

Media Law Briefing from Professor Tim Crook UK Media Law Pocketbook 2nd Edition.

<https://ukmedialawpocketbook.com/>

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Ethical representation of the identity of transgender defendants and other participants in court reporting

Professional journalists and student journalists, particularly in universities, will be very much aware of the acute debates taking place about proper vocabulary and references to gender identities.

The issue is taken so seriously in professional and institutional life individuals found to have disrespected fair and respectful wishes on gender identification have faced disciplinary proceedings and dismissal.

There is understandable anxiety on the part of trainee journalists about the expectations of how defendants and other participants represent themselves in court, how they are referred to in the legal proceedings and how this must be properly and fairly reported.

IPSO (The Independent Press Standards Organisation) has published fresh draft guidance on reporting of sex and gender identity, which contains advice for newsrooms on covering court cases involving transgender and gender-diverse defendants.

IPSO is seeking consultation before finalising the guidance.

Journalists are being urged to take account of trans defendants' gender at the time they offended.

IPSO Draft guidance on reporting of sex and gender identity

See: <https://www.ipso.co.uk/media/2302/ipso-draft-guidance-on-reporting-of-sex-and-gender-identity.pdf>

The key points arising from the guidance on court reporting recommend:

1. Taking into account and respecting the way a defendant says they wish to be identified in the court proceedings, including the name used and pronoun used by court officials and/or any witnesses;
2. Taking account of the defendant's gender identity at the time of the alleged crime;

3. Considering any guidance provided by the court about a defendant's gender identity;
4. Evaluating the public interest in reporting the gender identity and any transition in the context of protecting public health or safety particularly in respect of the need to ensure accuracy when reporting a major news event;
5. Considering the significance of the charges the defendant faces and whether gender identity is relevant to the case brought by the prosecution and the defence and/or mitigation provided during the trial.

The stalwarts of legally safe court reporting: accuracy, fairness and attribution are effective lines of protection from what would be secondary media law complaints to regulatory bodies.

However, it might be argued there are still areas of discretion which should be determined by the exercise of an individual's conscience and the freedom of expression prerogative.

Primary media law litigation could arise if gender transitioning and identity information about an individual has not been put into the public domain by the individual concerned, and if the journalist and publisher cannot show by documentary trail they have carried out a balancing act analysis of whether in reporting gender identity the degree of intrusion is proportionate to the public interest being served.

The navigation of this area is clearly controversial.

Dr Amy Binns and Sophie Arnold sought to research the subject and produced guidance on covering court cases involving transgender defendants.

But this was removed by the University of Central Lancashire after its publication online following complaints made to the university.

See the following articles and case law for further guidance and background:

Law Column: IPSO and reporting on sex and gender identity by Sam Brookman Published 21 Feb 2023 <https://www.holdthefrontpage.co.uk/2023/news/law-column-ipso-and-reporting-on-sex-and-gender-identity/>

Journalists urged to take account of trans defendants' gender at time they offended <https://www.holdthefrontpage.co.uk/2023/news/pronouns-and-transgender-defendants-feature-in-press-watchdogs-new-guidance/>

IPSO commissions research into standards of UK media reporting on transgender issues <https://pressgazette.co.uk/news/ipso-commissions-research-into-standards-of-uk-media-reporting-on-transgender-issues/>

New guidance launched to aid reporting on transgender defendants <https://www.holdthefrontpage.co.uk/2022/news/new-guidance-launched-in-bid-to-aid-reporting-on-transgender-defendants/>

Guidance on covering transgender defendants removed after complaints

<https://www.holdthefrontpage.co.uk/2022/news/guidance-on-covering-transgender-defendants-removed-after-complaints/>

Editor and reporter leave weekly after transgender column controversy by David Sharman
Published 13 Nov 2017 Last updated 17 Nov 2017

<https://www.holdthefrontpage.co.uk/2017/news/editor-and-reporter-leave-weekly-after-transgender-column-controversy/>

Press Gazette: 'Kentish Gazette transgender article was wrong – but journalists should not be sacked for exercising freedom of speech' <https://pressgazette.co.uk/publishers/regional-newspapers/kentish-gazette-transgender-article-was-wrong-but-journalists-should-not-be-sacked-for-exercising-freedom-of-speech/>

Journalist who launched LGBTQ+ network leaves regional press for national role

<https://www.holdthefrontpage.co.uk/2023/news/journalist-who-launched-lgbtq-network-leaves-regional-press-for-national-role/>

Press Gazette Transgender ex-Times journalist loses discrimination claim against paper

<https://pressgazette.co.uk/news/transgender-ex-times-journalist-loses-discrimination-claim-against-paper/>

Media wins right to name transgender man battling to be named 'father' on own child's birth certificate <https://pressgazette.co.uk/news/media-wins-right-to-name-transgender-man-battling-to-be-named-father-on-own-childs-birth-certificate/>

TT, R (on the application of) v The Registrar General for England and Wales [2019] EWHC 2384 (Fam) (25 September 2019)

<https://www.bailii.org/ew/cases/EWHC/Fam/2019/2384.html>

Courts and Tribunals Judiciary July 2022 'interim revision of the Equal Treatment Bench Book issued' <https://www.judiciary.uk/wp-content/uploads/2022/10/Equal-Treatment-Bench-Book-July-2022-revision-2.pdf>

The Crown Prosecution Service Trans Equality Statement

<https://www.cps.gov.uk/publication/trans-equality-statement> and
<https://www.cps.gov.uk/sites/default/files/documents/publications/Trans-equality-statement.pdf>

Relevant IPSO rulings

00804-20 Smith v The Herald Decision: No breach – after investigation

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00804-20>

Daily newspaper cleared over SNP trans row story

<https://www.holdthefrontpage.co.uk/2020/news/daily-newspaper-cleared-over-snp-trans-row-story/>

09159-19 Fair Play for Women v kentlive.news Decision: Breach – sanction: action as offered by publication

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=09159-19>

Watchdog raps news site over ‘transphobic abuse’ claim

<https://www.holdthefrontpage.co.uk/2020/news/ipso-raps-news-site-for-reporting-alleged-transphobic-abuse-as-fact/>

00572-15 Trans Media Watch v The Sun Decision: Breach – sanction: publication of adjudication

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=00572-15>

01972-22 The Radcliffe School v miltonkeynes.co.uk Decision: Breach – sanction: publication of adjudication

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01972-22>

Resolution Statement – 06439-21 Pascoe v spectator.co.uk Decision: Resolved – IPSO mediation

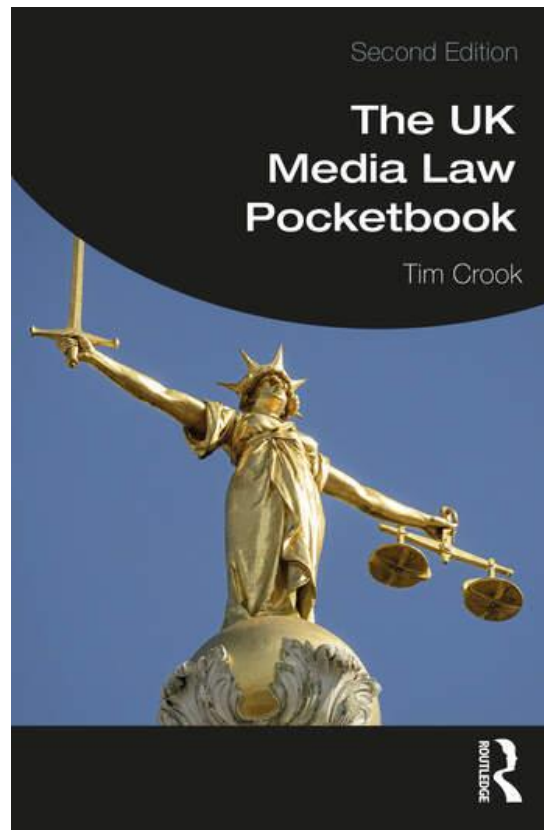
<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=06439-21>

09309-21 A woman v Daily Mail Decision: No breach – after investigation

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=09309-21>

01695-21 Parrott v Norwich Evening News Decision: Breach – sanction: action as offered by publication

<https://www.ipso.co.uk/rulings-and-resolution-statements/ruling/?id=01695-21>



The second edition of *The UK Media Law Pocketbook* presents updated and extended practical guidance on everyday legal issues for working journalists and media professionals. This book covers traditional print and broadcast as well as digital multimedia, such as blogging and instant messaging, with clear explanations of new legal cases, legislation and regulation, and new chapters on freedom of information and social media law. Links to seven new online chapters allow readers to access all the most up-to-date laws and guidance around data protection, covering inquests, courts-martial, public inquiries, family courts, local government, and the media law of the Channel Islands and the Isle of Man. Tim Crook critically explores emerging global issues and proposals for reform with concise summaries of recent cases illustrating media law in action, as well as tips on pitfalls to avoid.

The UK Media Law Pocketbook is a key reference for journalists and media workers across England, Wales, Scotland, and Northern Ireland. The book's companion website provides downloadable sound files, video summaries, and updates all the developments in one of the most dynamic and rapidly changing fields of law. Visit <https://ukmedialawpocketbook.com>.

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