



Response to Review of the Editors' Code of Practice

The National Association for Youth Justice (NAYJ) is the only membership organisation which exclusively campaigns for the rights of, and justice for, children in trouble with the law. It seeks to promote the welfare of children in the youth justice system in England and to advocate for child friendly responses where children infringe the law.

The NAYJ welcomes the public consultation on the review of the Editors' Code of Practice. We consider that the Code provides an important framework for consistent self-regulation to maintain professional standards for the activities of the press. In this context, we are pleased to contribute to the review of the Code. In line with our remit, our comments focus on the implications of the Code for reporting criminal cases involving children.

Given the Code's purpose, we believe that it is vital that it sets extremely high standards for professional practice. We are accordingly disappointed that the current issue of the Code falls short of what is currently required by legislation in its guidance for crime reporting. In our view, the statutory provisions should set a minimum on which the Code builds and the Association therefore believes that the Code should be amended to reflect accurately the legal position.

The Code rightly notes that 'particular regard should be paid to the potentially vulnerable position of children who witness, or are victims of, crime' in the context of indicating which parties should not 'generally be identified without their consent'. This position is reasonable so far as it goes but there is no mention of child defendants who are equally entitled to special consideration. Section 49 of the Children and Young Persons Act 1933 provides for a default proscription on reporting any details of cases in the youth court that are likely to lead to the identification of any child involved in the case. This includes victims, witnesses and, significantly for the current context, defendants.

These reporting restrictions can be lifted by the court in limited circumstances:

- where it is necessary to avoid injustice to the child
- the offence is a violent, sexual or serious one that can attract 14 years or more imprisonment in the case of an adult, the child is unlawfully at large and it dispensing with reporting restrictions is necessary for the purpose of apprehending him or her or
- the child has been convicted of an offence and the court considers that it is in the public interest to dispense with the restrictions.

In our experience, it is very rare for the youth court to dispense with reporting restrictions and there is accordingly a strong legal presumption of anonymity for children who appear in the youth court. We would expect that a revised version of the Code should reflect this presumption.

This protection does not extend to children appearing in the crown court but section 39 of the Children Young Persons Act enables courts to ban their identification and this is common practice. Again we consider that the Code should, at minimum, reflect this practice.

More generally, we are concerned at the manner in which the Code currently delineates those individuals entitled to particular consideration as children. The text repeatedly makes reference to children below the age of 16 years in this context. By implication, children aged 16 and 17 are not entitled to the safeguards extended to children in the Code. This age related distinction is not justified in the Code and has no legal basis. The Children Act 1989 treats all those below the age of 18 years as children; guidance on safeguarding and child protection encompasses all those under 18 years; and the UN Convention on the Rights of the Child's explicit definition similarly includes those aged 16 and 17 years. As a signatory to the Convention, the UK is obliged to comply with its provisions, which include under Article 3, the requirement that 'in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration'. We would expect the Code to endorse that principle.

In relation to children in the criminal justice system, the provisions of the Children and Young Persons Act which provide for anonymity of child defendants in most circumstances, apply equally to children above the age of 16 and to those below it. The current distinction within the Code does not accordingly satisfy the expectation that it should at minimum reinforce the legal obligations on the press. We would hope that this failure is addressed in the course of the review.

We would like to thank the Editors' Code Committee again for the opportunity to contribute to the consultation and would be happy to expand on any of the above points should that prove useful.