

PPA Submission to the ICO Consultation on the Draft Journalism Code of Practice

Written Evidence Submitted by the Professional Publishers Association (PPA)

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Sent by email to journalismcode@ico.org.uk

About Us

The Professional Publishers Association (PPA) is the membership network for UK consumer magazine media and business information publishers, representing around 160 of the UK's most renowned publishing houses. With more than 40 million adults in the UK reading magazine media every month, the sector is worth £3.74 billion to the UK economy, employing more than 55,000 people.

The PPA's membership incorporates the UK's largest publishing houses, including Bauer Media Group, Centaur, Condé Nast, Dennis Publishing, The Economist, Haymarket Media Group, Hearst UK, Immediate Media, and William Reed Business Media as well as many smaller independent publishers. A full list of members can be found here: <https://www.ppa.co.uk/members>

Executive Summary

PPA welcomes the opportunity to submit evidence to the ICO Draft Journalism Code of Practice about processing personal data for the purposes of journalism.

The move to a statutory Code under section 124 of the Data Protection Act 2018 presents a valuable opportunity to improve the existing Code and make it more effective.

The collection of data and information is central to journalism and the dissemination of public interest news. Subsequently, the protection of freedom of expression and a free press should be integral to the ICO's efforts on reform. In particular, the ICO needs to continue to recognise journalistic exemptions when interpreting data protection law and interpreting its regulatory powers.

A failure to strike a suitable balance between freedom of expression and information and the data protection rights of individuals could have damaging repercussions for journalists and the specialist publishing industry, including their capacity to provide a public good by producing trusted information on a wide range of topics.

Specialist publishers and editors strive to adhere to the ICO guide on data protection, as well as other regulatory bodies such as IPSO. Respecting individuals' rights and treating their personal data within the law is vital to maintaining the public's trust and is therefore a fundamental principle respected when acquiring information to generate journalistic content.

The PPA has seen and supports the consultation submission by the Media Lawyers Association (MLA), and fully supports and endorses all points made by the MLA. This response echoes the MLA's submission, highlighting areas of particular interest for specialist publishers.

Main Response

Simplification and clarification

It would be helpful if there were a clear separation between practical and technical guidance, as this would help ensure that the Code will be useful for editorial staff 'on the ground', as well as lawyers and DPOs. This would be helpful for specialist publishers who publish a large number of titles with

disparate focuses and small editorial teams who may only need to refer to the Code intermittently due to the nature of their publications' focuses.

Simplification of the Code could be achieved through:

- the confinement of discussion of the accountability principle to Section 2 of the Code;
- the confinement of case examples to complementary guidance that the ICO plans to publish and;
- a reduction in the passages addressing the law in areas beyond data protection.

If case examples are to be used in the Code, it may be better if they are hypothetical examples, supporting a principles-based approach – using hypothetical examples, or confining case examples to the complementary guidance, would make it easier to amend the Code over time.

A further amendment to the draft Code that would be particularly useful for smaller editorial teams would be an explanation of what is 'personal data' when applied to journalism.

Policy and record keeping recommendations

The draft Code has an overly prescriptive approach to data protection policies and record keeping; the resultant burden will be particularly onerous for smaller organisations such as independent specialist publishers, or small editorial team within larger organisations. Furthermore, although specialist publishers may produce a print edition once per week or once per month, the nature of the modern news cycle means that stories are disseminated online around the clock, requiring journalists to make rapid decisions.

The resources required for smaller organisations to comply with the current approach in the draft Code could potentially conflict with ECHR Article 10, as the overly prescriptive approach may well diminish the ability of organisations to disseminate public interest information. It should be noted that the GDPR does not require specific records and policies, but rather that a controller 'be able to demonstrate compliance' with data protection principles. The finalised Code should dispense with suggestions for policies and records.

The ICO and press regulators

Hundreds of titles published by PPA members are members of the IPSO. In accordance with the ICO's Regulatory Action Objective 5 (concerning the establishment of effective networks with fellow regulators) the Code should confirm that the ICO should refer complaints within the purview of another regulator to the relevant regulator.

Further, whilst it is welcome that the draft Code states that the Code does not concern press conduct or standards in general, there is still an emphasis on the use of Code guidance in conjunction with the IPSO Code. It may be useful for the Code to expressly state that any reference to the IPSO Editors' Code in no way impacts the independence of the press regulator and does not give this or any other industry Codes statutory significance.

It should also be noted that a significant number of specialist publishers are not IPSO members or members of any other press regulator. It should be made clear that references to the IPSO Editors' Code and other regulators in the ICO Code do not require these publishers to observe systems of regulation to which they are not aligned.

Developing legislation and regulation

A number of policy areas currently being pursued by the Government will impact the press sector; it is critical that the Code is aligned with these policies. For example, the Online Safety Bill will contain protections for 'recognised news publishers' as well as a broader range of content created for the purposes of journalism. The ICO's Impact Assessment states that the ICO is actively engaging with DCMS and Ofcom to ensure consistency; it would be useful if stakeholders, particularly those likely to be captured by the definition of 'recognised news publishers' and relevant trade associations are kept updated on these efforts.

Further consultation

The ICO has stated its intention to produce further guidance to supplement the Code. It would be useful if relevant organisations were given the opportunity to provide input to such guidance.

Further, the draft Code itself requires significant, fundamental changes. It would therefore be sensible to give stakeholders another opportunity to consult on the draft Code once changes have been made.

Conclusion

The expertly researched content produced by specialist media publishers scrutinises news and topics that would not otherwise receive press and media attention. This is a key role across PPA membership and is critical to supporting the UK's diverse media ecosystem.

Therefore, it is critical that the circumstances of smaller independent publishers and smaller editorial teams are recognised in the ICO Code. The unnecessary diverting of resources that could result from the Code as currently drafted could have negative impacts of the future sustainability of the specialist media sector. Further, failure to strike a suitable balance between freedom of expression and information and the data protection rights of individuals could reduce the public's ability to access public interest journalism on the diverse range of topics reported on by specialist publishers.

Q12 What is your name?

Sebastian Cuttill

Q13 If applicable, what is the name of your organisation and your role?

Professional Publishers Association (PPA) / Public Affairs Executive

Q14 Are you acting: Please select the capacity in which you are acting.

- in a private capacity (eg someone providing their views as a member of the public)?
- in a professional capacity?
- on behalf of an organisation?
- other

If other, please specify.

Q14a Are you: Please select most appropriate.

- A member of the public

- A citizen journalist
- A public figure (eg individuals who have a degree of media exposure due to their functions or commitments) or individual with a public role (eg politician, public official, business people and members of regulated professions)
- A representative of a newspaper or magazine
- A representative of a broadcaster
- A representative of an online service other than those above
- A representative of the views and interests of data subjects
- A representative of a trade association
- A representative of a regulator
- A representative of a 'third sector'/'civil society' body (eg charity, voluntary and community organisation, social enterprise or think tank)
- A freelance journalist
- A private investigator
- A photographer
- An academic
- A lawyer
- Other

If other, please specify.

Further consultation

Q15 Would you be happy for us to contact you regarding our consultation on the journalism code?

- Yes
- No

If so, please provide the best contact details.

Q16 Would you be happy for us to contact you regarding our work to develop a process to review processing for journalism in accordance with the statutory requirement under section 178 of the DPA 2018?

- Yes
- No

If so, please provide the best contact details.