

SEYCHELLES MEDIA COMMISSION

CODE OF CONDUCT FOR THE MEDIA IN SEYCHELLES

3rd May 2013

In interpreting any of the Articles of this Code of Conduct, the provisions of The Constitution of the Third Republic and all existing laws consistent with it shall always prevail.

All references to the Press shall mean both the print, electronic and broadcast media.

There may be exceptions to the clauses marked with an asterisk* where they can be demonstrated to be in the public interest.

This document includes an annexe.

PREAMBLE

The Seychelles Media Commission (SMC) is a statutory body under the Seychelles Media Commission Act of 2010 set up to preserve the freedom of media and to maintain and improve the standards of journalism in Seychelles. The Commission also promotes ethical journalism through a Code of Conduct as prescribed in Section 13 (2c) of the Act.

This Code of Conduct therefore is intended to govern the conduct of publishers of newspapers, radio and television broadcasters, news agencies, journalists and publishers of online publications. It also aims to resolve disputes amicably between the media and the person complaining, without the individual having to resort to legal redress through the Courts unless he/she chooses to do.

The Code sets out guidelines and general principles for publishers, authors, journalists and distributors. It provides the Commission with a framework within which it can address complaints from members of the public. It is expected that all members of the Press maintain high professional and ethical standards and abide by the Code which is designed to set the benchmark. The Code is to protect the rights of the individual and uphold the public's right to know. The Commission expects journalists to abide fully by the essential workings of this Code and that it is honoured not only in the letter but also in the full spirit. The Code should not be interpreted so narrowly as to compromise its commitment to respect the rights of the individual, nor so broadly that it prevents publication in the public interest. The Commission thus expects editors to be fully familiar with the Code and administer and abide by it responsibly. Should there be a challenge to editors and authors under the Code by an individual, they are expected to cooperate fully and swiftly with the Commission to assist the resolution of such complaints. Any publication that is judged by the Commission under one of the clauses must print/publish any adjudication in full and with due prominence.

The principal objectives of the Code are to:

- a. Protect freedom of expression and promote responsible journalism
- b. Define, guide and promote ethical behaviour within the media profession
- c. Ensure respect for human dignity and freedom from discrimination
- d. Maintain high standards of integrity and good taste
- e. Safeguard the rights of the public to accurate and truthful information
- f. Enhance responsibility and accountability on the part of media practitioners
- g. Resolve conflicts between the public and the media

Commitment to Professionalism

As a measure of their commitment to professionalism and the improvement of media standards in the Seychelles, media publishers, editors, broadcasters and journalists agree to the following:

1 Accuracy

- 1.1 The Press should not publish inaccurate, misleading or distorted information, including pictures.
- 1.2 A significant inaccuracy, misleading statement or distortion once recognized must be corrected promptly and with due prominence, and - where appropriate - an apology published.
- 1.3 The Press shall clearly distinguish between news, infomercials and advertisements.
- 1.4 The Press, whilst free to take a partisan stance, should distinguish clearly between opinion, comment, conjecture and fact.
- 1.5 A publication must report fairly and accurately the outcome of an action for defamation to which it has been a party, unless an agreed settlement states otherwise, or an agreed statement is published.

2 Opportunity to reply

A fair opportunity for reply to inaccuracies must be given when reasonably called for.

3 Privacy*

- 3.1 Everyone is entitled to respect for his or her private and family life, home, health and correspondence, including digital communications.
- 3.2 It is unacceptable to photograph individuals in private places without their consent.

Note - Private places are public or private property where there is a reasonable expectation of privacy.

4 Defamation

The Press shall not engage in character assassination or defamation which could result in action for slander or libel.

5 Harassment*

- 5.1 Journalists should not engage in intimidation, harassment or persistent pursuit of private individuals in their daily life.
- 5.2 They should not persist in questioning, telephoning, pursuing or photographing private individuals once asked to desist; nor remain on their property when asked to leave and must not follow them.
- 5.3 Editors should ensure these principles are observed by those working for them and take care not to use non-compliant material from other sources.

6 Intrusion into grief or shock

- 6.1 In cases involving personal grief or shock, enquiries and approaches must be made with sympathy and discretion and publication handled sensitively. This should not restrict the right to report legal proceedings.
- 6.2 Photographs and video from conflicts, accidents and crime or disaster scenes shall be used with sensitivity and not to add further to the sufferings of victims and relatives and with due regard to the public interest and good taste.

7 Children*

- 7.1 Young people should be free to complete their time at school without unnecessary intrusion.
- 7.2 A child under 18 must not be interviewed or photographed on issues involving their own or another child's welfare unless a custodial parent or similarly responsible adult consents or is present.
- 7.3 Pupils must not be approached or photographed at school without the permission of the school authorities.
- 7.4 Minors must not be paid for material involving children's welfare, nor parents or guardians for material about their children or wards, unless it is clearly established that this would not harm the child's interest.
- 7.5 Editors must not use the fame, notoriety or position of a parent or guardian as sole justification for publishing details of a child's private life.

8 Children in sex cases*

- 8.1 The Press must not identify children under 18 who are victims or witnesses in cases involving sex offences.
- 8.2 In any press report of a case involving a sexual offence against a child -
 - a. The child must not be identified.
 - b. The adult may be identified if a guilty verdict is handed down.
 - c. The word "incest" must not be used where a child victim might be identified; the offence should be described as 'serious offence against young children' or similar appropriate wording.
 - d. Care must be taken that nothing in the report implies the relationship between the accused and the child.

9 Hospitals*

- 9.1 Journalists must identify themselves and obtain permission from a responsible executive before entering non-public areas of hospitals or similar institutions to pursue enquiries.
- 9.2 The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

10 Reporting of Crime, Violence or Hatred*

- 10.1 Relatives or friends of persons convicted or accused of crime should not generally be identified unless they are genuinely relevant to the story.
- 10.2 Particular regard should be paid to the potentially vulnerable position of children who witness, or are victims of, crime. This should not restrict the right to report legal proceedings.
- 10.3 The Press should not publish material that may encourage or glorify violence, terrorist activities, ethnic, racial or religious hostilities and xenophobia.

11 Harm and Offence

- 11.1 The Press should avoid prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation or to any physical or mental illness or disability unless genuinely relevant to the story.
- 11.2 The Press should avoid use of offensive language, violence, sex, humiliation and expressions that violate human dignity.
- 11.3 The Press shall not encourage, glamorise or condone the use of illegal drugs, the abuse of drugs, smoking, solvent abuse and the misuse of alcohol.

12 Victims of sexual assault

The Press should not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and they are legally free to do so.

13 Financial journalism

Journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others for their profit.

14 News and information sources

- 14.1 Journalists have a moral obligation to protect confidential sources of information.
- 14.2 Save for confidential sources, publishers and broadcasters must

acknowledge sources wherever and whenever possible and refrain from plagiarism.

- 14.3 Journalists and broadcasters should identify themselves when gathering news and opinions as a matter of courtesy unless doing so will place them in danger or it is impractical.
- 14.4 Clandestine devices and subterfuge should not be used. The Press should not seek to obtain or publish material acquired by using hidden cameras or clandestine listening devices; or by intercepting private or mobile telephone calls, messages or e-mails; or by the unauthorized or illegal removal of documents or photographs. Engaging in misrepresentation or subterfuge, can generally be justified only in the public interest and then only when the material cannot be obtained by other means.

15 Reporting on Judicial Proceedings

15.1 Sub-Judice Cases

- a. In the interest of justice, the Press shall refrain from publishing detailed accounts of evidence in on-going cases, especially in criminal cases, so that upcoming witness evidence is not influenced.
- b. The Press shall not publish interviews of lawyers in a sub-judice case; the Press can report what is being said in open Court to the Judge, and reserve direct interviews with lawyers until after the verdict has been delivered.

15.2 Witness Payments in criminal trials

- a. No payment or offer of payment to a witness - or any person who may reasonably be expected to be called as a witness - should be made in any case once proceedings are active. This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or the suspect has entered a guilty plea to the court; or, in the event of a not guilty plea, the court has announced its verdict.
- b. *Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be expected to be called as a witness, unless the information concerned ought demonstrably to be published in the public interest and there is an over-riding need to make or

promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances should such payment be conditional on the outcome of a trial.

- c. *Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

16 Payment to criminals*

16.1 Payment or offers of payment for stories, pictures or information, which seek to exploit a particular crime or to glorify or glamorise crime in general, should not be made directly or via agents to convicted or confessed criminals or to their associates - who may include family, friends and colleagues.

16.2 Editors invoking the public interest to justify payment or offers would need to demonstrate that there was good reason to believe the public interest would be served. If, despite payment, no public interest emerged, then the material should not be published.

17 Gender Sensitivity

The Press should be gender sensitive and avoid stereotyping when reporting.

18 Official national languages

While no quotas are prescribed, the Press must note that Seychelles has three official national languages. If any other language is used, save for songs and similar artistic work, it should be accompanied by a translation in one of the national languages.

19 Elections

Once Elections have been officially announced, the Electoral Commission, by law, is mandated with special powers in respect of publications and broadcasts.

19.1 The Press shall abide by the provisions laid down by the Electoral Commission in its pursuit of free and fair elections and a responsible media landscape.

19.2 The Electoral Commission shall publish any special provisions and requirements so that the Press is fully aware of them.

ANNEXE TO THE SMC CODE OF CONDUCT

GENERAL DEFINITIONS

Two of the key concepts which are often referred to in relation to the Press and the Media are '*Freedom of Expression*' and '*The Public Interest*'. These terms are broadly defined below for information and guidance only and it should be noted that these are matters to be interpreted and determined by the Courts in conformity with the constitutional provisions.

a. Freedom of Expression

- i. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This shall not prevent the State from requiring the licensing of publishing, broadcasting, television or cinema enterprises.
- ii. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and independence of the Courts or the National Assembly.

b. The Public Interest

- i. Detecting or exposing crime or a serious misdemeanour
- ii. Protecting public health and safety
- iii. Preventing the public from being misled by some statement or action of an individual or organisation
- iv. Where public interest is invoked, the editor will be required to explain and demonstrate how the public interest was served
- v. In cases involving children, editors must demonstrate an exceptional public interest to override the normally paramount interests of the child.

DEFAMATION

Defamation is the publication of a statement which tends to lower a person in the estimation of right-thinking members of society generally or which tends to make them shun or avoid that person. A statement is defamatory if it exposes a person to hatred, ridicule, contempt or disparages him in his office, profession or trade. A defamatory statement is libellous or slanderous.

Libels are generally in writing or printing, but this is not necessary; the defamatory matter may be conveyed in some other *permanent* form. For instance, a statue, a caricature, an effigy, chalk-marks on a wall, songs, pictures or even a waxwork figure may constitute a libel.

Slander is defamation in a *transient* form, such as the spoken word.

Whether a person has been defamed is a matter to be determined by a Court of law.