



April 2022

IMPRESS code consultation paper- NSS response

Submitted online: <https://www.impress.press/page/code-consultation.html>

Introduction

This response is made on behalf of the National Secular Society.

The National Secular Society is a not-for-profit, non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

More information about our organisation can be found here:

<https://www.secularism.org.uk/about.html>

Our vision for a secular democracy is underpinned by the fundamental human right to free speech. Without this, democracy cannot exist. Being offended from time to time is the price we all pay for living in a free society. Rather than trying to silence those we disagree with, we believe the answer to speech we don't like is more speech. We therefore campaign to protect and preserve freedom of expression, including offensive, critical and shocking speech.

We welcome the opportunity to respond to IMPRESS's consultation on its Standards Code and guidance. We have omitted any questions that are beyond our remit.

As we have expressed in our responses, we find some aspects of Clause 4: Discrimination extremely concerning. We would be happy to talk these through with IMPRESS in person or via video conferencing if this would be helpful.

Preamble

[Is the guidance sufficiently clear about how rights and law interact with the IMPRESS Standards Code and how it is applied?](#)

We welcome the explicit reference to the right to freedom of expression in the Preamble. However, we are concerned that some aspects of the Code will unnecessarily restrict freedom of speech regarding religion – see our responses to the guidance on Clause 4: Discrimination below for more.

Clause 4 – Discrimination

Should the threshold for a breach of clause 4.3 be lowered? Will this unduly impinge on the news publisher’s freedom of expression?

We are concerned that lowering the threshold of clause 4.3 may impinge on the news publisher’s freedom of expression.

News publishers, like any other organisations, should never publish with the intention of encouraging hatred or abuse. We all have a responsibility to help foster tolerance and cohesion in our society – not least news publishers.

However, in lowering the threshold of clause 4.3, there is a risk that certain reporting may be interpreted as encouraging hatred or abuse when that intention was not present.

We are aware that some journalists and government departments have been reluctant to report on issues involving sensitivities around race, religion and other protected characteristics out of fear of being accused of racism, intolerance or ‘encouraging’ hatred. This is a serious concern, particularly as such issues often involve exploitation, harm or oppression of vulnerable people. It is essential that news publishers can talk about religion in a balanced manner – which includes not being afraid to report on issues and incidents that may reflect negatively on a particular religion.

Should there be a specific reference to indirect discrimination in the guidance?

We could not find any argument in the consultation document expressing why this is necessary. We find it difficult to advise on this without further explanation from IMPRESS. We would welcome further guidance on this before advising.

Should IMPRESS provide further examples in the guidance as to when it would be relevant to publish the protected characteristics of a subject of a story?

We think this could potentially impinge on the news publisher’s freedom of expression by encouraging self-censorship, as it would make publishers more wary of reporting on any story that engages with protected characteristics. News publishers are often constrained by word counts and therefore do not typically include details that are not relevant to the story.

Should there be a public interest exemption to discrimination?

We could not find any explanation in the consultation document about the implications of this. We would welcome further guidance.

Do these changes to the Code and guidance provide an in-depth, comprehensive, and up-to-date understanding of discriminatory practices in the media?

We are extremely concerned that this guidance will not only impinge on news publishers’ freedom of expression – it will actively distort their reporting by introducing pro-religion bias.

These are the specific clauses that cause us concern within the Clause 4: Discrimination section:

Clause 4.18 ...The disputed words or imagery must be more than provocative, offensive, hurtful or objectionable. It is related explicitly to encouraging hatred or abuse and is not about language or imagery that merely hurts feelings. It includes, but is not limited to... (iv)

content which perpetuates a narrative of prejudice against a particular group that can result in fear or harm against them. [underline added]

Part (iv) of Clause 4.18 causes us concern because the argument that criticising negative aspects of religion “perpetuates a narrative of prejudice” is frequently used to shut down that criticism altogether. Fervent religious believers have an interest in shielding their religion from negative press and will sometimes resort to these arguments.

Whilst it would be erroneous to suggest all adherents to particular religions hold the same views, public perceptions of some religions being, for example, sexist, homophobic, aggressively evangelical, illiberal, anti-science and poor at safeguarding are frequently demonstrably true. News stories that reinforce these perceptions should not be censored out of fear of perpetuating a “narrative of prejudice”. If they were, the news would be unable to accurately report on the role of religion in the oppression of women, LGBT+ people and other marginalised groups, the suppression of free speech, and institutional child abuse, to give a few examples. And censoring accurate and balanced reporting on these issues will serve to enable further oppression and human rights abuses – very often against the groups of people the Code is meant to protect.

We therefore recommend (iv) be removed from Clause 4.18.

Clause 4.18...It should be noted that ‘threats’ against certain groups to ‘burn in hell’ should not be seen as language that encourages hatred. Threats must have adverse consequences in the physical world, not an after-life.

We think this statement in Clause 4.18 is bizarre and cannot comprehend why it has been included. We fail to understand how a publication saying gay people will or should ‘burn in hell’ is not encouraging hatred and why this is permitted under IMPRESS guidance when much milder, and potentially factual, expressions would likely be prohibited by the guidance – for example, saying that FGM is connected with religion (see our comments on Clause 4.22 below for further discussion).

Telling people that they will or should ‘burn in hell’ is an extremely strong expression of hatred and does not belong in any publication worth IMPRESS’s regulation. Many incidents involving religious threats to ‘burn in hell’ have been investigated by the police as hate crime¹.

This clause also introduces a distinct pro-religion bias into the guidance; because the concept of hell is specifically a religious one, this statement would exempt religious forms of hate speech where other forms would be rightly prohibited.

We therefore recommend removing the final paragraph referencing ‘burn in hell’ from Clause 4.18.

4.19 This clause does not apply to groups identified by their political or ideological beliefs. The Code allows freedom to engage in even the fiercest attacks upon and criticisms of political views and beliefs.

We believe this statement should be extended to religious and philosophical beliefs. There is a distinct difference between attacking a belief and attacking the people holding the belief. We maintain that attacking religious beliefs is not an attack on religious people and that press codes should allow freedom to engage in “even the fiercest attacks upon and criticisms of” religious and philosophical beliefs.

¹ For example: <https://www.dailymail.co.uk/news/article-2637193/If-think-no-God-better-right-Police-probe-churchs-sign-suggested-non-Christians-burn-hell.html>

We acknowledge that Clause 4.21 says “beliefs or practises” are covered by 4.19. However, we think 4.19 would benefit from explicitly including “religious and philosophical beliefs” together with “political or ideological beliefs”. We have some additional concerns that other parts of 4.21 may cause confusion regarding religion; see below.

Additionally, there is strong overlap between religious beliefs and “political or ideological beliefs”. Issues like LGBT+ rights, abortion and assisted dying are political, but individuals’ views on these topics are often informed by religion. A journalist must have the same freedom to attack religious views on abortion as non-religious views, otherwise pro-religion bias will be introduced into the publication and balanced reporting will become impossible.

We also question the fact that the first sentence of 4.19 appears to except groups defined by political or ideological beliefs (which could apply to a huge number of groups including political party members, politicians, Remain and Leave voters, feminists, etc.) from everything in Clause 4.3. This would suggest that it would be permissible for a publication to encourage others to target these people for abuse or for the publication to use dehumanising terms for them, for example. Considering the current huge societal problem of increased political polarisation and attacks on politicians and activists both online and in-person for their views, we think this exception is highly problematic. This may be unintentional on IMPRESS’s part, but we think it should consider rephrasing 4.19 to emphasise that while attacking *beliefs* is acceptable, attacking groups of *people* is not, as Clause 4.21 expresses.

We therefore recommend changing 4.19 to something along the lines of: *“This clause does not apply to religious, philosophical, political or ideological beliefs. The Code allows freedom to engage in even the fiercest attacks upon and criticisms of views and beliefs.”*

4.20 IMPRESS will interpret this clause narrowly and cautiously and with a strong presumption in favour of freedom of expression. Concerning religious groups, in particular, this clause will be interpreted in line with section 29J of the Racial and Religious Hatred Act 2016, which gives a list of matters that do not constitute an incitement to hatred: ‘discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular religions or the beliefs or practises of their adherents.’

We greatly welcome this clause, which indicates IMPRESS is aware of free speech concerns regarding religion. However, we are concerned the other clauses we have raised may conflict with this and have the potential to censor reporting on religious issues. We therefore maintain that these issues must be addressed to ensure freedom of speech on topics that engage religion or belief.

4.21 This is because of the importance of allowing for free and vigorous debate on all matters concerning religious belief, observance and practice and on issues of sexual morality and of respecting the freedom of traditional religious communities to, for example, voice their convictions that sex outside heterosexual marriage is sin. While this clause is not intended to replicate the law, IMPRESS’s approach to interpreting and applying it will be similar. Therefore, under Clause 4.3, beliefs or practises may be subject to the fiercest criticisms, insults or ridicule. It is people who are protected by this clause, not religion itself. Publishers should be aware, however, that an attack on people who practice a particular religion is often expressed in terms of an attack on their religion e.g., extremist Christians or radical Islamists.

We welcome the implication in 4.21 that “beliefs or practises” may be subject to “the fiercest criticisms, insults or ridicule”. However, we think it would benefit from making it explicit that this includes “religious and philosophical” beliefs and practices.

We are also concerned by the final line: “Publishers should be aware, however, that an attack on people who practice a particular religion is often expressed in terms of an attack on their religion e.g., extremist Christians or radical Islamists.”

We think this introduces confusion into 4.21, as it implies the expressions “extremist Christians” or “radical Islamists” cannot be used. However, there are many cases where it would be entirely justifiable to use such terms. For example, a journalist should be allowed to use the term “extremist Christians” to describe Christians who believe in white supremacy, or “radical Islamist” to describe Muslims who believe in imposing Islamic ideology on society. In fact, the terms “extremist”, “radical” and “Islamist” are helpful in distinguishing non-mainstream minorities of Christians and Muslims from the majority who do not hold such views, and so help to prevent prejudice against all Christians and Muslims as a whole.

We therefore recommend removing this last sentence from 4.21.

4.22 Publishers should try to be clear when referring to either a religious, ideological or cultural practice or belief, and they should avoid conflating religious, ideological or cultural practices or beliefs. When this is not straightforward, and controversy surrounds how journalists describe a practice or belief, publishers should acknowledge this. For example, female genital mutilation is often incorrectly written about as a religious practice when it is, in fact, a cultural practice. If in doubt about whether a certain practice or belief is religious, ideological or cultural, publishers may wish to seek appropriate guidance from relevant experts before publishing the content.

We have serious concerns regarding this clause. We think it is ill-conceived, inaccurate and highly likely to result in distorted reporting and censorship on religious issues.

Many academic experts on religious studies or anthropology would be reluctant to state with complete conviction whether a practice or belief was solely “religious”, “ideological” or “cultural”, because these fields almost always have some overlap. Many would even say that the distinction between them is often meaningless because it is so subjective. Whether a practice or belief is “religious”, “ideological” or “cultural” is never straightforward.

One example familiar to all people in the UK is Christmas. Christians consider it one of their most important religious holidays, celebrating the birth of Jesus Christ. Yet there is no mention of “Christmas” in the Bible, and neither are Christmas trees, Christmas presents, Christmas dinner, Father Christmas or many other traditions strongly associated with this festival. Indeed, some Christian denominations prohibit celebrating Christmas because it has some of its origins in pre-Christian religious traditions.

And for many people in our increasingly irreligious country, Christmas has no religious significance but extremely important cultural significance. It is a time to be with family, to hold parties, to take a break from work, and to exchange gifts. Neither Christian nor pre-Christian religious origins of Christmas have any significance to many.

Journalists talking about Christmas without being clear as to whether it is religious, ideological or cultural, or without acknowledging this controversy, would fall foul of 4.22. Clearly, it is impractical

to require journalists have to do this every time they talk about Christmas. And the same applies to all innumerable human practices or beliefs which have both religious and cultural significance.

We are especially concerned by the example given of female genital mutilation (FGM): *“For example, female genital mutilation is often incorrectly written about as a religious practice when it is, in fact, a cultural practice.”*

Ironically, IMPRESS appears to be falling foul of its own guidance in 4.22, because this is one example that is highly contested as to whether it is religious or cultural, which IMPRESS has not acknowledged.

While it is true that the majority of Islamic scholars in the UK reject FGM, a significant number of Muslims do believe FGM is a requirement of Islam. The Shafi'i school of Sunni Islam² and the Dawoodi Bohra branch of Shia Islam³ are two sects that consider FGM to be a requirement. The Maliki, Hanafi and Hanbali schools of Sunni have considered FGM a 'virtue', if not a requirement⁴.

Scholars aside, many of those within communities that practice FGM themselves assert that the practice is religious. A 2013 study on FGM in Africa by UNICEF found that in all but one country surveyed, there were respondents who said that it was a religious requirement⁵. In Malaysia, where 93% of women from Muslim families have undergone FGM, 82% claim it is a religious obligation⁶.

Some claim that FGM is not religious because it is not mentioned in religious texts. We do not consider this a valid argument. Many practices widely regarded as important to religions are not mentioned in key religious texts (see our previous comments on Christmas). And while it is true that FGM is not mentioned in the Quran, it is praised as noble in some of the Hadith (sayings attributed to Islam's prophet Muhammad)⁷, which form the backbone of many Islamic belief systems.

Even a very recent government report on gender-specific religious persecution, published 14th March this year, included FGM among its list of “instances of gender-based discrimination in the name of religion or belief”⁸.

We hope the above serves to clarify why it is wrong for IMPRESS's guidance to say it is 'incorrect' to state FGM is a religious practice, and why attempts to police whether practices are termed “religious”, “ideological” or “cultural” are fraught with problems. Preventing journalists from pointing out that religion is often an important motivation behind FGM not only distorts the truth – it also undermines efforts to end this atrocious form of violence against women and girls by understanding and tackling the root motivations.

If retained, we think 4.22 will be used to try and silence negative stories regarding religion. For example, a story that mentions the religious aspects of FGM may be targeted by those who think referencing links between FGM and their religion reflects badly on their religion, and who will

² <https://euromind.global/en/brian-d-earp-and-rebecca-steinfeld/>

³ <https://www.theguardian.com/global-development/2018/mar/06/study-reveals-fgm-india-female-genital-mutilation>

⁴ <https://euromind.global/en/brian-d-earp-and-rebecca-steinfeld/>

⁵ https://data.unicef.org/wp-content/uploads/2015/12/FGMC_Lo_res_Final_26.pdf

⁶ <https://web.archive.org/web/20131004225752/http://spm.um.edu.my/news/20120503-female-circumcision-My-USM/index.php>

⁷ <https://www.unfpa.org/sites/default/files/pub-pdf/De-linking%20FGM%20from%20Islam%20final%20report.pdf>

⁸ <https://researchbriefings.files.parliament.uk/documents/CDP-2022-0057/CDP-2022-0057.pdf>

attempt to censor this aspect of the story by saying it should be referred to only as a cultural practice.

We are also concerned by the implications of the final sentence of 4.22: *“If in doubt about whether a certain practice or belief is religious, ideological or cultural, publishers may wish to seek appropriate guidance from relevant experts before publishing the content.”*

Not only is this likely to be impractical for the reasons described above, who is considered a “relevant expert” will also cause problems. On religious issues, some journalists may consider a religious leader to be a “relevant expert”. However, religious leaders are often strongly motivated to portray their religion in a positive light, and may not provide an objective viewpoint regarding controversial practices and beliefs.

There is also the tendency to view religions, particular less familiar non-Christian religions, as monolithic, and treat leaders of such religions as speaking on behalf of all believers. But this ignores the huge diversity of belief within religious schools of thought and individual believers. In fact, religious leaders often hold very different views from the lay worshippers they lead. For example, while Church of England bishops are usually strongly opposed to abortion and same-sex Anglican marriage, lay Anglicans are more likely to have more liberal views on these topics.

Trying to distinguish whether a practice or belief is “cultural”, “ideological” or “religious” is at best difficult, and at worst misleading because there is often no way to separate them. It should not be a matter for a press regulator to try and police.

For these reasons, we recommend removing 4.22 from the Code and guidance.