

CHAPTER 11: THE ETHICS

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INTRO

Journalists who undertake traumatic reporting work with vulnerable people – as sources, as those who appear in their stories, and in a wider context as their audience – so it is vital that they comprehend their professional standards and behave ethically. Practically speaking, ethics is about trying to do the “right” thing in difficult circumstances. Journalists do this by assessing a situation, making decisions about how they report a story and critically reflecting on their actions afterwards. Making ethical decisions often centres on where to draw the line. They do that by applying rules, considering their duties and responsibilities, thinking of the consequences of their actions and by striving to be a virtuous or good journalist. Generally, they are bound by professional standards, which often originate in codes of ethics, conduct or practice and are regulated by independent professional bodies. There are more than 310 journalism codes worldwide, some in countries with limited freedom of expression. Although they differ according to the particular governance, culture and society within their countries, they tend to be based on four ethical pillars: truth telling and accuracy; minimizing harm; independence, fairness and impartiality; and being accountable.

What are the key regulatory bodies we need to be aware of and consult when covering sensitive stories?

There are two systems of media regulation in the UK – self-regulation, which applies to most of the print media and their online editions; and statutory, which relates to broadcasters, their online versions and their on-demand services. Both advise journalists through a code of practice or guidelines, informing them what they should do in given situations. Regarding print journalism, there are currently two main regulators. These are the Independent Press Standards Organisation (IPSO), of which most regional and national newspapers are members. This is a non-Royal Charter system set up by the national and regional press after the Leveson Inquiry. The other, the Independent Monitor for the Press (IMPRESS), has Royal Charter recognition and its members are mostly micro-publishers or local news sites. Some publications like the Guardian and the Financial Times chose to regulate themselves using their own codes and complaints procedures instead of joining IPSO or IMPRESS. The Office of Communications, the UK's broadcasting, telecommunications and postal regulatory body, known as Ofcom, regulates BBC news and current affairs content, as well as ITN who produce ITV news, Channel 4 News and 5 News, through its Broadcasting Code. Additionally, BBC journalists adhere to their company's Editorial Guidelines, which set out their values and standards. The National Union of Journalists also has a code of conduct but their ability to regulate is limited because it only applies to their members. However, such trade union codes do provide an alternative perspective. Freelance

journalists should adhere to the regulatory system that applies to the sector that has hired them. All journalists, including freelancers, should familiarise themselves with the relevant codes.

Can you summarise the rules on privacy and intrusion?

Journalists have to balance the public interest in freedom of expression with people's legitimate expectations of privacy. BBC Editorial Guidelines state: "We must justify intrusions into an individual's private life without consent by demonstrating that the intrusion is outweighed by the public interest (Section 7.2.3, n.d.). However, they also have to consider minimising harm to vulnerable people, either those involved in the stories or amongst the audience. Here, codes tend to cover the broad areas of respect for a person's privacy, regard for any potential harm caused by the reporting, and consideration of the consequences of publishing. Treating people with dignity and appreciation rather than merely as a means to get a story is also important. This is particularly pertinent to ordinary citizens, who may find themselves thrust into the media spotlight because of a tragedy that has befallen their family. IPSO's Editors' Code of Practice and the Ofcom Broadcasting Code are useful examples of how codes deal with privacy and intrusion.

The Editors' Code stresses that everyone is entitled to a private and family life, respect for their home, health and correspondence, including digital communications. It also states that it is unacceptable to photograph individuals, without their consent, in public or private places where they have a reasonable expectation of privacy. (IPSO, 2017, Clause 2). Ofcom recognises that expectations of privacy can vary depending on the situation, but it also acknowledges that some situations are so private that recording, even in a public place, could be an infringement (Section 8: Privacy, 2017). The degree of their expectation depends on the circumstances, leading to grey areas that editors have to work through. Should news organisations show pictures of bleeding, shocked commuters after an explosion at a railway terminus? Should they interview teenagers fleeing from a terrorist attack at a concert? These moments are private in nature but in a public place. Ofcom acknowledges that there may be a strong public interest to justify intrusion when covering tragic breaking news, meaning news teams might struggle to judge whether and how much recording is valid, especially when live streaming.

Consent is another contentious issue. Normally, print/online journalists do not seek or explain explicit informed consent as they assume it is given implicitly when the traumatised person agrees to an interview. Where intrusion occurs without consent the Editors' Code expects editors to be able to justify it. For Ofcom, privacy infringements must be warranted. Broadcasters need to demonstrate why an infringement is justified, e.g. the public interest outweighs the right to privacy (see Ofcom, Broadcasting Code, Section 8.1, 'Meaning of "warranted"'). Broadcasters also have to seek consent for transmitting the content unless breaching a person's privacy is warranted. Whilst the intrusion is usually carried out by individual reporters on the editor's behalf, responsibility for invading a person's privacy lies with both. Therefore, reporters cannot hide behind the claim that they were only doing their job. However, the press has some protection as the Editors' Code states that people must take responsibility when they make information about themselves publicly available. Thus, even though a person might consider some information about them to be private, a journalist can use it if it is already in the public domain without it being seen as invading someone's privacy. For example, notes of condolence left at the site of a tragedy like the Grenfell Tower fire may be considered private messages to the bereaved by those who left them but because they are on display in a public place they are deemed to be publicly available for use by journalists. Consent, therefore, is a more accepted, explicit practice in broadcasting than in print/online journalism.

Intrusion is a more subtle issue because what the journalist would consider to be good practice in doing their job – contacting the people at the centre of the story who know about the situation – can

be seen as intrusive by traumatised people at a time when they are dealing with “the raw edges of bereavement” (Dant, 1998). Ofcom suggest that even if they have agreed to be interviewed broadcast news teams should judge for themselves whether asking grieving relatives for interviews is intrusive and infringes their privacy. The Editors Code advises journalists to act with sympathy and discretion when approaching those suffering from grief or shock (IPSO, 2017, Clause 4). It reinforces this with a clause on harassment (IPSO, 2018, Clause 3), stating that journalists must identify themselves and who they represent. This is particularly important if they wish to enter a non-public area of a hospital or similar institution. It also informs them they should not persist in questioning, telephoning, pursuing or photographing individuals once they have been asked to stop. But this throws up grey areas of what is meant by sympathy, discretion and sensitivity. When do they cross the line from good journalism practice to insensitive intrusion? For the inexperienced reporter deciphering these terms can cause indecision about how far to go. Consequently, they might try to please their editor by adopting a ‘gung-ho’ attitude to get the story rather than taking account of the family’s suffering and addressing one of the pillars of ethical journalism, minimizing harm. Individual reporters and editors are left to interpret these concerns themselves. To do so, they draw on their humanity, previous experience, professional standards and rulings from complaints to regulatory bodies. Inexperienced staff should also talk to their editors or senior colleagues. Additionally, they can seek help from regulatory bodies. IPSO encourages journalists to contact them for pre-publication advice, particularly regarding the reporting of deaths.

Why are they important?

Two reasons: those at the centre of the story have the right to be protected at a time of personal loss and tragedy; and, journalists need to know how to behave ethically. However, these two reasons can result in tension so having rules helps both the bereaved and the journalist know where they stand. Journalists generally want to see themselves as decent and honest rather than as exploiting people but the nature of reporting bad news necessitates them engaging in exploitative practices (Duncan and Newton, 2017). Let’s look at the journalist’s job when reporting trauma. They intrude when the situation is at its most intense, at private times such as within hours of a death or at the funeral. They ask probing and personal questions. Sometimes they discuss the family’s private business with people who barely know them, like neighbours or work colleagues. Then they look within the family’s grief for a newsworthy angle to fit their organisations news agenda (ibid). This is a stark view of what journalists do when they report traumatised people’s stories, but it is not the whole picture. With the right to report at these tragic times comes responsibilities to those in the story and those affected by it. Therefore, although the task may be exploitative and intrusive the journalist has a duty to perform it sensitively, responsibly and respectfully. The rules on privacy, intrusion and harassment, help them to do this by making them aware of their responsibilities.

Are these the only rules news organisations need to think about when reporting trauma?

No, they need to consider accuracy, truth, and taste and offence. One of the worst errors a journalist can make is to get the deceased’s personal details wrong. Spelling a loved one’s name wrongly may be a mistake to the reporter and editor but to the family it is highly insulting. Seeking personal details from neighbours who may provide the news organisation with inaccurate or misleading information can be equally injurious to the family (Duncan & Newton, 2017). Additionally, although taste is not regulated by the Editors’ Code, news organisations should be aware of its effect on their audience as well as on traumatised people. This applies more to visual content than text but not exclusively. News desks should weigh up decisions to publish graphic content by considering whether it is in the public interest to do so. Is it important that the public know the reality because a greater good may emerge from informing them? Or, has the news organisation decided to publish the content because they think it might interest the public i.e. for gratuitous or sensational reasons to increase clicks, shares,

circulation or viewing figures? It is important that news teams strike a balance in these situations, especially when making split second decisions due to 24/7 news cycles and the pressure to be first.

What can happen to news organisations and journalists who break the rules?

They can be reprimanded by the professional body that regulates them. This can range from having to publish a correction or apology to being fined substantial sums of money, although that is rare. Ofcom has the power to shorten or take away a broadcast organisation's licence if they are persistent offenders. IPSO can order prominent printed apologies and corrections to upheld complaints. They also run a low-cost arbitration process to avoid court action in media law disputes. IMPRESS takes a similar approach, although they have developed their own code of ethics, which could result in different interpretations of certain situations.

Regardless of the sanction, receiving a complaint about their work can have an adverse effect on individual journalists. Consequently, most strive to behave well and avoid breaking the rules.

How are complaints dealt with?

This depends on who the regulator is. Mostly, they try to resolve the issue with the complainant through mediation and if that fails an adjudication panel may review the complaint. They make a decision on whether to uphold or reject it by weighing up evidence from both sides in relation to specific clauses from their codes that the news organisation is accused of breaching. Detailed explanations of the various complaints procedures can be found on the regulatory bodies' websites.

Can you summarise the guidance available on covering death, funerals and inquests?

Most sudden deaths occur in public places and therefore are not wholly private matters. Consequently, they affect the community in which a person lived. Journalists, therefore, have a dual responsibility: to minimize harm to grieving relatives and friends, and to do their duty by reporting on the death for the public record and to inform the community at large.

Regulators agree that journalists should not break news of a death to traumatised relatives. Therefore to minimize harm and to verify the accuracy of information, it is recommended that news outlets confirm through the police that the family know about the death before contacting relatives, or publishing the name of a person who has died. Journalists should also take care when publishing content, particularly photographs or video footage, in the immediate aftermath in case they inadvertently identify the deceased before the family has been informed, for example showing the number plate of a car involved in a road accident. Ofcom also advise that broadcasters should respect any reasonable arrangements made by the emergency services to supervise media access to victims or their relatives immediately after a tragedy.

Deciding to cover a funeral is a tricky one for news teams because some bereaved relatives welcome their presence and others consider it intrusive and distressing. How journalists behave in such situations is paramount and they should consider the effect it could have on the deceased's family. They must assess relatives' wishes and should seek to determine these through an intermediary like a funeral director or by assessing the circumstances of the death. They should also act sensitively when parts of the funeral occur in public view, such as mourners' arrival at the service. Care should be taken with photographs and filming of people in extreme distress. Ofcom states that news teams should respect requests for them to withdraw at funerals.

In contrast, inquests are public events that journalists are entitled to attend with a view to publishing or broadcasting a story. The deceased's grieving relatives and friends may not be aware that news outlets can report the evidence presented at the inquest without seeking their consent. Also, families might not want some of the evidence to appear in the news but the reporter might need to include it to give an accurate account. This can cause distress to relatives who may see the media as intruding in their private business and behaving ghoulishly. Therefore, journalists should be mindful of this distress when approaching families for a comment and should proceed with sympathy and sensitivity. They should not persist in pursuing, questioning, photographing or filming grieving relatives when asked to stop.

What about suicide?

Suicide is a very complex area for journalists to report and thus requires extra care. Many people see it as a taboo subject and those bereaved by suicide are highly vulnerable. Extensive guidance is available from the numerous media reporting guidelines that can be found by searching the internet. The most pertinent UK guidelines are those produced separately by the National Union of Journalists, Samaritans and the World Health Organisation. These cover various topics including copycat behaviour, appropriate and inappropriate language, sensationalising or romanticising suicide, celebrity cases, murder-suicide and the inclusion of helplines.

Media regulators' rules mostly concentrate on method and location. They state that journalists should not excessively describe, display or photograph the method or location, as this could lead to imitative acts by others. They should be particularly vigilant when they refer to an unusual method that could appeal to vulnerable people. However, if the method is key to the findings at an inquest then reporters can include detail as long as it is not excessive. Reporting locations may lead to them becoming popular places for suicide attempts so journalists should take care to avoid portraying these locations as "suicide spots". Journalists are directed that if they must refer to the place then they should do this in general terms instead of giving the exact location. Lastly, a word about language. Most guidelines recommend that journalists avoid using the phrase 'committed suicide'. This implies suicide is a criminal act, which has not been the case in the UK since 1961, and attaches blame, which can be damaging for and to those bereaved by suicide.

What do reporters and broadcasters need to be aware of when working with children? Why are they a significant category requiring protection?

Children should be treated as a special case because they are considered to be minors and therefore not responsible for any decisions they might make. That means they are unable to consent to being interviewed or unable to consider the consequences of speaking to the media. Therefore, journalists should reflect on the potential harm that their reports could have on children in their stories or as part of their audience. The welfare of the child should be given a high priority, not only when reporting the story but in the effect that publication or broadcast might have on them. There is some confusion over what is a child, however. Clauses to protect children in the Editors' Code apply to anyone under 16 whereas Ofcom defines children as people under the age of 15. The law, nonetheless, determines that a child is anyone under the age of 18. So what happens to those young people aged 15-18? Ethically, it would be advisable to treat them with similar care as those under 15, especially when reporting stories of vulnerability such as bullying, sexting, suicide or tragedy.

Journalists should avoid approaching children or photographing them within school grounds without permission from the school authorities. This applies even if a custodial parent/guardian has given their consent. Further complications can arise when one parent decides to speak to the media or allow their child to speak to them and the other parent disagrees. Here, the advice is that the custodial parent

has the greater right to consent so the journalist should establish who that is before they proceed. Children should not be questioned about issues involving their own or another child's welfare unless a custodial parent/guardian or similarly responsible adult consents. Also, news organisations are advised to only pay children or their custodial parents/guardians for their story when it is clearly in the child's interest and editors are warned not to use a custodial parent/guardian's fame or position as the only reason for publishing details of a child's private life. Therefore, gaining the consent from a custodial parent/guardian is imperative if reporters or news crews plan to work with children. There may be exceptions to these rules if news outlets can show that publishing such content is clearly in the public interest.

Identification could be an issue too, particularly with groups of children, some of whom might have little or no connection to the story. In this case, especially when news organisations use pictures or video, they should consider whether it is necessary and fair to identify the children in the group. Audiences are accustomed to pixelated footage now so this would seem like an ethical approach.

Care should be taken when news organisations use content published on social media by children. Once again, the key concern is the welfare of the child. Innocuous material that does not impinge on the child's welfare or their time at school is ethically more acceptable than controversial content, such as footage of a playground fight, which could adversely affect a child due to a news outlet re-publishing. Here it is important that media professionals consider the consequences of re-publishing. This applies even if the material is publicly available because by re-publishing they are exposing it to a wider audience than when the child put it on social media.

What rules do we need to be aware of when covering stories about sexual violence and abuse?

Once again, news organisations should be aware of minimizing harm, treating those in their stories with dignity and being fair. However, they also have a duty to report accurately and truthfully as victims who contact them may be doing so as a means of seeking justice. Striving to get the balance right is a key factor here. They should also be aware that there are legal protections in place for victims of sexual assault, including children, and news teams should evaluate these as well as the ethical concerns.

Often those who are victims of sexual violence and abuse wish to remain anonymous. They may have struggled to make the decision to go public with their story and might fear the consequences of handing control over to news organisations who will have different priorities from them. Therefore, it is important that journalists respect the dignity and anonymity of victims.

Regulators also warn of the dangers of the 'jigsaw effect' where a news outlet publishes or broadcasts limited information that can be pieced together with those from other news organisations, resulting in the victim being identified. This is particularly important when reporting children. Some information may seem insignificant to the news team but to people who know something about those described in a story it can be enough to lead to speculation about their identity. For example, giving the dates of an offence could, along with other information, compromise anonymity. IPSO advise reporters and news desks to ensure they are aware of the information that is in the public domain from other news outlets and in their own previous reports. They suggest news teams liaise with other publications to agree an approach to prevent jigsaw identification.

However, IPSO recognise that news outlets can do little regarding posts by the public on social media that speculate on a victim's identity. They advised news outlets to consider whether they could safely publish stories involving sexual assault victims on their social media sites, particularly where open to public comments. (IPSO, 2018, Sexual Offences). The media are urged to take extra care in sexual offences cases involving children in any capacity e.g. as victims, witnesses, defendants or perpetrators. Ofcom's advice refers to children under 18 whereas IPSO's guidance applies to children under 16.

Both, however, stress the child must not be identified and the term 'incest' should be avoided, especially when it could lead to identifying the child.

Can you summarise the guidance available around User Generated Content and accessing sensitive material through social media?

When news desks receive traumatic user generated content (UGC) or access it from social media, they must address ethical issues regarding its authenticity, sensitivity, transparency, safety, and rights and permissions. Verifying content in order to avoid inaccuracies and misleading the audience with unconfirmed information is the main challenge, particularly when covering tragic breaking news. One method is to upload it immediately, telling the audience it is not fully verified, whilst news teams attempt to assess its credibility with help from their users. However, this relies on news desks updating the UGC's status, which could be overlooked in pressurised newsrooms. Consequently, there is a risk of spreading inaccurate content and misinforming the audience. The safest method is to contact the actual creator to assess whether it is genuine before uploading it on to a news site. News outlets have a responsibility to their audience to admit when they have been unable to verify UGC completely. However, the drive to be first with breaking news can cause tensions with journalists being tempted to take a chance without full verification. For the ethical journalist who wishes to adhere to truth telling then accuracy should be prioritised over speed. Equally, as journalists are accountable for their actions they should be honest about where the UGC has come from and how they verified it, for example, by giving the creator's name and not merely the social media source. News outlets should not use statements that they are unable to verify content *independently* as ethical get-out clauses. Inaccuracies, misleading the audience and a lack of transparency can cause the public to lose trust in news outlets.

Journalists should also be sensitive to those who provide UGC, to their safety and to their emotional state. When contacting the contributor, especially those in dangerous places or traumatic situations, the journalist should warn them about taking risks when gathering content. In some cases, news outlets should assess whether they should even contact someone when searching for UGC as doing so could put that person at risk. Some contributors could be in a highly emotional state, especially if they have witnessed a tragic incident. Additionally, reaching out to those involved in a traumatic experience for UGC can potentially cause harm. It might involve the journalist breaking distressing news to the person, or they might have suffered the loss of a loved one. Therefore, news desks and reporters should ask themselves whether this is the right time to be contacting vulnerable people for UGC. Lastly, news outlets should be cautious about using content from ordinary citizen's social media accounts. Taking photographs or other digital content from a site set to private without consent is unacceptable, according to the Editors' Code. However, journalists should be cautious even when taking material from a public site where consent is not required. By doing so they can cause the family significant harm, as they might be unaware that the news outlet can do this without their knowledge. It is important here to think about the consequences of the action.

Can you give an example of a 'grey' area when the rules are unclear?

Grey areas arise because journalists are unsure which is the "right" action to take and for whom. There are many stakeholders in a story but one has to take priority over others and who that is depends on conflicting factors. Each situation needs to be treated on its own merits. Thus, journalists can appear to make surprising and even apparently unprofessional choices when faced with difficult dilemmas. An example is how often reporters can contact traumatised people to request an interview. Journalists regularly use Facebook Messenger or Twitter to reach bereaved people after a tragedy like the

Manchester Arena bombing. But what happens when they receive no response? Can the reporter contact them again? Codes advise against persistent contact but what does that actually mean? Unlike the traditional death knock where there is a clear yes or no on the doorstep, communicating through social media can lead to confusing, grey areas. If after no response from the family, the journalist, with the best of motives, sent another message via Facebook or Twitter or even made a phone call would that amount to persistence, resulting in harassment? This uncertainty could make some journalists question whether they are breaking the rules, leaving them in a quandary about what to do next. If they stick to the advice in the codes and do not make further contact, most likely, a story will still appear but without the family's involvement, based only on information from emergency services or less dependable sources, some of which might be inaccurate. Thus, the grieving family might feel they are losing control over what they see as their private situation. They could suffer even when the reporter follows the rules. The journalist has behaved appropriately, but they have still caused harm and possibly compromised truth telling because they have failed to get information from the best source – the family. The situation lacks clarity and results in a grey area.

Six takeaways from this chapter

- The story is important but so are the people who appear in it or helped with research, especially when they are vulnerable. Therefore, review your behaviour, what you reported and make positive changes for the future.
- Strive to be accurate and truthful. Inaccuracies have a serious adverse effect on vulnerable people.
- Where possible, minimize harm to those in your stories by thinking about the consequences of your reporting and publishing.
- Do your duty by following the code of conduct that applies to your branch of the media. Seek additional advice from media reporting guidelines like the ones listed below. If you are unsure about the ethical issues around a story, seek help from IPSO or OFCOM helplines or organisations like Samaritans that work to protect vulnerable people.
- If you are an inexperienced reporter, speak to your editor about stories where you are unsure if you are about to or have crossed an ethical boundary.
- Be accountable for your actions. Ask yourself if you followed the rules. Did you think about the consequences of your reporting? If you got it wrong in terms of your code of conduct and professional standards, then try to make it right.

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