



## Guidelines for dealing with contributors for Features, Factual Entertainment and Daytime Programmes, and Formatted Documentaries

These guidelines are intended to assist commissioning editors and independent production companies who are responsible for producing programmes involving members of the public. They are designed to help address some of the ethical issues arising, to avoid press and public relations hassles, and to minimise the risk of complaints from contributors before transmission or successful threats of legal action and complaints to Ofcom after broadcast.

The issues arise primarily in programmes which rely on the prominent featuring of members of the public. The type of programmes which can give rise to potential problems are a diverse range from *"Too Posh To Wash"*, through *"Location, Location, Location"*, to *"Wife Swap"* and *"Shattered"*.

What connects these programmes is the extensive role being played in them by ordinary members of the public, who will have varying experience and views of the media and television, and differing expectations of their involvement in the programme. The guidelines set out here are based on experience in dealing with a wide range of programmes over many years, and are designed to help you avoid problems arising which could disrupt production and/or transmission of your programmes. As you know, the Legal and Compliance department lawyers are always very happy to talk through scenarios and find the best way of approaching thorny problems – you need only ask at any time.

### **Checks on Contributors' Backgrounds**

- If contributors who are unknown to each other are to be placed together in a 'reality' setting, then careful consideration should be given to requiring each of them to obtain a Criminal Record Bureau check to confirm that they don't have a criminal record or that we are aware of any past matters. The record can take up to 12 weeks to arrive and application must be made by the individual himself or herself.
- Alternatively, and as a matter of routine, application and release forms should always require contributors to disclose any criminal convictions or pending legal proceedings in which they are involved. If particularly relevant to the content of the programme, contributors should also disclose details of any matrimonial and childcare proceedings, including any orders made. If anything is disclosed, this must be discussed immediately with the commissioning editor and with the lawyer advising on the programme.
- Through discussion with the contributor, you should also seek to find out whether there is anything else about them with the potential to lead to adverse public relations issues if disclosed to the press and whether there is

any conflict of interest or matter that could compromise them or the programme given the nature of the programme. In many circumstances it will be necessary to follow up personal references and/or do Google/Yahoo searches to substantiate backgrounds of contributors or any stories you are being told.

### **Fairness to Contributors**

- Contributors to programmes must be told the true nature of the programme to which they are being invited to contribute, and the nature of the contribution they are expected to make and how it is to be used in the programme. There is nothing more likely to make a contributor angry than finding out that the programme was nothing like it had been described to them.
- The use of innocent sounding 'working titles' in discussion with potential contributors, as opposed to the funnier, more caustic title you actually plan to use, is a dangerous strategy because as soon as contributors learn of the actual title when it is listed, just before transmission, all hell can break loose and you may have a serious problem on your hands. Much better to confront the issue early on and ensure your contributors understand the situation and will work with you and be supportive of the programme. However, it is nevertheless always sensible to prefix titles in correspondence and release forms with 'working' or 'provisional' in case the title does change, for editorial or scheduling reasons, nearer to transmission.
- You also need to keep contributors up to date with changes in the content and structure of the programme, especially if you later introduce new contributors you feel may be an issue for those people who have already made their contribution. In addition, if there is a delay in transmission of a completed programme, intervening events may affect an individual's contribution to a programme.
- In terms of how the programme is edited, you need to be careful about portraying contributors in a negative context, where they may feel aggrieved about how they will come across to family, friends and work colleagues. Humour at a contributor's expense will often lead to a feeling of having been treated unfairly, and complaints being made. If contributors are to be shown as having acted naively or foolishly, do they have an opportunity in the programme to explain why they acted as they did? Is it fair to portray people in the way you are doing, given the actual circumstances?
- All of these points are especially important when the contributor is opening up a sensitive or usually private aspect of their life to camera. That fact makes it all the more important to ensure we are being fair to them.

### **Privacy**

- Contributors will often agree to permit cameras to film and record aspects of their lives which most people would baulk at the very thought of. Care needs to be taken to make sure that you are comfortable with, and can editorially justify, the level of intrusion that is being permitted by the contributor, and that it does not feel unwarrantably exploitative.

- Even with the most willing contributor, there may be limits in terms of what you feel comfortable filming and what you can justify filming. This is particularly relevant in connection with filming of children which may be considered by the regulator, Ofcom, as exploitative, inappropriate or endangering the children's wellbeing, irrespective of fully informed consents obtained from the children and/or their parents/guardians.
- Care needs to be taken to ensure that the privacy of those family, friends or work colleagues referred to or identified by a contributor is not infringed. For example, a contributor may refer to his "aunt's illness" – the aunt may well not want the rest of her family discovering she is ill through a television programme.

### **Support For and Payments To Contributors**

- It is an important ethical and practical principle that if you are inviting contributors to engage in a programme, you should ensure that independent advice is obtained where appropriate, be it medical, psychological or counselling-based, to ascertain their suitability for being involved as planned.
- Where relevant, support of a medical, psychological or counselling form should be provided throughout filming, to transmission of the programme and beyond. This is especially critical where children are involved and there is any risk of their being exposed to bullying and ridicule of any form as a result of their or their family's participation in the programme.
- Where you judge it to be relevant, you should make sure that contributors are properly recompensed and paid appropriately for their contribution to the programme. It may, however, be more appropriate in some cases to merely recompense contributors for their time and expenses. This will help ensure they feel they have been treated fairly and not exploited, and will minimise any sense of grievance if and when issues arise.
- However, great care needs to be taken when payments are contemplated to anyone who has been involved in criminal or anti-social acts, and advice should be sought from the Legal and Compliance Department before any commitment is made.

### **Communication and Correspondence**

- Producers always need to respond promptly to queries and concerns raised by contributors, and in turn ensure that the commissioning editor is apprised of the circumstances as soon as possible. Depending on the issue, it may well be that the producer should discuss the matter with the commissioning editor *before* replying to the contributor, though any potential delay should be minimised and the contributor advised accordingly of the possibility of a delay in receiving a substantive response.
- It is also important that producers and commissioning editors alert the Legal and Compliance department to serious potential issues at the earliest possible stage, so that the lawyer will be able to advise on how to minimise

the risk or sidestep the problem if that is feasible, or at least how best to deal with it.

### **Truth, Accuracy and Advice To Viewers**

- It is critical that all programmes are properly researched so that the accuracy and integrity of programmes can be successfully defended if challenged. This involves ensuring that sufficient time and resources are deployed in establishing the truth and accuracy of all elements of the programme. Consideration should be given to the inclusion in contributor's agreements of a warranty as to the truth and accuracy of their contribution.
- This principle extends to making sure that the qualifications, experience and other credentials of presenters and experts who appear in the programme are verified to your satisfaction, and cannot be undermined by others on transmission.
- Viewers also have a right to expect that, unless otherwise clearly indicated, what they see in programmes is in reality what occurred at that particular time. Careful consideration needs to be given to whether and how events are restaged or reconstructed, and timely advice sought from the Legal and Compliance department if you are in any doubt. This is an area of real sensitivity. Take our advice that this is something about which a contributor, who has previously been seemingly relaxed, can quickly become so concerned about that he/she sees it as an issue the press need to know about the moment an unconnected dispute or sense of grievance with them arises.

### **Legal and Compliance, April 2005**