



PROPOSED AMENDMENTS TO THE PRESS CODE (15/09/2021)

<p>The Press Council of South Africa and the Interactive Advertising Bureau South Africa adopt the following Code for print and online media (together referred to as “the media”)</p>	<p>The Press Council of South Africa adopts the following Code for print and online media (together referred to as “the media”)</p>
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<p>Gathering and reporting of news</p> <p>The media shall use personal information for journalistic purposes only</p>	<p>Gathering and reporting of news</p> <p>The media shall process person information as provided in Clause 4.</p>
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PRESS CODE PRIVACY CLAUSE DRAFT AMENDMENTS

<p>4. Protection of Personal Information*</p> <p>The media shall:</p> <p>4.1 take reasonable steps to ensure that the personal information under their control is protected from misuse, loss, and unauthorized access;</p> <p>4.2 ensure that the personal information they gather is accurate, reasonably complete and up to date;</p> <p>4.3 take steps to verify the accuracy of their information and, if necessary, amend it where a person requests a correction to be made to his or her personal information;</p> <p>4.4 only disclose sufficient personal information to identify the person being reported on as some information, such as addresses, may enable others to intrude on their privacy and safety; and</p>	<p>4 Protection of Personal Information</p> <p><i>Preamble</i></p> <p>The Protection of Personal Information Act, 2013 makes a distinction between processing of personal information for journalistic purposes, and processing of personal information for other purposes. The Act envisages that processing of personal information for journalistic purposes is not subject to the Act if a code of ethics applies which contains adequate safeguards for such processing.</p> <p>This clause sets out the safeguards established by the Press Code for the protection of personal information obtained and processed for journalistic purposes.</p> <p>This clause should be read together with the code as a whole, including clause 3, when assessing the appropriate balance referred to in 4.1.3 and</p>
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4.5 inform the affected person(s) and take reasonable steps to mitigate any prejudicial effects where it is reasonably suspected that an unauthorized person may have obtained access to personal information held by the media.

* “Personal information” is defined as follows in Section 1 of the Protection of Personal Information Act 4 of 2013: “Personal information” means information relating to an identifiable, living, natural person, and where it is applicable, an identifiable, existing juristic person, including, but not limited to (a) information relating to the race, gender, sex, pregnancy, marital status, national, ethnic or social origin, colour, sexual orientation, age, physical or mental health, well-being, disability, religion, conscience, belief, culture, language and birth of the person; (b) information relating to the education or the medical, financial, criminal or employment history of the person; (c) any identifying number, symbol, e-mail address, physical address, telephone number, location information, online identifier or other particular assignment to the person; (d) the biometric information of the person; (e) the personal opinions, views or preferences of the person; (f) correspondence sent by the person that is implicitly or explicitly of a private or confidential nature or further correspondence that would reveal the contents of the original correspondence; (g) the views or opinions of another individual about the person; and (h) the name of the person if it appears with other personal information relating to the person or if the disclosure of the name itself would reveal information about the person.

4.1.4.

4.1 Principles

4.1.1 The purposes of this clause are:

4.1.1.1 to define adequate safeguards for the protection of personal information in the context of processing such information for journalistic purposes; and

4.1.1.2 to balance the right to freedom of expression with the right to privacy in a manner that is justifiable in terms of our Constitution.

4.1.2 Almost all journalism involves accessing and making use of personal information — and accountability journalism is not possible without it.

4.1.3 Journalists should be mindful of both the privacy rights of their subjects and the public interest in free and effective media when they process personal information for journalistic purposes.

4.1.4 The media must only publish personal information that is relevant to its reports and based on the public interest in such disclosure. Prior to publishing personal information, the responsible party must consider and balance its right to freedom of expression in the public interest with the data subject’s right not to have their privacy unjustifiably infringed upon.

4.2 *Terminology:* For the purposes of this clause —

4.2.1 “Personal information” refers to “information relating to an identifiable, living, natural person and, where it is applicable, existing juristic person”. Personal information includes information relating to an identifiable person or entity’s identification number, registration number, contact details, their views or opinions, addresses, race, sex or gender. Other examples of personal information appear in section 1 of the Act;

4.2.2 “Data subject” refers to any natural or juristic person to whom personal information relates; and

4.2.3 “Processing” includes obtaining, storing, modifying, sharing, disseminating or destroying information. Other examples of processing appear in section 1 of the Act.

4.3 Processing of personal information for journalistic purposes

These provisions are intended to guide decision-making and to provide adequate safeguards for the protection and integrity of personal information processed for journalistic purposes.

Accountability

4.3.1 The body, person or persons responsible for the processing of personal information for journalistic purposes will be considered to be a “responsible party” to the extent that they are involved in deciding how personal information is obtained, managed, reported or in any other way processed for journalistic purposes.

Processing limitation

4.3.2 The processing of personal information must be reasonable in the context of the facts of a particular case, taking into account the public interest in the right to freedom of expression as well as the competing public interest in the right to privacy.

4.3.3 Relevant factors in deciding what is reasonable in the media environment include:

4.3.3.1 The media has a duty to keep the public informed via the free flow of information;

4.3.3.2 Personal information is the currency of almost all forms of journalism and accountability journalism is not possible without it;

4.3.3.3 To get to the truth, more leeway in obtaining and managing personal information is often necessary than in what may be made public;

4.3.3.4 The extent of a person’s reasonable expectation of privacy varies depending on factors including whether they are a public figure, the extent of their own public disclosures of personal information, and the extent to which their personal information is already in the public domain; and

4.3.3.5 The extent of any reasonable interference with a person's privacy depends on whether, considering the purpose of the story and the above factors, it is relevant and not excessive.

4.3.4 Additional processing limitation in relation to personal information of children: see clause 8.1 below.

Purpose specification

4.3.5 Personal information obtained for journalistic purposes may not be used for any other purposes. This is subject to the provisions under *Further processing limitation*.

4.3.6 Where personal information is in the opinion of the responsible party no longer required for journalistic purposes, the responsible party shall ensure that it is destroyed in such a way that it cannot reasonably be reconstructed and used for other purposes. This too is subject to the provisions under *Further processing limitation*.

Further processing limitation

4.3.6 In exceptional circumstances, personal information obtained for journalistic purposes may be used for non-journalistic purposes, provided that a public interest purpose compatible with the purpose for which it was obtained is served. One such example may be historical research.

4.3.7 However, any such further processing may not be covered by the exclusion from the Act referred to in the preamble above and to that extent would have to comply with the Act.¹

Information quality

4.3.8 The responsible party shall take reasonable steps to verify the accuracy of personal information before it is made public.

Security safeguards

4.3.9. The responsible party shall take reasonable steps ensure that personal information under their control is protected from unauthorised access and use, destruction, loss, alteration or dissemination.

4.3.10 Where there are reasonable grounds to believe that there has been unauthorised access to personal information, or that the security measures in place have been compromised or breached, the responsible party shall notify the Press Ombud and, to the extent reasonably practicable, affected data subjects and take reasonable steps to mitigate any prejudicial effects. The Press Ombud may direct the responsible party to publicise, in a manner it specifies, the fact of the unauthorised access, compromise or breach, if it has reasonable grounds to believe that publicity would protect anyone affected.

Data subject participation

4.3.11 The responsible party shall make corrections to personal information where requested by a data subject, provided that the correction is reasonable and necessary.

4.4 Data subjects shall be entitled to bring a complaint in terms of this code

¹ See section 15 of the Act for its provisions relating to further processing