

## Guidelines from the Netherlands Press Council

### Introduction

Following any complaint about a journalistic statement or behaviour, the *Raad voor de Journalistiek* [Netherlands Press Council] investigates whether the limits of that which, with a view to the requirements of journalistic responsibility, is socially acceptable have been overstepped.<sup>1</sup>

When assessing complaints, general points of view - formulated in previous views of the Council and in official statements - offer support. Also, the Code of the International Federation of Journalists (Bordeaux 1954 / Helsingör 1986) and the Code of Conduct for Dutch journalists, drawn up by the *Nederlands Genootschap van Hoofdredacteuren* [Dutch Society of Editors-in-Chief] (1995), contain standards that have been included in statements made by the Council. The general points of view of the Council are contained in these Guidelines.

The Guidelines aim to contribute to the transparency and clarity of the opinion formed by the Council for journalism and the public.

The general views in these Guidelines do not prejudice a journalist's legal responsibility arising from, among others, section 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), Dutch legislation and the case law based on that.

At least once a year, the Council assesses whether the Guidelines need changing.

### 1. General

1.1. A journalist reports truthfully. Based on his information, readers, viewers and listeners must be able to form the most complete and verifiable picture of the news item reported on.

1.2. A journalist and his editor are free in their selection of news.

1.3. A journalist does not need permission for or consent to a publication from the person he reports about. He must however weigh the interest of publication against the interests that could be harmed by publication.

1.4. In his report, a journalist makes a clear distinction between facts, allegations and opinions.

1.5. A journalist avoids one-sided and biased reporting, does not abuse his position, carries out his job independently and avoids any (pretence of) conflict of interest.

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<sup>1</sup> Section 4 of the Articles of Association of the *Stichting Raad voor de Journalistiek* [Netherlands Press Council Foundation] describes the terms 'journalistic behaviour' and 'journalist'. The text of this section is included in the Guidelines as an appendix.

The Council only processes complaints submitted within six months by a person or organisation who, in the opinion of the Council, has a direct interest (section 3 of the Articles of Association).

1.6. A journalist reports on the ethnic origins, nationality, race, religion and sexual nature of groups and persons only if this is required for the context of the news item reported on.

## **2. Journalistic approach**

### **2.1. Openness**

2.1.1. When gathering information, a journalist introduces himself as such.

2.1.2. A journalist will not encourage incidents with the clear intention of creating news.

2.1.3. A journalist will not steal any information (carriers), nor will he pay for stolen information (carriers).<sup>2</sup>

2.1.4. A journalist will not pay witnesses and informants for stories, pictures and other information, unless it concerns a reasonable reimbursement of expenses.

2.1.5. A journalist may deviate from the provisions of 2.1.1., 2.1.3. and 2.1.4. if justified by a compelling social interest and if the same goal cannot be achieved in a different manner.<sup>3</sup>

2.1.6. The use of hidden recording equipment<sup>4</sup>, surprising people while the cameras are rolling and the microphones are on, and gaining access to non-public areas without introducing himself as a journalist is not acceptable. A journalist can deviate from this only if he sees no other way of highlighting a serious wrong or focusing on a case of social interest, provided his approach does not disproportionately infringe the privacy and safety of the persons involved. Before an editor decides to publish or broadcast the discussions and images gathered in the manners outlined above, he must weigh the interest of publication against the infringement of that publication or broadcast on the rights and legal interests of the persons involved.

2.1.7. A journalist is free to record a telephone conversation when this is required in order to be able to publish an undisputed and the best possible account of what has been discussed. However, if he wants to publish the sound recording or parts thereof, he must first ask the interviewee for his or her approval.

### **2.2. Sources**

2.2.1. In order to inform the public as well as possible, the journalist preferably discloses his sources.

2.2.2. A journalist protects the identity of the sources to whom he has promised confidentiality, and of sources with regard to whom he knew or could have known that they have given him information on the assumption that he would not disclose their identity.

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<sup>2</sup> For the Council's full opinion on this subject we refer to the Official statement on the use of data obtained illegally and not intended for publication, RvdJ 1995/32.

<sup>3</sup> Apart from the fact that freedom of expression is a weighty social interest, this interest is served by highlighting serious crimes and misdemeanours, the protection of public health and safety, and the prevention of misleading the public by acts and statements from persons or organisations.

<sup>4</sup> For the Council's full opinion on this subject we refer to the Official statement on the use of hidden recording equipment, RvdJ 1996/44.

2.2.3. A journalist uses information passed to him and information given to him by sources whose identity he cannot disclose only when he has assessed the reliability thereof and publication thereof has enough news value, serves a social interest and does not pose a disproportionate amount of danger to persons.

2.2.4. A journalist does not need to prove the factual accuracy of rumours in order to publish them. He does have to state the fact that it concerns a rumour, and he must be able to demonstrate that the rumours he bases his story on are indeed circulating and that publication thereof serves a social interest.

2.2.5. When publishing accusations, a journalist will investigate whether there is a sound basis for these accusations. Great care is required in the publication of accusations made by persons who, at the time that the information is provided, are in conflict with the accused or serve another interest.

2.2.6. The journalist only decides to publish (hyperlinks to) confidential reports, or parts thereof, if publication thereof has sufficient news value, if it serves a social interest and if it does not constitute a disproportional danger to persons.

2.2.7. The editorial office that refers to third-party information by means of a clearly indicated hyperlink is not automatically responsible for the contents of the underlying information. However, they always need to consider whether the interest served by including a hyperlink in the publication outweighs the interests that are potentially damaged as a result thereof.

2.2.8. The Internet, and search engines connected to it, has largely increased access to archive databases. In principle, public interest in reliable archives, which are as complete as possible and the contents of which cannot be changed, outweighs any individual interest in removing or anonymizing archived articles, the contents of which may be displeasing to this individual. This socially important principle may be deviated from for reasons of private interest, in exceptional cases only.

### **2.3. Both sides of the argument**

2.3.1. If reasonably possible, the journalist will hear those who are disqualified as a result of a publication, even if their role is marginal. The accused will have ample of opportunity to respond to the accusations, preferably in the same publication, without being subjected to any unreasonable time pressure.

2.3.2. A journalist who copies accusations, negative qualifications and allegations against someone made in a different medium, or who retrieves these allegations from articles or recordings from the archive, must observe the requirements of due care applicable to the publication of accusations. He cannot assume that the statements published previously have taken on the character of undisputed fact just because they were not contested.

2.3.3. Hearing both sides does not relieve a journalist from his duty to report as truthfully as possible.

2.3.4. The principle of hearing both sides does not apply to publications which seem to contain a personal opinion (e.g. columns, reviews and opinion contributions) and reports of a factual nature, such as reports of public meetings. Nevertheless, such a publication may affect a person's interest, thus demanding hearing his side of the story too.

## 2.4. Privacy

2.4.1. A journalist will not affect the privacy of persons more than is necessary within the framework of his report. An infringement of privacy crosses the lines of prudent journalism when it bears no reasonable relation to the social interest of the publication.

2.4.2. For persons in more or less public positions and for VIPs a certain amount of exposure to unwanted publicity is unavoidable. Their personal behaviour and that in closed and private surroundings has a right to be protected against unwanted infringement, unless this behaviour demonstrably affects their public performance.

2.4.3. A journalist does not publish pictures and broadcast images of persons in non-general accessible areas without their permission, nor will he use letters and personal notes without the permission from those involved.

2.4.4. A (photo) journalist will not pester persons for prolonged periods of time, nor will he follow or tail them objectionably. Editors will ensure that information and images gathered in such a way will not be published.

2.4.5. A journalist may deviate from the provisions of 2.4.3. and 2.4.4. if justified by a compelling social interest and if the same goal cannot be achieved in a different manner.<sup>5</sup>

2.4.6. A journalist prevents himself from publishing details in pictures and text as a result of which suspects and accused can be easily identified and traced by persons other than the circle of people that already know about them.

A journalist does not have to observe this rule when:

- the name forms an important part of the report;
- not mentioning the name because of the general reputation of the person involved does not serve any purpose;
- not mentioning the name could cause a mix-up with others who can be predictably harmed as a result of that;
- the name is mentioned within the framework of investigative reporting;
- the person himself seeks publicity.

2.4.7. The disclosure of disciplinary attributable errors made by lawyers, physicians, civil-law notaries and similar officers who act in the course of a profession serves the social interest. The interest of the business of the person involved, which could be negatively affected by the publication, does not fall under the interest of privacy. Mentioning the name of the person involved can be important as it prevents any mix-up with professional colleagues.

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<sup>5</sup> Apart from the fact that freedom of expression is a weighty social interest, this interest is served by highlighting serious crimes and misdemeanours, the protection of public health and safety, and the prevention of misleading the public by acts and statements from persons or organisations.

2.4.8. In publications about (criminal proceedings on) serious offences, any details of the offence must be left out if they are expected to add suffering to the victim or his immediate family and if they are not needed to demonstrate the nature and gravity of the offence or the consequences thereof.

2.4.9. When approaching the casualties of accidents and disasters and their next of kin, a journalist should make allowance for the right of those involved to be left alone. A journalist should act reservedly if the defencelessness or mental state of those involved gives rise to that. In publications about accidents and disasters he will to the greatest possible extent prevent casualties and their next of kin from being disadvantaged, from being hurt even more or the acceptance process from being hampered. With that in mind, a journalist must leave out any information about casualties and their next of kin that would be irrelevant in reporting the nature and seriousness of the accident or disaster.<sup>6</sup>

2.4.10. In general, there is no objection against mentioning the names of the parties involved in reports on a public hearing in civil-law or administrative law proceedings. Still, the interest of a party to remain as anonymous as possible can be so weighty that mentioning their (full) name is not an option. This could be the case when a civilian is a defendant in administrative proceedings.

## 2.5. Financial economic reporting

2.5.1. A journalist uses financial economic-sensitive information with regard to which he took cognizance by virtue of his profession before it is published, not in his own interest or that of his surroundings. Nor will he pass this information on to third parties other than within the framework of his normal approach in gathering news and providing information.

2.5.2. He refrains from any type of conflict of interest, misuse of inside information and market manipulation.

## 2.6. Embargo<sup>7</sup>

2.6.1. The embargo is an agreement that serves to improve the quality of reporting. It cannot be imposed unilaterally.

2.6.2. A journalist who accepts an embargo request must observe this until the term agreed upon has expired, the information provided under the embargo is published in a different medium, or the person who requested the embargo has lifted it prematurely or fails to observe the agreements made.

<sup>6</sup> For more information on this subject, we refer to the Official statement on the plane disaster near Tripoli in Libya, RvdJ 2010/35.

<sup>7</sup> For the Council's full opinion on this subject we refer to the Official statement on embargo, RvdJ 2003/50. The statement also contains ten embargo rules.

## **2.7. Interviews**

2.7.1. A journalist who wishes to interview someone will let that person know about the purpose of gathering that information. The person to be interviewed must be able to make an informed decision as to his cooperation in a publication or broadcast.

2.7.2. Imprudent journalism involves among other things a quote from the interviewee being used in a context other than the one he could have expected by virtue of that which the interviewer told him. The interviewee must again be asked for his permission to his statements being published, if the nature or content of a publication is changed to such an extent in the course of the editorial process that it no longer meets his reasonable expectations.

## **2.8. Prior inspection**

2.8.1. A journalist who gives an interview or other article to the subject of the article for prior inspection is free in deciding how to incorporate any comments in the article. Unless otherwise agreed upon in advance, prior inspection offers the person involved the opportunity to request that any factual errors are corrected and uncertainties are removed.

## **3. Column, cartoon, review**

3.1. Columnists, cartoonists and reviewers enjoy a large amount of freedom in expressing their opinions on events and persons. Stylistic tools such as exaggeration and a conscious one-sided focus are permitted. The bounds of what is permissible are passed when cartoons and (sections of) columns and reviews do not leave any reasonable room for a characterisation other than that they are offensive and insulting to persons or sections of the population. Furthermore, reviews should not contain any substantial inaccuracies.

## **4. Visual material**

4.1. Photographs and other visual material do not serve to illustrate a report about a subject or context other than with regard to which the photographs and recordings were made, unless the text that accompanies the visual material excludes any potential confusion among readers and viewers.

4.2. Composite pictures and other picture manipulations should not be of a misleading nature. The reader and viewer must be made aware of anything that causes an obvious change to the image.

4.3. Upon publication, the editor is responsible for the content of the visual material provided by third parties.

## **5. Letters sent in and responses on websites**

5.1. The editor is responsible for the content of letters sent in and for responses published on the website of the medium involved.

It is preferred that the editor publishes the terms and conditions for selection and inclusion of responses.

5.2. The editor can decide not to publish a letter or other response sent in or to add a postscript to them, unless publication of a letter or other response is required due to special circumstances. Letters can be changed or shortened, as long as its substantive essence and composition are maintained. If the editor decides to publish a letter, the period between submission and publication of the response should not be longer than the sender could have reasonably expected.

5.3. Before the editor decides to publish a response that contains a serious allegation, he must verify whether the allegation has a sound basis. Also, the accused must be given the opportunity to tell his side of the story.

5.4. The editorial office has a responsibility for responses by third parties that appear below articles on its website, but with a view to the nature of the Internet, the editorial office cannot be expected to check all these responses in advance. However, the editorial office can decide to remove previously placed responses.

5.5. If a response to an article on the website contains a serious accusation or a defamatory expression towards one or more known individuals, the editorial office, on the request of the person(s) involved, must investigate whether there are actual grounds for the accusation or allegation and, if this is not the case, remove the response.

## **6. Rectifications**

6.1. A journalist who appears to have reported incorrectly or incompletely on a certain essential point will make a suitable and generous rectification as soon as possible and at his own initiative - if possible - which rectification unambiguously demonstrates that the report in the publication or broadcast to be rectified was incorrect.

If the person involved who in reasonableness feels short-changed by the report himself responds, the editor will observe the necessary care in his decision whether or not - and if so, how - to publish the response of the person involved.

## **Finally**

The Guidelines from the Netherlands Press Council were adopted by its members in April 2007 and amended in April 2008 as well as in September 2010.

## **For information on the Council and for lodging a complaint:**

Raad voor de Journalistiek  
PO Box 12040  
1011 AA Amsterdam-Zuidoost  
T: +31 (0)20 – 3123 930  
F: +31 (0)20 – 3123 934  
E: raad@rvdj.nl  
W: www.rvdj.nl

## Appendix

### Section 4 of the Articles of Association of the *Stichting Raad voor de Journalistiek* [Netherlands Press Council Foundation]

#### Section 4

1. For the application of these articles of association and the regulations of the Council, journalistic behaviour is taken to mean an act or omission by a journalist in the course of his profession. In these articles of association and the regulations, journalistic behaviour is also taken to mean an act or omission within the framework of journalistic activities of someone who, not being a journalist, regularly and against payment contributes to the editorial content of the publicity media listed in the next paragraph.
2. For the application of these articles of association and the regulations of the Council, journalist is taken to mean:
 

he who, either employed or self-employed, makes it his main job to contribute to the editorial management or editorial creation of publicity media, including:

  - a (daily) newspaper, free local paper or magazine insofar as the contents thereof consist of news, photos and other illustrations, reports or articles;
  - a press agency, insofar as the production thereof consist of news, photos and other illustrations, reports or articles intended for (daily) newspapers, free local papers, magazines, radio, television, film, teletext or viewdata;
  - programmes that are distributed via radio or television, insofar as they consist of news, reports, opinions or columns of an informative nature;
  - films, video, audio and ampex tapes, insofar as they provide news, are of a factual nature or are instrumental in columns of an informative nature;

and/or

  - the Internet, teletext or viewdata, insofar as the contents thereof consist of news, reports, opinions or columns of an informative nature.
3. Without excluding others, the following are regarded as journalists in the sense of the previous paragraph: ordinary members of the *Nederlandse Vereniging van Journalisten* [Netherlands Union of Journalists], the *Buitenlandse Persvereniging* [Foreign Press Association] and the *Nederlands Genootschap van Hoofdredacteuren* [Dutch Society of Editors-in-Chief].
4. For the application of these articles of association and the regulations, the owner/editors-in-chief and owner/editors and - if the publicity medium is published and/or organised by a legal entity - director/editors-in-chief or director/editors employed at the publicity media referred to in paragraph 2 are also regarded as journalists.