



Editors' Committee review of the Code Submission from NAT (National AIDS Trust)

Introduction

NAT (National AIDS Trust) is the UK's leading charity dedicated to transforming society's response to HIV. We provide fresh thinking, expertise and practical resources. We champion the rights of people living with HIV and campaign for change.

A central strategic aim of NAT is to address HIV-related stigma and discrimination, which so blights the lives of many people with HIV and harms public health. To that end, we have been particularly active in recent years in challenging inaccurate and stigmatising coverage of HIV in the media. We have produced with support from the National Union of Journalists and the Society of Editors 'Guidelines for reporting HIV'; we have established and supported a group of HIV positive people, 'Press Gang', who themselves directly challenge poor reporting of HIV when it occurs; we take complaints to the Press Complaints Commission; we regularly write letters to editors and/or for publication which complain of stigmatising reporting or correct inaccurate journalism. We also make every effort to encourage the media to report positively and accurately on the reality of HIV in the UK today and how people with HIV now live with this condition.

We welcome this opportunity to propose changes to the Code of Practice.

Clause 12 Discrimination

NAT believes the restriction of Clause 12 Discrimination to a personally affected individual is far too restrictive. We also believe that the 'grounds' should be updated to align with those set out in discrimination law. The Clause should be amended to read at sub-clause (i):

'The press must avoid prejudicial or pejorative reference to race, colour, religion or belief, gender, gender reassignment, age, sexual orientation or to any physical mental illness or disability.'

This would allow anyone, not just a directly referred-to individual to make a complaint, and prohibit generalised statements which are prejudicial or pejorative in relation to people with any one or more of these characteristics.

The Editors' Codebook attempts to justify the restriction to only individually applied references by stating that it strikes a balance between 'the rights of the public to freedom of speech and the rights of the individual - in this case not to face personal discriminatory abuse'.

This fails to address the direct harm done to individuals by generalised prejudicial or pejorative references - keenly felt by those affected. It cannot be claimed that no harm to individuals arises from such references - this is how personal prejudices are fuelled. Many hundreds of thousands if not millions are affected as a result. Nor can it be claimed that such generalised prejudicial or pejorative references are consistent with the 'highest professional standards' which the Code requires.

It is also wrong to assume that a prejudicial or pejorative reference to an individual's characteristic only harms that individual and no one else who shares that characteristic. In relation to a recent criminal case where there was a prejudicial reference to the convicted man's HIV, NAT and THT surveyed over 250 people with HIV, all but one of whom thought the reference would 'harm public attitudes to HIV and to people with HIV'.

The whole purpose of the Code is to go beyond consideration of what is lawful, and what one is free to write and publish, to address also what is ethical and professional. The distinction between explicitly affected individual and a group is not justified by

degree of harm or journalistic standards. Does the Editors' Committee contend that prejudicial or pejorative references to any of the cited characteristics are ever ethical and/or professional? If not, then they should be avoided and covered by the Code.

Recommendation: The characteristics cited in Clause 12 (i) should be revised to include age and gender reassignment. The characteristics cited in Clause 12 (ii) should be amended to include gender reassignment.

Recommendation: Clause 12 (i) should be amended to state that any prejudicial or pejorative reference to any of the cited characteristics should be avoided, irrespective of whether or not it is applied to an individual. Anyone should be able to bring a complaint to the Press Complaints Commission for breach of this provision of the Code. The proposed amended Clause 12 (i) would thus read:

'The press must avoid prejudicial or pejorative reference to race, colour, religion or belief, gender, gender reassignment, age, sexual orientation or to any physical mental illness or disability.'

'in a discriminatory manner'

The Editor's Codebook makes a distinction between a prejudicial or pejorative reference to one of the cited characteristics - which is not necessarily to be avoided under the Code - and such a reference done 'in a discriminatory manner', which is. This distinction seems to us flimsy and obscure, and the examples cited in the Codebook only in our view underline how unclear and indeed groundless such a distinction is. What does 'in a discriminatory manner' mean?

For example, in the first instance cited (p.73 The Editors' Codebook), of the satirical cartoon of Ariel Sharon, surely the point was not that there was a pejorative reference to the fact that Mr Sharon is Jewish but it does not matter because it was not discriminatory - it was rather that the PCC believed there was no pejorative reference to Mr Sharon being Jewish - it was (so the PCC felt) rather a pejorative reference to him as a politician, which is not prohibited under the Code.

If this is an additional requirement for a breach of the Code, beyond prejudicial or pejorative reference, then it should be properly set out in the body of the Clause.

Relying (so it appears) simply on the title of the Clause cannot be good practice for a regulatory document.

'Discrimination' has some clear and precise meanings in law (in particular, 'less favourable treatment'). A natural reading of the Code would be that a prejudicial or pejorative reference to a cited characteristic is in and of itself discriminatory - it is 'less favourable media treatment' compared with someone who does not share that characteristic.

Such references are in and of themselves discriminatory - to conjure up a further test, not clearly set out in the Code, of 'in a discriminatory manner' is unjustifiable and meaningless. Does it mean that the individual has to prove they have been less favourably treated by others as a result of the reporting? Does it mean that intention to discriminate needs to be proved? Is it shorthand for 'really serious and tasteless'? We do not know. Nor we would submit could anyone know.

NAT believes the simplest solution is to re-title the Clause 'Prejudicial, pejorative or irrelevant references'. This is what should be avoided and the title should therefore describe clearly and accurately the actual content of its relevant Clauses. Most importantly, the 'in a discriminatory manner' requirement should be explicitly abandoned and removed from the Editors' Codebook.

Recommendation: The Editors' Code should be revised to remove the requirement that any prejudicial or pejorative reference must be made 'in a discriminatory manner' for a breach of the Code to have occurred. It should be clear that any prejudicial or pejorative reference to one or more of the cited characteristics is a breach of the Code.

Recommendation: The title of Clause 12 should be amended for the sake of clarity to read 'Prejudicial, pejorative or irrelevant references'.

NAT

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