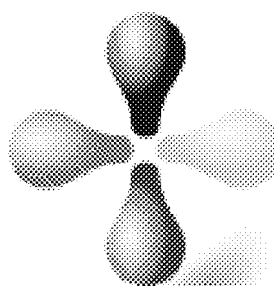


The British Press and the Transgender Community

Submission to The Leveson Inquiry
into the culture, practice and ethics of the press

December 2011



TRANS
MEDIA WATCH

Accuracy – Dignity - Respect

BM TMW, LONDON, WC1N 3XX

www.transmediawatch.org

transmediawatch@gmail.com

CONTENTS

A.	Introduction	3
	Trans Media Watch.....	4
B.	Defining Transgender and Intersex.....	5
C.	Transgender People and the British Media	7
	Background	7
	Attitudes towards the Media.....	8
D.	Impact of the Press on Public Perception.....	10
	The Sun – 24 October 2009	12
	The Scottish Sun – 15 December 2010.....	13
	The Sun - 25 February 2011.....	14
	Daily Express – 1 January 2011.....	15
	Daily Mail – 19 September 2011	16
	Daily Mail – 19 September 2011	17
	The Sun – 6 March 2011	17
	Daily Mail – early 2009	18
	Daily Mail – 4 December 2011.....	19
	Daily Mail – 9 December 2011.....	20
	The Sun – 31 December 2011.....	21
E.	Impact of the Press on Individuals and Families.....	23
	Impact of the Press on Transgender Children	25
F.	Press and Regulator Response.....	26
	Press Response	26
	Regulator Response	27
G.	Recommendations.....	29
	1. Protection for Vulnerable Groups	29
	2. Protection for the Dead.....	29
	3. Protected Characteristics	30
	4. Anonymity	30
	5. Penalties	30
	6. Press Agencies	31
	7. Accessibility	31

A. Introduction

Trans Media Watch (“*TMW*”) is pleased to make this submission to the Leveson Inquiry. It aims to demonstrate the unethical and often horrific and humiliating treatment of transgender and intersex people by the British press.

TMW believes that the highly adverse treatment of transgender and intersex people by parts of the press is a stark and instructive example of what newspapers (often but not exclusively tabloid) will seek to get away with when no effective formal or internal restraints are in place.

On a regular basis, transgender members of the public suddenly find themselves the unwanted subject of intrusive and mocking press attention simply because they do not fit the gender norms as dictated by the press, or because they are undergoing an entirely private process of gender reassignment. No public interest is served by this degrading and exploitative coverage. However, because the victims of these stories are often inexperienced in dealing with the media, and are genuinely scared of further exposure if they take legal or regulatory action (or financially unable to do so), the press simply carries on inflicting these wrongful practices with impunity.

It is our assertion that in no other circumstance would psychologically or socially vulnerable private individuals, often receiving personal medical interventions, be made the subject of this attention – accompanied by editorial which casts these individuals as ‘freaks’ or worse. Demeaning headlines directed at private transgender individuals are endemic in the tabloid press.

*“The central purpose of journalism is to provide citizens with accurate and reliable information they need to function in a free society.”*¹ Our submission is that the press, when dealing with transgender and intersex issues, frequently fail in that core purpose, often with disastrous results, and that the regulators, for whatever reasons, frequently fail to protect the victims of the targets of such press.

On the basis of the submission below, Trans Media Watch respectfully submits to the Inquiry that such experiences of transgender people:

- (a) be taken seriously as showing the culture and practices of the tabloid media at its worst;
- (b) be used in considering how and why the tabloids casually interfere with the privacy of non-public figures when they can get away with it.

Trans Media Watch also respectfully makes detailed recommendations in respect of treatment of transgender and intersex people in particular.

The submission is arranged as follows:

- Part B explains what “transgender” and related terms mean;
- Part C provides an overview of how transgender people perceive the media;
- Part D provides examples of how the press treat transgender and intersex issues generally;
- Part E provides case studies of the impact of press intrusion on individuals and families;
- Part F sets out the press and regulatory responses to expressed concerns;
- Part G makes detailed recommendations;

¹ <http://www.journalism.org/resources/principles>

Trans Media Watch

Trans Media Watch was founded in 2009. It is a campaigning organisation that aims to educate and encourage the British media to treat transgender and intersex people with accuracy, dignity and respect. TMW works with regulators, television and press, civil service and government. It also works with transgender and intersex people who are being approached by the media, offering guidance and support.

Recent initiatives have included a Memorandum of Understanding with Channel 4 and Women in Journalism, plus extensive ongoing work with Channel 4 on programming initiatives. It is being co-funded by the BBC and Channel 4 in its “Trans Media Action” initiative (being run with On Road Media, a social enterprises company) – aiming to find engaging and productive ways of educating broadcasters about transgender and intersex people and the issues they face.

TMW has found shocking levels of arrogance and ignorance about transgender and intersex issues when dealing with the British media and its regulators. While TMW is making some limited progress in educating broadcasters and a handful of interested journalists, the lack of an effective regulatory framework allows the press in particular to get away with sensationalist, prurient articles which serve no purpose other than to generate outrage.

TMW has a representative on the Parliamentary Forum on Gender Identity and also has good links with the Government Equalities Office. Its website² contains advice for both those working in the media and transgender people – alongside which it sustains a vibrant and well-supported Facebook group of around 1,000 transgender people and supporters. A parallel organisation has recently launched in Australia, and TMW is attracting interest from across Europe and in the United States of America.

² <http://www.transmediawatch.org>

B. Defining Transgender and Intersex

The term “**transgender**” is used to define a broad group of people who self define in a range of ways, but all share a belief that either society’s binary male/female definitions of gender do not reflect their inner knowledge of themselves, or that the definition they were given after a cursory inspection of their genitals at birth was wrong.

Transgender (sometimes shortened to “**trans**”) people (including transvestite people, transsexual people, and many others who define in a variety of ways) often suffer intense psychological and emotional distress (medically known as “**gender dysphoria**”). Transgender people can be vulnerable to other mental health issues (such as depression) usually caused by societal pressures and prejudice. This submission contains many references to a sub-group of transgender people labelled as “**transsexual**” people. These people are usually defined as those who take (often medically assisted) steps to interact with the world in a gender different to that assigned to them at birth. The process of alleviating that distress, by living in the desired gender role, is known as “**transition**”.

The Gender Identity Research and Education Society, working in partnership with the Home Office, produced figures³ (updated in 2011) that estimate the size of transgender community as follows:

Number who have completed transition in the UK by March 2010	7,431 ⁴
Number of Gender Recognition Certificates issued by August 2010	2,605 ⁵
Estimated number who have sought medical treatment to date	12,500 <i>(doubling every 5 years)</i>
Estimated prevalence of transsexualism	20 per 100,000
Estimated number who would like to transition but may not feel able to do so	50,000 to 90,000 <i>(extrapolation from various sources)</i>
Estimated number who feel some form of disruptive gender variance	300,000 to 500,000

The number of transgender people presenting for treatment is increasing by 15% per annum, a trend that has remained broadly unchanged since the late 1990s.

The **intersex** community is one that is defined more obviously by biology. A simple definition would be those who have physical differences meaning that their sex cannot be clearly determined at birth, although some intersex variations only become apparent at puberty. Intersex people often undergo a series of surgical interventions in their early years, and many intersex people are not aware of their anomalous sexual development. Accordingly intersex people are often less visible, but no less vulnerable, than transgender people. It is estimated that between ½ and 1% of the population is diagnosed with an intersex variation at birth⁶.

³ <http://www.gires.org.uk/assets/Medpro-Assets/GenderVarianceUK-report.pdf>

⁴ Number produced by HMRC

⁵ Number produced by Gender Recognition Panel, reported by GIRES: <http://www.gires.org.uk/grp.php>

⁶ <http://www.isna.org/fag/frequency>

Transsexualism is a recognised medical condition, categorized in the International Classification of Diseases (ICD)⁷. Several studies have attempted to uncover the causes of transsexualism, alongside other conditions of gender variance, with findings since 1990 suggesting correlation with the activity of hormones on the foetus in utero in the development of key brain structures, and in an individual's chromosomal make-up. It has become clear that transsexualism is not a lifestyle choice – indeed many transsexual people fight this aspect of their nature for many years because of prevailing societal attitudes.

The right for transgender people to access medical treatment under the NHS has been enshrined in law since December 1998⁸. Transgender people have increasing legal protection, most notably the Equality Act 2010⁹ and are recognised as a marginalized and vulnerable group.

However, despite increasing protection, many transgender people continue to find it difficult to gain acceptance in wider society. Surveys (referenced later in this submission) indicate that transgender people find it difficult to get and retain jobs and frequently suffer verbal and physical abuse. For those transitioning, family break-down is still commonplace. Faced with these obstacles, many transgender people struggle on for years without transitioning, at great risk to their health, trying to conform to society's expectations.

Transsexual people are particularly vulnerable. This is especially so while they are undergoing the intensely challenging period of transition. During this time, they can become very visible to a world that often views those who do not neatly fall into one of the gender binaries with, at best, confusion, and at worst, naked hate.

For many transsexual people, this journey is one they have no option but to take. And that they do it publically is no accident, as the current NHS protocols for medical treatment **insist** that transitioning people live in their "new" gender for two years (in England) before they qualify for surgical referral. Indeed, they are often offered no hormonal or surgical support from the NHS at all until they have changed their names and lived in their new role for at least three months. Up to this point in their lives they may have suffered deep distress in coming to understand that their physical body contradicts their inner identity. They can now be thrown to the wolves in a society that – encouraged by the media – often finds them laughable. Transitioning can be extremely stressful, with loss of family, friends and homes still routine, and the appearance of a prurient journalist can make things unbearably worse.

Irrespective of medical conclusions, or the lack of them, it is our belief that every individual has the right to determine and assert their own identity, and to live their life as they are, without fear of ridicule, abuse or violence.

⁷ F64 – <http://apps.who.int/classifications/icd10/browse/2010/en#/F60-F69>

⁸ http://www.medlaw.eu/r_v_north_west_lancashire_health_authority.asp

⁹ <http://www.legislation.gov.uk/ukpga/2010/15/contents>

C. Transgender People and the British Media

Background

Despite its protestations that it merely reflects public interest and opinion, the press has a powerful role in shaping society's terms of debate and reference. It helps us to "*define what we think about, what we see as problems and the solutions we consider*"¹⁰.

The media – and the tabloid press in particular – has played a powerful role in creating and sustaining a climate of prejudice against transgender people. Worse, as will be seen through a range of detailed case studies within this submission, instances in which the tabloid press has created situations in which very vulnerable people (including transgender children) are "monstered" and face public abuse or the threat of violence are not hard to find. Nor is it difficult to discover stories in which transgender people have had their privacy shamelessly invaded, personal details that could place them in grave danger revealed (either unethically or even illegally), or lies circulated about them by the press. Entirely innocent individuals have been forced out of jobs and homes, even received death threats, on the basis of coverage in the British press.

Whilst an occasionally more sympathetic piece might appear, in a "human interest" setting, the tabloid press (especially) has consistently expressed almost no interest in behaving with human decency towards transgender people. The Press Complaints Commission ("PCC") is widely regarded as an ineffective joke by the transgender community.

Whilst the prevailing media culture enjoys both portraying transgender people as both a tiny or strange minority (yet paradoxically also large enough to be draining the NHS of resources "better" directed elsewhere – often conjectured using spurious data) the reality is that the number of people troubled by gender dysphoria is more significant than sometimes understood. Though only a small proportion of transgender people seek medical assistance, it is likely that a significant number of people are troubled by inner distress about their gender identity. Media portrayal of transgender people, many of whom continue to feel entirely unable to share their inner distress with the world, is therefore likely to affect a larger number of people than simply those who transition. Additionally the families, friends and colleagues of transgender people are also often adversely affected by media coverage.

We believe that transgender people are amongst the most vulnerable and misunderstood of all communities in the UK. A major 2007 study¹¹ of transgender people revealed some of the shocking reality.

Experienced harassment in a public place	73%
Do not use public social/leisure facilities through fear of discriminatory treatment	47%
Experienced family breakdown	45%
Excluded from family events or have family members no longer speak to them	37%
Attempted suicide at least once as an adult	34%
Experienced inappropriate comments at work	29%

¹⁰ Gray Cavendar: Media and Crime Policy, 2004

¹¹ Engendered Penalties: Transgender and Transsexual People's Experiences of Inequality and Discrimination - Whittle, Turner and Al-Alami, Press for Change/MMU 2007 (Based on an online survey, sample 873 transgender people). This was a submission providing evidence for the Equality Bill.

Changed their jobs or planned to because of transgender status	23%
Attempted suicide more than twice as an adult	14%
Threatened in a public place	10%
Verbally abused at work	10%
Physically assaulted at work	6%

Amongst the findings of this study were a number of suggestions by transgender people that the media supported a climate of prejudice and even hate, encouraging and fuelling society's response to them.

Attitudes towards the Media

In 2010 TMW investigated this specific issue - conducting the first significant piece of research ever carried out in the UK (and, it is believed, the world) into how the transgender community felt about its portrayal by the media¹². Whilst the study covered the media as a whole, the behaviour of the tabloid press was clearly a powerful factor in shaping responses.

The results of this study (based on 250 self-completed online questionnaires) painted a picture of anger and alienation which took even campaigners by surprise. Levels of anger – directed chiefly at the areas of television comedy and tabloid portrayal – were intense.

At an immediate level, the large majority saw the media as **entirely disinterested** in portraying transgender people accurately:

- **95%** of respondents said that they did not believe the media cared how transgender people were portrayed.
- **78%** believed that portrayals of transgender people were either inaccurate or very inaccurate.
- **70%** said that portrayals of transgender people in the media were either negative or very negative.

The effect on the quality of transgender people's lives was clear, and TMW was particularly concerned to discover that 1 in 5 respondents felt **fear** as a result of media portrayal:

- **67%** of respondents said that seeing negative items in the media about transgender people made them feel "**angry**".
- **51%** said that these items made them feel "**unhappy**".
- **35%** said that they felt "**excluded**".
- **20%** said that they felt "**frightened**".

A common frustration within the community is the way in which transgender people continue to endure references in the media which would no longer be considered remotely acceptable if directed towards ethnic minority, disability or other groups – and this emerged in several places:

"Negative experiences can be so very damaging. What troubles me is how common it is to see almost throwaway references to trans people that are so cruel and damaging no one would consider saying it about anyone else or group... And what is even scarier is how commonplace and accepted it is."

¹² <http://www.transmediawatch.org/Documents/How%20Transgender%20People%20Experience%20the%20Media.pdf>

Respondents were also asked about the **results** of media portrayal for them:

- **21%** of respondents reported experiencing **verbal abuse**, which they believed was associated with representations of transgender people in the media.
- **8%** reported receiving **physical abuse**, which they believed was associated with representations of transgender people in the media.

The report noted:

“The verbal abuse reported by respondents was often described as being aggressive, with the implication that some of the respondents felt they might be in physical danger from their abusers. It also frequently involved sexual references, such as demands to see genitals. Several respondents reported that they had endured multiple instances of abuse and in some cases these incidents were connected, with one referring to ‘a month long hate crime campaign’ which she believed may have been connected to negative stories in the media. Media-related verbal abuse was reported as occurring at home, in the street, at work, in supermarkets, and even, in one instance, in a lesbian bar. Both men and women, and often teenagers, were responsible for the abuse.”

“Several noted that their attackers (in incidents of both verbal and physical abuse) had used language that is generic to media descriptions of trans people. It may be inferred that this differs significantly from the language they would use to describe themselves. One respondent specifically referred to ‘comments that imply I might be a sex worker’ and linked this to the associations between trans people and sex workers frequently made by the media.”

The role of the media in promoting social isolation was also clear:

- **34%** of respondents reported that they felt media representations of transgender people had precipitated negative reactions from their family or friends.
- **5%** reported that serious ongoing family problems/complete family breakdown which they linked directly to negative items in the media.

Respondents commented on the effect of media portrayal on family life:

“I lost my family – parents and siblings – because of the way this is portrayed by the media.”

The effect in the workplace and amongst service providers was also apparent:

- **19%** of respondents reported negative reactions at work in relation to items about transgender people in the media.
- **12%** of respondents reported negative reactions from service providers, **including the NHS**, which they felt were related to items in the media.

These findings paint a picture of the climate created by the media, via ridicule and “othering” of transgender people.

D. Impact of the Press on Public Perception

It is the view of TMW and, we believe, the large majority of transgender people in the UK that the British press continues to make a very powerful contribution to a reduction in the quality of life of a group of people who face significant personal challenges and who seek only the happiness and privacy enjoyed by others.

Members of the press would not deny that they can be a force to shape society for good yet, in the case of transgender people, they have largely acted as self-appointed moral police, attempting to deny people basic human rights of self-identification and healthcare. Yet the defence the press uses in situations such as these is that they are simply reflecting public unease – downplaying its role in creating and shaping that unease to begin with.

It has done this in two ways – one general, one specific. Both of which will be discussed below:

- a. ***The creation and sustainment of a climate of ridicule and humiliation.*** This happens through a continuous *type* of reporting - the use of a certain sort of headline, subheadline and standfirst, selected to demean and ridicule. It happens also in the conscious selection of terminology and pronouns intended to invalidate the transgender person's identity (sometimes their legal one), and in the hosting of an online setting which can attract abusive comments from the public ranging from the vindictive to the psychopathic.

Examples of this climate setting material are discussed below.

- b. ***Singling out individual transgender people and their families for sustained personal intrusion,*** placing them in some cases in significant physical danger, by putting their sensitive personal stories in the public arena without justification or "public interest" of any kind. Some titles have long taken a keen interest in the private lives of transgender people, seeking to "out" them, without any interest in the vast personal cost such activity causes. Vulnerable transgender children have also been pursued by reporters.

We would submit that there is a big difference between the public being interested in a story, and the story being in the public interest. In the case of media stories involving transgender people, the angle taken is usually one of prurience, as opposed to the story actually being necessary for the public to know. There is some indication that the public have lately grown tired of prurient stories with a transgender angle, but this hasn't stopped the publication of such stories.

In the appendices, referenced in section E, we will give ten examples of grotesque press intrusion, which caused enormous personal distress.

We believe that by creating and sustaining the climate of ridicule and humiliation, the British press (often, but not exclusively, the tabloids) creates a setting in which the British public will find singling out individuals acceptable.

Amongst the more specific problems transgender people face are:

- a. **Routine use of previous names** – even when the use of these names is intensely painful or places them in actual danger. Typically a transitioning transsexual person will wish to move on from their previous identity, having perhaps lived in deep distress within that ‘identity’ in the past. They may be working with colleagues who know nothing of their past, or they may not have revealed their life story to neighbours. Gratuitous revelation can lead to abuse. Further, for transgender people who have a Gender Recognition Certificate, it is illegal for an individual working in an “official capacity” to disclose a person’s previous name¹³. They are, for all legal purposes, recognised in the gender in which they live. This seldom makes any difference to the press.
- b. **Routine use of ‘before’ photos.** The media fascination with an individual’s previous appearance can also be intensely painful for the subject. Pictures are routinely acquired and used without the subject’s permission, often with considerable deceptive ingenuity by the press. They usually have the same effect as disclosure of previous names.
- c. **Demeaning and ridiculing language for comic effect.** This is especially a feature of headlines, subheadlines and standfirsts. Editorial decisions about how to frame a story are often **highly** offensive, using terms like “sex-swap” and “tranny” (an insult to many transgender people if used outside the community, it is best understood as one might the term “nigger” or “fag” in other communities), or other debasing “comic” innuendo.
- d. **Misgendering** – using inappropriate pronouns or placing the person’s identity in quotation marks to dismiss the veracity of the subject’s identity. This approach, along with repeated references to the transgender person’s past, serves to invalidate the individual’s experience, expressly to give the writer an implicit licence to demean. It makes of the transgender person a liar – and liars are ripe for parody and ridicule.
- e. **The perpetual subsequent existence of this material online** – often gathered and written without the permission of the subject. There it remains - usually including sensitive personal information – available to the entire world via internet search engines. Attempts by injured parties to have this material removed from newspaper websites are often fruitless. TMW has heard many stories of tabloid editors refusing even to reply to requests to have material removed.

Below we offer just a few examples. TMW could easily have included many more, drawn from the last twelve months alone.

¹³ Section 22, Gender Recognition Act 2004

The Sun – 24 October 2009

THE Sun
 Chrome by Google
 A fast new browser. Made for everyone.

NEWS
 Get a story? We pay 500 Cash! 0200 770 0000. Email: enquiries@the-sun.co.uk

Dad-of-two driver changes gear in sex swap

By Guy Meehan
 Published: 24 Oct 2009

BURLY, [redacted] has shocked trucker pals by telling them: "Call me [redacted]"

The lorry driver left workmates stunned when he revealed his sex swap - but insists they are supportive. He said: "Lorry driving is a man's world. But I haven't had a single negative comment." Dad-of-two takes hormone pills to give him boobs and uses electrolysis on facial hair. He replaced his crew cut with a red bob.

Before
 [redacted] and [redacted]

But it cost him his 37-year marriage to [redacted]. She said: "I couldn't cope. He was becoming a woman in front of our eyes."

RELATED STORIES

- 2. Reverse shock in road traffic
- 3. Birthdays: 10 facts you won't know

TOP STORIES
[NEWS](#) [SPORT](#) [MIRAGE](#)

In this piece the subject is referred to as male throughout, starting with the headline (“Dad of two”), using her former name and male pronouns all the way through the article. In fact, her former name appears more often than her real name (5 times as opposed to 2). We also have the seemingly obligatory “before” photo. The net effect is to render her as a fantasist.

This is compounded by the use of terms such as “burly” (a much-favoured term intended to underline the subject’s presumed visual incongruity) and an ambiguous joke about “gear” (playing on an intended double entendre involving either clothes or genitals), essentially reducing her to a comical parody, further reinforced by “sex swap” which is offensive, reductionist language.

The Scottish Sun – 15 December 2010

Sun THE SCOTTISH
BARON'S GRANGE 101F DALZIEL DRIVE, MOTHERWELL
 SHOWHOMES OPEN DAILY FROM 11AM - 5.30PM
 Click here for more information.

Login | Register Go to English edition Thu, 15 Dec 2010

News

Regional News
 Got A Story?
 Sun Says
 Weather
 Sun Money
 SPL Club Pages
 Live Match Centre
 SPL Predictor
 English Football

Sex swap mechanic goes nuts at medics

By KERRY SARTER
 Published: 13 Dec 2010

A **BURLY** transsexual mechanic who attacked a doctor and nurse in hospital walked free from court yesterday.

Sex-swap job ██████████ had admitted attacking the A&E medics as they tried to treat her after an apparent suicide bid.

But a sheriff took the "highly unusual" decision to summon the ██████████ for the assault at ██████████ Hospital in ██████████

Violent ██████████ assaulted a doctor and nurse
 Photo: Webcamphoto

A large amount of tabloid coverage seeks to conflate being transgender with criminal behaviour (real or otherwise), aiming to establish a notion of deviancy associated with simply being transgender. This is akin to the once widespread practice of gratuitously referencing an individual's skin colour (if not white) when reporting on a trial.

Some familiar themes appear: "*Goes nuts*" is a demeaning reference to the subject's genitals, and "*burly*" is used. Also note the reference to an attempted suicide bid, a shockingly common feature of many transgender people's lives – a factor which plays no role in the newspaper's rush to ridicule.

Beyond this, with nearly 58,000 assaults on NHS staff in England alone in the year starting 1 April 2010¹⁴ (of which almost 1,400 perpetrators faced "sanctions") it is not difficult to speculate that the Scottish Sun only showed interest in this story because it featured a transgender person.

¹⁴ [http://www.nhsbsa.nhs.uk/Documents/SecurityManagement/2010-11 NHS Violence Against Staff FINAL 01-11-2011.pdf](http://www.nhsbsa.nhs.uk/Documents/SecurityManagement/2010-11%20NHS%20Violence%20Against%20Staff%20FINAL%2001-11-2011.pdf)

The Sun - 25 February 2011

The Sun NEW NOKIA

Tran or woman?

The answers... male or female?

RELATED STORIES

MOST READ STORIES

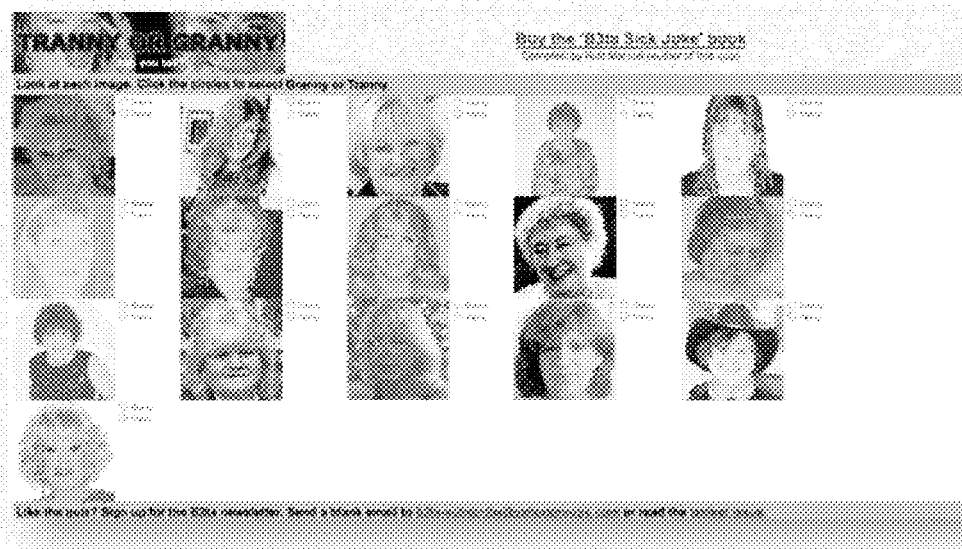
Transgender people, especially transsexual people who are in the process of transition, are routinely subject to abuse and violence because of a societal obsession with “outing” them. Prejudice against them is often founded on a tacit insistence that they have no right to the gender they understand themselves to be, and that society (or the press) should be the judge – despite the existence of the Gender Recognition Act.

This kind of journalism encourages attempts to deny transgender people the right to their own gender – male or female, inciting scrutiny, ridicule and disbelief. Note the “*Ladyshave Rating*” and the insistence that some are “*laddies*”.

In addition, the competition aspect seeks to offer the reader some kind of emotional reward if they can “spot the tranny”. Being unable to do so implies failure.

This article further positions transgender people as frauds who somehow deserve to be exposed.

It feeds directly into a narrative commonplace on the Internet in sites like this...



In short, this is just simple abuse.

Daily Express – 1 January 2011



This piece, constructed to create outrage, feeds from themes previously mentioned. It questions why the NHS should pay for surgery, suggesting implicitly that it should not. Contained within this is a position based on the “fraudulent” nature of this transsexual person’s needs. This construction is an essential point from which to build a characterisation of transgender people as undeserving deviants, swallowing up increasingly scarce public resources. The NHS has a legal duty to treat transsexual people - though there is increasing evidence that NHS Primary Care Trusts are withholding funding for routine treatments for transgender people, making the situation even more desperate for a vulnerable minority. The climate in which PCT commissioning teams operate is increasingly one of seeking collaboration with local authorities¹⁵ and sensitivity to local public opinion – something which is strongly shaped by vindictive and inaccurate coverage of this kind.

Just how inaccurate is best illustrated by the £60,000 figure quoted. TMW understands this figure is completely fictitious – the average cost of male-to-female genital surgery on the NHS is between £10,000 and £15,000¹⁶.

The monsterring theme is reinforced by the phrase “*half man*” – removing it from the context in which ██████ uses it (to describe how incomplete she feels). There is the usual use of “*sex swap*” and reference to the subject’s previous male life. The nature of the photograph, with the subject’s face turned away, suggests it was taken without her co-operation.

Daily Mail – 19 September 2011



A highly offensive headline crafted to demean – even call into question the very **existence** of – transgender people. The call for reviewing gender markers on passports has also come from intersex people and also some feminist groups, yet this is not even referenced, presumably for fear that the proposal may start to appear reasonable.

¹⁵ http://www.pcc.nhs.uk/uploads/commissioning/2011/03/productive_relationships_with_local_authorities.pdf

¹⁶ The Cost of Gender Reassignment, Jane Fae, included in the author’s submission to the Leveson Inquiry.

Daily Mail – 19 September 2011

On the same day and in the same paper:

The headline including the term "Britain's Olympic Ambassador for transsexuals" creates a sense of outrage and ludicrousness at the start, disingenuously avoiding the real reason for the appointment of the subject of the piece (her qualifications for the role and the commitment of the London Olympic Committee to diversity). The subject is misgendered throughout the piece, beginning in the headline, and her previous name appears prominently. "Sex change" is a reductionist term that many transsexual people find offensive.



The Sun – 6 March 2011

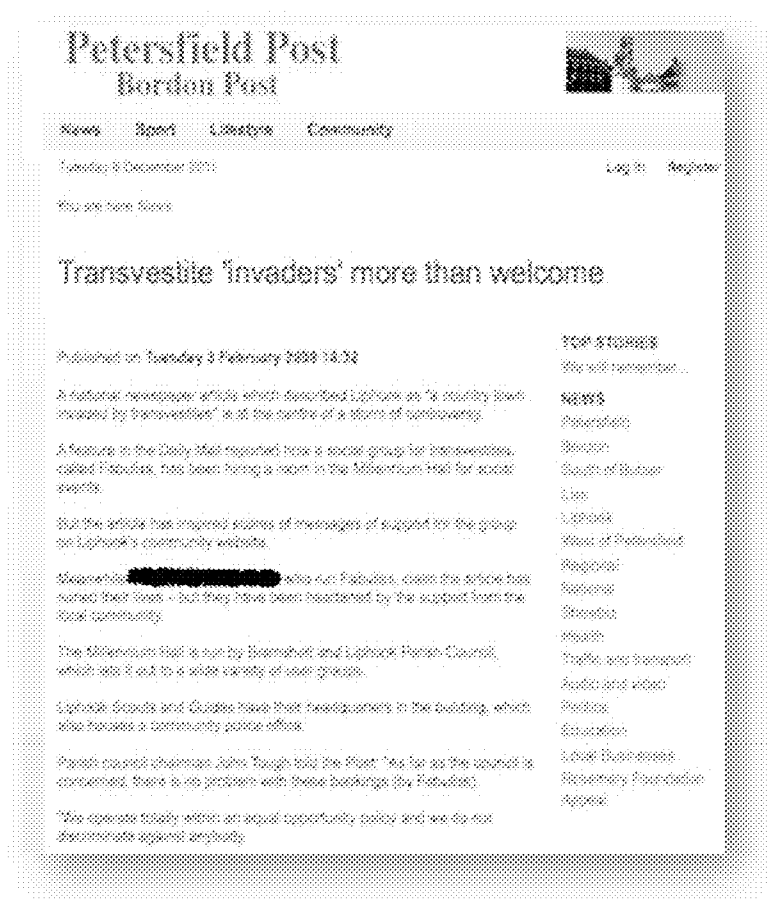


Explicit within this piece is a clear editorial stance that allowing a prisoner the right to do this is scandalous (despite there being no debate about prisoners being entitled to treatment for other medically recognised conditions).

By implication the right to express one's own gender is demeaned, as are transgender people, and the fraud meme is repeated by placing gender appropriate in quotes (when referring to clothing purchases) and referencing "*stubble growth*". The guidelines were actually published many months prior to the article, and were as a direct result of the Ministry of Justice's review into the human rights of prisoners¹⁷.

The picture, adding to the hurtful bank of media cliché, shows a man covered in hair sitting in a strongly male posture. It is very strongly offensive.

Daily Mail – early 2009



We include this as an example of a local paper offering support for a community group after it has been crucified by the Daily Mail. The local Liphook community rallied strongly around Fabuliss – one of many private and discrete support groups for transgender people which exist around the country – demonstrating clearly the vindictive gratuitousness of the Daily Mail's reporting.

The organisers of Fabuliss are here quoted as saying that the Daily Mail's piece had "*ruined their lives*". The local newspaper received many expressions of support for Fabuliss following the appearance of this piece – entirely undermining the Daily Mail's stance.

¹⁷ http://www.justice.gov.uk/downloads/guidance/prison-probation-and-rehabilitation/psipso/psi_2011_07_care_management_transsexual_prisoners.doc

Daily Mail – 9 December 2011

MailOnline News

Home U.S. Sport FUN! Showbiz Personal Health Science Money Right! Rights Coffee Break Travel Collections

Transgender lessons for pupils aged five: Classes will 'overload children with adult issues', say critics

By JACQUE DOYLE
Last updated at 1:49 AM on 9th December 2011
London Education Correspondent

Children as young as five could be given lessons on transgender equality under Government plans.

Information about transgender people is set to be included in the curriculum for personal, social and health education lessons, which are taught in thousands of primary and secondary schools.

The proposal is part of a Coalition policy programme entitled 'Advancing transgender equality – a plan for action', which was published yesterday.



News feature: Children as young as five could learn about transgender equality in PSHE lessons as part of a new programme to stop bullying

In it, ministers warn a wide range of steps are needed to combat 'transphobic bullying', which is defined as the taunting of children who express 'gender variant behaviours'.

The document was produced by the Home Office, which is responsible for equality policy within Government.

It states that schools need to be 'more inclusive for gender-variant children'.

No mention was made that a significant number of transgender people become aware that they are "different" in childhood (the median age of awareness is 7, despite not necessarily having the language to articulate it until they are 14)²⁰ even though the median age of transition is 42²¹ – implying an average for most people of 35 years of inner struggle and torment.

The clear implication from the Daily Mail article is that "variant" children should expect taunts, presumably to bully them into a level of compliance and submission. This would not be tolerated in most other areas – imagine saying that it is acceptable to bully children of different ethnic origins until they became more "white".

At the time of compiling this submission, the Government has issued its first ever Transgender Action Plan¹⁸, which includes a commitment by the Department for Education ("DfE") to "consider, as part of DfE's internal review of personal, social, health and economic (PSHE) education, the teaching of equality and diversity, including transgender equality". The Daily Mail reported on this with a typical piece that only expressed shock that "Children as young as five could be given lessons on 'transgender equality' under Government plans."¹⁹ There were several inaccuracies in the article, particularly towards the end, and the word intersex was placed in quotes, with the incorrect implication that no such status actually exists.

"We know that over 70 per cent of boys and girls who express gender variant behaviours are subject to bullying in schools," the document states.

"Schools should be a safe and supportive environment for children to learn in.

Tackling transphobic bullying helps to address unacceptable behaviour and ensures that our society becomes more tolerant."

'These are adult issues and we should leave it until children are older or until they ask.'

Margaret Morrissey, founder of campaign group Parents Outloud

As part of its review of PSHE, the Department for Education will consider adding 'the teaching of equality and diversity, including transgender equality' to the curriculum.

But critics said there was a danger that children were being overloaded with "adult issues" as a result of such lessons.

Margaret Morrissey, founder of campaign group Parents Outloud, said: "These are adult issues and we should leave it until children are older or until they ask."

The problem is we are overloading our children with issues that they should not have to consider at a young age. PSHE is already overloaded with other issues.

"We have given them sex education and teenage pregnancies have risen year on year.

"We have told children about drugs education and we have a serious problem with drugs. We have told them about drinking and cigarettes and we have more children with alcohol problems and smoking."

Transgender people include those who have had sex change operations and people who have both male and female sexual organs.

Other measures proposed as part of the equality drive include help for transgender job seekers and rules for the NHS designed to ensure transgender people are dealt with fairly.

The move comes after a Government survey found nearly nine out of ten transgender employees suffered discrimination or harassment at work. Also announced yesterday were longer jail terms for murderers who are motivated by hatred of transgender people.

The basic sentence for anyone convicted of such killings will be 30 years, Kenneth Clarke said.

Similar attacks on disabled people will also face the same tough minimum term.

The Justice Secretary said that offenders 'should be in no doubt that they face a more severe sentence for these unacceptable crimes'.

Equalities Minister Lynne Featherstone said: "Too many transgender people still face prejudice at every stage of their lives, from playground bullying, to being overlooked for jobs or targeted for crime."

This year if emerged British passports will no longer contain details of the holder's sex.

The move is designed to spare transgender people and those who are 'intersex' from having to tick 'male' or 'female' on official documents.



Announcement: Ken Clarke said yesterday that anyone convicted of a killing motivated by hatred of transgender people would receive a basic 30-year sentence

¹⁸ <http://www.homeoffice.gov.uk/publications/equalities/lgbt-equality-publications/transgender-action-plan?view=Binary>

¹⁹ <http://www.dailymail.co.uk/news/article-2071915/Transgender-lessons-pupils-aged-Classes-overload-children-adult-issues-say-critics.html>

²⁰ <http://www.giss.org/images/stories/volumes/7/2/3.%20Kennedy%20and%20Hellen.pdf>

²¹ <http://www.gires.org.uk/assets/Medpro-Assets/GenderVarianceUK-report.pdf>

And yet the comments section clearly indicated that the article had provoked the required level of outrage at this "political correctness gone mad".

The Sun – 31 December 2011

The screenshot shows the front page of The Sun newspaper. The main headline is "Operation sex swap" with the sub-headline "MoD paying for troops' gender surgery". The article is by Robert Self, a political correspondent. The text discusses how the Ministry of Defence (MoD) used taxpayers' money to pay for "minor surgical procedures relating to gender reassignment" for service personnel. It mentions that the outlay was made despite budget cuts and that some personnel also face controversial pay cuts. A photo of a man in a military uniform is included. The page also features a sidebar with various news categories and a "RELATED STORIES" section.

SUN POLITICS

EXCLUSIVE

Operation sex swap

MoD paying for troops' gender surgery

Payoffs ... Ministry of Defence

By **ROBERT SELF**, Political Correspondent

Published: Friday

Add a comment (21)

DEFENCE chiefs have spent thousands of pounds to help troops have SEX CHANGES.

The MoD used taxpayers' cash to pay towards "minor surgical procedures relating to gender reassignment".

The outlay was made despite crippling cuts in the defence budget.

Our Boys also face a controversial pay cut under Chancellor George Osborne's attempts to bring down the deficit.

The Sun obtained details of the spending after a request under the Freedom of Information Act.

A statement from the headquarters of the MoD's Surgeon General said requests for help with sex change procedures were dealt with "on a case by case basis". They are considered by the Exceptional Case Assessment Panel.

Patients may be referred to the NHS if surgery is required. But officials said: "From April 2009 to date, the cost to the MoD is £7,440 for minor surgical procedures relating to gender reassignment."

Fewer than five service personnel and civil servants have asked for treatment in that time, the MoD said.

Hormone therapy after a sex change is available under the NHS. Tory MP Philip Davies said: "The MoD is supposed to be about defending the country. It is on earth this has to do with that but only knows." John O'Connell of the TaxPayers' Alliance said payments for such procedures "will be hard to square".

Robert Self

RELATED STORIES

Squaddies are living in squalor
SOLDIERS say conditions at UK bases are worse than in Afghanistan

► Brit hero died from blast injuries
► Brand hit by Swire Flight ban
► Ex-soldier handle in fraud bust
► 40,000 troops to protect Olympics

TOP STORIES

NEWS | **SPORT** | **BIZ/ARK**

Russell Brand & Katy Perry split
RUSSELL Brand is to divorce pop star Katy Perry – just 14 months after they wed

► Steve Croft set to contest at OBE
► Newby: Czech keeps it hot
► Who's paying for 'sugar'? See who's eating Mr. Darcy's (and his) honey!

MUST READ STORIES

1. Russell Brand and Katy Perry to divorce
2. See who's paying for 'sugar' - see who's eating Mr. Darcy's (and his) honey!
3. Little bit of Loughran: Stroud's job at 'sugar'?
4. Why Croft's not to contest at OBE
5. Newby: Czech keeps it hot

© 2011 The Sun

The most recent article followed a Freedom of Information request to the Ministry of Defence, which indicated that the department had paid £7,440 over 30 months for “minor surgical procedures relating to gender reassignment”. As previously stated, the average cost of male-to-female genital surgery under the NHS is between £12,000 and £15,000 and, if the state pays for this at all, it does so under NHS budgets. It is not known what these “minor surgical procedures” are, but they certainly will not be genital surgery. The article implies things which are incorrect as well as, again, ignoring the legitimacy of any treatment for transgender people.

Trans Media Watch noted that the number of negative articles presented in the tabloid press did seem to decline significantly while the Leveson Inquiry was openly accepting submissions. However, the last three articles referenced have all appeared in the last month, when it appears that the papers concerned have assumed that all submissions will have been made. In contrast with preceding months, a large number of negative articles were published in December 2011.

E. Impact of the Press on Individuals and Families

Beyond the general climate of alienation and ridicule created by the tabloid press, TMW submits ten individual named cases of gross press intrusion into the lives of transgender people. Full details of these cases are in Appendices A and B. More could have been offered, but fear of further press invasion caused many to refuse to come forward - as the exchange below on Twitter captures powerfully:



Each case is submitted with the permission of the subject of the story. **Each is confidential to the Inquiry as each subject has expressed grave fears about further invasions of privacy and harassment by the press should it become known that their story is in our submission.**

In each case, the subject of the story:

- had their right to privacy grossly breached, often at a very vulnerable time, with no public interest being served whatsoever;
- was put in danger of public abuse, and/or violence;
- is left with candid details of their personal affairs, including previous names, pictures, home or work available on the internet. Often these details (including photographs) were acquired without the subject's permission.
- had to fight the press to force them exercise restraint – often with no effect.

In some cases, the subject of the story approached the Press Complaints Commission for support and received either little or none, and has been left with the lasting effects of unwarranted intrusion, sometimes with difficulties in being able to find employment or accommodation.

As mentioned before, the persistence of personal details on websites – including former names, etc – is no “awkward inconvenience” for transgender people, but can have very serious implications. It is our view that in many cases it infringes their rights to a private life under the Human Rights Act 1998²². The Gender Recognition Act 2004 further protects transsexual individuals from having their previous identities revealed by anyone in “an official capacity”²³, and states that once an individual has a Gender Recognition Certificate, they are “**for all purposes**” legally of their acquired gender²⁴. The continued revelation of previous names, use of photographs, acquisition of private information about individuals for no genuine purpose other than salacious curiosity – and the subsequent refusal to remove this information on request – is both a violation of the spirit of, and in some cases, the letter of the law.

Naturally most transgender people are not in a position to pursue the well resourced and defended press in the courts – and for them to do so would invite even more of the personally traumatic publicity which they are seeking to avoid.

Beyond this, the practice of revealing private details can put transgender people in **very real danger**. The most cursory of web searches can reveal an entirely unwarranted press feeding frenzy around an individual, their previous identity and life story. This material is available to an employer, to neighbours, and to other members of the media. The unfortunate victim can be trapped in a never-ending, unfixable reference to their previous life – vindictively labelled in the language of media prejudice, making them vulnerable to hate attack and further prejudice.

Further, as two of the case studies suggest, it can even make the individual vulnerable to persecution abroad. In the worst cases, higher profile stories can reach the ears of government officials in countries where to even **be** transgender can risk imprisonment or even execution.

Because of the very real fear that contributors have regarding press coverage as a result of this submission, full details are supplied in the Appendices, to be kept confidential by the Inquiry. However, the following points are made with suitable references to the case studies:

Problem	Case Studies
The press made significant efforts to obtain and publish former names of transgender people, even when the subject deliberately withheld them	B and G
The press made significant efforts to take photographs, including behaviour that could be interpreted as harassment	C, E and G
The press ignored the copyright of other photographers	C
The press printed inaccurate articles, inventing conversations, facts or statistics to suit their spin of the story	C, D, E, F and J
The press put public servants who were simply doing their job in unwarranted danger	C and F
The press incurred significant cost and inconvenience to senior public servants, managing the impact of press intrusion on someone in their team	C, D and E
The actions of the press have caused stress sufficient for prolonged periods of psychotherapy to be required	F, J and K

²² http://www.direct.gov.uk/en/governmentcitizensandrights/yourrightsandresponsibilities/dg_4002951

²³ Section 22, Gender Recognition Act 2004

²⁴ Section 9, Gender Recognition Act 2004

The press acted as the tipping point in destroying marriages and relationships	C
Transgender people have had their careers destroyed and professional reputations traduced by press coverage	A and G
Press coverage has severely limited scope for travel, impacting on professional or family commitments	C and F
Transgender people have held back from complaining to the PCC for fear of further intrusion into their lives	C, D and F
When the PCC were involved, no substantive punitive actions were enforced	A, B, G and K
The press subsequently re-visited the stories with the flimsiest of excuses	D, E and I

Impact of the Press on Transgender Children

Amongst the most distressing of practices engaged in by the press is the pursuit of transgender children. The trauma of gender dysphoria can be deeply felt when a child, leading to isolation, depression, self-harm, bullying and suicide. Transgender children are **intensely** vulnerable.

In Appendix B, we reprint submissions made by Mermaids²⁵ – the UK’s leading charity working with transgender children and their families, to the PCC in respect of two cases of flagrant invasion of privacy, with highly distressing consequences.

The stories illustrate the danger that families can be placed into, the substantial cost to the public services in order to protect them from the media, and the profound impact on children’s emotional stability and well-being.

²⁵ <http://www.mermaidsuk.org.uk/>

F. Press and Regulator Response

Trans Media Watch routinely contacts individual journalists and editors to challenge articles that misrepresent transgender or intersex people or are likely to cause offence to such people. Sometimes this is done spontaneously, sometimes it is at the request of individuals mentioned in the articles concerned, and sometimes it is at the request of other transgender or intersex people who contact us to express their concerns. Most cases are resolved or rejected immediately, but in a small minority of cases we engage in ongoing correspondence.

TMW has assisted a number of individual transgender people and their families in taking cases to the Press Complaints Commission, as exemplified in some of the case histories described in this submission. It has also met with the PCC to discuss ways in which the problems of endemic transphobic prejudice and the presentation of misinformation about transgender and intersex people in the media might be challenged.

It should be noted that transgender and intersex people often ask TMW to act as an intermediary because they do not feel competent to approach members of the press, or the PCC, directly. In some instances they express a fear of ongoing contact with the press and do not wish any contact to be made because they believe it could make them the target of maliciously motivated articles in the future.

Press Response

The results of contacting editors and journalists directly about problem articles vary considerably. Around one third of communications receive no response at all. Another third receive responses expressing uncertainty about the nature of the problem but a willingness to try and get it right, and in these cases we aim to clarify specifics and provide our Style Guide²⁶ for future reference. Following this approach, roughly 1 in 10 contacts result in agreement to amend copy in online editions and/or expressions of intent to do better in future. In some of these cases apologies are made to individuals referenced in the articles concerned.

Sometimes ongoing coverage of a particular story is so bad that we feel obliged to be persistent in attempting to change it. One such case was the *Brighton Argus*' coverage of the murder of Andrea Waddell. Ms Waddell died on the 15 October 2009²⁷. Although a number of newspapers covered the story of her murder and the subsequent police investigation, the local *Brighton Argus* was often first on the scene and set the tone for coverage elsewhere. In its early stories it placed heavy, salacious emphasis on the fact that Ms Waddell was transsexual and a sex worker. This was very distressing to her family and was damaging to her reputation – she was also a university student and charity worker.

TMW's interventions were initially rejected by the *Argus* but eventually led to discussions and an agreement that the paper had a lot to learn about transgender issues. Coverage of the ongoing story then improved significantly and the *Argus* has been considerably more sensitive in its treatment of transgender issues in other stories since.

²⁶ <http://www.transmediawatch.org/Documents/Media%20Style%20Guide.pdf>

²⁷ [http://www.theargus.co.uk/news/4688603.Tributes left to murdered Brighton woman/](http://www.theargus.co.uk/news/4688603.Tributes+left+to+murdered+Brighton+woman/) The online articles have been amended after conversations with TMW.

In general, we have found local papers more willing to listen and to rethink their approach to covering stories with transgender or intersex elements. We have also managed to engage positively with *The Guardian* and with parts of the editorial team at The Metro. We have communicated effectively with a few individual journalists at The Sun and the Daily Mail but have yet to make any progress with staff of the Desmond Group newspapers. However, this low-level contact with individual journalists is an extremely slow and labour-intensive way of challenging the endemic prejudicial nature exhibited in the press.

We feel that working directly with newspapers can be a very effective approach where there is a willingness to listen and a genuine interest in accurate and sensitive reporting. It is, however, impossible to tackle the problem of the misrepresentation of transgender and intersex people through this approach alone, due to a complete lack of interest or cooperation from some sections of the press.

Regulator Response

On Wednesday 15 September 2010, Jennie Kermode (representing TMW) met with representatives of the PCC, including its then chair Baroness Buscombe, Stephen Abell and Esther Robertson, at a meeting of the Cross Party Group on Culture and Media in the Scottish Parliament. Baroness Buscombe agreed that media treatment of transgender and intersex people is a serious problem. Ms Robertson noted that she considers transgender people to suffer the most serious press discrimination of any group except for Roma and travelling people, and expressed her frustration at the fact that the PCC only has the power to challenge articles that denigrate specific individuals, not those that denigrate a social group more generally (except in cases of inaccurate reporting).

Both Baroness Buscombe and Ms Robertson expressed their belief that changes in the Editors' Code would be of benefit in helping the PCC to challenge instances of overt prejudice against transgender people and other minority groups, but did not feel it would be easy to engineer such changes because of the influence of newspaper editors over the commission.

In particular, Baroness Buscombe expressed her support for the inclusion of gender identity, or some variant thereon, as a protected characteristic in the Editors' Code. TMW subsequently investigated the origins of the current code and determined that its wording on gender discrimination, as established in May 2005, had been intended to provide protection to transgender people but had not, in effect, succeeded in doing so.

Mr Abell expressed his regret that the PCC is not able to regulate press agencies, asserting that this is because new ones can be formed very easily and it would be impossible to keep track of all of them. It should be noted that TMW often encounters problem articles that originate with press agencies and have been widely distributed before anything can be done to challenge them. Newspaper editors often disavow responsibility for articles they have acquired in this way.

Concern was expressed by all PCC members at the meeting that the public are not adequately aware of the PCC and its powers. TMW agreed to aim to raise its profile among transgender and intersex people. TMW has focused its efforts in this regard on the PCC's ability to call off nuisance photographers, etc., which has worked effectively in several cases we have dealt with. The Inquiry should note however that few people are aware the PCC has this power, so it is effectively unavailable as a resource to many press targets when they are at their most vulnerable.

On Wednesday 22 September 2010, [REDACTED], Helen Belcher and [REDACTED], representing TMW, met with Will Gore and other members of the PCC Secretariat at Halton House in Holborn, London. Mr Gore expressed his sympathy regarding the way transgender and intersex people are treated by the press but stressed, like his colleagues, that the PCC does not have the means to tackle cases of prejudice or discrimination against such people as a group. An agreement was made that the PCC would consider endorsing a Style Guide prepared by TMW with the intention of making it easier for journalists to write accurately and respectfully about transgender and intersex people. This guide was completed and approved in February 2011. It was subsequently distributed to newspaper editors and, on request, to several individual journalists. However its impact has, to date, appeared to be extremely limited.

G. Recommendations

It is the opinion of Trans Media Watch that self-regulation of the press has failed in numerous cases, and that this has been extremely damaging to the well-being of many transgender and intersex people, as well as members of the wider public. We do not advocate state regulation of the press but feel that the best solution would be the establishment of an independent regulatory body.

Based on its observations, TMW has seven key recommendations to make to the Inquiry in relation to the regulation of the press.

1. Protection for Vulnerable Groups

At present, complaints about newspaper articles can only be taken to the Press Complaints Commission by the specific individuals described in them. TMW contends that this is problematic because such articles can also impact heavily on public perceptions of wider groups, especially when those groups already face social stigma.

Sometimes the individuals described in articles do not wish to take forward complaints, are afraid to do so, or are unable to do so for other reasons. In other cases, no individual is mentioned, but an article perpetuates negative stereotypes about a vulnerable group such as transgender and intersex people. Our research illustrates that this can have serious negative consequences for members of those groups.

We would like to see a rule established under which any person may bring forth a complaint about prejudicial treatment of individuals *or groups* with protected characteristics.

2. Protection for the Dead

In common with several core participants at the Inquiry, TMW is concerned by the fact that it is currently impossible to libel the dead. We feel strongly that there should be improved protection in this area for two reasons.

Firstly, we are concerned for the friends and families of transgender and intersex people who are victims of homicide. As exemplified by the Andrea Waddell case (referenced above), and also the manslaughter of leading human rights lawyer Sonia/David Burgess, problems can arise when the death of such an individual is sensationalised and the reputation of the deceased is traduced. Speculation about the deaths of such people often focuses on highly personal details (such as the appearance of their genitals) that would not usually be considered appropriate newspaper topics in such a context. No public interest is served by this, and the result is often intense and enduring pain for grieving relatives. Press coverage also frequently focuses on the suggestion that they may have deceived their attacker, or others, about their gender.

Secondly, transgender and intersex people are often mis-associated with sex offenders, and this can occur even after their deaths. Brandon Teena was an American transgender man who was murdered in 1993 and whose life story was told in the film *Boys Don't Cry*. Despite the fact that he was the victim of a transphobic crime, newspapers in this country (including The Sun, The Daily Mail and The Telegraph) have on several occasions drawn parallels between Mr Teena and women accused or convicted of posing as men in order to deceive other women into sex or in order to gain sexual access to minors. If it is impossible to challenge this because the individual concerned cannot bring a case due to being dead, other transgender and intersex people may be dangerously stigmatised by association, with no recourse in law.

3. Protected Characteristics

TMW recommends that the protected characteristic “gender” in the PCC code (or that of its successor) be explicitly changed to “gender identity” in order to give wide-ranging protection to transgender people of all types.

We further recommend that a new protected characteristic of “intersex status” be added to the code as an explicit means of tackling pejorative press treatment of intersex people, regardless of how those people identified. This should also apply in cases like that of Caster Semenya, who was ridiculed by several newspapers and magazines because she was believed to be intersex, even though her precise circumstances were never confirmed. We respect that intersex status could be considered to be covered by the existing categories of “gender” or “disability”, but note that the public (including newspaper editors and journalists) are largely unaware of these possibilities and are therefore apt to overlook them.

4. Anonymity

TMW is particularly concerned with protecting the anonymity of transgender and intersex people. In respect of the actions of regulators, this raises two points that need to be addressed.

Firstly, the PCC or its successor(s) should have the power, under the “discrimination” section of the code or similar, to penalise the “outing” of transgender or intersex individuals by the press. Where an individual holds a Gender Recognition Certificate, which makes it illegal for a public servant to disclose their gender history, the press should be permitted to disclose elements of that history only where there exists a demonstrable case that this is in the public interest, which the title in question should be compelled to give. It should be noted that there are some transsexual people who are unwilling to apply for a Gender Recognition Certificate due to the requirement to dissolve existing marriages or appear on a central government register of transsexual people. Additionally intersex people are not covered by the Gender Recognition Act. It is TMW’s view that an individual’s right to privacy should not depend upon the existence of a piece of paper.

Secondly, the PCC or its successor(s) should automatically grant anonymity to any person pursuing a claim against a newspaper for breaching the above guidelines. It is inappropriate that the name of such a complainant be published by the regulator, further compromising their anonymity. This is of particular concern in circumstances where use of an individual’s name as recognised in law automatically reveals that they are transgender or intersex because it is associated with a different gender from that in which they present (that is, the gender they appear to be).

5. Penalties

TMW agrees with what several core participants in the Inquiry have said about the importance of prominent apologies and meaningful financial penalties for newspapers found to be in breach of the regulator’s code. We have, however, some specific concerns in relation to this.

Where an article has been found to be damaging to the reputation of an individual, and where it has outed them, a prominent apology can enhance the impact of the original story by reminding readers about it and potentially alerting readers who had missed the original. We have dealt with cases in which individuals, distressed upon finding themselves the subject of misleading or prejudicial press articles, have refrained from making complaints because they fear that a side effect of doing so could be further damage to their reputations.

In light of the above, we feel it is important that a flexible approach be taken whereby complainants can request that apologies not be made public or that they be made in such a way as to avoid revealing the identity of vulnerable persons.

6. Press Agencies

TMW considers it important that any press regulator should have the power to regulate press agencies. It may indeed be the case that there are practical difficulties in keeping track of new arrivals but this is no reason not to tackle failings by well established agencies, whose output has a far wider ranging impact. We anticipate that, due to this difference in impact, the vast majority of complaints made would apply to those well established agencies.

We believe that the same code used by the PCC or its successor(s) to regulate articles in the press should apply to articles produced by press agencies.

At present, newspaper editors challenged over the prejudicial content of articles often use the fact they have sourced them from well established press agencies as a defence. This makes a nonsense of regulatory standards. We recommend that the PCC or its successor(s) adopt the approach used by Ofcom, whereby a broadcaster and programme maker share responsibility for the content of a programme, such that a newspaper and press agency would share responsibility for the content of an article sourced by the former from the latter.

7. Accessibility

Unlike many of the core participants in the Inquiry, transgender and intersex people targeted by the press are likely to be ordinary people with limited means. Indeed, because of the existing stigma they face, transgender people suffer from high levels of unemployment²⁸ or have lower than average incomes²⁹. For many this makes it impossible for them to seek recourse through the courts. TMW urges the Inquiry not to fall into the trap of believing that most victims of press harassment are financially well off and thereby capable of defending themselves. Many of the people we deal with are very vulnerable in this regard.

In consideration of the above, we consider it essential that a free means of recourse be available either through the regulatory system or through an ombudsman (or both).

Transgender and intersex people face higher than average levels of mental illness, especially depression, probably as a result of the social stigma they have to deal with³⁰. They also face high levels of physical ill health. As previously explained, press coverage often occurs when transsexual people are at their most vulnerable, having just started transition and therefore more likely to be at risk of unemployment and associated mental health issues. These can be compounded by negative experiences with the press, and the result can be that such people find it difficult to deal with a lengthy or complex complaints process. It is, therefore, imperative that access to the regulatory system be made as simple as possible, and that due regard is given to the general situation in which complainants find themselves.

²⁸ http://ww2.prospects.ac.uk/downloads/sis/handlingdiscrimination/Transsexual_and_transgender_issues.pdf

²⁹ <http://eprints.lse.ac.uk/28344/1/CASEREport60.pdf> (page 237)

³⁰ <http://www.nhs.uk/Livewell/Transhealth/Pages/Transmentalhealth.aspx>