

# Sex and gender identity

## Summary of consultation responses

### Introduction

IPSO is the independent regulator of most of the UK's newspapers, magazines, and digital news media. We protect people's rights, uphold high standards of journalism, and help to maintain freedom of expression for the press.

Developing and publishing guidance is one means by which IPSO supports editors and journalists to raise editorial standards and comply with the Editors' Code of Practice - the framework IPSO uses to regulate the press.

IPSO published its first piece of editorial guidance on researching and reporting stories involving transgender people in 2016 and focused primarily on case studies involving transgender individuals. In the period since, widespread coverage of gender diversity has continued and has come to encompass a much more complex range of gender identities and social issues. IPSO regularly receives requests from journalists and editors for advice on reporting in this area.

The spectrum of opinion on the reporting of sex and gender identity cannot be reconciled by the Editors' Code. The Code strikes a balance between the rights of the public to freedom of speech and the rights of the individual not to face personal discriminatory abuse. Freedom of expression must embrace the right to hold views that others might find distasteful and sometimes offensive. Nonetheless, the Editors' Code offers a valuable set of tried and tested guidelines that is designed to stand up well to differing contexts.

In developing this final draft, IPSO carried out a significant programme of engagement both with editors, with our own committees and advisory groups, and with relevant organisations with a wide range of views. That engagement has shaped this new guidance on the reporting of sex and gender identity.

## Consultation

IPSO ran a four-week public consultation between 9 February 2023 and 10 March 2023 on its new draft guidance on the reporting of sex and gender identity.

We received 1053 individual responses from a range of stakeholders, including from academics, journalists, civil servants, charity workers, activists, and members of the public. This report is a summary of the consultation responses and the main themes identified from the written feedback. To emphasise, these responses do not represent IPSO's opinion, but rather the material we received.

Our consultation was designed to gain as much insight on the topic as possible from a variety of stakeholders. We asked respondents to self-describe using the following categories:

- Member of the public
- Journalists
- Charity worker
- Government
- Journalist
- Academic
- Activist; and
- Other

The consultation asked for views about the following:

- Whether the guidance struck the right balance between upholding the principle of freedom of expression with the ability to provide redress for people who believe they have been treated unfairly.
- Whether the guidance accurately summarised the application of Editors' Code to the reporting of sex and gender identity.
- Whether the guidance is well-structured to support journalists in their reporting and editorial work.
- Whether the guidance is accessible and usable for all audiences; and
- Whether the language used in this guidance is clear and fair.

We were pleased with the response to our first public consultation on our guidance. All responses received were detailed showing the desire to engage with press standards and the diversity of views held by different stakeholders. Overall, there was a positive response to the draft guidance. Most responses called for more clarity and favoured a more prescriptive approach.

Respondents welcomed IPSO's commitment to updating the guidance, recognising that this is a complex and evolving area.

The consultation results show that there are areas to continue to consider carefully: most notably terminology used, the reporting of transgender defendants, and the presentation of opinions.

## Who we heard from

We received 1053 consultation responses:

- 913 responses were received from members of the public
- 42 responses received from journalists
- 24 responses received from government workers (civil servants)
- 27 responses received from academics
- 37 received from charity workers
- 10 responses were received from activists.

1048 of these responses were received via the online survey published on IPSO's website. In addition to the online survey responses, we received five responses via email.

The consultation was published on IPSO's website, promoted on IPSO's social media channels, and publicised through trade publications. All the stakeholders we met with during the engagement period leading up to the publication of the draft guidance were offered an opportunity to participate.

## What we heard

- Most respondents stated that clearer guidance is required regarding the use of accurate language about the sex of an individual when reporting crimes.
- A small number of respondents suggested that journalists should use "trans-identified" male or female if they need to accurately report

someone's gender identity.

- A majority submitted that the guidance should make clear distinction between sex and gender when those two differ and state those differences. For example, in case of a trans man, his sex will be female, but not gender, since he lives as a male.
- Several respondents stated that the guidance incorrectly suggested that "gender identity" is a protected characteristic under the Equality Act 2010.
- Many respondents stated that IPSO should prohibit the use of previous names for people who have undergone a gender transition (deadnaming), and inaccurate references to individuals' gender identities or pronouns used (misgendering).
- Some respondents considered the word 'prejudicial' used in the discrimination section of the guidance under Clause 12 of the Code is open to interpretation in too many ways to be useful or considered clear.
- Most respondents from the public considered the guidance to be too woolly and subjective, allowing too much interpretation by editors.
- One respondent commented positively on the provision for privacy of children.
- Some respondents considered the section in relation to "Children" unclear as it did not clearly set out what age a child needed to be to be covered by the protections of the Code.
- A few respondents noted that the language in the guidance is clear. The use of cases to illustrate principles might cause confusion for some. However, in general, this should get journalists and editors thinking, and help them to understand that there is not a one-size fits-all solution.
- A majority of activists and charity workers stated that IPSO rightly comes out against intrusion, and for privacy, but suggested that it is less than forthright in the guidance about what constitutes intrusion.
- Some challenged the accuracy of the claim that there is no "accepted" definition of "transphobia".
- Some respondents considered that the overwhelming focus was on the impact of reporting on individuals who identify as transgender, with very little reference to the impact of these issues on society and broader freedom of speech. Similarly, some commented that the guidance did not go far enough to ensure that journalists should be free to report in an accurate, fact-based way without threat of being accused of being bigots or transphobic.
- Other respondents said that the guidelines often strike a good balance and have gone a long way to uphold the dignity of transgender people.
- Some respondents commented positively on the fact that the opening summary of the guidance affirms that it does not seek (nor be empowered) to replace or supersede the Code.

## Detailed results – written feedback

During the review of responses, four recurrent themes were identified. Detailed below are summaries and direct quotes from what respondents submitted. The summaries represent comments submitted to IPSO.

The following themes are based on written comments submitted via email responses and in survey free text boxes.

### *Use of Terminology*

Throughout all responses the use of terminology and language was a dominant theme. Respondents considered that the following terminology should be defined for clarity: “gender diversity”, “gender identity” and “transgender”. Respondents considered that the public confuse the terms “transman” and “transwoman” thinking that a transman refers to a transwoman and vice versa. One respondent stated that “Using ‘trans identifying female/male’ makes it clearly understood by all and is objective and accurate.”

Respondents noted that sex and gender are regularly conflated in reporting, and there is confusion when reading articles. Some respondents shared that the following were misleading and confusing for readers: “egg-producing individuals” or “people with cervixes” or “sex assigned at birth”.

Some respondents said gender identity does not specifically include people with non-binary identities and omits the inclusion of people born with variations in their sex characteristics (intersex). Other respondents deem “sex” and “gender identity” to be two separate and distinct concepts. Their view is that sex is binary and immutable and therefore gender identity is not binary, is not fixed and can be self-declared.

“Transphobia” and “prejudicial” were other terms noted to have a subjective context and some respondents felt that how they were defined by IPSO were unclear and one-dimensional. Respondents noted reporting should not include outdated terms that are deemed offensive. They outlined that there should be an avoidance of misgendering and deadnaming and that journalists should not use language that could be deemed offensive by the group they are writing about.

In relation to pronouns, there was conflicting opinion in relation to the approach that should be used by all respondents. Some respondents submitted that if a person's pronouns were known to their community or a matter of public domain, journalists should use those pronouns consistently in reference to that person. Care should also be extended to other gendered language used to refer to an individual's gender, such as name prefix.

Other respondents considered pronouns only relate to sex. One respondent said "Pronouns are sex-based, not gender identity based. It makes a nonsense of both biology and the English language to read phrases such as 'her penis' and journalists and editors should not feel that they have to resort to such nonsense. It must be made clear in the guidance that there is no need to use incorrect sex pronouns. At the very least the guidance could counsel avoiding pronouns altogether in some situations."

However, in relation to quotations, many respondents felt that the pronouns used by the person should not be changed. One respondent noted: "We agree that these difficult questions arise around issues of reported speech. We do not believe that accurate reporting of an anti-trans slur used by an individual is especially problematic. It is also right that the words of alleged victims should be respected."

In summary, respondents considered a list of definitive terms may be useful for journalists to navigate this area of reporting and for the public to understand what they are reading.

### *Reporting of Transgender defendants*

From the responses received it is clear the reporting of transgender defendants is of significant interest to the public. All respondents who categorised themselves as a member of the public submitted a comment in relation to this area of reporting.

Respondents questioned the absence of an IPSO ruling in relation to this area of reporting, as they had found other rulings in the guidance useful.

Many respondents mentioned the significance of sex in crime reporting specifically in relation to sexual offences. They noted clarity was imperative as reporting plays a role in allowing other victims to come forward.

One respondent submitted: “The guidance unfairly prioritises the feelings of one tiny minority group above the lived reality, perception and possible safety of others.”

Another respondent argued: “Time and time again I see in newspapers trans women being incorrectly reported on, i.e., Woman found guilty of rape, woman found guilty of flashing their penis, woman caught with child porn - when in all these instances the perpetrator was a trans woman aka a man identifying as a woman. This needs to stop immediately. Correct descriptions need to be applied to the people being reported on, they should be referred to in reporting as either man identifying as a woman, or trans woman.”

Some respondents commented on the imagery used in this area of reporting that further adds to the ambiguity. Many noted the legal definition of rape and suggested that using female pronouns to describe the perpetrator was unhelpful and confusing. Others outlined the importance of accuracy in reporting and stated that this area of reporting is routinely inaccurate.

Most journalists and academics acknowledged the conflicting policy in this area in relation to the courts, police, and the prisons. Respondents noted that an article about criminal proceedings would accurately reflect what was said in court, for example if preferred pronouns were used in court, then the article would apply the same. A minority of respondents shared that when reporting on this area they erred on the side of caution as they did not want to cause offence, nor did they want to be criticised on social media for how they reported on the subject.

It was suggested that IPSO should be more prescriptive with the guidelines in this area of reporting. Respondents stated that journalists should not change the pronouns used by victims, the perpetrator’s sex and gender identity should both be reported, and the use of images should be carefully considered.

### *Individual vs Group – Clause 12 discrimination*

Some respondents shared their concerns regarding the reporting of discrimination in relation to groups. They considered the guidance only pertains to the rights of individuals, which leaves room for journalists to write pieces that include “dangerous” generalisations about the transgender, non-binary, and intersex community. They noted there had been an increase of articles including generalised misleading statements about groups.

Some respondents noted IPSO's consultation closed prior to the Editor's Code Committee's consultation on the Editor's Code of Practice. It was suggested IPSO's consultation should have been in conjunction with the Code Committee as any revisions to the Code will affect the guidance.

### *Specific Examples*

Overall, some respondents said that, given the complexity of the subject, more rulings should be included to illustrate what all the issues look like in practice. Specifically, some respondents noted the absence of rulings relating to misidentifying, misgendering or deadnaming and whether that would constitute a breach of Clause 12. A small group of respondents suggested that further rulings should be included that involved a "pro-trans" perspective.

In summary, respondents suggested an addendum of more rulings to assist with understanding how the Complaints Committee consider breaches of the Code in relation to this area of reporting.

### **Conclusion**

The draft guidance was reviewed and updated considering the submissions received. Not all suggestions for revision were included as they fell outside of IPSO's remit in relation to prescriptive wording. IPSO's Board reviewed the guidance and the summary of consultation responses and approved the final version. The guidance is based on the Editors' Code of Practice and is intended to support editorial decision-making on the reporting of sex and gender identity. All changes were made with this in mind.