Code of Practice of the **Press Council of Ireland**

Handbook

Code of Practice of Press Council of Ireland

Handbook

Contents

Introduction

The Press Ombudsman is an independent decision maker appointed by the Press Council of Ireland to decide whether or not to uphold complaints from members of the public and others that a member publication of the Press Council has published material that breaches one or more of the Principles included in the Press Council's Code of Practice. https://pressombudsman.ie/code-of-practice/ The Code is a set of Principles which member publications agree to uphold in the material they publish, and in the behaviour of their journalists.

This is a handbook and not a book of rules. It has been written to provide guidance to member publications of the Press Council who wish to maintain the highest professional and ethical standards, and to those who wish to exercise their right to complain about journalism they believe has fallen short of those standards. It is also intended to show how the Press Ombudsman applies the Code of Practice, and how she exercises her independence.

The independence which is required of her does not mean that the Press Ombudsman is free to make her decisions according to her own worldview and coloured by her own prejudices. The role of the Press Ombudsman is to make formal decisions based on (a) implementing a tightly defined and well-established set of procedures and (b) applying all appropriate aspects of the Code of Practice to all relevant matters raised by a complainant under the Code, and to all relevant responses made by a publication.

In order to serve their audiences, editors will publish material based on ideas they do not necessarily support. The Press Ombudsman has to practice a similar detachment. She cannot make a finding on whether or not a Principle of the Code was breached based on whether she agrees or disagrees with the point of view of an opinion writer, or what she privately thinks may have been the truth about what happened in a particular situation covered in a news report. She will in fact find that her opinions on the subject matter to hand are irrelevant. The Code of Practice imposes its own discipline.

The independence of the Press Ombudsman lies in the interpretation of the Code of Practice which she brings to her decisions. She is required to exercise her experience, skills and judgment to this task.

This handbook is based on decisions that the Press Ombudsman has made since she was appointed in 2022, with reference also to decisions taken by the two Press Ombudspersons who preceded her. The handbook explains how the Press Ombudsman reaches her decisions, and contains many examples of decisions, some of which were upheld, others which were not upheld. It also contains examples in which the Press Ombudsman decided that the publication had taken or offered sufficient remedial action to deal with the grounds for the

complaint, and in which she found she had insufficient information on which to make a decision.

At her discretion, the Press Ombudsman may decide to refer a complaint to the Press Council for decision. In such cases the Press Council appoints a sub-committee which will consider the complaint in full. While it may be guided by the Handbook, the sub-committee then takes on the role which is normally the prerogative of the Press Ombudsman in interpreting the Code of Practice and making a substantive decision.

The Press Council does not consider complaints but rather considers appeals against Press Ombudsman decisions based on certain grounds. The Press Ombudsman's independent decision-making process and the Press Council's appeals process are separate but should be seen to form a whole complaints system based on the distinct roles of each of the constituent parts of the Press Council of Ireland and Office of the Press Ombudsman.

The Press Council's Code of Practice is a set of ethical principles rather than legal rules. Complaints which rely on claims based on allegations of legal wrongdoing sometimes fail to align with the Principles of the Code. Nor is the Press Ombudsman bound by precedent, though she endeavours to be consistent. She takes each of her decisions in the specific context of each individual complaint. The Handbook sets out the Press Ombudsman's approach to this task and her reasoning in relation to each of the Principles in the Code.

Detailed information on how to make a complaint is available on www.pressombudsman.ie. The Complaints Procedure is also appended to the Handbook. Members of the public who wish to make a complaint that a publication has breached one or more of the Principles in the Code of Practice can seek advice on the process from staff at the Office of the Press Ombudsman. However, the Office cannot advise complainants about the specifics of their complaint or the likelihood of it succeeding. The Handbook will help complainants to consider these matters.

When a complaint is received at the Office, the Case Manager will process it and will seek a response from the editor of the publication.

The Case Manager will offer the complainant and the editor an opportunity to engage in a conciliation process. This may involve the publication making an offer to the complainant designed to deal with their complaint. This might for example mean the offer of online corrections, or to publish a right of reply. Many complaints are resolved in this way and do not have to go for formal decision by the Press Ombudsman. There is further information on this process in the Handbook.

If conciliation does not produce a resolution, the complaint proceeds to the Press Ombudsman. She will consider each part of the complaint in relation to the Principle the complainant considers to have been breached.

The handbook also looks at the appeals process, details of which can be found on the website www.presscouncil.ie. An editor or a complainant may appeal a decision made by the Press Ombudsman or by a sub-committee of the Press Council on the basis of one or both of two grounds for appeal. The first is on the basis of a procedural error or errors, the second on the basis of an error or errors in the application of a Principle or Principles of the Code. The Press Council may decide to reject an appeal on the grounds that it did not contain sufficient evidence to support the grounds on which it was submitted.

An appeal may not be made on the basis of disagreement with the decision. Nor will the Press Council uphold an appeal on the basis that it does not agree with the Press Ombudsman's decision or reject an appeal because it agrees with the Press Ombudsman.

There is no further appeal possible after the Press Council had made its decision.

Member publications of the Press Council are required to publish any decision made to uphold a complaint whether by the Press Ombudsman, a sub-committee of the Press Council, or, on appeal, by the Press Council. Guidelines on this process are available on the website.

The Preamble to the Code of Practice

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 Codes sets the benchmark for those standards. It is the duty of the Press Ombudsman and the 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 to the Code of Practice is not one of the Principles, and it is not subject to complaints that it has been breached. However, it was seen by its authors as a core component of the Code, because as Professor John Horgan wrote in the first handbook to the Code: "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". It is, therefore, he wrote "relevant to many decisions".

The Press Ombudsman is likely to consider aspects of the Preamble in reaching her decisions in relation to complaints citing breaches of Principles of the Code. This is because decisions are often not clear cut, and in exercising her judgment and discretion the Press Ombudsman will consider matters including the context of an alleged breach within the framework of the material published.

The Preamble provides a broad definition of what is meant by the public interest. Elsewhere, the Code distinguishes this from matters in which the public may simply be interested. The distinction is vital because a publication may, faced with a complaint asserting a breach of the Code, justify publishing material that on the face of it *is* in breach of a Principle on the basis that publication of this material is in the public interest.

It will be for the Press Ombudsman to determine whether or not this is justified. However, it is important to note that a lot of material is published to inform, educate or entertain readers and does not require a public interest justification.

The Preamble sets out the balance which the Press Ombudsman must seek to maintain between the freedom of the press, and the responsibility the press has to the people. The

freedom of the press is a vital component of democracy. The people have a right to know what is happening and the press must be free to inform them.

The Preamble informs member publications of the Press Council that they have a duty to honour the Code in the spirit as well as in the letter. Professor Horgan noted that this underlined the fact that "the Code is, essentially, a document which values sincerity, honesty and fair dealing as much as the specific prescription it necessarily contains."

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.

Publications rely on their readers accepting that what they publish is the truth insofar as they have been able to establish it, and that they have taken all possible steps to ensure that any information they provide is accurate. Principle 1 is therefore fundamental to the Code of Practice and is the Principle under which a large majority of complaints of breaches are made.

Material which contains significant inaccuracies is likely to risk breaching multiple Principles of the Code. Questions of truth and accuracy arise, for example, in Principle 2, which states that unconfirmed reports shall not be reported as if they were facts. Principle 4 states that reasonable care shall be taken in checking facts before publication. Principle 7 states that publications should strive to ensure that court reports are fair and accurate.

The Code of Practice is realistic about how journalism is produced. Journalists strive to establish the truth and to provide accurate information often in difficult and fast-moving circumstances, and this can result in material being published which in the light of further revelations turns out not to have been true or accurate. In addition, errors are sometimes made.

It is vital to note that Principle 1 requires publications to "strive…for truth and accuracy". The Press Ombudsman will not always find that Principle 1 has been breached simply because something untrue or inaccurate has been published.

If a complaint is made that material has been made on this basis the Press Ombudsman will in the first place seek to establish that the publication took due care in researching the material. She will look for evidence of investigation of all of the available evidence. She may want to see that the publication relied on sources it had good reason to consider reputable and reliable for the material it published. She will consider the balance of the evidence available.

If a publication intends to publish material which contains serious criticisms of or allegations about a person or organisation, it is likely to consider approaching that party for comment in advance of publication. While it is generally good practice to do so, it is not always necessary. An editor may decide that it is in the public interest to publish without giving the party notice, or if they do not respond or cannot be contacted. It is helpful if publications indicate that they sought comment from a party, if it was not provided.

Principle 1.2 refers to the requirement that publications correct any "significant inaccuracy, misleading statement or distorted report or picture" which is drawn to its attention. Since complaints must be made to the editor of a publication in the first instance, this is an opportunity for a publication to avoid a formal complaint being made to the Press Ombudsman. They are required to make such corrections "promptly and with due prominence."

Headlines sometimes cause the Press Ombudsman to uphold a breach even if a report is accurate. Headlines summarise a story in a compressed, powerful way. As the entry point to a story, they have to capture readers who will scan them before deciding whether or not to read the full story. If a headline is misleading, it risks distorting the story it introduces. This is also true in relation to sub-headlines. However, the Press Ombudsman will bear in mind that headlines must condense a story into a few words and cannot be expected to encompass all aspects of a report.

Photographs or cartoons can also mislead a reader or distort a report. A photograph of a person in handcuffs published during a trial is liable to create the impression that they have been convicted. This would breach Principle 1, whereas the publication of the same photograph after conviction would not. A cartoon used which implies something about a person's character is likely to colour and may distort the reader's approach to a related story.

Complainants often specify what they want the publication to do to acknowledge what they assert to have been a breach of the Code of Practice. If a publication accepts that a correction is required but fails to make it "promptly and with due prominence" a complainant may decide to proceed to make a complaint to the Press Ombudsman. The Case Manager at the Office of the Press Ombudsman will endeavour to assist the parties to conciliate the complaint at this stage, and it may be open to the publication to resolve the complaint at this point. [see conciliation section]

Principle 1.3 provides that if a publication agrees that a retraction, apology, clarification, explanation or response is required it must publish this promptly and with due prominence. Again, failure to do so may lead to a complaint to the Press Ombudsman. Again, during the conciliation process the publication may take one of the above forms of remedial action to resolve the complaint.

Qualified apologies often exacerbate rather than resolve matters. If material which is significantly inaccurate has been published, the onus is on the publication to take remedial action. It should not in such cases merely offer a complainant the opportunity to contribute an article or write a letter for publication as this in effect makes the complainant responsible for correcting the record. In such cases, the Press Ombudsman may find that the Principle was breached.

Examples of decisions upheld under Principle 1.

Significant inaccuracy:

A person representing an environmental group complained that a publication inaccurately stated that a company gave an assurance that it would not use imported gas obtained through fracking. The complainant said there had been no such assurance, and that the company had in fact said that it was not necessary to state the source of the gas. The publication responded that it stood over the factual basis of its statement, but it amended the article online to say that local groups, including the one represented by the complainant, did not accept the company's assurances. The complainant said that far from remedying the situation, this made it worse as it was impossible to accept assurances that were not made.

The Press Ombudsman found that the complainant demonstrated that the statement was inaccurate, and that the online amendment did not remedy the situation. (1437/2023)

Significant inaccuracy and failure to correct, retract or apologise:

The leader of a small political party complained that a publication had claimed that his party organised an anti-immigrant rally. He stated that this was "completely untrue". The claim was made in the headline as well as in the news report which followed. The complainant requested a retraction and an apology.

The publication offered to publish a response to the complaint in the form of an amended news report. This would remove the name of the party from the headline. It would state that the article had been based on social media reports which claimed the rally was arranged by a supporter of the party, that it had received information to this effect, and that the party did not refute references made by one of its supporters in advance of the rally. It proposed also to say that it had been contacted by the party to say that no rally had been arranged by it and that "any social media to the contrary are false." The complainant rejected this offer.

The Press Ombudsman found that the publication had breached Principle 1 in all respects. It had based its report on unsubstantiated social media reports and rumours. There was no claim that any efforts were made to corroborate these reports or to ask the party it named if it was the organiser of the rally. There was no onus on the party to make any public statement about the proposed event, and no inference should have been drawn from the fact that it did not.

On being informed by the party that it was not involved in the rally, the publication should have published a correction. It did not. After the matter was brought to the office of the Press Ombudsman it was open to the publication to offer to remove the article from its online publication and apologise for its publication as requested by the complainant. It did not do so.

Distorted or misleading:

A person complained that a court report about the trial of a driver after a road traffic accident in which his mother was killed was distorted as a headline did not reflect key information contained in the article below it. The article consisted of almost a full page, with several sub-sections with their own headlines. The editor said the headlines fairly reflected the contents of the report, and that the evidence given inevitably had to be condensed.

The Press Ombudsman found that the main headline of the piece was fair. However, a headline over a section of the report quoted evidence given in court but did not reflect the fact that the evidence this witness gave contained a profound contradiction which the headline did not reflect. Nor did the headline reflect garda evidence. The Press Ombudsman found that the headline was therefore misleading and that it distorted the report, both in terms of the section below it but also the full article. She said that while the main headline was fair, the distorted headline which followed created imbalance and would distort a reader's approach to an article since the summary the headlines and sub-headlines cumulatively provided misleadingly presented just one narrative, whereas the reporting of the case presented a more complex story. (2012/2024)

Examples of complaints not upheld:

A complainant stated that a podcast made false, incorrect and misleading assertions about his family's legal dealings with a bank, in particular regarding events leading up to the repossession of a house. The publication stated that it had given an "entirely fair summary" of what happened.

The Press Ombudsman found that in the course of just under 30 minutes the podcast covered lengthy and contentious dealings between the family and the bank, the complicated historical context for this dispute, and other matters.

She noted that inevitably, this involved paraphrasing complex proceedings and events. The style was conversational, the language at times informal and colloquial. However, she found that the depiction of the events, including the legal dealings that led to the repossession, accurately summarised the facts, key elements of which were set out in legal documents referred to in correspondence provided to the Press Ombudsman by both parties to this complaint. (2026/2024)

A politician who spoke at a protest rally complained that a publication which named him had described him as having formerly worked for the leader of a well-known UK political party. He said he had never worked for this person and demanded an immediate correction and retraction. The publication provided evidence that the complainant had himself stated in a TV interview that he had worked for the UK politician.

The Press Ombudsman said she was satisfied the publication had properly researched the information it provided, and the complaint was not upheld. (1464/2023)

A complainant said an opinion piece contained numerous factual errors and inaccuracies which showed, in his view, that the writer had overlooked evidence, including evidence the complainant had himself provided to the publication, which had been, he said, ignored. The publication said this was an opinion piece which legitimately asked essential questions. It said it was the role of a columnist to ask questions and make observations about matters of importance. It said it was normal for a journalist to conduct research and then make decisions

The Press Ombudsman found that while the piece used hyperbole to dramatize its arguments the complainant had provided no evidence of an absence of truth or accuracy but had instead provided his own strong opinions about groups and relationships between people he defined as having extremist politics.

She found that the material provided by the complainant detailing his account of his interactions with the publication did not substantiate his claim that the Code was breached through its omission. She found that a publication is not obliged to include everything sources tell it in the course of research. (1438/2022)

Sufficient Remedial Action

Rather than making a decision that a Principle was or was not breached, it is open to the Press Ombudsman to find that a publication took or offered to take sufficient remedial action to resolve a complaint.

A complainant said a publication had made an untrue assertion about a political party with which he was involved. The day after he complained to the publication it had published an amended article online with an acknowledgement that it had made an error. However, the complainant said this was inadequate and called on the publication take further steps to correct the “misinformation”.

The publication responded that it had been contacted by the leadership of the party and had agreed to acknowledge the error, amend the article online and, in lieu of a print correction, publish another article about a related matter. This, it said, had resolved the matter to the satisfaction of “the chiefly affected party”. The complainant did not accept this.

The Press Ombudsman found that the publication had agreed to and had taken sufficient remedial action to address the error it had made and thus avoided a finding that it had breached Principle 1. (2050/2024)

Principle 2

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 2 upholds the freedom of the press to advocate its own opinions, and to do so strongly. The opening paragraph of the Preamble to the Code refers to the freedom of the press to publish what it considers to be news, without fear or favour, and to comment on it. Principle 2 distinguishes between news and commentary, which may occur within news reports, or may be presented as analysis or as opinion. Cartoons may also constitute commentary.

Within news reporting and news analysis, it may happen that a story is breaking as it is written or in the case of podcasts and video broadcast, and this may result in publications having to go with the best available information - which is likely to include unconfirmed reports. Principle 2 takes account of this. It requires the publication to indicate that this is their status. The publication may attribute information to sources, including anonymous ones.

Publications need to take care not to selectively report information in such a way as to turn it into opinion: a complaint was upheld when a publication said a man took his own life over an unpaid bill, because a number of other potential contributory reasons were also described in the available evidence about the tragedy.

Publications may also risk breaching Principle 2 by using photographs inappropriately. For example, the use of a photograph showing a person laughing if used to illustrate a report about a tragic matter to which they are connected in some way could be seen to imply that they were disrespectful or did not understand the gravity of the situation.

Opinion pieces are often about topics which are of high news interest at a particular moment, and which contribute to or endeavour to steer a conversation which is either incipient or already happening in communities. They are usually written to be provocative in the sense that they take strong, uncompromising and sometimes exaggerated or startling positions on issues in order to provoke debate. At best they challenge readers to think about things differently. At worst they create or reinforce prejudice.

Cartoons in particular rely upon shock value. They may harmfully reinforce stereotypes, but it is accepted that they are often intended to startle readers into a laughter which may yield to a willingness to view the subject matter in a new light.

The Press Ombudsman will not uphold a complaint if the complainant merely disagrees, however vehemently, with a comment or a piece of commentary. Nor will evidence that a person was offended by a piece normally be found to be a breach. The freedom to publish "without fear or favour" includes the freedom to publish strong opinions, however unreasonable or aggravating readers may take them to be. (Other Principles of the Code of Practice may be invoked, for example Principle 8).

However, opinion must interpret reality, rather than replace it, and must be based on facts. Freedom of expression allows that facts can be interpreted in what may appear to many or even most readers be a wrong-headed way, but there is no right to present comments as facts if they are demonstrably untrue or unverifiable, or if they are based on other statements which are untrue or unverifiable.

The Code requires comment to be distinguished from fact, and headlines may comment on the content of an otherwise factually based article in such a way as to breach Principle 2. A large headline, and in some publications a headline will likely make up most of a front page, will colour a reader's view of the import of a story. It is hard to modify this impact. What it says must be justified by the article. A statement contained in a headline that is attributed to a source in the article, should be placed in quotation marks, and must properly reflect what the source said.

Publications can engage in comment, conjecture and unconfirmed reports by attributing them clearly to sources, named or otherwise. It is considered good practice, although not always necessary to comply with the Code, to give some indication of the source's credibility. For example, an unnamed source in an article about a medical issue might be referred to as a specialist doctor in that field. A crime scene may be described by an eyewitness.

It is not for the Press Ombudsman to decide if comments are true or false, but rather to determine if they are comment, conjecture, rumour or unconfirmed reports presented as facts.

The bar is set high in relation to a finding that Principle 2.3 has been breached and in fact in the history of the Press Ombudsman's Office no complaint under this category has been upheld. It requires of a complainant that they not only identify what they see as undisclosed interests but also show how such interests inappropriately influenced the material that was published.

In the case of financial interests, the complainant must show what these are and why they should have been but were not included in the material published. If the complainant states that a writer had a potential conflict of interest, the publication may respond that they were aware of this and exercised editorial discretion.

Examples of complaints upheld under Principle 2.

Comment, conjecture, rumour and unconfirmed reports.

An environmental group said that a publication inaccurately claimed a company had said it "would not trade in fracked gas" at an Irish plant. It complained that the company had made no such claim. [note that although they involve similar material, this is not the same complaint as is referred to above under complaints upheld under Principle 1]

The publication referred to correspondence between the company and a local politician as the source for its assertion. The complainant rejected this, insisting the company had never given the assurance, including in the letter to the politician. The Press Ombudsman was provided with the letter and found that its author had chosen language that left the option of using fracked gas open.

She found that the publication had reported that a claim was made which had not been made, in breach of Principle 1. The publication had interpreted what was written in a letter as amounting to a claim, but this was not supported by the facts. She also found that this led to a breach of Principle 2 because the publication had reported its own conjecture that what company said amounted to a claim that it would not trade in fracked gas, as though this were a fact. (1682/2023)

The Press Ombudsman referred a complaint to the Press Council, and it was addressed by a sub-committee which found that Principle 2 was breached. The complaint was from a member publication of the Press Council which said that another member had presented conjecture as fact. The sub-committee found that the article was not labelled as comment or opinion and that some statements contained in it were presented as fact but that the article did not set out the factual basis for them. (OMB 1912)

A complainant asserted that a publication breached Principle 2 because it stated in reported speech that a politician had said something when he did not in fact say it. The editor rejected this. However, the Press Ombudsman found that the politician had not said what the publication attributed to him "whether he implied it or not". She noted that the publication was in effect expressing its opinion of what he actually said. It had failed to distinguish what was fact and what was comment. (1530/2023).

Not upheld:

The Press Ombudsman did not uphold a complaint under Principle 2 about an interview with a doctor who had controversial views about emotive matters. The Press Ombudsman said the paper had a right to offer a platform to people whose views might be regarded as "wrong-headed" and that it would be wrong to assume that the paper shared the doctor's views or considered them to be factually based. (1631/2023)

A complainant said a publication which covered a court case about her successful application for a domestic violence order had made assumptions about one of the matters reported.

The publication said it was a “faithful and accurate” report of a court hearing. The Press Ombudsman found no failure to distinguish between fact and comment. (1707/2024).

A solicitor acting for a complainant who was a teacher stated that Principle 2.3 was breached because the writer of an article was the parent of a child who was then in the complainant’s classroom and therefore had an interest that was not disclosed to readers. The solicitor said the complainant, and the school, were approached not by the writer of the article but by another journalist.

The publication said it was aware of the matter concerning the writer’s child and did not believe it presented a conflict of interest. The Press Ombudsman accepted this. (1916/2024)

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.

The procuring of information is the process by which a publication researches and assembles the material on which it will base an article publish, and Principle 3 includes this process as well as the publication of the material. The Principle requires publications not to resort to unfair or dishonest means of procuring news and information. It includes journalistic behaviour. A complainant may specify any process or journalistic behaviour which they consider to have been used to procure information unfairly or dishonestly. They may complain that a journalist used misrepresentation or subterfuge to obtain information, photographs, audio recording or other material They may complain that journalists used harassment to obtain or seek to obtain material.

It is essential to note that Principle 3 specifies that a publication may justify practices and journalistic behaviour in the procuring of material that might otherwise be in breach of Principle 3 by showing that this was done in the public interest. Publications may also justify publishing material in the public interest that could otherwise be found to be in breach of the Principle.

Complainants in both instances may assert that there is no such public interest justification.

The Preamble to the Code of Practice states that 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." [see section in this handbook on the Preamble].

Principle 3 covers both the procuring of news and information and the publication of news and information. It states that publications must strive for fairness and honesty in both regards. As with Principle 1, the requirement is that the publication must strive for fairness and honesty – this means that there is the possibility that it may for reasons similar to those cited in relation to Principle 1, fall short or make an error without necessarily being found to have breached the Principle.

The Press Ombudsman will consider complaints in relation to Principle 3 in circumstances where the complainant cites a breach based on fair procedures and honesty on the basis that

they were or were likely to be incapable of giving informed consent to the use of any material supplied by them to the publication.

This might arise if the person lacked capacity to understand what the publication was proposing to do with information supplied to it. The Press Ombudsman will consider whether a reasonable person would have believed the complainant was likely to have been incapable of giving such consent.

Misrepresentation could include, among other things, a journalist or photographer pretending to be a concerned person sympathising with someone during a tragedy, not revealing that they are seeking information or photographs for publication purposes, giving assurances they do not keep, claiming that information will be treated as being off the record and then publishing it, making claims that are false or unconfirmed in order to provoke a person or party into responding with information they might not otherwise have supplied.

Subterfuge may involve secret recording, whether through notes or on tape, video or camera, of material which is then published. It may involve deception and the hiding of the reporter or photographer's true intent in seeking to procure information and other material. It may include taking photographs without the subject's knowledge or lying to the subject about the intended purpose of taking photographs. It may include gaining access to a home or premisses on a false pretext in order to gather information or take photographs surreptitiously.

It is important to note that a publication has a responsibility to ensure that the material it publishes has been obtained without the use of subterfuge. If it publishes material obtained by another party using subterfuge the Press Ombudsman may find that it has breached Principle 3.

Harassment can mean staking out a person's home or workplace, following them, persistent calls, emails, messages or visits to a person or business, or to persons associated with them, or their friends or family. It can mean watching them, keeping them under surveillance, taking multiple photographs of them at every opportunity.

Publications should be particularly sensitive in their dealings with people who are or appear to be vulnerable.

In relation to the behaviour of specific persons working on behalf of a publication (photographers, reporters, researchers etc) a complainant is likely to need to be able to identify that those they claim have engaged in such behaviour were in fact working for the publication about which they are making the complaint.

Complaints under Principle 3 may be upheld if the complainant can show, for example, that significant and relevant information that was available to the publication has been omitted, or that the publication has gratuitously published irrelevant or prejudicial material.

Examples of complaints upheld under Principle 3:

The Press Ombudsman upheld a complaint that a publication had breached Principle 3 after it published an article containing a photograph of a named woman and quoted from an interview with her, in which she talked candidly about her use of drugs and other matters. She stated that she had "scored" proscribed drugs. The photograph showed her in a wheelchair in an alleyway in a city centre.

The complaint was brought by a voluntary organisation that supports women with addictions on behalf of the woman. It said she was most likely under the influence of crack cocaine when she spoke to the photographer and the reporter, and that she strongly disagreed that she had known she was being photographed and interviewed and would be identified. It said her ability to give consent was compromised and that the article had been deceptively obtained.

The publication denied deceit or subterfuge and said it had been "completely transparent" with the woman about its intentions.

The Press Ombudsman agreed that the woman's capacity to consent was clearly compromised by her drug use and that she was vulnerable. It said that it could not have reasonably been assumed that she was capable of understanding what was happening and that the publication's disregard for her potential incapacity to give consent amounted to subterfuge.

The publication appealed the decision to the Press Council on the ground of error in application of the Code. The Press Council upheld the appeal stating that there was insufficient evidence to show the publication had conducted the interview and taken the photograph without regard to the woman's capacity to give informed consent and that consequently there was no evidence that subterfuge was used.

Principle 4.

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.

Article 40.3.2 of the Irish Constitution sets out to protect among other things the "good name" of every citizen, and advises that if someone tarnishes it, the subject may be able to sue them for defamation. A person's good name is their entitlement to be treated with respect, their good reputation, the good opinion that others should have of them. As an alternative dispute resolution mechanism, the Code of Practice offers protection for a person's good name through Principle 4.

The Principle has 2 strands. Publications must not "knowingly publish matter based on malicious representation or unfounded accusations". Publications must also "take reasonable care in checking facts before publication."

The first strand requires complainants to be able to show that the publication *knew* it was publishing material based on malicious misrepresentation or unfounded accusations. They must also then show that the representation of them that was published was malicious. Or they must show that it was unfounded. Or that it was both.

The complainant will need to demonstrate that had the publication taken reasonable care to check facts before publication, it would not have published the material. The onus is on the publication, however, to provide evidence that it did take such care. If it is able to do so, the Press Ombudsman may decide that although an inaccuracy was published, it was not done knowingly, and that Principle 4 was not breached. If it is not able to do so, it is more likely that the complaint will be upheld.

If a publication wishes to publish material which is highly critical or disparaging and is therefore likely to be reputationally harmful for the person or organisation at which it is directed, the requirement to take reasonable care implies that it should give that person or organisation the opportunity to vindicate their good name. The publication would normally be expected to contact them in advance of publication, so that if they wish to challenge the factuality of the material, they have a chance to do so. Failure to contact a person without good reason could constitute a breach of the code.

However, in situations of public or political controversy, the question of the public interest is likely to arise. It may not be possible to verify all of the allegations or detrimental views which are swirling around, and publications are not required to verify every allegation or opinion which they attribute to third parties. This is a matter on which editorial discretion will come into play.

It is also important to note that if the complained of material is part of a court report, Principle 7.1 is likely to apply. This states that "Nothing in this code shall limit or prohibit the

fair and accurate reporting of court proceedings." Evidence given in open court often includes unfounded allegations of the sort that would, if published in other circumstances, potentially breach Principle 4.

Complaints upheld:

In 2019 a former Press Ombudsman upheld a complaint from a mother about a report in which the father of the woman's child expressed concern that his child might end up living with a convicted murderer since his former partner, the child's mother, had married a man serving a life sentence for murder. The report named the father and mother of the child and gave the boy's age. The complainant said the article breached the Principle and labelled her "as a bad mother". She pointed out that by the time her husband was released from prison her child would be an adult, and that experts had testified that her husband was not a danger to anyone.

The publication said the story would have "made no sense" without reference to the child, and that it had published as few identifying factors as possible, as was "consistent with [its] responsibility to publish."

The Press Ombudsman found that the article was based almost exclusively on the comments of the father of the child and that although the publication had attempted to get the child's mother to respond to what he said, she declined to do so. The Press Ombudsman said the publication had not made an adequate attempt to take reasonable care in checking the facts. He said that given the sensitivity of the subject matter the publication was obliged to make more of an effort to balance the article and provide readers with some understanding of the mother's position: "When a disputed family matter is the subject of an article there is a considerable onus on a publication to present more than one side of the dispute".

Complaints not upheld:

A woman complained that "outrageous accusations" had been published against her late son and said that she needed to defend his and his family's rights. Her complaint focussed on statements made by a man who was on remand in prison in another country and who was interviewed remotely by the publication in relation to gangland figures and their activities in Ireland. In the course of the interview, he said that he made comments about the complainant's son. The publication responded that this was an interview and that the comments about which the person had complained were attributed to the interviewee and were not presented as facts. It offered her a right of reply.

The Press Ombudsman found that the comments made by the remanded prisoner were clearly indicated by quotation marks and that the publication by no means asserted his credibility – the headline referred to him as a "notorious hitman". In relation to Principle 4,

she noted that an assertion made by him is an unsubstantiated claim that a third party told him that the man who is the late son of the complainant would “testify in unspecified ways against him”.

The Press Ombudsman found that this did not justify a claim that the publication had published “outrageous allegations” about the woman’s son. (1855/2024)

In 2011 a former Press Ombudsman found that while a publication’s claim that the CEO of a charity was “a perfect product of state crony capitalism” was “unsupported by verifiable evidence” there was no evidence that it was knowingly published based on malicious misrepresentation or unfounded accusations, as is required to support a complaint under Principle 4.

Principle 5

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.

5.4 Public persons are entitled to privacy. However, where people hold public office, deal with public affairs, follow a public career, or have sought or obtained publicity for their activities, publication of relevant details of their private life and circumstances may be justifiable where the information revealed relates to the validity of their conduct, the credibility of their public statements, the value of their 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.

As Principle 5.1 recognises, privacy is held to be a fundamental human right and is protected as such in the Constitution as well as in Irish and international law. The interplay between the need for the press to investigate and the right of the individuals to their privacy inevitably gives rise to disputes, and it is not surprising that this is one of the most cited Principles in the Code of Practice. It must be stressed that it is the *private* life of the individual which Principle 5 seeks to protect.

The Principle offers a range of potential openings for complaints depending on the circumstances in which they consider their privacy has been breached. It is one of the Principles in which journalistic behaviour may well be the subject of complaint. Principle 5.1 refers to the requirement that "the private and family life, home and correspondence of everyone" be respected.

Principle 5.2 states that news and comment must be presented "with due respect for the privacy and sensibilities of individuals". People have a right to forfeit their privacy in the interest of telling their story or otherwise engaging with the press. Publications have every right to publish such material and frequently do, to powerful effect.

However, publications must take care not to jeopardise the privacy of vulnerable individuals and should pay respectful attention to a person's circumstances and state of mind. Due respect must be paid to individuals whose ability to respond freely is in some way compromised, whether that is due to some constantly present set of circumstances, or some particular situation which may be temporary but is sufficient to impair their capacity to make

informed choices. Consideration should be given to whether or not a person has the ability to meaningfully consent to being interviewed or photographed.

In relation to consent, it has been noted that courtesy shown to a journalist or photographer must not be mistaken for consent to be interviewed, quoted or photographed.

The right to privacy is not unqualified, and there are significant defences against complaints made under Principle 5. Principle 5.2 also states that the right to privacy "should not prevent publication of matters of public record or in the public interest." This applies to all of the headings under Principle 5 and means that the press can invoke the defence of public interest in circumstances when a breach might otherwise have been upheld. It is open to the complainant to assert that there was no public interest.

It is for the Press Ombudsman and the Press Council to consider what they perceive to be the public interest on a case by case basis but it is broadly defined in the Preamble to the Code of Practice which states that *"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 print and online media legitimately interested in providing information about it."*

This is also one of the Principles in relation to which publications are likely to refer to their overarching rights as provided for under Principle 7.1. This states that "Nothing in this Code shall limit or prohibit the fair and accurate reporting of legal proceedings." Statements made as evidence in an open court are described as being matters of "public record" and are not protected by Principle 5.

The "public record" also describes material that has been officially published such as court judgements, parliamentary debates, local council debates, planning proceedings and many other official discussions. Broadly speaking, if journalists are allowed to be present, they will be entitled to report the proceedings subject to any restrictions imposed by a judge or other presiding authority. It should be noted that it is the prerogative of such authorities to order that certain statements be struck from the public record.

The right to re-publish cannot be assumed. Material that is in "the public domain" may in some circumstances be subject to complaints under Principle 5. The term refers to material that has already appeared in the media or in some other format to which the press has access, notably the internet. Complaints have been upheld in cases where the press has published information or photographs taken from websites and from social media accounts, even if such material was readily accessible, on the basis that the material was shared with the intention that it be seen by a circle of family and friends and that it was not intended for the public as a whole. The public interest defence may, of course, be invoked.

Intrusive journalistic behaviour is often cited in complaints, as well as publication of private information or publication of private photographs. The public interest proviso applies. Care

must be taken in terms of publishing photographs, and it cannot be assumed that photographs published for a particular purpose and readership may be re-published without permission elsewhere.

It has been found that archiving previously published material constitutes re-publication and therefore such material may be the subject of complaints. In a case in which a publication used a woman's name in relation to the disappearance of an elderly man, the publication said it was on the public record. However, in her complaint the woman said she had waived her anonymity as a minor after she had been sexually assaulted by the man as she wished him to be named as a perpetrator. The Press Ombudsman upheld her complaint that the re-publication breached her privacy.

Principle 5.3 states that "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 part of the Principle is often cited in complaints relating to funerals, and to inquest reports. Particularly sensitive issues arise in relation to deaths arising from suicide. Complainants have asserted that the publication of material without their prior knowledge and without them having been given an opportunity to comment has exacerbated their grief and shock and that their feelings were not taken into account.

A publication may on the other hand assert that it was because of the requirement to take the feelings of families into account and to show sympathy and discretion that it did not approach them for comment in relation to material that it intended to publish on the basis that it decided it would be intrusive or distressing.

This is one of the most sensitive areas covered by the Code of Practice. The Press Ombudsman will consider the context in each case. She has in some cases decided to uphold complaints of breaches made by members of grieving families who asserted that they should have been contacted before material was published. In others she has accepted that the publication acted in good faith in deciding that to approach a family would be in breach of Principle 5.

One complaint was about an article published within a few days of the funeral of a man, which alleged that he had been suspected of serious criminality. The Press Ombudsman decided that the publication had breached Principle 5. Another complaint was about an obituary for a teenage boy which was published without the family having been approached. In this case the Press Ombudsman found that the publication had taken sufficient remedial action by admitting it should have "reached out" and apologising for not doing so. See both cases in the examples given below.

The Press Ombudsman has noted that publications should give serious thought to the feelings of grieving families and seek to strike a balance. There is always the risk that a well-intentioned approach may cause distress – but also that a family would have welcomed the

opportunity to comment. Publications should also take care when deciding whether or not it is appropriate to make use of photographs and material taken from websites such as RIP.ie, and material taken from eulogies delivered during live-streamed funeral services. It may be possible to ascertain the feelings of families about these matters without approaching them directly. See examples below.

Principle 5.4 makes it clear that "public persons" are entitled to privacy. Such persons can include those holding public office or dealing with public affairs, or whose career brings them into the public eye, or who have sought publicity for their activities. The fact that a person may have a criminal conviction does not abolish their right to privacy.

The Principle however spells out particular circumstances in which the public interest defence may well apply – if, for example, the material published suggests hypocritical behaviour at odds with the person's public stance on issues. Questions of validity, credibility and values are relevant. Nor is the publication of gossip about celebrities generally regarded as a breach of Principle 5.

Principle 5.5 states that it is not acceptable for publications to take photographs of individuals in private places without their consent (subject to the public interest proviso). A private place has been taken to mean a place in which a person has a reasonable expectation of privacy. The most notable such place is the private home. However, complaints about photographs taken on "private property" may not be upheld in some cases, including photographs taken in the public interest of people in their private gardens if these can be seen from public areas.

Examples of Complaints Upheld under Principle 5:

5.1 "private and family life…"

A taxi driver complained that a publication published a photograph illustrating an article about the release from prison of a notorious prisoner, pictured as he was about to get into the driver's taxi. While the number plate of the taxi was pixellated, the roof sign showed the taxi license number. The complainant said anyone could use the taxi license number to access his identity using the taxi driver app, and that the publication had no right to identify him.

The publication said the release of the prisoner was a matter of public interest and the photo was taken in a public place. It said there was no suggestion the taxi driver had done anything wrong and that it had ensured he was not visible. It said that although it was not obliged to, it had pixellated the car's registration number, and "as a gesture of good will" in response to the complaint it had pixellated the rooftop license number.

The Press Ombudsman found that it was indeed possible to use information in the photograph to obtain the name and a photograph of the complainant using an app that exists

for purposes unrelated to the situation in question. This was a breach of his personal right to privacy.

5.2 "respect for the privacy and sensibilities of individuals".

In respect of the same complaint, the Press Ombudsman found that as a taxi driver the complainant was a private individual who provided a service to the public. He was not a public figure, and no public interest was served by enabling him to be identified. She said that while the publication's decision to pixelate the roof sign after the complaint was welcome she did not find it was sufficient given the breach of the Code. (1386/2022)

5.3

"feelings of grieving families"

Three days after the burial of a man killed in an accident, an article was published in which it was claimed that he was suspected of being a "serious threat to women". The article cited sources who had he had been a suspect in cases involving violent crimes against women. The publication. The publication did not inform the family that the article was to be published or seek its views.

In its complaint under Principle 5 the family said it had been traumatised and that the article served no public interest. The publication said that in the circumstances it had not felt it was appropriate to contact the family. It noted that while it was aware the article would have an impact on the family, the Code stated that the right to privacy "should not prevent publication of matters of public record or in the public interest." It said that as a gesture of goodwill it had removed the article from its social media pages.

The Press Ombudsman decided that the publication was entitled to write about the deceased man's criminal convictions which were on the public record. However, she found that while the family might well have found an approach from the publication intrusive and upsetting, it was instead left unprepared for reading, just days after his funeral, about extremely critical and damaging suspicions (purportedly from an internal garda notice) about their deceased family member.

The Press Ombudsman found that the publication had not taken account the feelings of the grieving family and that it had thereby breached Principle 5. She found that the action taken by the publication was not sufficient to remedy the breach. [1713/2023]

[The Press Council upheld an appeal by the publication. It said the publication was not required to contact the family and that "the privacy principle could have been interpreted as encouraging it not to." It said it took into consideration the public interest defence.]

Sufficient Remedial Action

A complainant stated that he had been shocked to find out that an obituary of his son had been published in a local newspaper. He said the family's "right to privacy and choice was

taken away" at a sensitive time. He said that while the notification of his son's death had been published on RIP.ie and the funeral had been broadcast online, the family had intended only to reach mourners "and not the extended county."

He said that upon reading the article he wrote to the publication asking it: "Did it cross your mind that we might have something to say on the tragic passing of our son?" The publication had apologized for causing distress and had taken down the photograph it had used.

The publication noted that it had indeed used RIP.ie and the streamed funeral mass for the material it used for the obituary. It said it did not generally approach families "as this can often be regarded as particularly disrespectful and insensitive." It cited the Code's stipulation on sympathy and discretion. It accepted that it had made a mistake: "in hindsight we should have reached out to you."

The Press Ombudsman accepted that the publication had given reasons for not approaching the family which were in keeping with the intentions of Principle 5, and that its apology, removal of the photograph and acceptance that it should have contacted the family constituted sufficient remedial action.

However, she noted the complainant's comment that what had happened could not be undone, and urged publications to bear in mind his question: "Did it cross your mind that we might have had something to say on the tragic passing of our son?" (2298/2025)

Not upheld:

A woman complained that a publication breached Principle 5.3 by giving details of her relative's life after he died after being attacked by a pet. The information about his death was substantially drawn from a report from his inquest. The complainant said the use of historical information about the death of one of the man's children was not relevant and did not take account of the family's feelings. She said a photograph of the child who had died should not have been used and she had been unaware of its existence. She said the article had caused her pain and the publication had shown no regard for her family's feelings or health. She asked for an apology.

The publication said it believed the late man who was the subject of the article had supplied the photograph at the time of the child's death. It said the information about the man's death was of a "public nature". It offered to give the complainant the opportunity to highlight issues related to her father's death, and to supply her with a copy of the photograph.

The Press Ombudsman found the paper was entitled to make use of the material drawn from the inquest into the man's death. In relation to the coverage of the child's death she said that the fact that the material was in the public domain did not automatically entitle the publication to use it. The question of editorial discretion arose in respect of whether or not the feelings of the grieving family were taken into account.

The Press Ombudsman found there was no lack of sympathy in the way the report was written – it was presented as a sad human-interest story of a man who had did in an unusual and tragic incident having already in his life experienced a family tragedy with the loss of his infant son. She said no disrespect was shown in the linking of the two deaths.

The preamble to the Code refers to the right of a publication to publish what it considers to be news. Principle 5.3 then requires that in exercising this freedom it must take into account the family's feelings. The Press Ombudsman said it came down to a matter of balance and that in this instance she found there was no breach. (1535/2023)

Principle 6

Journalists shall protect confidential sources of information.

Publications rely on many sources for the information and material which they publish. Material may include items, photographs, videos, documents or verbal information. Many sources are happy to be named. However, information is sometimes provided on a confidential basis – for example if a whistleblower wants to alert a publication to some wrongdoing, or if a person believes they have information on criminality. Frequently such information is sensitive and for a wide range of reasons sources will only provide it if they are assured that their confidentiality will be protected. Publications may come under pressure to reveal their unnamed sources.

Principle 6 exists to protect this relationship of trust between publications and their sources.

It does not preclude the publication of information about a source which does not compromise its confidentiality, and publications are likely to check with sources to avoid inadvertently revealing information that might enable them to be identified as the source.

However, it is recommended that publications provide as much information about sources as possible, including, using great care, unnamed sources, as it is recognised that this will greatly enhance the credibility of material it publishes or on which it relies when researching and preparing reports, podcasts and other items for publication.

The Principle has hardly ever been cited in complaints. It could arise if a source wished to complain that a publication had guaranteed them confidentiality and had broken this agreement.

The Press Ombudsman will protect the confidentiality of the source(s) in dealing with a complaint.

(The law does not recognise an absolute right to protect the identity of sources, and journalists have been prosecuted for insisting upon it.)

Principle 7 – Court Reporting

7.1 *Nothing in this Code shall limit or prohibit the fair and accurate reporting of legal proceedings.*

7.2 *The press shall strive to ensure that court reports (including the use of images) are fair and accurate, are not prejudicial to the right to a fair trial and that the presumption of innocence is respected.*

The right of the press to report on court proceedings is upheld in the Irish Constitution, in the European Convention on Human Rights, and in Irish law, and this right is regarded by member publications of the Press Council as vital to their exercise of the freedom of the press.

Subject to any restrictions placed by a presiding judge or coroner, anything that is said, any evidence given, and any evidence given in documents lodged in open court are matters of public record. In the case of documents, such as affidavits, exhibits and pleadings - these do not have to be read aloud in court to be considered on the public record.

It should be noted that some courts, notably the family court, are not open, and particular rules on court reporting will apply – this is also the case in proceedings involving minors. Not all of what happens in certain courts is on the public record and in some a journalist must be present in court in order to report on proceedings.

Judges may instruct the media not to publish certain matters. In some types of proceedings anonymity must be protected. In a decision about a case heard in the family courts the Press Ombudsman noted that in that instance "what the Code protects by reference to the public record should be taken to mean matters which the journalist is present in court to record and legally entitled to publish."

In 2024 the Code Committee in consultation with the Press Council made a significant change to the Code in relation to court reporting, adding a new clause, 7.1, which refers not solely to Principle 7, but also to the whole of the Code of Practice. It states plainly that "nothing in this Code shall limit the fair and accurate reporting of legal proceedings".

(It should be noted however that the change which was made to Principle 10 on the reporting of suicide introduced a clause which requires publications to "exercise extreme caution" in reporting the means of suicide. The Press Ombudsman may find that this Principle has been breached in respect of a court or inquest hearing if the publication does not demonstrate that it exercised such caution.)

For the most part, however, published material which represents fair and accurate reporting of legal proceedings cannot be found to be in breach of the Code regardless of the Principles cited in a complaint. This applies in the case of proceedings in open court and therefore on

the public record. Complaints about court reporting may be made under other Principles, and the Press Ombudsman has discretion in relation to what constitutes "fair and accurate" reporting.

The Press Ombudsman receives many complaints about court reports, and it is clear that such reports can cause much anguish. Some complaints are upheld, but it is true to say that some are based on a lack of understanding of court proceedings and of the rights of the press to report matters of public record.

Some complainants are unaware that evidence given in court is privileged, meaning that, for example, a statement that might otherwise be deemed to damage a person's good name, may be made by a witness in evidence, and may be reported by the press. (The Code requires however that such statements must not be reported as fact.) Complainants must bear in mind that it is not the role of the Press Ombudsman to decide upon the truth or otherwise of evidence given in court.

Principle 7.2 elaborates on what the Code calls for in relation to court reporting. It is important to note that as in Principle 1, the requirement is to "strive to ensure", rather than to guarantee. It is for editors to make judgements on the relevance, significance and newsworthiness of what they choose to report – so long as their reporting is fair and accurate.

However, how court reports are presented in terms of layout, photographs, images and headlines, will also be matters for consideration. These elements can risk sensationalising or distorting reports which are otherwise fair and accurate. Headlines in particular have led to complaints of breaches being upheld.

Actual statements given in court will be fair if they are quoted verbatim. However, given that court reports are unlikely to contain all or even most of the details of what is said in court, or contained in documents, fairness must be applied to how evidence is selected and summarised.

Fair reporting will be unprejudiced and impartial – it will report what is said objectively and it will be balanced. Readers must be able to assume that reports contain what the publication deems to be the most significant elements of the evidence provided by both sides in relation to key arguments. Judgements must also be reported in a balanced way adequate to convey all the necessary elements. Court reports will inevitably include evidence which is contested – such evidence must not presented as if it were factual.

Accuracy will apply to the use of verbatim quotes and to distinguishing these from evidence which is being cited in reported speech or in summary. It will apply to accounts of proceedings. A report could risk inaccuracy if it is distorted, by for example, leaving out important information or only giving a partial account of a statement or ruling. This has the potential to render it unfair and inaccurate in the view of the Press Ombudsman.

The Principle states that the press must strive to ensure that court reports are "not prejudicial to the right to a fair trial and that the presumption of innocence is respected." This is based on the fact that reporting on court proceedings is legally required to comply with these fundamental principles. A person accused of a crime or other wrongdoing is presumed to be innocent until proven guilty, and this is the principle upon which they are tried or otherwise brought before the courts.

Court reporting is normally contemporaneous in that it appears while a trial is ongoing, and judges have on occasion collapsed trials over reporting which they deem to have undermined the impartiality and fairness of a trial. The Code is not the law and in considering a complaint the Press Ombudsman will consider the case made by a complainant in terms of assessing the efforts made by a publication to avoid prejudicial reporting and to show respect for the presumption of innocence.

Care is needed in the contemporaneous reporting of the outcome of cases that may be subject to appeal. While a guilty verdict may be reported as such, the imposition of a jail sentence following a conviction cannot be equated with imprisonment, for example. A complaint was upheld under Principle 7 when a publication said a man had been "sent to jail" and that a judge had "jailed" him. This was inaccurate because he had successfully appealed his conviction.

However, in another case, it was found that it would be unreasonable to expect publications to be aware of the date of every appeal to the Circuit Court of a District Court conviction, and that as soon as it became aware that a man had been acquitted at appeal, the publication in question had published the information.

The then Press Ombudsman stated that Principle 7 required papers to strive to report on successful appeals in cases involving proceedings they had covered. Reports which make use of archive material must also strive for fairness and accuracy and should include information in relation to appeals and other relevant developments that followed the outcome of court proceedings.

The Press Ombudsman notes that the practice of using the words "the trial (or hearing) continues" at the end of a report on an ongoing court case may usefully avoid the risk that readers will mistakenly believe a case has concluded and that the evidence cited in the report is therefore accepted.

<u>Examples of complaints Upheld Under Principle 7:</u>

No recent complaints under Principle 7 have been upheld. Complaints about court reporting may also be made under other Principles - see second example below.

<u>Not upheld:</u>

An organisation representing turf cutters complained that a report did not contain a reference to a historic Supreme Court judgement which it considered to be relevant to the case. The publication said the judgement was not referred to by the Supreme Court in the determination on which the publication had reported, and nor had it been mentioned in a High Court Judicial Review judgement which preceded it. It said the role of the court reporter was to report on evidence heard in court and on decisions made by the courts, and not to act as advocate for any party to proceedings. The Press Ombudsman found that the publication was correct about its responsibilities and that there was no requirement for it to have mentioned the historic proceedings. (1793/2024)

A man complained that on the day that a jury was to begin its deliberations, a local paper published a report which the man asserted was distorted in favour of the defence. The publication said the report was a fair and accurate account of an ongoing trial which had not concluded when it went to press. It said there was no obligation on it to delay publication in order to report on specific evidence.

The Press Ombudsman noted that it was normal and necessary practice for publications to report on such evidence as was available to them at the point at which they reach their deadline for going to press. The case had not concluded, and the report noted that the trial was continuing. The conclusion of the case and the verdict were reported in the following week's edition of the publication. The Press Ombudsman noted that judges routinely advise jury members to base their deliberations solely on the evidence they heard in court. (2012/2024)

(The Press Ombudsman upheld part of the same complaint under Principle 1 on the grounds that a distorted headline then caused distortion to the report of the court proceedings.)

A woman made a complaint about coverage of court proceedings in the family court concerning her and a family member. The publication defended its right to report on the proceedings. The Press Ombudsman noted that in the family court there is no public record as such but that a journalist who is present in court is entitled to report on what happened, subject to the prohibition that nothing should be published that could identify parties. The journalist in this case was in court and did not identify parties.

The Press Ombudsman noted that "what the Code protects by reference to the public record should be taken to mean matters which the journalist is present in court to record and legally entitled to publish." (1707/2024).

Principle 8 – Prejudice

The press shall not publish material intended to 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.

The categories of people specified in Principle 8 are those set out in the Prohibition of Incitement to Hatred Act of 1989. They are also categories recognised under international human rights law, including the European Convention on Human Rights. In 2022 the Committee of Ministers of the Council of Europe defined hate speech as "all types of expression that incite, promote, spread or justify violence, hatred or discrimination against a person or group of persons, or that denigrates them, by reason of their real or attributed personal characteristics or status."

While the Code of Practice stands alone and is based on promoting ethical and professional standards rather than on legal determinations, this is a useful guide to what a breach of Principle 8 might involve. The Press Ombudsman's decisions under the Principle will be proportionate, bearing in mind that material likely to stir up hatred is at the extreme end of a spectrum.

The Principle's title is Prejudice, which is defined as opinion formed without just grounds. It refers to statements founded on spurious information which does not stand up to rational examination. In the context of Principle 8, it is indicated by the expression or implication of a hostile bias directed at either an individual from one of the groups deemed to be at risk of such treatment, or at anyone or everyone belonging to one or more of the groups.

It may be that the hostile bias is directed at an individual who has been singled out from one or more of the groups in such a way that it is clear that the prejudice expressed is founded in and extends to the whole group or groups. It is very likely that such treatment of an individual will impact on others, by for example silencing them, or causing them to live in fear. Publishers will need to give careful consideration to the impact of publishing material which concerns a person or people from one of the groups identified in the Principle.

Principle 8 identifies two potential risks of breach. The first is "material intended to or likely to stir up hatred" and the second is "material intended or likely to cause grave offence". The expression of prejudice may be capable of causing others to hate the person or group towards whom it is directed, and it may be capable of causing grave offence to the person or group. In some cases, both may be involved. Both are harmful.

A complainant citing Principle 8 must be associated with one of the categories referred to in the Principle. The Press Ombudsman uses her discretion in interpreting the scope of each category. She may when appropriate in dealing with complaints under the Principle consider

contextual aspects such as gender expression, sex characteristics, and migration status as well as gender-based violence.

Grave offence, is of course, more serious than offence. Opinion pieces may include the expression of strong views which some will find offensive, but which may not be in breach of Principle 8. Humour in the context of cartoons and headlines may also cause offence without breaching the Principle.

Principle 2 must be remembered in this regard: "The press is entitled to advocate strongly its own views on topics." It is important to recognise that it is not sufficient for a complainant simply to state that they were gravely offended – a decision to uphold a complaint will require the Press Ombudsman to find that in her opinion the material cited was intended or likely to cause grave offence. This applies equally to the concept of the stirring up of hatred.

It is also important to note that the Press Ombudsman can find that a breach has occurred whether or not the stirring up of hatred or the causing of grave offence was intentional on the part of the publication. She may find that what was published was a breach on the basis that it was likely to have one or both of these effects.

Examples of complaints upheld under Principle 8.

The Press Ombudsman upheld a complaint about a comment piece which claimed that a charity had been "used and abused" by "transgender activists" and had published an article that was "nonsense" after being "infiltrated". The complainant was the subject of the article on the charity's website which aimed to urge people to be aware of cancer risks. It described the subject as "no ordinary woman" and how having been assigned as male at birth, she had surgery "to correct that error" but still had a prostate.

The publication about which the complaint to the Press Ombudsman was made stated that the person was born male and continued to be male: "Women do not have prostate glands".

The complainant said the article was "written to stir up prejudice and cause offence to trans women and in particular me." She said she gave up time and privacy to accede to a charity's request for help. She said the article about which she was complaining had "stirred up huge hatred and bigotry against me and my family" and had "caused grave offence and emboldened a cohort to attack me and the wider transgender community". The publication said the complaint was "flatly false". It said the piece was about "organisational capture".

The Press Ombudsman found that the publication had used aggressive and vulgar language, the cumulative effect of which was derogatory and intentionally offensive. It had characterised as capture and infiltration a publication process actually based on respect and trust. The Press Ombudsman found that the article was written using language intended to

be offensive and liable to stir up hatred against the complainant and against transgender people and was in breach of Principle 8.

The publication appealed the decision. The Press Council agreed that the vulgar and aggressive language used by the publication was almost certainly intended, and certainly likely, to cause grave offence to the complainant. It therefore rejected that aspect of the appeal relating to Principle 8.

However, it decided that the Press Ombudsman had not demonstrated sufficiently that the article, while highly critical of campaigners for transgender rights, was likely to stir up hatred against transgender people as a whole.

OMB. 1712/2023

<u>Not Upheld:</u>

The Press Ombudsman did not uphold a complaint about an opinion piece about "right wing extremism" in Ireland. The article said a report about such extremism was "deeply dishonest" and ridiculed the idea that some of the groups mentioned in it had significant political purpose. It said that while such extremism "certainly exists" it was "confined largely to online echo chambers and a limited number of headbangers."

The complainant said the journalist was biassed and that the article "appears to mitigate racial hatred." He said he believed the article might be referring to him when it used the terms "self-styled fascist hunters."

The Press Ombudsman found that article was clearly positioned in the online newspaper as an opinion column. It opened with commentary on a news story in another paper, before tackling the GPAHE report using strong language, a satirical tone and broad strokes. She said that the arguments made could be disputed, and that newspapers carried opinion pieces precisely in order to provoke debate.

She said that it was obvious from the start of the article that its author opposed right wing extremism and those who promote "hate agendas". She said that in fact one of his objections to the GPAHE report was that the article considered that it amplified the voices of "a limited number of headbangers."

(1438/2022)

The Press Ombudsman did not uphold a complaint by a man who said he and many other Catholics had been gravely offended by a cartoon which he said was in breach of Principle 8. The cartoon was published on Good Friday and included the use of the word, "Jesus Christ!" as an expletive. The complainant said, "the Lord's name should only ever be referenced in prayer in a respectful way." The publication stood over its right to be "provocative". It said the Irish public had voted for the crime of blasphemy to be repealed.

The Press Ombudsman found that the Code of Practice upholds the right of the press to advocate strongly its own views. She said that cartoons reflected the cartoonist's view and were thus a form of commentary. She considered that cartoons were by their nature provocations, meant to startle readers into a laughter which at least momentarily establishes a solidarity with the perspective of the cartoonist, and which may then yield to a willingness to view the subject matter in a fresh light. She found that the threshold for grave offence envisaged in Principle 8 had not been crossed.

Principle 9

9.1 The press shall take particular care in seeking and presenting information or comment about a child under the age of 18.

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 of position of a parent or guardian must not be used as sole justification for publishing details of a child's private life.

Children are vulnerable and require special consideration from the press. There is considerable risk of harm arising from the publication of information about them, in particular relating to their health, behaviour and family circumstances, and their incapacity to give informed consent to such publication. The press in Ireland has generally demonstrated a strong awareness of the particular vulnerability of children, and that that has been reflected in the relative rarity of complaints under the Code of Practice.

The Code of Practice defines a child as under 18. This is the age of majority after which a person can be identified in court and is deemed adult. It should be noted however that a 16-year-old may consent to medical treatment, and 17 is the age of consent for sex.

Principle 9 does not define in precise terms what may or may not be published about children. It does however insist upon the essential vulnerability of all children whatever the circumstances, and it implies a substantial duty on publications to take all relevant considerations fully into account before deciding to publish a story that may identify children or draw attention to them.

In reporting on public interest concerning matters the wellbeing of children, such as reports on abuse or on health issues, it is now normal practice not to identify children, or persons who were children at a time relevant to the issue and have since become adults, unless the now adult person gives permission, in which case care must be taken not to identify others.

Publications are asked to give serious consideration as to whether or not there are circumstances that make a story about a child or children a matter of public interest, and if there are, then great care must be taken, even if it is legally permissible to publish a photograph of a child or to report on their lives. The Preamble of the Code of Practice should be borne in mind so that Principle 9 is "honoured in the spirit as well as in the letter."

Principle 9 emphasises that publications should treat children as having their own right to privacy, even if their parent or guardian is in the public eye through fame or notoriety.

It suggests that parental consent or the consent of another responsible adult should be obtained if a child is to be identified, though it leaves open the possibility that in certain

circumstances it may not always constitute a breach of the Code of Practice if this is not done.

Where matters arise in relation to a story in the public interest (for example, the crisis in children's mental health care), the identity of the child or children should normally be protected.

Publishers are asked to take particular care when publishing photographs of children. The re-publication of photographs or information taken from social media accounts has been found to be in breach of Principle 9 even though the material was in the public domain. Pixelation of photographs in circumstances in which identification is nonetheless possible has also been found to be a breach.

The 2014 handbook states that articles about and photographs of children constitute "a prime area for the exercise of editorial discretion, commonsense and empathy." This implies that in circumstances where the Code allows for discretion, publications should take a conservative position and desist from identifying a child.

Examples of complaints not upheld under Principle 9.

The Press Ombudsman did not uphold a complaint from a woman who said a publication had failed in its duty to safeguard a child by publishing her name and other details. She said this was "potentially dangerous" and in breach of her "right to be shielded from public exposure". The complainant was the child's mother.

The publication stated that it had complied fully with reporting restrictions. It said the judge in the case had made no order prohibiting publication of names and nor had the complainant's solicitor though it was open to them to do so. It said that Tusla, the state agency with responsibility for children, had decided to pursue the case in open court.

The Press Ombudsman found that it was open to the complainant to seek for the child's name and other identifying information to be withheld but she did not do so. There was no reporting restriction in place.

The Press Ombudsman omitted identifying details in her decision.

"insufficient evidence to make a decision"

A complainant stated that whereas Principle 9 stated that a child's right to education must be preserved, her complaint related to a child whose attendance at school had been adversely impacted by media coverage. The publication asserted that it did not believe that the Principle was relevant to the complaint.

The Press Ombudsman noted that she found it surprising that the publication did not find the Principle relevant since it applies to all coverage of children when it states that the press shall

take particular care when presenting information or comment about a child under the age of 18. She said it also required the press to have regard for the vulnerability of children.

However, she also found that she had insufficient evidence with which to make a finding that this article contributed to the educational disruption described by the complainant.
(2359/2025)

Principle 10

Editors shall exercise extreme caution in reporting substantial details of the means of suicide and will do so only if particular circumstances justify it.

Principle 10 was revised in 2023, after discussion about the fact that an earlier version of the Principle was deemed by both the Code Committee and the Press Ombudsman to be too prescriptive. It was agreed that it did not leave any room for editorial discretion.

The Principle reflects advice from organisations that work to combat suicide that the publication of details of the means of suicide may create a risk of "copycat" suicide for those who are vulnerable and susceptible to the idea of ending their life. A person in this state could see in the provision of certain details the means to proceed.

The new Principle 10 also reflects the introduction in 2023 of the new subsection to Principle 7. Principle 7.1 states that "nothing in this Code shall limit or prohibit the fair and accurate reporting of legal proceedings". The revised Principle 10 allows editors to exercise their discretion when reporting on suicide as a component of reporting on inquests and legal proceedings. This has arisen in for example a report which covered the inquests of members of a family in which a man killed his partner and child and then himself.

However, under the revised Principle 10 it is open to the Press Ombudsman to find that a publication has not demonstrated that it exercised extreme caution, and therefore that it breached the Code.

Principle 10 requires that editors exercise "extreme caution" in reporting substantial details of the means of suicide. In the event of a complaint, a publication will be expected to explain what the particular circumstances were that led to the decision to publish such details. Again, it is open to the Press Ombudsman to find that the paper has not demonstrated that it exercised "extreme caution" and therefore that it breached the Code.

Publications are reminded of the Preamble to the Code of Practice which states that: *"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 Press Council print and online members (the press) members to assist them in that task".*

Principle 11 – Publication of the Decision of the Press Ombudsman/Press Council.

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

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

Membership of the Press Council of Ireland is voluntary, and brings substantial benefits, notably in relation to defamation law. Courts may note that publications are members and have therefore agreed to self-regulation. In recent times, certain funds for press activities from the State's broadcast regulator, Coimisiún na Meán have been offered, and are available to members of the Press Council.

When a publication joins, it agrees to accept its responsibilities as set out in the Constitution of the Press Council. It also agrees to abide by the Code of Practice and by the Press Council's publication guidelines.

The guidelines stipulate that if the Press Ombudsman upholds a complaint that a publication has breached the Code of Practice, the publication must publish her decision, promptly, and with due prominence. This also applies in relation to a decision to uphold a complaint made by a subcommittee of the Press Council in cases of referral by the Press Ombudsman, or by the Press Council in the event that it upholds an appeal.

This is of the utmost importance to the whole self-regulatory system. The Press Council has no other sanction available to it – members must, in good faith, agree to publish decisions which find that they have breached the Code of Practice which they signed up to uphold.

The guidelines state that the publication of a decision should not be used to undermine a complainant or endorse a publication's position. The upheld decision must not be edited and must be published without editorial commentary by way of a headline or otherwise. Online articles must be permanently annotated in a prominent manner with a link to the Press Ombudsman's decision.

A publication is not required to publish decisions about complaints that are not upheld, or, in the event of a decision being partly upheld, about any part of a decision which is not upheld. The publication may however at its discretion publish the full decision and should in all instances refer to the fact that the full decision can be accessed at www.pressombudsman.ie. Full details of the Publication Guidelines are available on the website.

In 2024 the Code Committee of the Press Council decided to conduct a review of the Code of Practice commencing in 2025 and for completion in 2026. A revised set of guidelines will be published after the review is completed and its decisions adopted by the Press Council.

A note on journalistic behaviour

All complaints adjudicated by the Press Ombudsman are directed by the Office to the editor of the publication in which the complained of material was published. The Code of Practice

allows for complaints about journalistic behaviour although in practice few complaints have been made on this basis. Complaints may be made under any relevant Principle of the Code about any aspect of the behaviour of a journalist (including photographers) at any stage of the journalistic process. Again, if the material obtained by the journalist is published, the complaint will be directed to the editor. In the case of material gathered by a journalist but not published, a complainant will need to be able to identify that the journalist was working on behalf of a member publication of the Press Council.

Conciliation

When a complaint is first received by the Office of the Press Ombudsman, the Case Manager endeavours to reach an agreement between the complainant and the publication to resolve the complaint. She facilitates an exchange of correspondence between the editor and the complainant and may discuss any options that arise with them. This is the conciliation process, and it allows the parties the opportunity to arrive at a mutually agreeable resolution of the complaint.

One-third of all complaints processed by the Office are resolved through conciliation within a period of about two to three weeks after receipt.

The advantages of conciliation include:

- the informal and flexible nature of the process, thereby allowing for creative solutions, making it a quicker and more efficient way to resolve complaints;
- the complainant and the editor have control over the process and the final outcome;
- the parties can introduce any issues into the process in an effort to arrive at a mutually convenient outcome, and
- the process is confidential, unless the complainant agrees to their name being included in the publication of any agreed statement.

If a complainant is not satisfied with an offer made by a publication to resolve the complaint during conciliation, the complaint is referred to the Press Ombudsman for consideration and decision as to whether or not the material complained of breached the Code.

Some of the options which may lead to a conciliated outcome are listed within Principle 1 of the Code. The Principle refers to prompt correction of a significant inaccuracy, misleading statement or distorted report or picture. It states that such a correction should be published with due prominence. It also states that where appropriate, a retraction, apology, clarification, explanation or response shall be published promptly and with due prominence.

In many cases, material is published online, or in the case of print publications, in print *and* online. Complaints may also be about material within embedded videos or in podcasts, or on social media platforms operated by publications. These matters impact upon the nature of conciliation.

Sometimes a publication will offer to amend or delete online material. In some instances, a publication will offer a complainant a right of reply, either in the form of a letter to the editor or publication of an op-ed, depending on the nature of the complaint. However, in some cases difficulties arise because the parties cannot agree on the wording of a right of reply, letter or op-ed. Sometimes complainants have difficulty accepting that editors maintain

control over what they publish and must take into account considerations such as potential defamation.

All offers of redress made to complainants by editors under the Press Council's conciliation service are considered by the Press Ombudsman when she makes a decision on the complaint. It is open to the Press Ombudsman to decide that although turned down by a complainant, an offer made or action taken by a publication represented sufficient remedial action for the resolution of a complaint. She may also decide that such an offer or such action did not represent sufficient remedial action.

The Press Ombudsman will consider what was offered in the context of the complaint, and why it was rejected. She may find that in a case where the complainant felt that a particular point of view was absent from an article and thus made it misleading, the offer of publication of a letter or opinion piece may represent sufficient remedial action.

However, she may also find, depending on the nature of the article and of the complaint, that such an offer may not be adequate to resolve a complaint. The onus is on a publication to remedy any significant shortcoming in an article of a kind potentially capable of being found to be in breach of the Code of Practice. The Press Ombudsman may find that an apology which does not get to the heart of the complaint is insufficient whereas one which fully addresses the complaint may be sufficient.

There are occasions when publications will apply discretion as a means of resolving a complaint in relation to the publication of evidence which they are entitled, legally and under the Code, to publish. This may arise in cases where, for example, graphic and explicit evidence is given in court about rape or other crimes of sexual violence.

The Decision-Making Process

The Press Ombudsman is independent in her decision-making. It is her role to interpret the Code of Practice and adjudicate on complaints using her judgement and discretion. In processing a decision on a complaint, she must follow the established and published procedures. The procedures are the technical architecture of the complaints process.

The Press Ombudsman must apply the Code. In other words, she must implement it. She must consider all aspects of each complaint in relation to each alleged breach of each Principle cited. She must also consider all aspects of a publication's response to the complaint in relation to each alleged breach of each Principle. She will take into consideration any remedial action offered or taken by a publication to resolve a complaint. In her decision, she will demonstrate that she has brought to bear all relevant elements of the Code to all aspects of the complaint and the publication's response to it.

This may include considering material submitted by the complainant or the publication to support their arguments. However, the Press Ombudsman requests that the parties explain the relevance or material they submit, and she exercises her judgement in deciding if this material is relevant. Material submitted after the Press Ombudsman has begun consideration of a complaint may be admitted only at her discretion. Material submitted after she has made her decision cannot normally be considered.

The Press Ombudsman must not overlook a provision in a Principle which, had she applied it, might have led to a different decision. For example, if a publication published material that would normally be in breach of a Principle but responded to a complaint about this by stating that it had done so in the public interest, she must take account of this. In such a situation the Press Ombudsman is not obliged to accept the publication's assertion, but she is required to decide if the use of the public interest in this context was justified. Nor can she add to a Principle. She may not state that a Principle contained a provision for something that it did not.

It is important that complainants give close consideration to the Principle or Principles under which they make a complaint, as the Press Ombudsman must consider the complaint only in relation to the Principle under which it is made. (It is not always necessary to cite the sub-section of a Principle though it may help the clarity of a complaint.) The Press Ombudsman cannot apply a provision from a Principle which was not cited.

The Appeals Process

Once the Press Ombudsman has made her decision, she sends it to both parties – the complainant and the publication. It is explained to them that if they do not accept the decision, there may be the option to appeal. This arises if a party believes that they are in a position to show that one or both of two grounds are met. These are:

1. The procedures followed in making the decision were not in accordance with the published procedures for submitting and considering complaints.
2. That there has been an error in the Press Ombudsman's application of the Principles of the Code of Practice.

It is also explained that no other grounds can be considered and that disagreement with the Press Ombudsman is not a ground for appeal. The appellant must state under each ground for appeal how the Press Ombudsman failed to follow the procedures, or erred in her application of the Code, or both. An appeal is about the methods followed by the Press Ombudsman in reaching her decision.

The Press Council may decide to reject an appeal on the basis that the ground or grounds for it being made were not cited, or that the appeal did not contain sufficient evidence to support the ground or grounds on which it was submitted. An appeal may be deemed inadmissible if it is submitted without explicit reference to one or both of the grounds for submitting an appeal. The Press Council rejected one appeal which "did not cite or make explicit reference to either of the two grounds on which an appeal must be based."

The appeals process does not allow publications and complainants to have the Press Council reconsider a complaint and make a fresh decision on it. The complained of material is not the subject of the appeal. The onus is on the appellant to show the Press Council that the Press Ombudsman failed in the process of making her decision to follow proper procedures and/or erred in her application of the Code.

The decision of the Press Council is final - there is no further appeal. Publications are then required to publish any decision that has been made by the Press Ombudsman – and upheld if appealed to the Press Council – that they breached the Code of Practice. They are not required to publish any decision that has not been upheld by the Press Ombudsman unless it has been appealed by the complainant and the Press Council has upheld that appeal.

The Appeals Process can be found on the website at www.presscouncil.ie.

Full Press Ombudsman decisions and Appeal decisions are published on the website. www.pressombudsman.ie

Examples of upheld appeals:

"procedures not in accordance…"

The Press Council decided to uphold the appeal on the ground that the procedures followed in making the decision were not in accordance with the published procedures for considering complaints because it found that the Press Ombudsman based part of her decision on a matter that was not raised by the complainant.

Rejected appeals:

A publication appealed under the procedural ground but did not identify any published procedure that it considered had been breached. The Press Council therefore rejected the appeal.

"error in application"

Upheld:

The Press Council upheld an appeal on the grounds that the Principle of the Code which was cited did not allow for the interpretation which was used by the Press Ombudsman to reject a complaint against a publication.

Not upheld:

The Press Council rejected an appeal that the Press Ombudsman had erred in her application of Principle 8 of the Code in relation to an individual.

Rejected:

The Press Council rejected an appeal because it found that "in essence the appeal simply disagrees with the decision of the Press Ombudsman" and that "such disagreement does not form the basis of an appeal".

The Press Council rejected an appeal on the basis that the Press Ombudsman had not erred in her application of the Code "in as much as ultimate responsibility for publication of material obtained by subterfuge rests with the publication".