



## NUJ ethics and protocols for social media

### Advice from the NUJ's ethics council

Whilst journalists have, and are entitled to, private lives we face pressures in terms of accessing social media that are more sensitive than those of most people. We use social media both to gather information and to publish it in a way that means we need to be more careful about our own personal social media outings.

Details of our personal lives conflicting with our professional lives have always been a problem with some journalists deciding that they should have no discernable personal life at all – not something many of us are prepared to stomach. For those of us who live in the real world where we can have beliefs and concerns and take part in the community in which we live, it has always been wise to let your news editor know if your hobbies, beliefs or pastimes risk coming into conflict with your work. That has become even more important as more of our lives become public record on various social media. When we start Tweeting and social networking as a person, not a journalist we can easily run into problems with our readers or our employers.

A number of journalists around the world have faced a reprimand or even dismissal for a thoughtless tweet or Facebook comment so we need to be aware that social media then can lead to loss of employment but we are mainly concerned here with helping you to use social media ethically and advising how to use it sensibly in your personal life.

## Social media as a source

Social media is a great source of news and features, both providing new and interesting contacts, showing trends of public interest and identifying possible stories. However, using social media for these reasons can raise new ethical dilemmas. The NUJ's code of conduct, IPSO's Editor Code of Practice, the IMPRESS Code, Ofcom broadcasting code and in-house codes should provide useful guidance.

Anyone publishing on Twitter should understand that it is a public forum. For that reason it is perfectly acceptable to follow anyone who fits a particular field of journalism whether they are celebrities, sports people, local councillors, trade unionists, campaigners or charity workers. All of them might alert their followers to a good story and provide good contacts to support it. Whether it's a footballer slagging off the manager or a local councillor campaigning to fill in the potholes, there might be something that may be considered to be in the public interest. However, in order to ensure that the story is suitably accurate, it needs to be checked elsewhere. This is usually easy to do from an authoritative source or even using Twitter or Facebook to send out a general call for conformation.

However, we need to be careful about privacy. The scandal involving Cambridge Analytica and Facebook show just how significant privacy can be. Mark Zuckerberg, CEO and co-founder of

Facebook, told the Crunchie Awards in San Francisco in 2010 that: ‘people have really gotten comfortable not only sharing more information and different kinds, but more openly and with more people.’ He identified this as reflecting changing attitudes among the general public and a shift in the general view on privacy. However, just a couple of months into 2010, Zuckerberg had to admit that Facebook had ‘missed the mark’ with its privacy controls and new privacy controls were added at the end of May. Following his 2018 appearances before a House of Representatives hearing in the US, Zuckerberg still seems to believe that it is users’ responsibility to control what they put on Facebook and not Facebook’s duty to protect that data. Revelations regarding Facebook from whistle-blower Frances Haugen in 2021 suggested that Facebook put profit before online safety and has led to political pressure building against the tech giant.

Manually scraping data from Facebook pages is widely practiced in order to gather information about the subject of a story, but the ethics of this practice are more complicated. Many people put information about themselves on Facebook and other social media, largely on the assumption that only those who know them can access it and that certainly only those who know them would want to access it. We can liken it to a group of friends gossiping around a table in a pub who do not expect eavesdroppers on their conversation and certainly do not expect to see it repeated later in a news story. However, that is not always the case. A person dying in bizarre circumstances on holiday or involved in a major disaster may suddenly become very newsworthy and accessing their Facebook page will bring pictures, data and potential contacts to further the story. Is it appropriate to access such pages despite high privacy settings or because the subject did not fully understand how to set high privacy settings?

The Independent Press Standards Organisation has dealt with a number of such complaints. The *Herne Bay Gazette* carried a story about a young woman jailed for causing death by dangerous

driving and drink driving. They used a photograph taken from her Facebook page showing her holding up a full wine glass saying she had enjoyed a “booze-fuelled Christmas trip just days before she was jailed.” In fact the picture was taken on a family outing and the glass contained cola. She said that her Facebook page was set to family and friends but the newspaper said it was publicly accessible. The IPSO upheld the complaint.

In another case, the *Lancashire Evening Post* reported that photographs of children from Lancashire had been found on a file sharing website which the newspaper described variously as a “Russian pervert website” and a “paedophile website”. The article was illustrated with five pixelated photographs of local children which had been hosted on the Russian site. The complainant said that two of these images were of her young child. They had originally been published on her Facebook profile, and recognised from the newspaper by friends who had alerted her to the article. The IPSO upheld her complaint.

*The Edinburgh Evening News* published a story about a teenager who died from brain cancer. The article was based on copy by a news agency and was published in a number of media outlets and was largely based on information from social media including information from the teenager’s Facebook page, and expressions of condolences from her classmates. The complaint was upheld.

Twitter brings its own problems. A woman complained to IPSO after a photo of her daughter was published on the front page of the *Daily Star* identifying her as one of the people missing or dead following the terror attack in Manchester Arena; the caption identified her as “missing” and referred to her by an incorrect name. IPSO upheld the complaint and required the publication of an adjudication after hearing that the complainant’s daughter’s details had been appropriated and used by a hoax Twitter account. The newspaper had taken no further steps to establish the accuracy of the claims on the Twitter account.

These cases give some idea of different types of usage. When accessing Facebook pages for a publication, make sure to record confirmation of the privacy settings. Fully private settings should only be breached if there is a significant public interest, and that public interest has been formally agreed with the appropriate executive.

Other issues to consider are:

- Is the subject a minor? If so the public interest needs to be overwhelming.
- Is it appropriate to publish pictures? Remember about copyright; it may well be owned by the subject, a family member or a commercial photographer. It's also possible that the pictures might be too invasive of privacy simply because of the content of the picture.
- Think about the nature of all the material. Just because, for instance, a road accident concerning the subject is in the public interest, it does not mean that other details of the subject are appropriate to publish.
- Take a screenshot of the page with privacy settings to confirm what was there in case a complaint is later made to a regulator.
- Should images of other people in any pictures you intend to use be pixelated? If the others are children then they should almost certainly be pixelated.
- Who placed the material on the page and is it therefore still appropriate to use it?
- When was a picture or item published by the user? Is it still current and appropriate to use?
- Is the material likely to intrude on anyone's private life, grief or distress without an overriding consideration of the public interest?

## Twitter:

- Twitter is two sided. Journalists can use it as source to considerable advantage but care should be taken when using it as a publication medium.
- Tweets developing a story – reporting court perhaps - need to be able to stand alone so that if they are read in isolation they do not commit a contempt of court.
- Whilst Twitter is very useful for developing stories, it is important not to confuse your professional Twitter account with a personal account. If you want to tweet as part of your personal social media presence then set up an account under a pseudonym that will not be easily confused with your professional account.

## Facebook:

- Publishing adds same rules as Twitter. Avoid personal views that can be mistaken as professional views.
- Privacy is an issue that requires care.
- Lifting material from Facebook can be equated to eavesdropping, in that the material might be available for the public but was not intended for the public. Is there a public interest?
- Using as contact book – risk of being perceived as ‘friend’ of contact.
- Accessing information and pictures on public sites or private sites.
- Remember pictures are someone’s copyright and we should seek permission before use.

- Can we use pictures taken from private pages? If there is an overwhelming public interest then many publications will use such pictures first and argue copyright later. However, copyright approval should be sought first where possible.

**Case Study:** Ms Laura Clegg complained to the Press Complaints Commission that a *Sun* article falsely quoted her, and that the newspaper had invaded her privacy by obtaining a photograph of her from her Facebook page.

**Resolution:** The complaint was resolved when the PCC negotiated the removal of the article from the newspaper's website.

Be careful of stories on social media that could be hoaxes. Checking with additional sources is just good journalism.

**Case study:** Mr Ash Choudry complained to the Press Complaints Commission about an online article in the Daily Mail which reported on a Facebook campaign urging Saudi men to whip women who planned to defy a ban on women driving. The complainant believed that the Facebook campaign was in fact a hoax. While the newspaper did not accept that its article was in breach of the Editors' Code, the matter was resolved when it agreed to remove **the** piece from its website.

Witness contributors will become more and more a feature of future news-gathering operations. The consumer can supply her or his own slant on the news directly to the supplier faster and more efficiently than ever before. Journalists now tend to be alerted to stories by readers using social media or e-mail, particularly on breaking stories. This developing interactive element is seen by many as the most important facet of the internet when it comes to journalism. Properly used, it should allow more input from a vast range of sources, but it is crucial to remember that most of this information may be opinion rather than fact, pushing their own viewpoint and prejudices. With

this wider range of available material, the filtering process, if only in terms of time available to read all this information, will become more difficult.

Much material on the Net comes from unofficial or commercial sources and needs to be treated with suspicion. The rise in conspiracy theories can probably be laid at the door of the internet as anyone with a campaign, no matter how ridiculous, can not only find an audience of potentially millions but also sufficient people to take the idea seriously to give it some authority. Credibility and balance is difficult to measure on the internet without seeking additional sources.

## Instagram

The photo app allowing friends to share photos. The usual concerns about copyright and privacy are the same as for other social media.

## WhatsApp

WhatsApp is an encrypted message system that allows groups of people to communicate, send pictures and video and chat live by voice or video. An invitation is needed to join a group so unless you already have a group of people for sourcing or publication use this is not the most likely social media tool for breaking news but might be something you use all the time. If so, the privacy and copyright elements need to be made clear with each member of each group from the start. This can be done in the group description and with each invitation to join the group.

## Flickr

Flickr is a photo management and sharing application that is widely used by photographers, both professional and amateur. It allows photographers to manage photographs in different ways:



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*“In Flickr, you can give your friends, family, and other contacts permission to organize your stuff - not just to add comments, but also notes and tags. People like to ooh and ahh, laugh and cry, make wisecracks when sharing photos and videos. Why not give them the ability to do this when they look at them over the internet? And as all this info accretes as metadata, you can find things so much easier later on, since all this info is also searchable.”*

*(<https://www.flickr.com/about>.)*

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If you wish to publish a picture from a professional member, then a fee-paying system is available to facilitate that. If you wish to use a picture from an amateur then their privacy settings will say whether they allow that or you can message them. It would be a breach of their copyright to use a picture if their privacy settings prevent that.

## Social media for publication

Care needs to be taken with online publication about the risk of automated page links. Links can often be added to stories from advertising or to other stories within a publication

### **Case study 1:**

A curry house in south London was prosecuted after a rat appeared during an environmental health inspection. The magazine's court report was safe. But the website automatically generated a libel when a pop-up headed 'Similar stories' flagged up a meal review about another restaurant in the same area. The stories weren't similar at all. The review was very complimentary, and the restaurant was in no way 'similar' to the one with the rat.

## Case study 2:

A 'similar stories' tool picked up a link to a story that named a woman who had since been given anonymity as a rape victim.

## Trolling and abusive words

Freedom of expression means that we are all entitled to say what we like on social media provided it does not breach the law. The law covers such areas as:

- Reputation (laws of defamation);
- Privacy;
- Contempt of court;
- Criminal trial reporting restrictions;
- Obscenity;
- Trial jury privacy;
- Protection of minors and vulnerable adults;
- Incitement to hatred;
- Incitement to law breaking;
- Terrorism; and
- Sedition.

Whilst the law covers incitement to hatred it does not cover offence. Freedom of speech is about having the freedom to say things that are offensive. However, just because we or anyone else *can* say something offensive it doesn't mean that we should say something offensive. We have to remember that when we use social media, we are still communicating and, more to the point in legal terms, publishing. As journalists there are two key areas in which we publish: professionally on our workplace website and personally on any social media we use.

## Harm and offence

The Director of Public Prosecutions, then Keir Starmer, launched new guidelines on prosecution of communications by social media. “The aim is very much to get the balance right between free speech on the one hand and the enforcement of the criminal law on the other and also to ensure consistency in the decisions that are made about whether people should go to court,” he said in a public announcement in 2012.

He identified two broad categories, messages that contain credible threats that would be prosecuted robustly and messages that are offensive, insulting or controversial but should attract free speech protection. Starmer said: “In assessing whether a prosecution is necessary and proportionate, we've guided prosecutors to look at issues such as:

- was the message taken down promptly, and was there remorse?
- was the message blocked, perhaps by the service provider?
- was the message intended for a wide audience, or was that the obvious consequence of sending it?
- and - very importantly - did the message go beyond what would reasonably be considered tolerable in a democratic and plural society?

([http://www.cps.gov.uk/news/articles/dpp\\_discusses\\_prosecutions\\_involving\\_social\\_media/](http://www.cps.gov.uk/news/articles/dpp_discusses_prosecutions_involving_social_media/) accessed 31/3/15 - we should check this - not available today 11/1/19).

## On professional social media

It's probable that your professional social media will have rules set by your employer to which you must adhere.

For instance, the BBC says:

“...when someone clearly identifies their association with the BBC and/or discusses their work, they are expected to behave appropriately when on the Internet, and in ways that are consistent with the BBC's editorial values and policies...”

“Our audiences need to be confident that the outside activities of our presenters, programme makers and other staff do not undermine the BBC's impartiality or reputation and that editorial decisions are not perceived to be influenced by any commercial or personal interests.

“To this end when identified as a BBC staff member or BBC talent, people:

- Should not engage in activities on the Internet which might bring the BBC into disrepute;
- Should act in a transparent manner when altering online sources of information;
- Should not use the Internet in any way to attack or abuse colleagues;
- Should not post derogatory or offensive comments on the Internet.

“Even if they are not identified as a BBC staff member, editorial staff and staff in politically sensitive areas should not be seen to support any political party or cause. Any online activities associated with work for the BBC should be discussed and approved in advance by a line manager.” (<http://www.bbc.co.uk/editorialguidelines/guidance/social-networking-personal/guidance-full> accessed 8/5/18)

The BBC has plenty of other good advice about social media in particular about appearing impartial on social media or websites. Whilst this is important to a public service broadcaster controlled by the Broadcasting Act it may not apply to newspapers or other websites that are happy to take a partial view. However, whatever your employer or business you should always remember that writing in social media of all kinds whilst identifying yourself as a journalist working for a particular publication or website means adhering to that organisation's rules regarding what can and should be said.

## On personal social media

Whilst you can write more or less what you want on your personal social media (remembering the law still applies) it should be remembered that you may be recognised as working for the news media and that might affect how your writing is perceived by others and this might run into conflict

with your sources, colleagues, employers or those who commission your work as you may be saying things that contravene their policies or are disparaging to them in some way.

You should also be careful to regularly update your social media accounts, keeping much of it private and ensuring that historic posts are not potentially damaging and deleting them if necessary.

Members have run into trouble in the past with trolls and with their employer for things written on their social media, often from years ago and in some cases whilst they were still minors and certainly before they were working for their present employer who had threatened disciplinary proceedings when the years-old tweets came back to the surface. On social media, no-one ever forgets.

## Privacy

As well as ensuring you don't clash with your employer's social media policies, you need to protect yourself from trolls. Whilst most only write hateful or threatening messages, some may have more deadly intent and it is impossible to know which is which.

Keeping safe can mean keeping private. Use a pseudonym for personal social media that contains no link to work. You will need to use your professional name for work-related social media, but this should contain nothing that identifies you in terms of family, friends, addresses or phone numbers. Keeping safe from a seriously committed stalker is difficult, but paying serious attention to compartmentalization can deter the more casual troll.

This can be achieved by setting up an email account just for this purpose and then using that to set up social media accounts. There are a number of email providers, the easiest probably being Gmail. However, some that are particularly good at protecting privacy include Proton, GMX mail, and Mailfence.

Once you have an email set up in your professional name then you can use that to set up your professional social media accounts ensuring you put no personal material of any sort onto the site or in any passwords. Keeping a clean social media site that does not connect to family and friends will not stop abusive messages, but may prevent abusers attacking you family and friends. Your personal accounts can then be set up under a pseudonym, also using another email account but this time alerting friends and family to your new accounts. Nothing in these accounts should link to your employment.

Additional tips to consider include:

- weigh the benefits of having each social media strand versus the effect on mental health, and review this periodically. We are often told by members that maintaining Twitter has been a burden on their mental health and wellbeing;
- Consider taking a holiday from social media ever so often. It's amazing that even after just a few days away from the constant addiction to check your feed, one's mental health improves dramatically;
- Review old social media posts/retweets/likes to see if there is anything which, if taken out of context, could be used to attack you. The test should be not 'what did I intend this to mean', but 'could this be used to attack me';
- Consider deleting all older public social media posts routinely after a certain amount of time;
- Ensure your personal accounts do not make any association with your work.

## On NUJ-hosted social media

The NUJ interacts with members on a number of social media sites such as Twitter and Facebook.

It should always be remembered that members interacting with other members on an NUJ site are duty bound to be courteous and treat other members with respect. The unions rules say:

### MEMBERSHIP RESPONSIBILITIES

(a) By joining the NUJ, you join a democratic trade union. The NUJ is run by its members, who have rights and responsibilities. Members are expected to work to help strengthen the NUJ in its work and to abide by the following principles and practices.

(b) **STRENGTH THROUGH UNITY** The NUJ is a trade union founded on the principle that the pay and conditions of individuals at work are best improved by, collectively, improving the conditions of all. Because of this, members are expected:

(i) to treat other members of the union and union staff, with consideration and respect and not to take actions which threaten their livelihood or working conditions

(ii) to defend the interests of other members of the union in the same way as they would defend their own interests.

(f) **BUILDING THE UNION'S STRENGTH** By growing, the union becomes stronger and more able to defend its members' interests.

Because of this, members are expected

(i) to encourage work colleagues who are eligible for membership to apply to join the NUJ.

(ii) to support those who are starting out in careers in journalism, especially trainees.

(g) **STRENGTH THROUGH DIVERSITY** The diversity of the union's membership is one of its strengths. Discrimination, on grounds of gender, ethnic origin, sexual orientation, age or disability means that some members are more likely to suffer poorer conditions of employment and lower pay than others, irrespective of their skills and abilities. The NUJ is implacably opposed to discrimination and prejudice, not least because it divides rather than unites. Because of this, members are expected to seek to combat discrimination and bullying in the workplace. The NUJ does not regard prejudicial language or comments about people on the grounds of gender, ethnic origin, sexual orientation, age or disability as acceptable behaviour among its members.

Members who breach this rule to troll, insult, offend or bully other members risk facing the union's disciplinary procedures.

## Advertising on social media and websites

- Advertiser can bring pressure to bear to change or suppress stories.
- Advertising features can bring advertiser pressure
- Reviews such as restaurants or theatre can bring other pressures to distort
- Advertorials or advertising features are adverts disguised as editorial

- **If** asked to write them you should check first if your chapel has a policy on these matters.

Some chapels refuse to allow their members to write advertising features as it would risk the objectivity of members. Others allow the writing of ad features but only as additional work for additional payment.

- Normal codes apply – if it is advertising copy advertising staff should be writing it

## Copyright

Concerns over copyright have already led some commercial operators to start withdrawing their intellectual property from the internet. The Digital Economy Act was passed in the dying days of the Labour government in 2010. The Act attempts to address the issue of online infringements of copyright. Pictures of film stars or of scenes from cult favourites, which had been spread liberally on the Net for the enjoyment of fans, are now being withdrawn as they start to appear in publications both on and off the Net. *The X Files* TV show, for instance, had built up a large internet-based following, possibly because its fans were young, moneyed and technologically literate. So damaging did the copyright infringements become, with pictures and scripts being passed around the Net, that Fox Television issued a cease-and-desist order in the USA against an unofficial site which Fox claimed had been using copyright material. In a 2006 employment tribunal case, a photographer claimed he was made redundant from the *Jewish News* because he refused to be involved in the illegal downloading of pictures from the internet for use in the paper (Lagan 2006: 8). The Digital Economy Act attempts to identify such breaches of copyright by allowing copyright holders to search for breaches and then contact the ISP which must by law notify the subscriber of the copyright infringement report. The idea is that subscribers who infringe copyright could be



identified by a code number which would show whether they were serious repeat offenders. If they were a court order could be sought and further action taken.

Much material is being placed on the Net by organisations in the hope of attracting journalists. The UK government, for instance, now puts out most of its information to the press and public this way and charges freelance journalists for sending out hard copy of press releases. Many commercial organisations, such as film and video distributors and fashion houses, also distribute press information through the net. While this sort of PR work is only a technological update of the old press handout, there is a greater temptation to use the already keyed-in copy rather than write a new piece from scratch using the handout as notes.

## Archive

Another issue that has grown in significance over the past few years and will only become more important is archive material on the web. Stories on the web form a superb archive of material published by the news provider over the years that can easily be mined for specific information. While it has always been possible to research newspaper archives for data, this has been cumbersome and time consuming, meaning that such research is normally only carried out for very good reason. Now archive searches are quick and easy. This means that any error in the archive, or any invasion of privacy will easily be discovered and so newspapers and so websites are having to reconsider their policies about archive material. For instance, say a person was arrested in connection with a series of serious crimes. A report appears in the local paper and in the website. A few weeks later the charges are withdrawn as the person arrested is found to have no involvement at all. Yet every time someone searches that person's name, the arrests come up on Google or Yahoo. Of course this emphasises the importance of news organisations following through with stories

and publishing the withdrawal of the charges so those would also show up on the search. But this is not the only reason why people want to revisit website reports that may show them in a bad light. Newspapers and broadcasters are being increasingly bombarded with requests to ‘unpublish’: to remove references to people involved in stories. This is not about errors; most news organisations now accept that errors on websites need to either be deleted or tagged with the correction. The main concern now is legitimate, accurate stories that may make life very difficult for the person in an age when searching is so easy.

The main options for a website are:

- Ignore the request with a polite explanation to the complainer;
- delete or edit the item;
- take the whole page down;
- block search engines from accessing the page; or
- tag the page with a correction.

Google explains how to block access to search engines on <http://googlepublicpolicy.blogspot.com/2009/07/working-with-news-publishers.html>. This can be done either at the time of loading or at a pre-determined specific date so that the search engine will remove the page from the index on a certain date.

According to Kathy English, public editor of the *Toronto Star*, requests to unpublish are becoming more frequent (2009: 6). The problem with unpublishing is that archives are a matter of public record and to remove or to delete them would be a form of censorship. This has led to

considerable reluctance by some editors to even consider it. The Rehabilitation of Offenders Act in the UK requires that minor criminal charges are not mentioned after a certain amount of time has passed and it is this issue of how long misdemeanours are held online that is troubling some editors as it perhaps gives the most difficult balance between public interest and potential personal harm and according to English, Gatehouse Media, which owns hundreds of weeklies in the United States, is piloting a policy where minor misdemeanours are removed from the website six months after initial publication.

When faced with claims about past offences it is worth consulting <https://www.gov.uk/government/publications/new-guidance-on-the-rehabilitation-of-offenders-act-1974>

and the NACRO Guide <https://3bx16p38bchl32s0e12di03h-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/Rehabilitation-of-Offenders-Act-1974-Guide-2018.pdf>

## Ethics hotline

If you are seeking further advice on professional ethical issues such as those above then you can contact the ethics hotline to speak to an Ethics Council member on: [ethics@nuj.org.uk](mailto:ethics@nuj.org.uk) or ring: 0845 450 0864 (please note this number does not access the NUJ's main switchboard, only the hotline). To contact the NUJ for industrial advice please ring 0207 843 3700