracy, misleading statement or distorted report or picture has been published, it shall be corrected promptly and with due prominence.

1.3 When appropriate, a retraction, apology, clarification, explanation or response shall be published promptly and with due prominence.

General considerations:

The need to strive for truth and accuracy may require a decision on the thoroughness of a publication's investigation of anything about which it carries a report. This does not necessarily involve a judgment on the truth or accuracy of the report itself. The extent, and professionalism, of a publication's investigation and inquiry prior to publication is among the elements that will be taken into consideration when deciding this.

It is widely accepted that publications – especially those produced under tight deadlines – are not always error-free. This is why any inaccuracy, misleading statement or distorted report must always be significant for a decision to be upheld under Principle 1, and there is a degree of tolerance, both in public opinion and implied in the Code itself, for insignificant errors.

Who should correct errors, and how, depends on the context in which the original error was made. If a publication has printed a significant error on its own authority, then it also has a responsibility to correct the error, and should not make a complainant responsible for making the correction.

The fact that misleading statements or distorted reports may also be breaches of Principle 1 means that some statements or reports which may be technically accurate (i.e. that do not include any factual inaccuracies) may nonetheless be in breach of Principle 1 if they are in other respects misleading or distorted. This may be because the headline to an article exaggerates or is not supported by the information contained in the article, or because the article is patently misleading or distorted for some other reason.

If headlines are to be justified as part of a news report under Principle 1 they should be accurate, truthful, not misleading and not distorted, although a certain licence is acceptable in the interests of effective condensation.

The core characteristics of any acceptable correction or apology for a significant admitted error, under Principle 1, is that it should be published promptly and with due prominence. A qualified apology usually only exacerbates the original error, and for that reason is generally inappropriate.

Sample decisions:

... significant inaccuracy (1.2)

- The Chief Executive of a company complained that an article about her contained a number of significant inaccuracies and misleading statements. A number of factual errors were highlighted, and evidence was provided that some of the hypothetical questions raised in the article as issues affecting the company and its Chief Executive were based on misunderstandings, misinterpretations, or incomplete information, and were therefore misleading.

The newspaper initially offered to clarify these matters in a follow-up article. It subsequently offered to publish an interview with the complainant, and finally offered to publish a clarification and invited the complainant to submit a draft.

The Press Ombudsman found that the article contained significant factual inaccuracies and misleading statements, that the newspaper's offer to resolve the complaint was not adequate in the circumstances, and that the article was consequently a breach of Principle 1

<http://bit.ly/1arLYfk>

- A national teaching organization complained that two articles reporting that it had delayed in carrying out a survey on maths teachers until five months after it had been requested to do so by the Minister for Education were inaccurate. The complaint was upheld because the complainants submitted clear evidence to support their contention that the articles were significantly inaccurate <http://bit.ly/18vQjuM>

... it shall be corrected... (1.2)

- A Government Minister complained about the accuracy of a headline on a front page, which referred to an article on a subsequent page wherein the writer took issue with remarks made by her. The newspaper said that all headlines attempt to sum up the contents of an article in a small number of words, and that where the points made are complex ones, the reader would inevitably have to read the full article in order to fully understand those complexities, and that the headline in question was a fair and accurate summation of the key points made by the writer of the article.

However, the Press Ombudsman found that the unmistakable import of the headline, underlined by its use of quotation marks, was that the writer of the article had accused the Minister of lying. He said that the article contained no such accusation and he noted that in a submission made to him on behalf of the newspaper, the author of the article, while maintaining his personal belief that the Minister had misled the Dáil, stated that he “did not accuse her of lying.” In those circumstances, the Press Ombudsman said that the headline was significantly misleading and inaccurate, that it should have been corrected by the newspaper, and that an offer made by the newspaper of a right of reply was wholly inadequate <http://bit.ly/19oJqlb>

- A newspaper offered a complainant the opportunity to contribute an article to be published as a right of reply, or to write a letter to the editor for publication, in either of which, it said, the complainant could make the necessary corrections to an article which contained significant errors about him. The Press Ombudsman found that the newspaper's suggestion that the complainant himself should be responsible for the correction of significant inaccuracies it had published was inadequate, and the complaint was upheld <http://bit.ly/11Ug8hr>
- The Press Ombudsman upheld a complaint from a man who complained that a newspaper published a photograph of him to illustrate an article highly critical of another person with the same name. Although the newspaper accepted that it had published the photograph of the complainant by mistake, it offered to publish a correction only if it could be accompanied by the republication of additional information that would raise controversial past issues concerning the complainant. The Press Ombudsman found that the inclusion of such a condition was wholly unacceptable in such a serious case of mistaken identity and upheld the complaint under Principle 1 <http://bit.ly/1m2EnHD>

Principle 2 – Distinguishing Fact and Comment

2.1 Newspapers and magazines are entitled to advocate strongly their own views on topics.

2.2 Comment, conjecture, rumour and unconfirmed reports shall not be reported as if they were fact

2.3 Readers are entitled to expect that the content of a publication reflects the best judgment of editors and writers and has not been inappropriately influenced by undisclosed interests. Wherever relevant, any significant financial interest of an organisation should be disclosed. Writers should disclose significant potential conflicts of interest to their editors

General considerations:

Principle 2, which is based on the key distinction between news and comment, protects the right of a free press to express its own opinions strongly. A major implication of this is that comment is generally afforded considerably more latitude than news and information, especially in the light of the provisions of the Preamble to the Code on “the freedom to publish.” This protection extends to comments generally but, where the publication presents comments as fact, and when these are based on other statements that can be disproved or are unverifiable, the statements concerned cannot benefit from the protection afforded to comment.

The interpretation and application of Principle 2 to headlines has been a frequent cause of disagreement and controversy, because headlines inevitably cannot tell the whole story, particularly when the story is a complex one. On the other hand, while a headline is necessarily a compressed and sometimes incomplete summary of the contents of the article, any statement presented as fact must be fully supported by the content of the article as a whole. If the headline has been "sexed up" to such an extent that it is not justified by the content of the article as a whole, then the headline is a potential breach of the Code.

It is worth noting in this context, the advisability of adequately indicating, for the benefit of readers, that a statement in a headline is one which is attributed to a source later in the article or is in other aspects unconfirmed, for example, by the use of single quotes.

It is worth remembering also that in some publications - those in which a headline will cover all or most of the entire front page - it is not necessary even to purchase the publication to get the unavoidable impression that what is stated in the headline is being presented as fact, when it may be only a rumour, an unconfirmed report or an opinion.

In relation to the provisions of Principle 2 on undisclosed interests, it should be noted that this part of Principle 2 imposes a substantial burden of proof on a complainant, who has to be able to demonstrate not only the nature of any undisclosed interests, but that they have been responsible for inappropriately influencing editorial content. A complainant would also have to provide satisfactory evidence that any relevant and significant financial interests of any organisation should have been, but were not, included in an article; and that writers not only had potential significant conflicts of interest, but that they failed to disclose them to their editors. No complaint has been upheld under Principle 2.3.

The commonest and most satisfactory way of complying with Principle 2 of the Code of Practice is to clearly attribute comment, conjecture, rumour or unconfirmed reports in any article to the publication's source or sources - including, where necessary or appropriate, anonymous sources. It is also good practice when anonymous sources are being cited, although it is not strictly speaking required by the Code, for publications to give readers some additional information about the source that can – without compromising the source's identity – help readers to evaluate its credibility.

The decisions itemised below, as their full text makes clear, do not mean that the Press Ombudsman has decided that the statements complained about were either true or false – just that they were a comment, conjecture, rumour or unconfirmed report reported as fact, and for this reason alone breached Principle 2 of the Code.

Sample decisions:

Comment, conjecture, rumour and unconfirmed reports shall not be reported as if they were fact (2.2)

- The Chief Executive of a major hospital complained about a lead article on page one of a newspaper and a second article on page twelve which reported on the treatment and care of a number of patients in the hospital. He complained that a statement in the second paragraph of the article that a patient's family had received an official apology "after discovering that a staff member had lodged gauze in his mouth causing him to be 'blue and gasping for breath'" was an unconfirmed report presented as a fact. The newspaper said that the accuracy of the statement was supported by an independent report of an incident involving the patient in question and by what it had been told by the family of that patient. However, the Press Ombudsman found that the decision by the newspaper to present the contested and unproven allegation about the effect of the gauze in the patient's mouth as a fact in the first article, while relegating the independent report's highly relevant findings about this allegation to the second article, amounted to a breach of Principle 2 <http://bit.ly/1j38hOH>

The Press Ombudsman upheld a complaint about a number of articles that reported in their headlines that a person had taken his own life because of his concern about an unpaid electricity bill. The Ombudsman found that because there was evidence that the deceased was under financial pressure for a number of different reasons (including his electricity bill), and as his death was sudden, comment or conjecture about the reason or reasons for his suicide could legitimately be reported, as long as they were reported as such. However, he said that because the articles' headlines prominently reported, as fact, that one factor alone – an outstanding ESB bill – was the reason for the man's death, this was in breach of Principle 2 <http://bit.ly/1hOVaAy> <http://bit.ly/1iGHu87> <http://bit.ly/1hOVsHp>

- A man complained about a statement in an article about his role in an unofficial dispute which, he said, contained an unconfirmed report presented as fact. The Press Ombudsman found that the newspaper published the statement about the man's purported key role in the dispute as fact, without any corroboration or attribution, and without any indication that it was comment, conjecture, rumour, or an unconfirmed report, and so upheld the complaint <http://bit.ly/1eOAMuc>

Principle 3 – Fairness and Honesty

3.1 Newspapers and magazines shall strive at all times for fairness and honesty in the procuring and publishing of news and information.

3.2 Publications shall not obtain information, photographs or other material through misrepresentation or subterfuge, unless justified by the public interest.

3.3 Journalists and photographers must not obtain, or seek to obtain, information and photographs through harassment, unless their actions are justified in the public interest.

General considerations:

Principle 3 refers clearly to two separate journalistic activities: “procuring” information, and “publishing” information. “Procuring” or, in the language of Principle 3.2 and 3.3, “obtaining” information is a process issue, and Principle 3 provides that a number of specified forms of journalistic behaviour in the pursuit of information will be considered unfair or dishonest if they cannot be justified in the public interest.

Complaints about a lack of fairness or honesty in relation to the *publication* of news or information (as opposed to the behaviour of a journalist) are – given that issues of fairness and unfairness are almost wholly subjective in nature – more difficult to determine. Nonetheless, perceived unfairness in publishing news and information may sometimes be invoked as a cause of complaint where significant and relevant information available to the publication has been omitted, or where the article gratuitously includes significantly irrelevant or prejudicial material, unjustified by considerations of the public interest.

The critical aspect of Principle 3.2 and 3.3 is that actions or articles that would otherwise amount to a breach of the Code are permissible if they can be justified because they were “in the public interest” as provided for in the Preamble to the Code. It is important to recognise that not all actions or articles which publications argue are in the public interest are necessarily so: each case will be decided by the Press Ombudsman or on appeal by the Press Council on its merits.

In relation to the provisions of Principle 3.3 in relation to harassment, it should be pointed out that while complainants may on occasion justifiably feel that they are being harassed by the media, it may not be possible to investigate or uphold a complaint under this Principle if the journalists or photographers concerned, or their publications, cannot be clearly identified.

Sample decisions:

... shall at all times strive for fairness and honesty ... (3.1)

- A man complained that an article about him omitted to include a statement that he had made which he considered was very significant to the overall story being published. The Press Ombudsman found that the omission of this statement from the article was a breach of Principle 3.1 because the newspaper did not strive for fairness in the publication of the information it had procured <http://bit.ly/1UkRQg>

- A businessman complained about the publication of a large photograph of him as part of an article about his business dealings which was headlined “Was This a Crime?”. The Press Ombudsman found that the direct association of the dramatic headline with the large photograph of the complainant amounted to an ambiguous and, in the circumstances, unfair publication of news and information and consequently breached Principle 3.1 <http://bit.ly/1iGKnG4>

... misrepresentation, subterfuge ... (3.2)

- The Press Ombudsman upheld a complaint by a man who said that a newspaper obtained a photograph of him through misrepresentation. The man provided evidence that he had agreed to an interview with a newspaper on condition that no photograph of him would be taken or published - an undertaking which the newspaper gave but subsequently disregarded, as it published the article accompanied by a large photograph of the complainant taken the day after the interview without his consent. The complaint was therefore upheld <http://bit.ly/19oO6HH>
- The Press Ombudsman found that private photographs supplied by a complainant for use in a regional paper, but subsequently published by a newspaper different from that for which permission was originally sought and given, was a breach of Principle 3.2 <http://bit.ly/1a28gIn>

... harassment ... (3.3)

- A man complained that journalists attached to a newspaper had harassed him for a period of some days to the extent that he was effectively housebound, and had to seek the intervention of the police to remove them. The newspaper said that the complainant’s previous conviction for manslaughter was a matter that had attracted massive public attention, that it remained a matter of huge public interest, and therefore the newspaper’s actions were justified. The Press Ombudsman decided that the evidence submitted on behalf of the complainant was sufficient to prove that harassment had taken place. He decided to uphold the complaint on the grounds that the “public interest” criteria required under Principle 3.3 had not been satisfied, and he did not accept the newspaper’s contention that the behaviour of its journalists was justified because the complainant had been found guilty of manslaughter in a widely-publicised case some five years earlier <http://bit.ly/1UmqO7>

Principle 4 – Respect for Rights

Everyone has constitutional protection for his or her good name. Newspapers and magazines shall not knowingly publish matter based on malicious misrepresentation or unfounded accusations, and must take reasonable care in checking facts before publication

General considerations:

There are two requirements to Principle 4. The first requirement is that publications should not knowingly publish matter “based on malicious misrepresentation or unfounded accusations”. The second requirement is that publications must take “reasonable care in checking facts before publication.”

For a complaint to be upheld on the basis that a publication knowingly published matter based on malicious misrepresentation or unfounded accusations, sufficient evidence would have to be submitted to prove that this is the case. The difficulty in proving malice will be obvious. A complainant’s belief that this was the case, no matter how strongly held, is not of itself sufficient evidence to uphold a complaint that the article was a breach of the Code.

While an article may contain inaccurate statements which may or may not be in breach of other Principles of the Code, their inclusion will not necessarily be in breach of Principle 4 if reasonable care had been taken in checking facts before publication. Where there is no evidence, or insufficient evidence, that the publication had taken such reasonable care, it is more likely to result in a finding that Principle 4 has been breached.

Any evidence a publication can provide to support the fact that it had taken reasonable care in checking facts in advance of publication would be taken into consideration in making a decision under Principle 4. One way of checking facts in advance of publication is by contacting a person or organization about whom the article is being written. This is particularly the case if information in the article is critical or disparaging of that person or organization, and in such circumstances the requirement to take reasonable care would imply that anyone who may be the subject of allegedly factual and potentially damaging reports should normally be contacted by the publication in advance of publication to give them an appropriate opportunity to vindicate their good name, or to assist in the checking of facts which might reflect adversely on their good name.

However, a publication is not required by Principle 4 to independently verify the truth or otherwise of each and every allegation or opinion attributed to a third party and published as part of public or political controversies, although there are evidently situations in which the subjects of such allegations should, in the spirit of the Code, be afforded a reasonable opportunity to comment or respond. Many such allegations or opinions may in any case not be amenable to definitive verification, and, as such, will remain in the realm of public controversy.

Sample decisions:

... reasonable care in checking facts ...

- When a public official made a complaint that a publication did not take reasonable care about the accuracy of material it published about him, the Press Ombudsman decided that the publication's reliance on an unchecked belief was insufficient evidence that reasonable care had been taken in establishing a key fact, and the complaint was upheld <http://bit.ly/1j3c1zN>
- A trade union representative complained that a newspaper did not take reasonable care in checking facts before the publication of an article which included an inaccurate reference to her membership of the governing body of an educational institution. The Press Ombudsman found that if reasonable care had been taken in checking the facts in relation to the complainant before publication, her good name would have been afforded the degree of protection envisaged by Principle 4 <http://bit.ly/1aj90Da>
- When a number of articles were published critical of a shareholder in an estate in County Sligo, the Press Ombudsman upheld the complaint because the newspaper provided no evidence that any attempt had been made to contact either the complainant or the estate's representatives prior to publication of the article <http://bit.ly/1aj93Pp>
- The mother of two young men who were well known in the celebrity world complained about statements in an article which were attributed solely to an unnamed "family friend" to the effect that she was unhappy about her sons' relationship with a named young woman. She said the statements were untrue and effectively portrayed her as a hypocrite. Although the newspaper offered to publish a statement in its "Corrections and Clarifications" column, including an apology for any "confusion" that may have arisen, the Press Ombudsman found that the publication of an anonymous and therefore unverifiable rumour or piece of gossip that may have serious implications for the person who is its subject, without any evidence that it had been appropriately checked with that person, was a breach of Principle 4 <http://bit.ly/L1u3Vh>

Principle 5 – Privacy

5.1 Privacy is a human right, protected as a personal right in the Irish Constitution and the European Convention on Human Rights, which is incorporated into Irish law. The private and family life, home and correspondence of everyone must be respected.

5.2 Readers are entitled to have news and comment presented with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or in the public interest.

5.3 Sympathy and discretion must be shown at all times in seeking information in situations of personal grief or shock. In publishing such information, the feelings of grieving families should be taken into account. This should not be interpreted as restricting the right to report judicial proceedings.

5.4 Public persons are entitled to privacy. However, where a person holds public office, deals with public affairs, follows a public career, or has sought or obtained publicity for his activities, publication of relevant details of his private life and circumstances may be justifiable where the information revealed relates to the validity of the person's conduct, the credibility of his public statements, the values of his publicly expressed views or is otherwise in the public interest.

5.5 Taking photographs of individuals in private places without their consent is not acceptable, unless justified by the public interest.

General considerations:

Principle 5 is – together with Principle 1 – among the Principles most frequently cited in complaints. This is for two reasons: because privacy has always been a key issue in relation to media practice, and because Principle 5 is a very detailed one, thereby creating a wide field in which complaints might arise. It is also one of the key Principles in which an actual or potential breach of the Code may not lead to a decision to uphold a complaint if the publication in question can successfully defend its decision to publish on the grounds that such publication was in the public interest, as defined in the Preamble to the Code.

The “public record” is a term used to describe material that has been officially published, such as court judgments, parliamentary debates and a wide range of other material from official sources. It is sometimes confused with, but is not the same as, matter that is in the public domain, which comprises matter that has already appeared in the media or in some other format to which the public has access – the web, for example. Matter that is in the public domain is not automatically entitled to the same protection as matter that forms part of the “public record”, and it may therefore, depending on the circumstances, be subject to the requirements of Principle 5.

Many of the complaints made under Principle 5 are in relation to the requirement to employ editorial discretion when dealing with situations of grief or shock. This is an area in which the importance of Principle 5, as a guide to best professional practice (including, by implication, not causing gratuitous distress to people in situations of grief or shock) is clear. The importance of editorial discretion in taking the feelings of grieving families fully into account is, in this context, also relevant. The

availability of matter in the public domain, on the internet or elsewhere, does not mean that it can be re-published at any time without regard to the feelings of grieving families.

This is also particularly relevant when dealing with the highly sensitive and tragic issue of suicide. Suicide is without doubt a prominent mental health issue in today's society and, while articles and reports about it may well be justified in the public interest, the Code, and the decisions made about it in this context, clearly implies that they should not be reported in such a way as to add unnecessarily to the great distress of families involved. The media guidelines of the Samaritans (www.samaritans.org) on reporting suicide and self-harm, and other relevant organisations, can usefully be considered in conjunction with the Code in relation to this issue.

Although public persons live much of their lives in the public eye, this does not negate their right to privacy, which is generally not inferior to the rights of ordinary citizens, and may be breached only in the context of the public interest as provided for in the Preamble to the Code.

The definition of a "private place" is, in line with a number of decisions based on Principle 5, not necessarily the same thing as "private property". It is reasonable to infer, in the light of these decisions, that a "private place" in the context of the Code means any place in which a person has a reasonable expectation of privacy.

Sample decisions

... private and family life, home and correspondence ... (5.1)

- The Press Ombudsman upheld a complaint made by a public representative under Principle 5.1 about an article that reported on the state of his health, even though some details of the man's medical condition were already public knowledge. The Press Ombudsman found that publication of information about the man's medical treatment and how the family was coping breached Principle 5.1 of the Code. In coming to his decision, the Press Ombudsman said that although the right to privacy can be explicitly waived by an individual, clarity is always essential in such circumstances, and courtesy shown towards a journalist or photographer must not be mistaken for consent <http://bit.ly/19oQsX0>
- A complaint was upheld when a man complained on behalf of his son about an article which featured a detailed account of his son's social life (including photographs) following his discharge from prison after serving a number of years for manslaughter. The Press Ombudsman decided that although publication of information about someone's private life without their consent is not necessarily a breach of Principle 5, the publication of substantial, detailed, textual and pictorial information about the man's private life in this article was not sufficiently justified by the newspaper's argument that it satisfied public curiosity about someone who, although he had been convicted of a serious criminal offence, nonetheless retained an identifiable right to privacy <http://bit.ly/KeXe5I>

... respect for the privacy and sensibilities of individuals ... (5.2)

- A key witness in a high-profile court case complained that an article which identified her place and location of employment breached her privacy. The Press Ombudsman decided that although a considerable amount of information about the complainant had previously been published as the result of her involvement in the court case in question, few members of the public would have been aware of the details of her current employment. In the circumstances, he found that the gratuitous publication of this information, which he said could expose the complainant to further unwelcome attention and potential intrusion, failed to reflect the respect for the privacy and sensibility of individuals enjoined by Principle 5.2 of the Code. He concluded that as there was no evidence that the publication of the information was in the public interest, the article breached the woman's privacy <http://bit.ly/1j3dAOH>

Sympathy and discretion situations of personal grief or shock ... (5.3)

- A woman complained about the re-publication of identifiable photographs of her murdered son's dismembered body. The Press Ombudsman decided that, even though the photographs had been sourced from the internet, the publication clearly failed to take into account the feelings of the grieving family and the complaint was therefore upheld <http://bit.ly/1gzZG1Z>
- A woman complained about an article about the funeral of her father, who had died by suicide. She said that statements in the article that were based on her personal memories of her father, as expressed in her eulogy, were reported without attribution to her, and in a modified form which changed their meaning. Although the newspaper offered its sincerest apologies, and argued that the reporting of suicide, and the funerals of those who die by suicide, is a legitimate exercise of the public responsibility of newspapers generally, the Press Ombudsman upheld the complaint. He said that the rights of the newspaper in this case were insufficient to justify the distress caused by taking statements about the deceased from a eulogy by the complainant and presenting them as if they were the outcome of the newspaper's own investigations <http://bit.ly/1m2JasB>
- An article reported on the inquest into a young man's death by suicide, and although it did not identify the young man or his family, it included the details of a text message sent by him to his mother just before he died. The newspaper also graphically reported details of the mother's distress as this message was read out as evidence at the inquest. The newspaper maintained that its report was not a breach of the Code because it highlighted important issues surrounding suicide and that it saw reporting about suicide as a vital element in the battle to reduce the incidence of suicide. In this case, and despite the fact that there is no legal bar on the publication of evidence given in open court (as at an inquest), the Press Ombudsman decided that publication of the text message from the complainant's son, and the gratuitous publication of a description of his mother's distress as it was being read out, was a clear breach of the requirements of Principle 5.3 of the Code to take the feelings of grieving families into account <http://bit.ly/1gA0aVI>

Public persons public interest ...(5.4)

- A man complained about an article that included the publication of personal details about him, which he said had no public interest value. The Press Ombudsman found that although the complainant had been, and remained, a public person, the publication of some of his personal details in the article did not satisfy the requirement of Principle 5.4 of the Code as they did not relate “to the validity of the person’s conduct, the credibility of his public statements, the value of his publicly expressed view”. Nor were they otherwise in the public interest. For this reason the Press Ombudsman decided to uphold the complaint <http://bit.ly/1ajaQUO>

.... photographs private places ...(5.5)

- A woman complained about the publication of a photograph of her that was taken while she stood inside her house behind a glass-panelled door, and which was used to illustrate an article written about her. While the newspaper said that the photograph was taken from a public road, it was clearly taken of her standing inside her own home, in a place where she should have had a reasonable expectation of privacy, and was published without her consent. In these circumstances, the Press Ombudsman found that the taking of the photograph breached the woman’s reasonable expectation of privacy <http://bit.ly/1ajb3aA>

Principle 6 – Protection of Sources

Journalists shall protect confidential sources of information.

General considerations:

Principle 6 of the Code of Practice requires journalists to protect confidential sources of information. However, it does not preclude the publication of additional information about a source that does not compromise its confidentiality. Although attribution to a source - even a confidential one - does not require the precise identification of a specific source, any information a publication can give about the nature of its sources - including its confidential sources - will greatly enhance the credibility of its reports.

At the same time, the wording of Principle 6 suggests strongly that the need for journalists to protect the identity of confidential sources is paramount.

Only one complaint has been submitted to date under Principle 6 and it was not upheld.

Principle 7 – Court Reporting

Newspapers and magazines shall strive to ensure that court reports (including the use of photographs) are fair and accurate, are not prejudicial to the right to a fair trial and that the presumption of innocence is respected.

General considerations:

Anything said and any evidence given or documents lodged in open court is a matter of public record, and can therefore be reported verbatim. There is, of course, no requirement on a publication to report all of the details of evidence presented in court, so long as the details that are reported, and the overall coverage of the court case, are accurate, fair and balanced.

Court reports nevertheless sometimes generate complaints from those directly involved, either as witnesses or as plaintiffs, if they feel that they may have been disadvantaged by a report of proceedings in which they were involved.

Although Principle 7 does not define fairness in any detail in relation to court reports, a reasonable person reading such reports has a right to expect that they contain elements of the evidence adduced by both sides, as well as a fair and adequate summary of the judgment, and do not report contested evidence as fact. Litigants or witnesses may well take exception to the omission from court reports of evidence considered critical by them, but court reports cannot be considered to be unfair or inaccurate solely on the basis that detail considered vital by one of the participants in contested proceedings has been omitted.

There is no requirement on a publication to report all the details of evidence presented in court proceedings, or to allocate column inches to testimony on any basis other than editorial judgment about the significance, relevance, and newsworthiness of what it reports, subject to the overriding requirements of fairness and accuracy.

Principle 7 may also, of course, come into play in relation to the publication of material about the outcome of court cases that are being or may be appealed. As many judicial proceedings in the lower courts lead to the imposition of prison sentences, such cases and their outcomes may, of course, be fully reported. However, the requirement of Principle 7 for court reports to be accurate and fair means that the imposition of a jail sentence cannot - given the ever-present possibility that a defendant may be released on bail pending hearing of an appeal - be equated with imprisonment unless there is firm evidence that the defendant in the case has actually been incarcerated.

Sample decisions:

..... are fair and accurate

- A man complained that an article which reported on two criminal court cases in which he had been a defendant was not accurate, as it had stated that he had been sent to jail, when he had not. Although a sentence of imprisonment had been handed down, the complainant had not served time in prison and the conviction in each of the cases had been successfully appealed. The Press Ombudsman decided that reporting that the complainant had been “sent to jail” and that a judge had “jailed” him was sufficiently inaccurate to warrant a decision that the article had breached Principle 7 of the Code of Practice. In that case, the Press Ombudsman also decided that the stated need for fairness in court reporting in Principle 7 requires publications to complete appropriately their coverage of relevant judicial proceedings after a successful appeal against a guilty verdict which they previously reported has been brought to their attention <http://bit.ly/1iGV23u>
- A man complained about an article which was a brief summary of a lengthy and complex decision by the Court of Justice of the European Union on a number of issues referred to that Court by the High Court in Ireland in connection with a long-running legal case involving the complainant. The Press Ombudsman found that the complaint was supported by persuasive evidence that the summation of the case in the article in question was a breach of Principle 7 of the Code <http://bit.ly/1cVxNAE>
- The editor of a newspaper group complained about the accuracy of the headline to a number of articles, each of which stated that the Circuit Court had handed down fines of €2,000 to the newspapers and that they were in contempt of court. He also complained about the accuracy of statements in each of the articles that his newspapers had each been fined €1,000 for contempt of court, and that the judge had “instructed” him to attend court. The Press Ombudsman found that there was no evidence that the newspapers had been convicted of contempt of court, that they had been fined by the court, or that the complainant had been instructed by the judge to attend court. In these circumstances, he found the statements complained about were significantly inaccurate in breach of Principle 7 of the Code <http://bit.ly/JUKhP7>

Principle 8 – Prejudice

Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness, or age.

General considerations:

Principle 8 contains two separate provisions. It provides that newspapers and magazines shall not publish material intended or likely to cause grave offence, or stir up hatred against an individual or group, on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness or age. Although the latter categories are identical to those set out in the Prohibition of Incitement to Hatred Act 1989, the provisions of the Act apply only to material that a court may decide constitutes an incitement to hatred, whereas the Code of Practice identifies another potential area for concern and decision when it refers to the publication of material “intended or likely to cause grave offence” on any of the grounds specified.

It is important to recognise that although a complainant may claim to have been gravely offended by the publication of an article, and therefore believes it to have been in breach of Principle 8 of the Code, a decision to uphold a complaint will be made on the basis of whether or not the material concerned was, in the opinion of the Press Ombudsman, intended or likely to cause grave offence on any of the grounds specified, rather than on the basis of the complainant’s assessment of the gravity of the offence caused.

Some readers have also complained about particular articles on the grounds that they were “offensive” or “caused offence” to them for a variety of reasons. However, a complaint about a breach of Principle 8 can be upheld only if an article caused grave offence or stirred up hatred on the basis of the complainant’s association with one of the twelve categories referred to in that Principle. In this context it is also worth noting that the legitimate right of a publication to comment on the news will occasionally cause offence to some people, but this does not necessarily, of itself, amount to a breach of Principle 8.

Sample decisions:

- A group of people complained about an article headlined “Sterilising junkies may seem harsh, but it does make sense”, which commented favourably on a suggestion by a doctor that such people should be offered money to be sterilised. It described a group of people whose anti-social activities the writer had witnessed from his taxi as “junkies” and “feral, worthless scumbags”, and voiced the writer’s opinion that “if every junkie in this country were to die tomorrow I would cheer.”

While accepting that publications are entitled to publish what they consider to be news without fear or favour, and to comment on it, the Press Ombudsman found that neither the justification advanced in the article for the comments complained about nor the subsequent publication by the newspaper of letters from other complainants, or the publication of a feature reacting to the

article, could obviate the breach of Principle 8 which the article presented <http://bit.ly/19oVFyg>

- An advocacy organisation complained about an article headlined “Traveller Gangs have become a mafia the law fears to tackle”, which asked “When did Travellers go from being craftspeople to establishing themselves as a pan-national crime gang?”, and reported that many Travellers had turned to drugs and crime. The Press Ombudsman upheld the complaint because he found that it caused grave offence to many people on the basis of their membership of the travelling community, and because the opinions were expressed in a way that inadequately distinguished between Traveller gangs and the community of Travellers in general <http://bit.ly/1m2KVpG>
- A number of organisations and individuals complained about an article headlined “Every single human decision has a consequence – so remember that the next time you vote for someone’s rights”, which they said caused grave offence under Principle 8. The article gave the writer’s opinions on the extension of full marriage rights to same-sex couples. Although the newspaper said that the article was self-evidently an opinion piece containing views on a matter which was divisive and controversial, the Press Ombudsman concluded that the newspaper’s failure to distinguish adequately between fact and comment were capable of causing grave offence under Principle 8 <http://bit.ly/L1BrQz>

Principle 9 – Children

9.1 Newspapers and magazines shall take particular care in seeking and presenting information or comment about a child under the age of 16.

9.2 Journalists and editors should have regard for the vulnerability of children, and in all dealings with children should bear in mind the age of the child, whether parental or other adult consent has been obtained for such dealings, the sensitivity of the subject-matter, and what circumstances if any make the story one of public interest. Young people should be free to complete their time at school without unnecessary intrusion. The fame, notoriety or position of a parent or guardian must not be used as sole justification for publishing details of a child's private life.

General considerations:

It is worth noting that the provisions of Principle 9 are not prescriptive, in the sense that they do not define in precise terms what may or may not be published about children. While they do not insist, as a precondition, that it is necessary to obtain the consent of any specific category of individual prior to publication of material about a child, they do suggest that in certain circumstances it would be wise to do so. In this sense, they imply a substantial duty on journalists and editors to take all relevant considerations fully into account before coming to a final decision in publishing any material when the vulnerability of children may be an issue. In situations involving articles about, or photographs of, children, this is a prime area for the exercise of editorial discretion, commonsense and empathy. Editors should also take particular care in sourcing photographs of children from websites or other social media, where they may have been posted without any intention that they should be used in high-circulation print media.

Publications should, in the light of Principle 9, be particularly careful when publishing photographs of very young children generally. While the use of certain photographs to illustrate civil court cases is not prohibited by law, and while the use of photographs can enhance the reader appeal of court-related material, parents are also understandably and reasonably sensitive to the publication, without their knowledge or permission, of photographs of their very young children in connection with civil court cases.

Sample decisions:

- The Press Ombudsman highlighted the need for care when publishing photographs of children when the parents of a very young child who was involved in a civil action for damages complained about the publication of a photograph of their child that accompanied the court report. The newspaper said that the issue involved was the right of the media to report on matters conducted in open court, and that as there were no legal restrictions preventing full reporting of the case they were fully entitled to publish the photograph. However, the Code has created a new situation in which legality, custom and practice are not the sole considerations now governing press coverage of children. In this context, the Press Ombudsman decided that Principle 9 requires publications to take particular care in this area, to have regard for the vulnerability of children, and in all dealings with children to bear in mind the age of the child, whether parental or other consent has been obtained for such dealings, the sensitivity of the subject-matter, and what circumstances if any make the story one of public interest. He decided to uphold the complaint, given the vulnerability of the very young child concerned in the

circumstances of the particular civil case in question, and in the light of the other important recommendations of Principle 9 <http://bit.ly/Kf0pdM>

- The Press Ombudsman upheld a complaint from a parent about an article that included a photograph of her young son, even though the face of the child concerned had been pixelated, on the basis that the identity of the child could have been ascertained by reference to other elements of the photograph.

The article in question included a photograph of the young child and two adults, all of whose faces were pixelated. It reported that the child in question, who was not identified by name, was involved in a potentially criminal activity. The newspaper said that the photograph had been taken from the Bebo website and was therefore in the public domain. However, the Press Ombudsman said that any prior publication on such a site cannot, given the circumstances of this particular case, justify the inevitable impact of its re-publication in the context of a serious and unverifiable allegation in a mass circulation newspaper <http://bit.ly/1d0yqFy>

Principle 10 – Publication of the Decision of the Press Ombudsman / Press Council

10.1 When requested or required by the Press Ombudsman and/or the Press Council to do so, newspapers and magazines shall publish the decision in relation to a complaint with due prominence.

10.2 The content of this Code will be reviewed at regular intervals.

General considerations:

While there is no black and white definition in Principle 10 of “due prominence,” all decisions must be published in accordance with the “Publication Guidelines for Newspapers and Magazines” a copy of which are available on our website www.presscouncil.ie or www.pressombudsman.ie

Only two complaints have been made under Principle 10, and only one was upheld. The complaint that was upheld was referred to the Press Council by the Press Ombudsman, and is included in the “Referrals” part of this booklet.

Referrals to the Press Council of Ireland

The Press Ombudsman may refer any complaint directly to the Press Council of Ireland for a decision. In practice, this happens very rarely: since the institution of the Press Council and the Office of the Press Ombudsman in 2007, only nine complaints have been so referred.

The grounds for referral have included issues relating to the publication guidelines of the Press Council; issues of substantial complexity or significance (although complexity and/or significance do not, of themselves, require a referral, which is entirely at the discretion of the Press Ombudsman), and complaints where a decision by the Press Ombudsman might give rise to a perception of a conflict of interest. It is worth noting that the infrequency of referrals is also related to the fact that a decision taken by the Press Council on a referred complaint is not open to any appeal. Only three of the complaints referred to the Press Council by the Press Ombudsman have been upheld.

All decisions of the Press Council on complaints that have been referred to it by the Press Ombudsman are available at www.presscouncil.ie

Sample decisions:

..... misleading statement (Principle 1)

- The Press Council considered a complaint from a journalist who said that the publication of a summary of a decision of the Press Council, about an article that he had previously written, was misleading. He said that the published summary gave a false impression about the nature of the Press Council's decision in his case.

The Press Council accepted that the published summary of its decision in the opening paragraph of the article was inadequate and likely to create a seriously misleading impression. It said that the clarification of the full scope of its decision at the end of the article did not compensate for the deficiency of the opening paragraph, and decided that the report was significantly misleading and therefore a breach Principle 1.2 <http://bit.ly/JUMFFz>

..... misrepresentation or subterfuge (Principle 3)

- A mother complained that a reporter had obtained and published an interview with her about her daughter's death in tragic circumstances through the use of subterfuge. The newspaper said that the interview had been conducted in good faith, that the reporter had identified himself from the outset and had conducted the interview with the use of written notes and, at times, recordings taped using equipment that was in full view.

The Press Council found that that the reporter obtained the interview with the mother by misrepresentation or subterfuge, and that the publication of the interview was a serious breach of Principle 3.2. It also said that the breach could not in any way be justified by a claim that the misrepresentation or subterfuge was justified in the public interest <http://bit.ly/1cVBjuT>

... shall publish the decision with due prominence (Principle 10)

- The Press Council decided that the requirement of Principle 10 to publish a decision of the Press Ombudsman “with due prominence” had not been satisfied by a newspaper’s decision to publish a decision on a different day of the week when the newspaper’s customary circulation was substantially lower than on the weekday on which the original article had been published.
<http://bit.ly/L1Epo9>

Appeals against decisions of the Press Ombudsman

Any decision of the Press Ombudsman can be appealed to the Press Council of Ireland, by either the complainant or the publication concerned. Some decisions have been appealed by both parties, usually because the complainant feels that the Ombudsman has not gone far enough in his decision, and the publication feels that he has gone too far. The following examples of appeals are included in this Handbook because they represent a definitive interpretation by the Press Council of the elements of the Code of Practice concerned although – as in the case of decisions of the Press Ombudsman – they also reflect the specific circumstances of each individual case.

All decisions of the Press Council on complaints that have been appealed, both by a complainant and by a publication, are available at www.presscouncil.ie

Sample decisions:

... shall strive at all times for truth and accuracy (Principle 1)

- A man complained that a reference to him in an article about his brother's funeral, stating that he had been a target of the gang that murdered his brother, was inaccurate. The Press Ombudsman decided that issues in relation to truth and accuracy depend on the verifiability of the information reported and that in this particular case, it was impossible to verify the truth or accuracy of the statement complained about. However, he said publishing as true and accurate an assertion containing serious implications for a named individual, without attribution to any source was insufficient evidence that the newspaper had striven for truth and accuracy, and so upheld the complaint under Principle 1.

The newspaper appealed the decision to the Press Council and in its appeal submission revealed that the statement at issue in the complaint was based on information from a confidential named source within the Garda Síochána. The Press Council decided to allow the appeal, on the grounds that where the newspaper believed that a reliable source had confirmed the truth of a report, it was entitled to feel that it had striven for truth and accuracy <http://bit.ly/19rEJal>

.... fairness and honesty procuring and publishing news and information (Principle 3)

- A man complained that an article about him headlined “CAB gets clearance to seize family homes of gangsters” was in breach of Principle 3 because it included the publication of a photograph of him in handcuffs taken on the occasion of an earlier trial. The Press Ombudsman found that the use of an historic archive photograph of the complainant did not breach Principle 3, although he noted that current practice by the Courts Service has made the photographing of unconvicted persons in handcuffs very difficult and, in many cases, impossible.

The man appealed the decision to the Press Council, and the Council allowed his appeal against the Press Ombudsman's decision about the use of the photograph under Principle 3 of the Code, judging the use of the archive photograph to be a breach of that Principle in the particular circumstances of this case <http://bit.ly/1dMzeyK>

... must take reasonable care in checking facts before publication (Principle 4)

- A priest complained that a headline to an article which reported on his involvement in a parish matter was in breach of Principle 4 because the newspaper had failed to take reasonable care in checking the facts before publication in that it did not contact him in advance of publication.

The Press Ombudsman decided that as the complainant had made it clear to the newspaper on a previous occasion that he did not want to comment in response to queries, the newspaper's decision to go instead to the diocesan office for a comment fulfilled the requirement of Principle 4 to take reasonable care in checking facts before publication.

The complainant appealed this decision to the Press Council and the Council allowed his appeal because it considered that the newspaper should have offered him the right to respond to the allegations made against him before the article was published <http://bit.ly/1cZEFwU>

Sympathy and discretion (Principle 5)

- A mother complained about an article reporting on the circumstances surrounding her daughter's sudden death, in relation to which no information had yet been published as part of the public record. She complained that the headlines to the article, which stated that her daughter took heroin and that she mixed it with "coke and champers", breached a number of Principles of the Code, including Principle 5.3. The Press Ombudsman decided that the presentation in the headlines of unconfirmed reports as fact breached Principle 5.3, in that their publication did not take sufficiently into consideration the feelings of the grieving family.

The newspaper appealed the decision to the Press Council and it decided to allow the appeal, taking all factors into account, including the passage of time <http://bit.ly/1aZi5kP>

- The Press Ombudsman decided to uphold a complaint by a woman that two articles about her father's death on the day after he was buried were in breach of Principle 5.3 because they did not take the feelings of the grieving family into account. The complainant's father had previously come to public attention after a high-profile incident involving a public figure. He had been hospitalized with a mental illness, and had subsequently taken his own life. The Press Ombudsman decided that Principle 5.3 was especially relevant in circumstances involving the extremely sensitive issues of mental health and suicide and upheld the complaint.

The newspaper appealed the decision to the Press Council, which decided that the coverage in the newspaper was largely factual in nature and that it did not treat the tragic death unsympathetically. It said that while the timing of the report was unfortunate from the point of view of the family, the story was a current one, and therefore allowed the appeal <http://bit.ly/1j5e86h>

A final word . . .

This Handbook is intended primarily for guidance. It is not an addition to the Code of Practice and – because each complaint is always decided on its own merits, which are rarely the same in any two cases – the examples given do not create binding precedents for the Press Council or Press Ombudsman. This is also why the Code deliberately does not go into immense detail about what may or may not be published. That would be a never-ending exercise, and would frustrate the basic purpose of the Code, which is precisely to provide a set of principles by which journalism can be judged, rather than a voluminous collection of prescriptions.

There may also be occasions when the Press Ombudsman decides to issue a confidential advisory notice to editors on behalf of individuals or families in circumstances in which they have suddenly and unexpectedly become the subject of intense media interest, sometimes at a time of great distress for them. Such notices are issued sparingly, and are issued only when the Press Ombudsman feels that the wishes of such people should be made known to editors. They do not prejudice the outcome of any subsequent formal complaint that may be submitted: they are solely for the information of editors, who make the ultimate decision on what should and should not be published.

It is important to recognise that the Principles of the Code of Practice do not have legal effect. On occasion, even, they may require higher standards, or the exercise of more discretion, by journalists than is, strictly speaking, required by the law. Adherence to such standards, even where it is not required by law, is simply the exercise of best professional practice as defined in the Code by journalists themselves.

The Code does not replace the law or diminish legal responsibility. However, in the past six years, members of the public whose complaints have been upheld by the Press Council or Press Ombudsman have, by and large, decided not to avail of legal remedies that might still be open to them. This can be seen as a vote of confidence in the effectiveness of the Code and of the enforcement mechanisms built into the structures of the Office of the Press Ombudsman and Press Council.

The Code Committee will continue to review the wording of the Code, in consultation with the Press Council. The Committee has in the past, and will in the future, welcome observations from members of the public and by journalists on the Code. The secretary of the Code Committee is the Press Ombudsman, to whom any communications intended for the committee should be addressed.

Code of Practice for Newspapers and Magazines

Preamble

The freedom to publish is vital to the right of the people to be informed. This freedom includes the right of a newspaper to publish what it considers to be news, without fear or favour, and the right to comment upon it.

Freedom of the press carries responsibilities. Members of the press have a duty to maintain the highest professional and ethical standards. This Code sets the benchmark for those standards.

It is the duty of the Press Ombudsman and Press Council of Ireland to ensure that it is honoured in the spirit as well as in the letter, and the duty of publications to assist them in that task.

In dealing with complaints, the Ombudsman and Press Council will give consideration to what they perceive to be the public interest. It is for them to define the public interest in each case, but the general principle is that the public interest is invoked in relation to a matter capable of affecting the people at large so that they may legitimately be interested in receiving and the press legitimately interested in providing information about it.

Principle 1 – Truth and Accuracy

1.1 In reporting news and information, newspapers and magazines shall strive at all times for truth and accuracy.

1.2 When a significant inaccuracy, misleading statement or distorted report or picture has been published, it shall be corrected promptly and with due prominence.

1.3 When appropriate, a retraction, apology, clarification, explanation or response shall be published promptly and with due prominence.

Principle 2 – Distinguishing Fact and Comment

2.1 Newspapers and magazines are entitled to advocate strongly their own views on topics.

2.2 Comment, conjecture, rumour and unconfirmed reports shall not be reported as if they were fact.

2.3 Readers are entitled to expect that the content of a publication reflects the best judgment of editors and writers and has not been inappropriately influenced by undisclosed interests. Wherever relevant, any significant financial interest of an organisation should be disclosed. Writers should disclose significant potential conflicts of interest to their editors.

Principle 3 – Fairness and Honesty

3.1 Newspapers and magazines shall strive at all times for fairness and honesty in the procuring and publishing of news and information.

3.2 Publications shall not obtain information, photographs or other material through misrepresentation or subterfuge, unless justified by the public interest.

3.3 Journalists and photographers must not obtain, or seek to obtain, information and photographs through harassment, unless their actions are justified in the public interest.

Principle 4 – Respect for Rights

Everyone has constitutional protection for his or her good name. Newspapers and magazines shall not knowingly publish matter based on malicious misrepresentation or unfounded accusations, and must take reasonable care in checking facts before publication.

Principle 5 – Privacy

5.1 Privacy is a human right, protected as a personal right in the Irish Constitution and the European Convention on Human Rights, which is incorporated into Irish law. The private and family life, home and correspondence of everyone must be respected.

5.2 Readers are entitled to have news and comment presented with respect for the privacy and sensibilities of individuals. However, the right to privacy should not prevent publication of matters of public record or in the public interest.

5.3 Sympathy and discretion must be shown at all times in seeking information in situations of personal grief or shock. In publishing such information, the feelings of grieving families should be taken into account. This should not be interpreted as restricting the right to report judicial proceedings.

5.4 Public persons are entitled to privacy. However, where a person holds public office, deals with public affairs, follows a public career, or has sought or obtained publicity for his activities, publication of relevant details of his private life and circumstances may be justifiable where the information revealed relates to the validity of the person's conduct, the credibility of his public statements, the value of his publicly expressed views or is otherwise in the public interest.

5.5 Taking photographs of individuals in private places without their consent is not acceptable, unless justified by the public interest.

Principle 6 – Protection of Sources

Journalists shall protect confidential sources of information.

Principle 7 – Court Reporting

Newspapers and magazines shall strive to ensure that court reports (including the use of photographs) are fair and accurate, are not prejudicial to the right to a fair trial and that the presumption of innocence is respected.

Principle 8 – Prejudice

Newspapers and magazines shall not publish material intended or likely to cause grave offence or stir up hatred against an individual or group on the basis of their race, religion, nationality, colour, ethnic origin, membership of the travelling community, gender, sexual orientation, marital status, disability, illness, or age.

Principle 9 – Children

9.1 Newspapers and magazines shall take particular care in seeking and presenting information or comment about a child under the age of 16.

9.2 Journalists and editors should have regard for the vulnerability of children, and in all dealings with children should bear in mind the age of the child, whether parental or other adult consent has been obtained for such dealings, the sensitivity of the subject-matter, and what circumstances if any make the story one of public interest. Young people should be free to complete their time at school without unnecessary intrusion. The fame, notoriety or position of a parent or guardian must not be used as sole justification for publishing details of a child's private life.

Principle 10 – Publication of the Decision of the Press Ombudsman / Press Council

10.1 When requested or required by the Press Ombudsman and/or the Press Council to do so, newspapers and magazines shall publish the decision in relation to a complaint with due prominence.

10.2 The content of this Code will be reviewed at regular intervals.