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# SECTION 'A'

## introduction

This manual is a guide for Channel 4 editorial staff and Channel 4 programme makers to the regulatory codes which govern the making and broadcasting of programmes. It sets out Channel 4's own internal procedures designed to ensure compliance with our regulatory obligations. It also contains a summary of and guidance on the main areas of law affecting the making and broadcasting of programmes. In addition, appended to the Manual, are Channel 4's rules and procedures for specific programmes and areas e.g. for secret filming and for factual programmes generally.

The Manual is **not** a substitute for reading and applying the detailed provisions of each Code, **before** you make any decisions regarding programmes with which you are involved.

Compliance is an issue of the utmost importance for the Channel. In addition to the damaging publicity that can result from a breach, sanctions can be imposed on Channel 4 by the regulatory bodies involved. The ITC can require the broadcast of an apology and impose substantial fines on the Channel.

In order to avoid problems, you should always refer to the precise wording of the Code section in question. Programme makers should also discuss compliance issues with the Commissioning Editor and seek advice from a member of the Legal and Compliance Department if they are in any doubt. The Legal and Compliance Department will clarify any points which may be of concern and advise on the full range of compliance issues.

- Programme makers should obtain copies of the various Codes from the Legal and Compliance Department at Channel 4. A full list of Codes, Channel 4 internal procedures and guidance notes is included at Appendix 1.
- Programme makers must be familiar with the detailed rules before starting work on programme(s).

- Programme makers should discuss compliance issues with the Commissioning Editor as early as possible. They will be able to put you in touch with the Legal and Compliance Department for advice, where this is necessary.
- Do not assume your programme(s) raises no compliance issues.
- Never take a chance and hope no one will notice – our experience is that they inevitably will.

## WHAT IS REGULATED?

**All** of the Channel's broadcast output is regulated. This includes programmes, presentation trails, advertisements, announcements and the text service, 4-Tel. FilmFour, as a premium subscription channel, is also regulated by the ITC and BSC, and the only substantive compliance difference is that its watershed starts one hour earlier, at 20.00 hours.

The broadcast of commissioned and purchased programmes is subject to the same rules, although different issues may arise. The fact that no problems were raised after an initial broadcast, does not automatically mean a programme will be safe to repeat. The content and scheduling must be checked again.

Certain aspects of compliance, such as fairness to contributors and the privacy of subjects, will apply to all programmes, whatever time of day or night they are scheduled. Other issues, such as violence and language, will of course depend on the time of transmission.

Codes governing broadcasting cover an immensely varied range of subjects, from sex, language and violence, through commercial references and sponsorship, to secret filming, impartiality and privacy. You should be conversant with all of these elements, so you can spot the issues in your programme(s) and take early advice if necessary.

## WHO ARE THE REGULATORS?

### **Independent Television Commission (ITC)**

- The ITC is required by statute to publish **Codes covering programmes, sponsorship and advertising.**
- Channel 4 is licenced by the ITC to broadcast, subject to compliance with the Codes.
- The Channel must have procedures in place to ensure compliance with the detailed requirements of the Codes.

- Breaches of the Codes may result in the publication of details of interventions by the ITC; formal warnings being issued to the Channel; or the imposition of sanctions such as broadcast apologies and substantial fines. FilmFour may also have its licence to broadcast revoked.

### **Broadcasting Standards Commission (BSC)**

- The BSC is a statutory body formed in 1997 to regulate (1) **Fairness and Privacy** and (2) **Standards** in television and radio (sex, violence and taste and decency).
- The BSC publishes separate Codes on Fairness and Privacy, and on Standards, with which you should be familiar.
- Findings on Standards and Fairness and Privacy complaints are published in a monthly bulletin.
- The BSC can require Channel 4 to broadcast summaries of its Findings.

### **ICSTIS**

- Statutory body which regulates the provision of **premium rate telephone services**, including those used in conjunction with television programmes.
- ICSTIS publishes a Code of Practice, which must be complied with, and it publishes details of contraventions.
- Sanctions include imposition of fines on service providers.



# SECTION 'B'

## Channel 4 – internal compliance procedures

The licence to broadcast granted by the ITC to Channel 4 requires that **procedures** must be in place to ensure compliance with the Codes in all respects.

To be effective, the compliance process must involve **all staff** – particularly Commissioning Editors, deputies and assistants; the Programme Planning and Strategy Department; the Presentation and Marketing Departments; the lawyers in the Legal and Compliance Department; Heads of Department; and the Director of Programmes, who has been charged with the role of the Channel's most senior programme executive, for the purpose of compliance with the ITC Codes.

**Commissioning Editors are responsible for the content of all programmes commissioned or purchased in their areas for transmission. This includes both first transmission and repeats, even where programmes were commissioned/purchased by a previous postholder. All programmes should be viewed by a member of Commissioning staff before they are broadcast.**

The lawyers in the Legal and Compliance Department *advise* on compliance issues, and discuss programmes with both Commissioning Editors and producers. However, responsibility for the editorial content of programmes lies with the Commissioning Editor and ultimate responsibility with the Director of Programmes, acting on the advice received and in direct contact with the programme maker.

Where any significant compliance issues arise e.g. difficult taste and decency judgements or concerns about due impartiality or fairness and privacy, or where otherwise obliged to do so by the Codes, the Commissioning Editor should refer the matter up to their editorial Head of Department and then up to the Director of Programmes for further consideration if appropriate.

## MANDATORY PROCEDURES FOR COMMISSIONING EDITORS

*Programme makers should be aware of these procedures for Commissioning Editors, so that issues can be raised at an early stage where appropriate.*

Please make sure you are conversant with and **strictly adhere** to the following compliance procedures at all times:

### 1 Editorial Reference-Up

Commissioning Editors should “**refer up**” all significant compliance decisions and/or issues to their editorial Head and, if appropriate, to the Director of Programmes, through their editorial Head of Department. **Section 1.13 of the ITC Programme Code** obliges Commissioning Editors to refer up if they have **any doubt** about the suitability of material covered by the ITC Code.

### 2 Commissioning Editors’ Responsibility for Programme Content

Commissioning Editors must ensure that the content of **all** programmes in their area is **suitable for transmission** at the time scheduled, whether it is the first broadcast or a repeat and whether or not they originally commissioned it. Particular care needs to be taken when a programme was originally commissioned for or shown in a **post**-watershed slot and is subsequently scheduled for a **pre**-watershed slot. A **repeats schedule** is regularly circulated to all Commissioning Editors by the Planning and Strategy Department. Programmes are sometimes purchased and require editing to ensure compliance with the requirements of the ITC Codes. Commissioning Editors are responsible for checking **the final version of the programme** after editing and before broadcast to ensure the agreed edits have been effected.

### 3 Role of the Legal and Compliance Department

The lawyers in the Legal and Compliance Department advise all editorial staff at Channel 4 and programme makers on compliance issues arising from programmes. Where programme makers are liaising directly with a lawyer, Commissioning Editors should **discuss the advice** with the lawyer and ensure that the programme makers follow it. It is not acceptable for the Commissioning Editor to divert the responsibility for a compliance decision to the lawyer. The decision is an editorial responsibility. However, if the decision taken by the Commissioning Editor is not consistent with the lawyer’s advice, the matter should be referred up through the Editorial Head to the Director of Programmes.

The lawyers in the Legal and Compliance Department do not view every programme transmitted by the Channel but focus on those programmes which are sensitive or contentious in legal or compliance terms. Commissioning Editors must, therefore, refer *specific* concerns to the lawyers **with their views and recommendations** on the issues raised.

#### 4 Mandatory Editorial Reference Up to the Director of Programmes

Reference up to senior editorial personnel will arise on a whole range of programme issues where difficult judgments are involved, not simply the following instances where the ITC Programme Code specifically requires reference up to the Director of Programmes or any person formally designated by the Director of Programmes to perform that role in connection with specific issues. All reference up should be via your Editorial Head and in conjunction with a lawyer from the Legal and Compliance Department, where appropriate.

The ITC Programme Code makes reference up to the Director of Programmes **mandatory** on the following issues:

- Use of the most offensive language after 9.00pm (ie 'c' word, 'f' word and derivatives) (**Section 1.4**).\*
- Representation of sexual intercourse **before 9.00pm** – only allowed for nature programmes, serious educational programmes or where portrayal is non-graphic. (**Section 1.5**)
- Graphic portrayal of violent sexual behaviour. (**Section 1.5**).
- Broadcast of footage of a police operation. (**Section 2.2(ii)**).
- Broadcast of recorded telephone conversations where the subject is unaware of recording or has not consented for it to be used in the particular programme in question. (**Section 2.3**).\*
- Hidden microphones and cameras; consent required:  
**before** filming/recording; and  
**before** broadcast.  
(**Section 2.4**)\*
- "Set up" situations, ie where the subject consents to being filmed for a different purpose to that covertly intended; consent required:  
**before** approach; and  
**before** broadcast.  
(**Section 2.8**)\*
- Proposal to include an image or images of very brief duration (eg one or two frames in length). (**Section 7.2**).

**\*Referral up and approval must be in writing.**

## 5 Verification Procedures for Establishing the Truth and Fairness of Programmes

**Channel 4 has a bond of trust with its viewers that what they see in our programmes is true.** This bond of trust must not be broken. It is the responsibility of all Commissioning Editors to ensure that the programmes they commission and purchase are fair and accurate. Programme makers must be made aware how seriously Channel 4 takes this issue. **The most serious consequences will follow a breach of this bond of trust** and Channel 4 will not hesitate to refuse to work with programme makers who deliberately deceive our viewers and the Channel.

The **truthfulness** of television programmes is a matter which has become the subject of significant media and regulatory scrutiny, and raises serious compliance issues. **Viewers must not be misled as to the nature of the material they are watching** – if it is claimed or suggested that footage is actuality, then that is what it should be; if it is not, then that **must** be made clear to viewers. The ITC will not hesitate to impose the **most serious of sanctions** against the Channel for failure to ensure that programmes meet this requirement. Sanctions could include an on-screen apology, a formal warning and/or a large fine.

Programme makers and Commissioning Editors need to be alert to these issues in **all** areas of programming, but it is most important for documentaries, particularly those of an investigative nature. There are numerous features which can give rise to problems and which should be treated as **clear signals** that further investigations need to be made, advice sought and editorial reference up made. Any concern that elements of programmes may be hoaxes, or that what appears to be actuality may in fact have been staged or faked in some way, should be followed up by the producer and/or Commissioning Editor. Concerns should be **referred up** to the Head of Department and/or to the Director of Programmes **as early as possible** and advice sought from the Legal and Compliance Department.

Extra care should be taken in the following instances, which could signify a potential problem:

- The use of **secret filming** – is it genuine, has it been staged in some way or does the secret camera person in fact know the person they are filming? Be alert to any signals that something is not right – a questionable camera angle or cut away, for example. If there are any questions of authenticity it is advisable to check all relevant rushes.
- Proposed reliance on **disguised interviewees** – why is their identity not being disclosed? Is it a legal requirement, or an unwillingness by the interviewee to be seen on camera? If the latter, why?

- Significant drawing on **anonymous sources** – why do they not want to be attributed as the source of the information? Is it for a legal reason, or for some other personal reason? Can what they say be relied upon, and would they come forward and give evidence after transmission if necessary?
- Over-reliance on **uncorroborated claims**. Can they be substantiated? If not, why not? What is known about the person making them?
- Filming of **criminal activity** and/or **interviews with criminals** – is what is shown real or has it been re-staged for the cameras? If it is real, do those shown know the implications and if so, what is their motivation for being filmed?
- Any case where **payments to participants** are contemplated – is the payment to a criminal, a witness in a trial or anyone who has committed a seriously anti-social act? If so, it could be in breach of Section 5.2 of the ITC Programme Code. Is the payment a genuine defrayment of their expenses or does it include a tangible net benefit to the participant? If the latter, has that affected what they have said or done? Could you prove that it has not? ‘Payments in kind’ must also be given careful consideration, eg reimbursement of out of pocket expenses or the purchase of food and drinks, which should always be reasonable and appropriate.

Commissioning Editors in these areas should be conversant with and follow the Dispatches – Rules and Procedures for Best Practice and Compliance (Appendix 2) and Factual Programmes – Rules and Procedures for Best Practice and Compliance (Appendix 3).

## 6 Secret Filming and Recording

Secret filming and audio recording must comply with the requirements of Section 2.4 of the ITC Programme Code. This covers ‘hidden’ cameras and microphones, including instances where a subject does not realise a visible camera is actually recording.

- a **All requests** for permission, **before** filming and recording (Stage I) and again **before** a programme containing covertly filmed or recorded material is broadcast (Stage II) must be sent to the Director of Programmes for approval in writing. Suggested proformas for both Stages are attached at Appendix 4. Retrospective Stage I permission will only be granted in exceptional circumstances.
- b No request should be sent to the Director of Programmes before it has been seen and approved by a lawyer in the Legal and Compliance Department and the Editorial Head.

- c All memos should be copied to the Head of Legal and Compliance, for annual submission to the ITC, to the appropriate lawyer and to the Editorial Head.
- d Other than in exceptional circumstances, you should give at least 2–3 working days notice of an intent to film or record covertly to allow the implications to be properly thought through.

*A copy of the Channel's Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes is appended at Appendix 5, and should be read carefully by all Commissioning Editors and sent to producers concerned with secret filming or recording.*

## 7 Recorded Telephone Interviews

- a On **rare** occasions it is necessary in order to investigate allegedly criminal or otherwise disreputable behaviour to record a telephone conversation for inclusion in a programme without disclosing the purpose or obtaining the consent of the subject. If so, the Commissioning Editor must consult with the Legal and Compliance Department and obtain the explicit consent of the Director of Programmes **in writing** before such material is broadcast in a programme. The Channel's 'Rules of Practice and Procedure for Secret Filming and Recording' should also be consulted.
- b No request should be sent to the Director of Programmes before it has been seen and approved by a lawyer in the Legal and Compliance Department and the Editorial Head.
- c The written approval should always be copied to the Head of Legal and Compliance, who maintains a log of all such consents which is sent annually to the ITC for inspection.

## 8 Recording for a Covert Purpose (aka "set up situations")

Where a subject has consented to being recorded for a purpose other than that intended covertly by the programme makers, the material can only be used in order to make an important point of public interest. The advice of the Legal and Compliance Department must be sought and the written consent of the Director of Programmes should be obtained by the Commissioning Editor **before recording** and again **before transmission**. As a general rule, you cannot hide from an interviewee the true purpose of a programme. Any deception, which must be approved in writing in advance by the Director of Programmes (see 4 above), should be commensurate with the point of public interest made.

Care should be taken with comedy and factually-based entertainment programmes which involve some degree of deception of contributors and appropriate procedures, specific to the programme, must be agreed with the programme-makers and the Legal and Compliance Department at the outset.

## 9 Live Programmes

The Channel 4 Board has approved a specific **set of rules in relation to live programmes**, and these must be followed in all cases. The rules cover the role of the Commissioning Editor, compliance arrangements, legal cover and so on, and include a procedure for on-air apologies where they are appropriate (see number 10 below). A copy of the rules is appended at Appendix 6.

Commissioning Editors are responsible for ensuring that presenters of live programmes are capable of dealing with the particular demands of the programme and that arrangements are made at an early stage for compliance briefings and advice from the Legal and Compliance Department.

## 10 Apology Procedure – Live Programmes

- a The procedure for apologies, where they are necessary, during or immediately following live programmes, is set out in the live programmes rules (see above) which is appended at Appendix 6.
- b Responsibility for authorising an apology in the event of a **libel problem** or an **offensive or tasteless remark** rests with the Commissioning Editor and the lawyer from the Legal and Compliance Department, who will either ask the presenter to apologise or contact Presentation.

**NB – Please note that further details on broadcast apologies are set out in the Editorial, Compliance and Legal Guide for Presentation (see 19 below).**

## 11 Anonymous Sources or Interviewees

Advice must be obtained from the Legal and Compliance Department **before** programme makers give any promise or undertaking that the identity of a source of information or material, including an interviewee, will be protected from disclosure. If you become aware that such an undertaking to preserve an individual's anonymity has been given, other than on the advice of the Department, please consult the relevant lawyer immediately. If an undertaking may also be binding on Channel 4, the Director of Programmes must be informed. If it appears that such an undertaking might bring the Channel into

conflict with the law, the Director of Programmes will need to consider whether to discuss the matter with the Chief Executive and the Channel 4 Board. The various laws under which journalists can be required to reveal their sources are summarised in the Guide to Media Law section of this Manual.

## 12 Use of the Most Offensive Language post 9.00pm

Any proposed use of the **c-word and/or the f-word and derivatives** must be referred by the Commissioning Editor to the Director of Programmes, copied to the Editorial Head, *for approval in writing before transmission*, with your justification for inclusion and any information about whether a pre-transmission warning is deemed necessary. A proforma memo for such applications is included at Appendix 7. **Unplanned** use of the most offensive language in a live programme post 9.00pm should be referred to the Director of Programmes as soon as practicable after it has occurred. These words must **never** be used in programmes transmitted **pre** 9.00pm.

## 13 Representation of Sexual Intercourse before 9.00pm

Exceptions to the ITC rule that representation of sexual intercourse should be reserved until after 9.00pm may be allowed for nature films, programmes with a serious educational purpose, or where the representation is non-graphic. But such cases **must** be approved in advance by the Director of Programmes on written request with full details by the Commissioning Editor.

## 14 Graphic Portrayal of Violent Sexual Behaviour

The ITC Programme Code states that “*Graphic portrayal of violent sexual behaviour is justified only very exceptionally*”. Any such proposed portrayal **must** be approved in advance by the Director of Programmes on written request with full details by the Commissioning Editor.

## 15 Image(s) of Very Brief Duration

This subject is covered in Section 7 of the ITC Programme Code and in a Channel 4 Guidance Note on ‘Photosensitive Epilepsy Induced by Viewing Television Images’ available from the Engineering Department. A guidance note is also available from the ITC. Where it is intended to include any image(s) of very brief duration eg. one or two frames in length, Commissioning Editors should obtain the approval of the Director of Programmes before transmission. The images should not be so brief as to be indiscernible to the naked eye nor should they contain matter which is of a political or controversial nature out of context with the programme.

## 16 Personal View Programmes

You should provide the Head of Legal and Compliance with details of all personal view programmes (on **controversial matters**, as defined below) for which you are responsible as Commissioning Editor in November each year. The Channel is required to submit a list of such programmes to the ITC annually. *Please note that details are only required of programmes in which an individual contributor puts forward their own views on “matters of political or industrial controversy” or on “current public policy”.*

## 17 Drama Serials in Family Viewing Time

Commissioning Editors for any drama serial transmitted before the 9.00pm watershed must ensure that compliance issues are discussed with the relevant lawyer in the Legal and Compliance Department at storyline, script and rough cut stage, as appropriate, and reference up is made to the Director of Programmes where necessary. The ‘Pre-Transmission Compliance Checklist’ must be completed by the editorial member of staff who views each episode and copied to the lawyer concerned.

## 18 Pre-Transmission Announcements: Warnings, Flagging-Ups and Introductions

Commissioning Editors are responsible for ensuring that their programmes are preceded by any appropriate announcements, for example a warning of strong language.

- a Commissioning Editors should consult with Presentation when drafting **generic warnings** for post-watershed programmes where particular elements e.g. strong language, violence or sex, may not be apparent from the title and where the content needs to be indicated to viewers by a clear and specific warning. The Legal and Compliance Department should be consulted where necessary.
- b Where it is necessary to have a more **specific warning** e.g. for a programme which has very strong content eg. deals with sado-masochism, extreme violence or explicit sex, Commissioning Editors should consult with the lawyer in the Legal and Compliance Department, and draft a warning for Presentation to announce.

**NB** Warning viewers about the content of programmes is not a substitute for appropriate scheduling.

c It is occasionally necessary to provide viewers with information about the content of programmes **transmitted before 9.00pm**, where notwithstanding its acceptability for family viewing time, some viewers may not wish to watch e.g. medical programmes involving surgery. In this case, Commissioning Editors should arrange with Presentation for the content to be **flagged up**, and a draft announcement should be agreed. **It should be clear that this is not a warning, as a warning should not be necessary in family viewing time.**

d All **introductions** for **contentious programmes** eg 'Dispatches' must be approved by the Commissioning Editor and appropriate lawyer in the Legal and Compliance Department before transmission.

**NB** Please note that further details on these areas are set out in the *Editorial, Compliance and Legal Guide for Presentation* (see 19 below).

## 19 Presentation Department – Editorial, Compliance and Legal Guide

A separate **guide** sets out in detail the procedures to be followed in respect of programme trails/promotions, presentation announcements and introductions, legal apologies and corrections, the broadcast of ITC and BSC adjudication summaries, appeals, helplines and on-air promotions for programme support material. Copies are available from the Legal and Compliance Department.

## 20 Programme Trails/Promotions

All programme trails/promotions for **contentious** programmes must be approved by the Commissioning Editor and appropriate lawyer in the Legal and Compliance Department before transmission. For a list of regular strands which are contentious, please refer to the *Editorial, Compliance and Legal Guide for Presentation* (see 19 above). Other programmes or their trails may also raise compliance or legal issues which require advice. Any trails including verbal or visual references to or shots of commercial products, names or logos should be referred to a lawyer in the Legal and Compliance Department.

## 21 Editorial Reference Up on Trails and Pre-Broadcast Announcements

If there is any doubt about the suitability of a trail for broadcast or the need for or wording of a pre-broadcast announcement or warning you should refer-up to your Editorial Head and the Director of Programmes, where appropriate. Seek advice from the Legal and Compliance Department if necessary.

## 22 On-Air Promotions, Off-Air Activities, Charities and Helplines

In order to comply with the detailed and specific requirements of the ITC Programme Code in these areas, Commissioning Editors should consult with the following departments to agree the wording of announcements:

- Appeals, Helplines and Educational Programme Support Material – *Programme Support Unit*
- Commercial Programme Support Material (magazines, books, videos and music) – *Commercial Development*

If you need any compliance advice on these subjects, including on promoting Channel 4 web-sites, please contact the Deputy Head of Legal and Compliance in the first instance.

## 23 Commercial Issues and References

Commissioning Editors should be familiar with the ITC Programme Code rule on 'undue prominence' (see page 37 below) and with the provisions of the ITC Code of Programme Sponsorship (see page 39 below). In particular, please note the following:

- Care should be taken to avoid **undue prominence** being given to commercial products or services, where there is insufficient editorial justification for their appearance in the programme.
- Particular care must be taken to ensure that any references on the Channel 4 main service, in programmes or presentation time, to **subscription services on Channel 4 'B'** are editorially justified or within the parameters set out by the ITC.
- **Masthead programming** is specifically defined in the ITC Code of Programme Sponsorship, and advice should be sought from the Legal and Compliance Department at an early stage.
- Where programmes are **sponsored**, the rules prohibit the appearance of or reference to the sponsoring company's name, logo, products or services – even generic references to the product or service may be a problem.
- Programmes may **be deemed to be sponsored** by the ITC (and the restrictions will apply), if commercial or charitable organisations have made, or contributed towards the cost of making, any programme.

- No agreement (whether written or verbal) should be made by programme makers to show, refer to or credit a commercial product or service in a programme in exchange for a payment or anything else of financial value eg. free flights or the loan of a car. This constitutes **product placement** and is forbidden.

Please seek advice on the above issues from the Deputy Head of Legal and Compliance in the first instance.

## 24 Viewer Enquiries – Compliance and Legal Guide

A separate **guide** sets out in detail the procedures to be followed in respect of reference to the Legal and Compliance Department of enquiries of a legal nature and telephone calls from current and former jurors.

## 25 Contact with the ITC

- All correspondence from the ITC must be copied immediately to:
  - Editorial Head of Department.
  - Head of Legal and Compliance Department (if not already copied).
  - Director of Programmes.
  - Lawyer in Legal and Compliance Department dealing with the programme, if not Head of Legal and Compliance.
- Draft replies to the ITC **must** be discussed with the above staff and be approved by the Director of Programmes **before** sending. Replies as sent should then be copied as above. Commissioning Editors must reply to letters from the ITC promptly and fully. In most cases a member of the Legal and Compliance Department will draft the reply with input from the Commissioning Editor and, if appropriate, the programme makers. However, the Commissioning Editor must be able to provide a defence of editorial decisions taken and to draft the section of the letter reflecting this. The ITC normally allows two weeks for a response but may impose a shorter deadline.
- Telephone conversations with the ITC on compliance issues **must** be discussed with the Director of Programmes; and any proposed meetings with ITC staff discussed and agreed with the Director of Programmes before arrangements are made.
- All correspondence from and to the ITC must also be copied to the secretary to the Head of Corporate Affairs, for logging in the central record.

## 26 Letters of Complaint

Commissioning Editors are responsible for answering letters of complaint about their programmes. Replies should be reasonably prompt, duly courteous and appropriate to the issues raised.

All letters of complaint, together with your replies, should be copied to the secretary to the Head of Corporate Affairs, for submission to the ITC for scrutiny on a regular basis. If letters raise legal or compliance issues they should be discussed with a lawyer in the Legal and Compliance Department before replying.

## 27 Broadcasting Standards Commission (BSC)

The Legal and Compliance Department is responsible for ordering and despatching VHS copies of Channel 4's transmitted programmes to the BSC, when they make requests following transmission, which the BSC review in order to decide whether or not to entertain complaints about the programmes.

The Legal and Compliance Department makes sure that statements in response to BSC complaints are submitted within the deadline agreed with the BSC. Most statements in response to 'Standards' complaints are drafted by a member of the Legal and Compliance Department and circulated in draft form to relevant editorial staff, and to programme makers if appropriate, for comments. Editorial staff may be asked to produce a first draft where a particular editorial issue or decision is raised.

Written responses to 'Fairness' and 'Privacy' complaints are drafted primarily by a member of the Legal and Compliance Department, with input from the Commissioning Editor and the programme maker, which will vary according to the nature of the complaint. The Commissioning Editor responsible for the programme will attend any hearings of such complaints with the lawyer and representatives of the programme makers, plus any other relevant individuals the BSC agrees can attend such as an expert or a contributor to the programme.

The Legal and Compliance Department will make arrangements for the broadcast and publication of the Commission's findings if this is directed.

## 28 Changes to the Regulatory Codes

The Legal and Compliance Department will circulate to editorial staff guidance and advice if appropriate covering any significant changes to the ITC and BSC Codes since the publication of this Manual.



# SECTION 'C'

## summary of regulatory codes on programme content

The following summary of the various Codes is intended to introduce the main areas. Channel 4 staff and programme makers must **always** consult the actual wording of the Codes and seek further advice from the Legal and Compliance Department if in any doubt at all.

**There is no substitute for early advice and Channel 4's Internal Procedures set out in Section 'B' of this Manual must always be referred to and followed.**

### THE ITC PROGRAMME CODE

*[Where relevant, sections from the ITC Programme Code are followed by brief summaries of parallel or related provisions from the Broadcasting Standards Commission Codes of Guidance on (1) Standards of Taste and Decency and (2) Fairness and Privacy. Further information on these Codes is included at page 47 of this Manual, and the Codes should be read at an appropriate stage.]*

***NB** – Where a red triangle is shown, the prior consent of the Director of Programmes is required – see Section 'B' on Channel 4 – Internal Compliance Procedures starting on page 5 above for the procedures to be followed.*

## Section 1 – Offence to Good Taste and Decency, Portrayal of Violence etc

**Material unsuitable for children must not be broadcast at times when large numbers of children may be expected to be watching.** The ITC's **Family Viewing Policy** requires a progressive shift from programmes suitable for children to adult material across the evening, with 9.00pm fixed as the time up to which Channel 4 is responsible for ensuring that *nothing is shown that is unsuitable for children*. **After the 9.00pm Watershed, a gradual change in the nature of programmes** towards very clearly adult material should be maintained which may then be shown until 5.30am when family viewing time starts. **(Section 1.2(i)).**

### Family Viewing Time is from 5.30a.m. to 9.00p.m.

- ✓ Phase adult programming in after 9.00pm
- ✓ Programmes which start before the 9.00pm watershed and continue after it should be given careful consideration.
- ✗ Do not show difficult adult programmes immediately after 9.00pm without consultation and early reference up.

### BSC Standards

- There should be no abrupt change from family viewing to adult programming after the 9.00pm watershed.
- Sufficient information should be provided to assist parents to make viewing decisions for children.
- Special care should be taken with programmes which start before 9.00pm and continue through the Watershed.

**Acquired material, including feature films, is subject to the same Code considerations as commissioned programmes.** Detailed rules apply according to various BBFC video and cinema classifications **(Section 1.2(iv)).**

- ✓ Check the Code and seek advice from the Legal and Compliance Department, as appropriate, before scheduling.
- ✓ The video version of a film must always be shown if it is different in classification or content to the cinema version.
- ✗ No '18' rated version should start before 10.00pm.
- ✗ Where the BBFC has **refused** classification, a film cannot be shown.

**Programme trails and promotions must comply with the Family Viewing Policy (Section 1.2(v)).**

## BSC Standards

- Programme trails come upon audiences without warning, so special care needs to be taken that those shown before the Watershed are suitable for children.

**Warnings should be clear and specific**, and used where it is likely that, notwithstanding the programme being scheduled after 9.00pm, some viewers may be offended or disturbed by the material (**Section 1.3**).

### What may need a warning?

- ✓ Strong language.
- ✓ Violence.
- ✓ Sexual behaviour.
- ✓ Images which may disturb a large number of viewers e.g. cruelty to animals.

### The Channel's Internal Procedures (number 18 on page 13) set out guidance on pre-transmission announcements:

- ✓ The clearer the warning, the better the chance of justifying the programme's content and its scheduling.
- ✗ Warnings are not a substitute for appropriate scheduling.
- ✗ Warnings are unlikely to be appropriate for programmes **before** 9.00pm but the provision of information by a 'flagging up' announcement is always helpful and should be considered e.g. if a surgical procedure is being shown.

## BSC Standards

- Providing as much advance information as possible about the nature of programmes can fulfil the often conflicting objectives of attracting audiences whilst simultaneously warning other viewers or listeners that they may find a programme offensive.

- ▲ **Bad language and profanity should not be used gratuitously, even after 9.00pm.** The words 'fuck' and 'cunt', and their derivatives, must never be used before 9.00pm. Research suggests that 'cunt' is particularly offensive. Bad language or profanity should not appear at all in programmes specially designed for children (**Section 1.4**).

- ✓ Commissioning Editors must refer use of the 'f' and 'c' words, and their derivatives, in writing to the Director of Programmes – see **Channel 4's Internal Procedures (numbers 4 and 12 on pages 7 and 12)**.
- ✓ Check programmes carefully when first transmitted after 9.00pm and subsequently repeated before 9.00pm.
- ✗ If a programme containing very strong language is scheduled just after the 9.00pm watershed, or later if it involves frequent use, it will require editorial justification and a warning to viewers.

#### BSC Standards

- A significant number of complaints about language arise from the impact on a group of people from watching together (eg. different generations of a family or a mixed group of men and women), so need to be particularly sensitive to language in programmes likely to be watched by such groups
  - The tone of voice in which particular words are spoken, and the context in which they are used, can affect the degree of offence caused.
  - The casual use of religious words or names can cause offence, especially when linked to sexual swear words.
- ▲ **Representation of sexual intercourse** (with very limited exceptions, which must be approved in advance by the Director of Programmes) **should be reserved until after 9.00pm** and the **graphic portrayal of violent sexual behaviour** will be justifiable only very exceptionally **(Section 1.5)**.
- ✓ Portrayal of sexual behaviour generally should be defensible in context and presented with tact and discretion.
- ▲ The inclusion of sexual intercourse by animals in nature programmes shown before 9.00pm must be referred to the Director of Programmes in advance of transmission.

#### BSC Standards

- Broadcasters should provide straightforward labelling in clear language and sufficient warnings about programmes containing explicit material.
- Sensitive scheduling is particularly important for items involving sexual matters.

- Sexual humour or innuendo may cause offence especially if broadcast when there are children and young people in the audience, and care is needed in the scheduling of risque programmes and programmes which would not normally be expected to contain such material.
- The justification for nudity must come from the intention and the merit of the individual programme.

**Violence in programmes and films including the news, must be dealt with carefully and warnings or flaggings up should be considered where appropriate.** Violence which is acceptable in one programme may become intolerable if there is an undue concentration of violent programmes in the schedule. Violence for 'good' or 'legitimate' ends is not proven to be less harmful. Viewers are most likely to be offended by explicit images of distress and injury, particularly if encountered suddenly **(Section 1.6(ii))**.

- ✓ Young and vulnerable viewers can be seriously affected by violence on screen, and editorial risks require special justification in this sensitive area. If in doubt, cut.
- ✗ Ingenious and unfamiliar methods of inflicting pain or injury, which are capable of easy imitation, should not be included.

#### **BSC Standards**

- In scheduling a programme containing violence, especially where it is violence with which viewers may identify closely, broadcasters should consider the programmes placed each side of it, as well as the time of transmission. A sequence of programmes containing violence can rarely be justified.
- News programmes will frequently contain reports of violence and broadcasters should be sensitive in the material transmitted especially at times when large numbers of children may be watching.
- A balance needs to be struck between the demands of truth and the danger of desensitising people. The bloody consequences of violence should not be glossed over, but care should be taken not to linger unduly on the physical consequences.
- Research indicates that in drama, viewers are most shocked when realistic and personal violence occurs in locations that seem familiar to them, and with which they can identify, particularly if the violence 'erupts' and cannot be foreseen.

**Suicide and suicide attempts, particularly in popular drama serials must be handled with discretion and care (Section 1.6(ii)).**

- ✓ Consider seeking professional advice or guidance from voluntary organisations such as the Samaritans where appropriate.
- ✗ There should be no detailed demonstration of the means or method of suicide.

**BSC Standards**

- It should be borne in mind that late evening and early morning are periods when loneliness and isolation are at their most intense for vulnerable people. Particular care needs to be taken over suicides involving attractive role models, especially in soaps.

**Dangerous behaviour** which is capable of and likely to be easily imitated by the public should be avoided unless it can be justified by the dramatic and editorial requirements of the programme **(Section 1.7)**.

- ✗ The portrayal of any dangerous behaviour easily imitated by children should be avoided, and must be excluded entirely at times when large numbers of children may be expected to be watching.
- ✗ This is particularly likely in connection with objects and appliances in and around the home, or items to which children could easily have access, such as kitchen knives, tumble dryers/washing machines or ovens.

**BSC Standards**

- The use of weapons, particularly knives or other objects readily available in the home, should be considered carefully

**Hanging or preparations for hanging** capable of easy imitation should not be included in any programme or film scheduled to start during Family Viewing Time **(Section 1.8)**.

**Racist terms** are only acceptable where the use is justified in the context of the programme **(Section 1.9(i))**.

**The portrayal of people with disabilities** must avoid stereotyping. There is a danger of offence in humour based on physical or mental disability **(Section 1.9(ii))**.

**BSC Standards**

- People with disabilities or mental health problems should not be stereotyped or patronised, and the use of words such as schizophrenic should be used sensitively.

**Hypnotists** must not be shown performing straight to camera, lest hypnosis is induced in susceptible viewers (**Section 1.10**).

**Demonstrations of exorcisms or psychic or occultic practice** are not permitted in factual programming, unless they are the subject of a legitimate investigation; and non-factual programmes containing such phenomena should not start before 9.00pm (**Section 1.11**).

**Recorded programmes must be checked carefully before transmission** to ensure content is not rendered tasteless by **intervening events**, such as death, injury or other misfortune (**Section 1.12**).

**Any doubts about suitability of material must be referred up** to senior editorial staff and ultimately to the Director of Programmes where appropriate. (**Section 1.13**).

## **Section 2 – Privacy, Gathering of Information etc.**

**An individual's right to privacy must be balanced against the public interest** (**Section 2.1**).

- ✓ Detecting or exposing crime or serious misdemeanour.
- ✓ Protecting public health or safety.
- ✓ Preventing the public being misled.
- ✓ Exposing significant incompetence in public office.
- ✗ If the infringement of privacy is out of proportion to the public interest served, there will be a problem.

### **BSC Privacy**

- An infringement of privacy has to be justified by an **overriding public interest** in disclosure of the information.
- A person's privacy can be infringed both in the making of a programme and in its subsequent transmission.
- People in the public eye, and their family and friends, do not forfeit the right to privacy even when personal matters become the proper subject of enquiry, unless broader issues are raised which it is in the public interest (as opposed to of interest to the public) to disclose.

**When filming or recording members of the public** without express permission, you must be satisfied that the words or action shown are sufficiently in the public domain. Care must be taken when personal tragedy or criminal matters are involved **(Section 2.2)**

**Individual consents** will be required when the individual's appearance is not incidental or where they are shown in a sensitive situation e.g. intensive care hospital, or where the subject matter of the programme is sensitive or controversial. If a person is not in a position to give or withhold consent, then permission should be sought from the next of kin or from the person responsible for their care. **(Section 2.2(i))**.

▲ **If filming on a police or similar official operation, you must:**

- ✓ Identify yourself as filming for Channel 4.
- ✓ Stop filming and/or leave the premises if asked to by the police or person responsible for the premises.
- ✓ Obtain the prior consent of the Director of Programmes before material is broadcast.
- ✓ Inform any innocent parties before transmission if they are prominently featured. **(Section 2.2(ii))**

**In order to be fair to innocent parties, you must:**

- ✓ Contact them early and give due consideration to their perspectives, if they are central figures in a serious crime, tragic event or disaster.
- ✓ Also contact the families of anyone who has died and inform them in advance of the scheduled transmission of the programme, and of the trails in certain cases. **(Section 2.2(iii))**.

▲ **Before recording telephone conversations for inclusion in a programme, the subject to be recorded must have given fully informed consent.** This means identifying yourself as from Channel 4, advising them that you are recording for broadcast, and giving them details of the subject you wish to discuss. The only exception is when investigating allegedly criminal or otherwise disreputable behaviour, when the consent of the Director of Programmes is required before broadcast. **(Section 2.3)**.

### BSC Privacy

- Unannounced telephone calls by factual programme makers to a subject, which are recorded for broadcast, are the equivalent of doorstepping and should only be made if it is believed there is an overriding public interest, and the subject has refused to respond to reasonable requests for interview or there is good reason to believe that the investigation will be frustrated if the subject is approached openly.

▲ **The use of hidden microphones and cameras** (commonly known as secret filming) to record individuals who are unaware that they are being recorded is acceptable only when:

- it is clear that the material so acquired is essential to establish the credibility and authority of the story; AND
- where the story itself is equally clearly of important public interest.

[Please note that consent is required from the Director of Programmes **before recording** and again **before transmission**, as set out in the **Channel's Internal Procedures (number 6 at page 9) (Section 2.4)**. The Channel's *Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes* appended at Appendix 5 should be followed at all times.]

### BSC Privacy

- There must be an overriding public interest to justify the decision to gather the material, the actual recording and the broadcast.
- Broadcasters should take care not to infringe the privacy of bystanders who may be caught inadvertently in the recording.
- The same criteria apply to material recorded secretly by people other than the programme makers.

**Scenes of extreme suffering and distress** can potentially involve sensationalism and infringement of privacy unless handled sensitively **(Section 2.5)**.

- ✓ An individual's right to privacy at times of bereavement or extreme distress must be respected.

### BSC Privacy

- Broadcasters should not add to the distress of people caught up in emergencies or suffering a personal tragedy, and should not put them under pressure to provide interviews.

- Care should be taken not to reveal the identity of a person who has died, or victims of accidents or violent crimes, unless and until it is clear that the next of kin have been informed.
- Normally, prior consent should be obtained from the family before filming or recording people who are already extremely upset or under stress, for example at funerals or in hospitals.

**Interviewing children requires care, and they should not be asked questions on issues beyond their judgement or on private family matters. (Section 2.6)**

- ✓ Seek legal advice when young offenders are involved, or the appearance involves performances.
- ✓ Children must never be put at moral or physical risk (see Section 6.4 of the Programme Code).

**BSC Privacy**

- Children are vulnerable, and they do not lose their rights to privacy because of the fame or notoriety of their parents or because of events in their schools.
- Children should not be questioned about private family matters or asked for views on matters beyond their capacity to answer properly.
- If consent has not been obtained or actually refused, any decision to go ahead can only be justified if the item is of overriding public interest and the child's appearance is absolutely necessary.

**Reporting of sexual offences against children (and indeed adults) is subject to detailed legal restrictions and early legal advice should be sought. (Section 2.7).**

- ▲ **Set up situations where people are featured without their knowledge or without prior warning** can involve an invasion of privacy, and consent should be obtained before transmission.

A different kind of set-up situation is where the subject consents to being recorded but for a different purpose to that covertly intended by the programme maker. The consent of the Director of Programmes is required **before recording** and again **before broadcast**, and you will need to demonstrate that it is necessary in order to make an important point of public interest (see **Channel 4's Internal Procedures, numbers 4 and 8 on pages 7 and 10**). (Section 2.8).

**Interviews without prior arrangement** on private property and in public places (eg. restaurants and churches) where people could expect personal privacy should not be included unless there is a public interest purpose.

**Doorstepping** an individual or organisation in order to put criminal or other serious allegations to them (or recording someone else doing the same) must not be done unless a previous request has been refused or ignored, or there is a good reason not to make a prior approach. **(Section 2.9).**

- ✘ Unannounced approaches to people can be problematic, not only in connection with factual programmes.

### BSC Privacy

- Surprise can be a legitimate device to elicit the truth especially when dealing with matters where there is an overriding public interest in investigation and disclosure, but such doorstepping should only be done where there has been repeated refusal to grant an interview or the risk exists that a subject might disappear.

## Section 3 – Impartiality

**Factual programmes should be fair and accurate, and opinion should be clearly distinguished from fact (Section 3.1).**

Please consult the Dispatches – Rules and Procedures for Best Practice and Compliance and the Factual Programmes – Rules and Procedures for Best Practice and Compliance referred to at the end of this section on page 32.

**The Channel’s Internal Procedures should also be consulted (number 5 on page 8).**

### BSC Fairness

- Broadcasters should avoid creating doubts on the audience’s part as to what they are being shown if it could mislead the audience in a way which would be unfair to those featured in the programme.
- Broadcasters should take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible are fairly presented.
- Broadcasters should also be alert to the danger of unsubstantiated allegations being made by participants to live ‘phone-ins and discussion programmes, and ensure that presenters are briefed accordingly.
- Any person or organisation against whom a programme alleges wrongdoing or incompetence should normally be given an appropriate and timely opportunity to respond to or comment on the evidence and arguments.

- Anyone has the right to refuse to participate in a programme, and this should not stop the programme going ahead. If they are nevertheless mentioned, care should be taken not to misrepresent their views.
- Information or pictures should not be obtained by misrepresentation or deception unless there is an overriding public interest and the material cannot reasonably be obtained by any other means. It should be proportionate to the wrongdoing and avoid the encouragement of behaviour which might not otherwise have occurred at all. The means adopted to obtain the information should be made clear to viewers, unless this would put sources at risk.

**Due impartiality must be maintained in respect of matters of political or industrial controversy or current public policy** (“controversial matters”) and there are detailed provisions set out in the Programme Code. **(Sections 3.2 to 3.4)**

**News programmes** should be presented with due accuracy and impartiality. **(Section 3.5)**

**Personal view programmes** covering ‘controversial matters’ as defined above are subject to detailed rules as to their content and presentation. **(Section 3.6)**

**Drama and drama-documentaries**, especially when they claim to be a factual reconstruction of events, should maintain the same standards of fairness and impartiality as factual programmes. This includes a requirement to be fair in the portrayal of real people involved with the events featured. **(Section 3.7)**

#### **BSC Fairness**

- Drama based on the lives and experience of real people or organisations should seek to convey them fairly.
- The audience should know in advance whether the programme purports to be an accurate account of, or is merely loosely based on, what actually happened.
- The drama should not distort the verifiable facts in a way which is unfair to anyone with a direct interest in the programme, or in any way give an unfair impression of the characters involved.

### **Interviews: Conduct and Editing**

**Fairness in the conduct of interviews involves making the interviewee adequately aware (in writing if requested) of the format, subject matter and purpose of the programme, and the way in which their contribution is likely to be used (Section 3.8).** *For contentious or sensitive programmes, early advice before filming should be sought.*

- ✓ You should usually be open and clear in describing the programme you are making, and provide sufficient detail for the contributor to know exactly what they are being asked to contribute to.
- ✓ If the programme covers 'controversial matters' referred to above, there is also an obligation to advise interviewees of the identity and intended role of other proposed participants, where this is known.
- ✓ You should be able to **prove** your approach was open and clear by eg. letters and interview rushes.
- ✗ Do not hide or gloss over awkward issues or details just because you think the person will not cooperate if you are appropriately candid.

### **BSC Fairness**

- Programme makers should be straightforward and fair in their dealings with potential contributors to factual programmes, in particular by making clear the nature of the programme and its purpose.
- Contributors who are invited to make a significant contribution should be told:
  - the nature of the programme
  - why they were contacted
  - what is expected of them
  - the question areas
  - who else will be contributing
  - whether live or recorded, and, if recorded, whether it will be edited
  - if there are any significant changes as the programme develops which might cause material unfairness and affect their original consent to participate
  - if offered an opportunity to preview the programme, whether they will be able to effect any changes.
- Programme makers should not coach, push or improperly induce contributors into saying anything they know or believe not to be true.

**The editing of interviews can also give rise to unfairness.** The editing process must not distort or misrepresent the known views of the interviewee. **(Section 3.8(i))**

**The involvement of politicians** with programmes is the subject of rules and guidance in the ITC Programme Code . **(Sections 3.8(ii) and (iii))**

#### ***Rules of Practice and Procedure***

Commissioning Editors and programme makers involved with current affairs or any other documentary programmes **must** be thoroughly conversant with and apply the provisions of the following:

- Dispatches – Rules and Procedures for Best Practice and Compliance (Appendix 2).
- Factual Programmes – Rules and Procedures for Best Practice and Compliance (Appendix 3).
- Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes (Appendix 5).

### **Section 4 – Party Political and Parliamentary Broadcasting**

Detailed regulations and statute law govern the **appearances in programmes by candidates at the time of an election**. [Any member of Channel 4 staff or programme makers involved in this area should read the relevant parts of the Code and seek advice from the Legal and Compliance Department, from whom a written guidance note can be obtained.]

**Recordings of Parliamentary proceedings** must only be used in news, news magazine, current affairs, documentary and educational programmes, and accompanying material must not be a comment , express or implicit, on the proceedings. **(Section 4.3)**.

### **Section 5 – Terrorism, Crime, Anti-Social Behaviour etc.**

**Any programme item which on any reasonable judgement would be said to encourage or incite crime or to lead to disorder is unacceptable.** **(Section 5)**.

#### **BSC Standards**

- Programmes should neither glamorise nor condone criminals or their actions as crime is rarely without victims.

**Legal advice should be sought if you are proposing to interview criminals.**

**No payment** should be made to:

- a criminal whose sentence is not yet discharged; or
- a former criminal for an interview about their crime(s), unless an important public interest is served; or
- any individual, whether convicted or not, for interviews about acts committed by them of a seriously anti-social nature unless an important public interest is served.

▲ The public interest will be decided by the Commissioning Editor, on the advice of the Legal and Compliance Department, and the matter must then be referred up by the Commissioning Editor to the Director of Programmes (see **Channel 4's Internal Procedures, number 5 on page 8**).

No commitment should be made to pay any witness in a trial before a verdict has been reached – please seek legal advice at an early stage if intending to approach witnesses. **(Section 5.2)**

**BSC Standards**

- The retelling by criminals or their relatives of their stories of criminal or anti-social behaviour should not result in personal gain unless there is an overriding public interest both in the telling of the story and in the making of payments.

Any programme which carries the **views of people or organisations who use or advocate the use of violence or other criminal activity** is subject to detailed legal regulation and advice should be sought at the earliest stage. **(Section 5.3)**

Programmes should not give the impression of **condoning criminal activity**; and careful thought should be given to programmes which include information about **criminal methods** or techniques. **(Sections 5.3 and 5.5)**

**BSC Standards**

- It is also important not to glamorise the lives of offenders or their families.

**It is desirable that programmes should not include smoking and drinking, unless the context or dramatic veracity requires it**, especially with programmes likely to be seen by **children and young people**. Smoking should not be prominently presented in programmes shown before 9.00pm as a normal and attractive activity. **(Section 5.9)**

### BSC Standards

- Given the health and other risks, neither smoking nor the abuse of alcohol should be glamorised, especially in programmes directed mainly towards the young.

**Drug and solvent abuse should not be shown in such a way as to appear problem free or glamorous. (Section 5.10)**

### BSC Standards

- Nothing should be done to promote the irresponsible or illegal use of drugs.

## Section 6 – Other Legal Matters

The ITC Programme Code sets out a number of important legal matters. Please refer to the Code and to the Guide to Media Law at page 49 of this Manual.

## Section 7 – Images of Very Brief Duration

No image of very brief duration (e.g. one or two frames in length) may contain matter which is clearly of a **political or controversial nature**, unless the surrounding programme context makes the general nature of the image clear to the viewer. **(Section 7.2)**

- ▲ **Any** proposal to include an image of very brief duration (including the above) must be approved by the Director of Programmes.

A guidance note is available from the ITC on photo-sensitive epilepsy and the risk of inducing it in viewers by use of flashing images or repetitive patterns.

## Section 8 – Charitable Appeals and Publicity for Charities

Before broadcasting any appeal, Channel 4 must be satisfied that **the charity is bona fide and in need of funds**. Appeals should be allocated among **as wide a range of charities as possible**. **(Section 8.2)**

Programme describing areas of need or distress should try to avoid **undue publicity** for individual charities at the expense of others in the field. **(Section 8.5)**

There are specific provisions relating to **spontaneous public response** to reports of disasters and documentaries about charitable work. **(Section 8.6)**.

*NB Channel 4's Programme Support Unit should be contacted as early as possible when a charity issue arises in production. A guidance note is available from the Programme Support Unit titled 'Working With Charities'.*

## **Section 9 – Religion**

The provisions apply to **both** programmes specifically categorised as religious and, where appropriate, to general programmes which deal with religious matters:

- ✓ Programmes should be accurate and fair, and reflect the UK's mainstream religious traditions.
- ✓ The identity of religious bodies featured in programmes should be made clear.
- ✗ There should be no misrepresentation of the belief and practice of religious groups, nor denigration of beliefs.
- ✗ Appeals for religious organisations are not generally allowed.
- ✗ Programmes should not be designed to recruit viewers to any particular religious faith.
- ✗ Unless part of a legitimate investigation, claims of special powers or abilities which are incapable of being substantiated must not be made.

### **BSC Standards**

- People of all faiths are distressed by affronts to their sacred names, words or symbols. This should not be underestimated. Often, the offence is not intended, but arises from an unawareness of the weight attached to words or symbols which have religious connotations for some of the audience.

## **Section 10 – Other Programme Matters**

### **Commercial products or services may not be promoted in programme time.**

The only exceptions to this rule are the items stated below, which may be promoted subject to the following **rules**:

- There must be no television advertising on any channel within 6 weeks of the programme or series; and
- The promotion must not be in the programme but during or immediately after the final credits, or (except for music, videos or books) in a separate trailer for the programme; and

- Promotions likely to appeal to children must include advice to children to seek parental consent before purchasing; and
- The promotion must be brief and confined to the name of the item, the cost and how to get it. Names of retail outlets must not be given; and
- The item or service must be in support of actual programme content.

**The only categories for which such promotions are permitted are:**

- Magazines and information packs clearly ancillary to a programme and directly related to its contents, which are produced or commissioned by Channel 4 and where Channel 4 retains responsibility for the contents.
- Off-air activities including a helpline or information line, web-site, conference, festival, exhibitions, performance or programme based club, organised by Channel 4 or on its behalf to support a programme and provide a service for viewers.
- Programme or series theme music and a video or book version of the programme or series.
- Social action helpline, factsheet or information pack clearly related to social action and educational programmes (in which case the announcement can be *within* the programme, subject to strict cost and other requirements). **(Section 10.3)**

**Premium rate telephone services** used or promoted in or around programmes must remain in the control of Channel 4, which has editorial responsibility for all matters relating to the content of the premium line messages. **Use of such services must comply with the following rules:**

- The service arrangements must, in addition to complying with this Code, comply fully with the Code of Practice issued by the Independent Committee for the Supervision of Standards of Telephone Information Services (**ICSTIS**), copies of which are available from the Legal and Compliance Department.
- The service must only be used to convey information which is directly relevant to the programme with which it is associated **and** which is of benefit to viewers.
- The service must **not** be used to promote any product or service, except programme support materials referred to above.
- Detailed rules apply to the provision on-screen of call charge information. **(Section 10.4)**

*[Channel 4 has an agreement with the service provider, Audiocall, which may assist in achieving such compliance – enquiries should be made with Commercial Development at Channel 4.]*

**Undue prominence must not be given in any programme to a commercial product or service**, and any verbal or visual reference to a commercial product or service must be justified by the editorial requirements of the programme itself – the yardstick is whether an impression is created of external commercial influence on the editorial process. **(Section 10.6)**

- ✓ Clear and strong editorial reasons for showing and referring to a product or service will help.
- ✓ A range of products or services of the same type may reduce the impression of external influence.
- ✓ A consumer type comparison of relative merits of different brands of products or services will usually be acceptable.
- ✗ Never negotiate or agree with a supplier the way in which its product or service will be seen or referred to in the programme.
- ✗ Avoid referring verbally to brand names where possible, and do not show products in close-up, or from the best angle, or for any significant length of time (measured in seconds!).
- ✗ Presenters should never wear clearly branded clothing and guests should be advised in advance of filming not to do so either.
- ✗ Interviews should not be conducted against a backdrop with commercial logos or names on it.
- ✗ Sponsored sporting apparel should not generally be seen away from a sports event, and certainly not in a studio.

Special rules apply to the **inclusion of extracts from advertisements** in programmes. **(Section 10.6(i))**

**Viewer competitions** are governed by **both** rules set out in the ITC Code of Programme Sponsorship and by the provisions of the Lotteries and Amusements Act 1976 – please seek advice from the Legal and Compliance Department.

**Prizes in children’s programmes** should normally be of considerably less value than those for adults, and cash sums and prizes appealing simply to greed are not acceptable. **(Section 10.5)**.

## Section 11 – Communication with the Public

Channel 4 is obliged by the ITC to retain all records of **written and oral complaints** from viewers for at least 2 years, but the Channel's policy is to retain the records for 3 years.

A **recording or transcript of a programme** should normally be provided when requested by a person or organisation which can establish a reasonable claim that something derogatory has been broadcast about them, or that they are affected by alleged criticism, unfairness or inaccuracy in the programme. [Please seek advice from the Legal and Compliance Department first].

# SECTION 'D'

## summary of regulatory code on sponsorship

### THE ITC CODE OF PROGRAMME SPONSORSHIP

The following is a summary of the main provisions of the Code, and is not intended to be definitive. If any sponsorship issues arise in connection with a programme, the detailed rules of the Code should be consulted and advice sought. Please contact in the first instance the Deputy Head of Legal and Compliance. If unavailable, contact another member of the Department.

*(Channel 4 may from time to time issue supplementary provisions on sponsorship, details of which will be available from the Business Affairs Executive dealing with your programme.)*

#### What is sponsorship?

**Sponsorship** arises if any part of the **costs of production** or transmission of a programme is met by a commercial company or firm or by a charity or other similar organisation (an "advertiser") **with a view to promoting** its own or another's name, trade mark, image, activities, products or other commercial interests.

Even if there is no formal sponsorship arrangement, the ITC may **deem a programme to be sponsored** if:

- in the case of a programme supplied by an advertiser, the advertiser has contributed towards or funded the programme for a **promotional**, rather than a solely investment, purpose; or
- in any event, even where there is no promotional purpose, the programme has been made by a **production company closely associated** with an advertiser.

**NB** A programme supplied by an advertiser **at a less than full price** or made by a company **owned or part owned by an advertiser** may well be deemed to be sponsored, and be subject to the restrictions referred to elsewhere in the Code.

### Prohibited and Restricted Sponsors

- Organisations whose objects are wholly or mainly of a **political** nature are prohibited from being sponsors.
- Companies known for their **tobacco** products are also prohibited; as are those companies whose products or services may not be advertised under the ITC Code of Advertising Standards and Practice, except with the prior formal approval of the ITC.
- Companies which provide **bookmaking or gaming** services are restricted as to the type of programme they can sponsor; and companies whose business is mainly the manufacture or supply of **pharmaceutical** products may sponsor programmes but the sponsorship credits may not refer to specific medicinal products and treatments available only on prescription.

### What Can and Cannot be Sponsored?

- ✓ Whole programmes and programme strands.  
Themed programme blocks.  
Specialist news reports outside a general news programme eg. sports, traffic, travel or weather.
- ✗ News programmes, be they local, national or international.  
Business and financial reports.  
Current affairs programmes.
- ? Consumer advice programmes may be sponsored by companies involved with products or services which may be featured in the programme **only** if they are purely “instructional” (how to do) programmes but **not** if they include any “purchasing advice or reviews” (what to buy).
- ? Programmes may not be sponsored if the programme refers to issues about which there is significant public controversy and in relation to which the sponsor has a direct interest.

## Sponsorship Credits

There are detailed rules on sponsors credits. Advice should be sought from the Legal and Compliance Department at an early stage.

## Role of the Sponsor

- No sponsor is permitted **any influence** on either the content or scheduling of a programme in such a way as to affect the editorial independence and responsibility of the Channel.
- Where sponsors are **contributing funds** for the making of the programme, the Channel must maintain sufficient **contractual** rights to secure its position to assert editorial control throughout the production process.

## Commercial References in Programmes

- In the case of **sponsored programmes**, or programmes **deemed** to be sponsored, it is **very unlikely that any reference at all**, whether verbal or visual, to the sponsor or its products or services will be editorially justified. **Even generic references** to the sponsor's (unbranded) product, service or business may amount to unacceptable promotion.
- A **close similarity** between a programme's content and an advertiser's advertisement might mean that the ITC will regard the programme as having an unacceptable promotional purpose. This is very likely if a character created for advertising is developed for use in a programme.

## Masthead Programming

- Masthead programming is programming made or funded by periodical, newspaper, book or informational software publishers, which has the same name as or incorporates the name of the publisher's product in its title and which has editorial content similar to that of the publisher's product.
- This is permitted providing programmes are **not** a television version of a specific edition of the parent publication and there are **no references** within the programme specifically to the parent publication or to any articles or other matter in that publication.
- References to the programme title within the body of the programme should be used only sparingly, and visual references should be minimal.

- Masthead programming must not have sponsor credits for the publication on whose title the programme is based but is otherwise regarded as sponsored programming and subject to the other Code provisions on sponsorship.

### Game Shows and Viewers Competitions

- The rules differ between **game shows** (which involve either studio-based and/or pre-determined contestants) and **viewers competitions** (which involve the participation of viewers, either by writing or telephoning in).
- In **game shows**, the brand of the **main** prize (or prize donor if different) may be mentioned twice, with brief factual and/or visual references of no longer than 5 seconds, and with no promotional element. A basic text acknowledgement of 5 seconds maximum can be included in the end credits for the brands or donors of prizes not identified in the programme.
- With **viewer competitions**, only **one** such reference may be made, on the same lines as above and this can only be done at the point at which the competition is opened so that viewers know what can be won before deciding to enter. There should be no further brand reference, either verbal or visual. The competition must remain the responsibility of the Channel and cannot be presented on-screen as being run with any other commercial organisation.
- The legal position on competitions is also complex, and guidance should be sought at an early stage from the Legal and Compliance Department.

### Product Placement

- No programme maker or Commissioning Editor should ever agree to include or refer to a product or service in a programme in return for payment or something else of value e.g. free or discounted flights or other products or services – that is **product placement** and it is **prohibited**.
- Where it is clearly justified editorially, products or services may be acquired at no or less than full cost **providing** it is not conditional on any specific agreement as to the manner of its appearance in the programme. In the case of exceptionally unusual products or services, and if the identity of the product or service is not apparent from the programme itself, a basic text acknowledgement of 5 seconds maximum may be included in the end credits – please seek advice from the Legal and Compliance Department.

## Sponsored Events and Advertising at Events

- Programme coverage of a sponsored event can itself be sponsored, either by the event sponsor or by another commercial organisation.
- Where it is editorially justified, perhaps so viewers will recognise the event which is being covered, the title of the programme may (subject to the status of the event – see below) reflect the sponsorship of the event e.g. the 'Cornhill Test' for cricket coverage.
- The status of the event is also important to assessing whether any visual or verbal references to advertising, signage or branding at an event (whether or not it is sponsored) will be acceptable. Such references must in any event be justified by the editorial needs of the programme.
- In order for either the title of the programme to include the sponsor's name and/or for advertising, signage or branding at the event to be seen to a limited and justified extent on screen, **the event must meet 3 conditions:**
  - The development and running of the event must be done by a body whose existence is independent of television, advertising and promotional interests; and
  - Television coverage must not be the principal purpose of the event; and
  - The event must be open to members of the public irrespective of whether or not it is televised.
- Coverage of tobacco-sponsored events at which there may be tobacco advertising is separately regulated, and specific advice should be sought from the Legal and Compliance Department.

## Sponsored Programme Support Material

- The Code includes detailed rules regarding the sponsorship of programme support material.

## Sponsorship of Schools Programmes

- The ITC does **not** permit sponsorship of Schools programmes. Please seek advice from the Legal and Compliance Department on any proposals for third parties to invest money in the making of Schools programmes.

### **Sponsorship of Children's Programmes**

- The Code states that the Channel should consider carefully the appropriateness of any sponsorship of children's programmes.

### **Religious and Charitable Bodies**

- The Appendices to the Code deal with sponsorship of programmes by religious and charitable bodies.

# SECTION 'E'

## summary of regulatory code and rules on advertising

### THE ITC CODE OF ADVERTISING STANDARDS AND PRACTICE

- The Code establishes the general principle that television advertising (which includes all publicity, whether paid or not) must be **legal, decent, honest and truthful**; the spirit of the following rules should be observed as well as the letter.
- Advertisements must be clearly distinguishable as such and recognisably separate from the programmes.
- There are restrictions on who may perform in advertisements.
- There must be no subliminal messages.
- Political bodies may not advertise, and advertisements must not be directed to a political end. No advertisement may have any relation to any industrial dispute or show partiality concerning matters of political or industrial controversy or relating to current public policy.
- Advertisements must not offend against good taste and decency, or be offensive to public feeling, or play on fear without justification, or exploit the superstitious.
- Certain products or services **may not be advertised**:
  - products which purport to test or mask the effects of alcohol; the occult; betting; tobacco; private eyes and certain advice services; guns; pornography.
- Advertisements should not encourage dangerous driving or other hazardous behaviour; behaviour prejudicial to the environment; or irresponsible behaviour towards animals.

- Advertisements should not be misleading, and comparative advertisements must respect the principles of fair competition.
- There are detailed rules about testimonials, guarantees, inertia selling, use of the word “free”, gifts, prizes and competitions, homework schemes, instructional courses, mail order and direct response advertising, home shopping, premium rate telephone services, and dating agencies.
- There are also stringent rules concerning advertisements for alcoholic drinks, and the incidental portrayal of alcohol consumption in other advertisements.
- The Code contains appendices setting out detailed rules concerning: children; financial advertising; health claims; medicines and treatments; charity advertising; and religious advertising.

## ITC RULES ON THE AMOUNT AND SCHEDULING OF ADVERTISING

These rules are largely the concern of the Channel itself. However, producers should endeavour, by correct and timely use of the Transmission Information Forms they are obliged to complete, to ensure that Channel 4 is made aware of all matters which may affect the advertisements which may be transmitted, for example:

- performers in programmes (who may appear in or voice-over advertisements);
- commercial references in programmes.

Guidance is given on **centre breaks** and on recognition of **natural breaks**.

Guidance on the latter, as it applies to different areas of programming, may be found in **Section 6** of the Rules.

## SECTION 'F'

### the broadcasting standards commission codes of guidance

#### THE BSC CODES OF GUIDANCE ON 'FAIRNESS AND PRIVACY' AND ON 'STANDARDS'

- Compliance with the BSC Codes of Guidance on **Fairness and Privacy**, and on **Standards**, is not a licence or statutory requirement, but the BSC does have statutory power to direct Channel 4 to **supply tapes, transcripts and other documents**, and to **provide written answers** to complaints. In Fairness and Privacy cases, it will usually hold a **hearing** at which the complainant will be present. We are required to send representatives to assist the Commission with its consideration of the complaint. Hearings are in private and there are no formal rules of evidence. Channel 4 is obliged to transmit the BSC's summary of its adjudication. The BSC also has the power to direct the ITC to publish and/or broadcast its findings on Standards complaints, directions which are binding on Channel 4.
- Although the BSC Codes are not binding in themselves, the ITC's Programme Code (which is binding) does reflect the general effect of the BSC Codes. The **Standards** Code covers scheduling, labelling and discretion, the portrayal of violence, sex and sexuality, and taste and decency. The **Fairness and Privacy** Code provides guidance on issues relating to unfair and unjust treatment and unwarranted infringement of privacy. Please refer to Section C of this Manual.
- The BSC often commissions and publishes research into certain areas, for example, viewers feeling about offensive language, sex and violence.



# SECTION 'G'

## guide to media law

This section is designed to give editorial staff and programme-makers a basic guide to the main areas of law that affect the making and broadcasting of television programmes. By reading this section carefully, it is hoped that it will help you identify the possible legal pitfalls that might be connected with your programme. **However, the following is not intended to be a substitute for seeking early advice from a Channel 4 lawyer.** If you are in any doubt about which Channel 4 lawyer has been assigned to your programme, you should consult your Commissioning Editor.

If you anticipate that your programme may be legally contentious, you should seek advice from the Channel 4 lawyer at an early stage and, certainly, before filming takes place. To advise effectively on legal issues in your programme, Channel 4's lawyers rely on you to supply them with all necessary and relevant information.

### 1 LIBEL

The law of libel and slander (also known as the law of defamation) protects the reputations of living individuals and companies.

#### **What is defamatory?**

A defamatory statement is one which, when said of or in reference to a person and published to a third party, would make ordinary people think less of that person. It doesn't matter if you don't intend the statement to be defamatory and you don't have to know the Plaintiff or Claimant (the person or company who sues). Ultimately, a jury (occasionally a judge on her/his own) will decide what a programme actually means to the reasonable viewer.

## Libel or Slander?

Television is a “permanent” form of publication, so defamatory material broadcast on television is a potential **libel**, rather than a slander. Defamatory words spoken but not written down or recorded would, in most circumstances, be a slander.

## Can a fictional programme be defamatory?

A fictional programme, including a comedy programme, can be defamatory if reasonable viewers understand it to refer to a real person – even if the real person’s name is not used and even if it is not intended to refer to a real person. For example, a fictional sitcom set in the House of Commons could, potentially, defame a real government minister if viewers were to identify a real person with the fictional character. The fact that the script writers had not intended for there to be such a connection would be irrelevant.

## Class Actions

A class of individuals, if sufficiently defined, can also sue; eg. it would be defamatory to say that all the strikers of a particular football team took performance-enhancing drugs and each one could potentially sue, even though none had been named specifically. In such circumstances, it is likely the football club itself could also sue as the allegation would, no doubt, be damaging to the club. The larger the class of individuals defamed, the less likely unnamed individuals would be able to sue. Taking the above example, unnamed individual players could not sue on the generalised allegation that *all* the players in the Premier League took performance enhancing drugs. Similarly, individual unnamed goal keepers would not be able to sue on the generalised allegation that all First Division goal keepers took ‘bungs’ because the class is too large.

## Intentional/accidental defamation

Current affairs programmes like **Dispatches** will often intentionally broadcast defamatory allegations about individuals and/or companies. This will only occur after a thorough investigation by the programme-makers and a detailed examination of the evidence by the Commissioning Editor and Channel 4 lawyer. However, it is possible to libel a person or a company accidentally. The juxtaposition of someone’s picture next to a piece of ‘sync’ or commentary may accidentally libel that person. For example, showing an entirely innocent member of the public walking through Customs, juxtaposed with a piece of commentary or ‘sync’ about the illegal importation of drugs, may well give the false impression that the person shown is a drugs smuggler. This would amount to a libel of that person. Great care must be taken to avoid such accidental libels.

### Who's responsible?

Channel 4 is responsible, as publisher, for any defamatory remark it broadcasts. Often, however, a Plaintiff or Claimant will sue the programme-makers, as well as Channel 4, for assisting in the publication. As programme maker, you are responsible for accurate research and informing the Channel of all relevant matters which could have a bearing on your programme's accuracy and the legal risk it presents. There is a common misconception amongst programme-makers that because a libellous remark is made by a contributor or interviewee in a programme and not in commentary, the programme-makers/ broadcaster cannot be held legally responsible. This is incorrect. The broadcaster and the programme-makers are liable as contributing to the publication of the libel.

### What are the defences?

The main (and absolute) defence to a libel action is **justification**, ie. proof that the defamatory allegation is true. The defence of **fair comment**, which protects honest and sincere opinion based on true fact, on a matter of public interest, is also useful. This defence, however, is defeated by **malice** which means being reckless with regard to the truth. In determining whether or not you have acted with malice, your behaviour and the way you conducted yourself will be judged. Have you behaved reasonably? For example, did you make all reasonable efforts to check the facts, and did you give the Plaintiff or Claimant a fair opportunity to respond to the allegations being made about them?

### Absolute and qualified privilege

There are other defences such as **absolute** and **qualified privilege** which attach to the reporting of certain proceedings, e.g. the fair and accurate reporting of UK court proceedings or proceedings in the UK Parliament. Qualified privilege is so-called because it, too, is defeated by malice. If a person **consents** to being libelled this is also a defence.

### Who has to prove what?

In libel actions, the burden of proving the truth of the allegations is on the publisher/broadcaster. The Plaintiff or Claimant does not need to prove the allegations are false. The fact that a story is true is not, therefore, enough. Can the story be *proved* to be true? In criminal cases, the prosecution must prove their case "beyond reasonable doubt". In civil cases such as libel actions, the test is not quite as high. Publishers have to convince the jury (or sometimes just a judge) that the story is more likely to be true than not true. However, don't let this lower standard of proof lull you into a false sense of security; it isn't as easy

as it sounds! In any event, if the allegation is one of criminal or dishonest behaviour, the standard of proof required may be as high as that applied in criminal cases.

## Proof

Libel actions are no different to any other: success depends on having the evidence to prove the allegations that you have made. Evidence can take many forms. Do you have witnesses? Did they see or hear the thing in question or did someone else tell them about it? If it is the latter, this is called "hearsay" evidence and it may not be admissible in court. Does this witness have any motive to lie? How reliable would your witness be if s/he had to give evidence? Does the witness have any previous convictions for dishonesty? The rules of evidence are very complicated. What may seem to be strong cogent evidence of a particular fact may be inadmissible when it comes to the court case. The fact that a story has been written elsewhere e.g. in other press articles, may *suggest* that it is true, particularly if no legal action has been taken over those articles. However, it is not admissible evidence of the truth of what has been printed. The Legal and Compliance Department will be able to give you detailed advice on the evidence needed to back up a particular story.

## Live Programmes

The recent **Defamation Act 1996** has created a new defence in respect of defamatory remarks made within **live** programmes. In the past, if a guest made a defamatory remark live on air, the programme makers and/or the Channel, as broadcaster, could still be held responsible and therefore sued. Now, programme-makers and broadcasters have a defence if they can show that they did not know and, having taken all reasonable care, had no reason to believe that their acts contributed to the publication of the defamatory statement. This is a complete defence regardless of the truth of the statement. In order to rely on this defence, it is important that presenters take immediate and effective action to distance the programme from the offending remark, which must not be repeated.

The fact that a defamatory statement is meant to be a joke, or is spoken by an interviewee, rather than in the programme's commentary, or is preceded by the famous word "allegedly" is not a defence to libel.

Libel proceedings are extremely costly to fight, and since, in most cases, a jury will decide the liability and damages, very unpredictable. All potentially defamatory statements must be checked for accuracy very carefully. Advice from the Legal and Compliance Department should be sought at the earliest opportunity.

Channel 4, in common with all broadcasters, has **a policy of not providing previews of programmes** to third parties, other than to the press. Transcripts or tapes of any programmes, whether or not a final version, must never be provided to third parties before transmission without Channel 4's consent. Such matters should be referred to the Commissioning Editor responsible for the programme who will consult with a member of the Legal and Compliance Department.

## CONTEMPT OF COURT

### What does it mean to be in contempt?

Also known as the **sub judice** rules, contempt is a **criminal offence**. There are two types of contempt – statutory and common law. Both involve interfering with legal proceedings in the UK. There is no exhaustive list of what constitutes “legal proceedings” but it includes, for example, inquests, military courts and industrial tribunals. Hearings before the General Medical Council are not included.

**Statutory** contempt law prohibits broadcasts which create **a substantial risk** that the course of justice in **active** UK court proceedings (civil and criminal) will be **seriously impeded or prejudiced**.

### When do proceedings become active?

**Criminal** proceedings become “**active**” from the moment an individual is arrested or charged until such time as the proceedings are concluded. **Civil** proceedings (which include coroners' courts and some tribunals) become **active** when the hearing date is arranged (known as “setting down for trial” in the High Court).

### What types of information, if broadcast, might constitute a contempt?

A classic example of contempt in criminal law is the publication or broadcast of the fact that a person charged with a criminal offence has a previous criminal record. This is not something which people on the jury would know before deciding whether the person charged is guilty or not guilty. It would create a substantial risk that people who may subsequently be on the jury could be swayed in their consideration of the facts in making their verdict.

## Who can be prejudiced?

It is not just potential jurors that might be prejudiced by what is broadcast. People giving evidence in proceedings i.e. the witnesses, may also be prejudiced by what they see or hear on television. In addition, although professional judges are considered to be 'incorruptable', many courts are presided over by lay people eg. most Magistrates' Courts and the law assumes that such people acting in a judicial role *can* be prejudiced in their deliberations.

## Other Risk Areas

There are many other matters, the publication of which might amount to a contempt. The publication of any matter which should properly be for the court and jury to consider in the course of the legal proceedings may be prejudicial and, therefore, an offence.

### **Most of the following will be, or could be, in contempt:**

- Obtaining or publishing details of jury deliberations
- Reporting of court proceedings in defiance of a court order or reporting restrictions, particularly committal proceedings
- Anticipating the course of a trial or predicting the outcome
- Publishing details of a Defendant's lifestyle
- Making payments to witnesses
- Filming inside court buildings
- Revealing the identity of victims of sex offences without written consent, which can only be given if over 18 years of age
- Reporting proceedings concerning wardship, adoption, other children related hearings, Mental Health Act applications and national security
- Reporting criminal proceedings involving a child as Defendant, witness or victim
- Breaching an injunction obtained against another party

## Liability

Liability for contempt is **strict**, which means the broadcaster's intention (or knowledge of the proceedings) is irrelevant. If a contempt was committed intentionally, however, it would be punished even more severely.

**Common law** contempt consists of any other action which is **intended** to interfere with the administration of justice e.g. a sustained campaign by the media to "influence legal proceedings". **It is very important to bear in mind that proceedings need not be active.**

It is also possible to be in contempt of a **court order** or **injunction**, even one granted against another person or company – if you have **notice** of it. Broadcasters are frequently served with injunctions granted, for example, against a particular newspaper. The injunction may concern a libel matter.

## Documents/Information obtained from parties to civil and criminal litigation

### Civil proceedings

In civil proceedings, relevant documents are released to the court by both parties, during the process of 'discovery' or 'disclosure'. There is an implied undertaking on parties not to use documents disclosed on discovery or disclosure for any other purpose other than the proceedings. To do otherwise is a contempt. Similarly, a journalist publishing or broadcasting information emanating from such documents would be in contempt. For example, you may be researching a programme about negligence in the medical profession and looking at particular cases of litigation. One of the parties to the litigation passes you documents which they have received from the other side. This may be a contempt; your use of such documents in any programme may be a further contempt.

### Criminal proceedings

Similarly, in criminal proceedings, use of any document or object which is disclosed by the prosecution or defendant (or any co-defendant) in the course of proceedings is likely to be restricted to use within those proceedings. One exception is that the accused may use or disclose the object or information contained in a document **to the extent that it has been displayed or communicated to the public in open court**. This is more restrictive than the provisions governing civil proceedings. For example, you may be investigating a miscarriage of justice and the person convicted may pass you documents/statements that were disclosed to him/her by the prosecution for you to look at. In passing them over to you, s/he may have committed an offence. Furthermore, the broadcast of the information contained in such documents may be a further contempt.

## Penalties for getting it wrong

Contempt of court carries serious penalties – an unlimited fine and/or up to two years imprisonment of the relevant personnel. The Legal and Compliance Department should be consulted as soon as possible where there appears to be a risk of committing a contempt. The law is interpreted more strictly in **Scotland** and so the Legal and Compliance Department will frequently take advice from Scottish lawyers on these matters.

## REPORTING RESTRICTIONS

The laws that restrict the reporting of legal proceedings are numerous and varied; many relate to the identification of children and the victims of sexual offences. In most cases, Courts will order that children who are the subject of or who are witnesses in proceedings and, also, the victims of sexual offences cannot be identified. This is a complex area of law and reference should be made to the Legal and Compliance Department for advice at an early stage and before filming. To breach most reporting restrictions is to commit a contempt. Below is very brief summary of the law as it stands.

*NB Please note that (at the time of publication) the Youth Justice and Criminal Evidence Bill is passing through Parliament. When it is implemented, it will change the law in this area significantly. It affects the ability of the media to identify children or young people as perpetrators, victims or witnesses where there is a criminal investigation. Early advice should be sought from the Legal and Compliance Department.*

## Committal Proceedings

Committal proceedings take place in the Magistrates' Court when a case is being referred to the Crown Court. They are normally held in public. The reporting of such proceedings is restricted. Reference should be made to the Legal and Compliance Department about what can and cannot be reported.

## Hearings in Chambers

A hearing in chambers means one which is not conducted in open court. This includes nearly all pre-trial applications in the County Court and the Queen's Bench Division of the High Court and most matters dealt with by the Family Courts. **Section 12, Administration of Justice Act 1960** lays down the general rule that the publication of information relating to proceedings before any court sitting **in private** is not of itself a contempt. However, there are exceptions, notably: where the proceedings relate to **wardship, adoption, custody,**

**guardianship, maintenance or rights of access to a child**; in relation to applications made under the **Mental Health Act**; and where proceedings are held in private for reasons of **national security**.

### Family Proceedings

These are cases which arise under the **Children Act 1989** and are heard in Magistrates Courts, County Courts and the High Court. Reporting of such cases is very restricted. In Magistrates' Courts, what can be reported is controlled by the **Magistrates' Court Act 1980** as amended by **s.97 of the Children Act 1989**. In the County Court and High Court, what can be reported is restricted by **s.12, Administration of Justice Act 1960** – see above. In addition, in most cases, the Court will make a specific Order (under s.39 of the **Children and Young Persons Act 1939** – see below) about what can and cannot be reported. Such orders are normally extremely restrictive. As noted above, in most cases, no matter that might possibly lead to the child being identified as being involved in such proceedings may be published. Often the only way to find out what specific Orders are in place is to contact the parties' legal representatives or the Court itself.

### Youth Court Proceedings

Section 49 of the **Children and Young Persons Act 1933** states: "*... no ... report of any proceedings in a youth court shall reveal the name, address or school or include any particulars [likely] to lead to the identification of a child or young person concerned in those proceedings...*". The act covers witnesses as well as defendants. The court may lift the restrictions if it is satisfied that it is appropriate to do so.

### Any Proceedings involving Children

Under s.39 of the **Children and Young Persons Act 1939** any court can make a specific order prohibiting identification of any child or young person (i.e. under 18) appearing in the proceedings as a party or witness.

### Wardship Hearings

As noted above, Wardship Hearings are held in private and it is a contempt of court to publish any information about the proceedings or related documents. However, in certain circumstances it is possible to publish stories featuring children who are wards of court providing it is wholly unrelated to the wardship.

## Proceedings involving sexual offences

The victim of a rape or rape-related charge cannot be identified from the moment the complaint is first made. There is no prohibition, however, regarding identifying the accused, although this is subject to libel considerations and the provisions of rule 2.7 of the ITC Programme Code. The victims of other sexual offences are similarly protected, eg. indecent assault on a man or woman, buggery, incest, intercourse with a girl under 16 or attempts to commit any of the above. Anonymity runs from when the complaint is first made. However, once a person is accused of committing the offence, the prohibition is wider and "... no matter likely to lead members of the public to identify a person as the person against whom the offence is alleged to have been committed..." shall be published. The prohibitions apply for the lifetime of the victim. The judge has a discretion to lift the anonymity rule if appropriate and if charged with breaching the anonymity rule, **it is a defence if one can prove that the victim (if over 18) has given his or her written consent to be identified in the relevant publication or broadcast.**

## OTHER LAWS RESTRAINING BROADCASTING

The following issues are likely to arise less frequently and the Legal and Compliance Department must be consulted at the earliest possible stage:

### Confidence

The law of confidence restrains the disclosure of information obtained under a duty of confidence (eg. by an employee from an employer). The media can broadcast/publish confidential material or information providing the public interest in so doing is greater than the public interest in maintaining the confidence. Examples would include exposure of a crime, fraud, serious misconduct, hypocrisy or other facts of important public interest. It should be noted that this is one of the easiest areas for an individual or company to stop your programme being broadcast by getting a pre-transmission injunction. Information may also be protected by the law of **contract**. For example, employees may be contractually bound not to disclose information which they have obtained as a result of their employment. There is no public interest defence to breach of contract although there is some statutory protection for 'whistleblowers' under the **Public Interest Disclosure Act 1998** in certain circumstances.

### The Official Secrets Act 1989

The Official Secrets Act 1989 makes it a criminal offence to obtain or publish any information from a serving or former member of the security and intelligence services or from certain categories of civil servants or public contractors where that disclosure would be **damaging**. There is no public interest defence. If it is anticipated that a project will stray into this complex area of the law, referral to the Legal and Compliance Department should be made **immediately**.

### The Obscene Publications Act 1959

The Obscene Publications Act 1959 applies to television and covers material, which is obscene, whether it is in a person's possession or it is published. The definition of obscene is "likely to deprave and corrupt" and includes not only sexually explicit material, but material relating to violence or drug taking. This offence is more likely to apply to research material than material transmitted because of the stricter tests relating to taste and decency under the Act and ITC Programme Code. Publication of an **indecent** picture of a child (under 16) is an offence under the **Protection of Children Act 1978** whether or not the child is actually involved in the indecency.

### Protection of Sources

Although the NUJ code states "A journalist shall protect confidential sources of information", the law does not give an unqualified right to journalists to keep quiet, as it does to lawyers regarding their client's affairs. The Divisional Court's ruling in a 1992 case concerning **Prevention of Terrorism** legislation was that journalists should **not** give unqualified undertakings to their sources that they will never disclose their identity but should (and properly only could) pledge not to disclose **unless ordered to do so by a court**. To do otherwise would be to pledge to commit a contempt (i.e. criminal offence).

### Police Enquiries

There is no duty to answer police enquiries, unless it relates to a breach of s. 1 of the **Official Secrets Act 1911** regarding national security. In addition, the **Prevention of Terrorism** legislation contains a positive duty to inform the authorities in relation to information regarding acts of terrorism in Northern Ireland.

### DTI inspectors

DTI inspectors have the power to require anyone to produce documents and answer questions under oath, subject to legal privilege.

## Section 10 of the Contempt of Court Act 1981

Section 10 of the Contempt of Court Act 1981 provides that no court shall require anyone to disclose a source of information unless necessary in the interests of justice, national security or the prevention of disorder or crime. Whether any particular circumstances warrant disclosure is ultimately for the court to decide.

In deciding whether or not to order the disclosure of a confidential source, courts will in future have to reconcile any decision with the provisions of **Article 10** of the **European Convention on Human Rights** which says in part: “*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.*” Restrictions on this right will have to be justified – they must ‘necessary in a democratic society’ and ‘prescribed by law’. The Human Rights Bill will incorporate the Convention into UK law in 1999/2000.

To refuse to comply with a court order to disclose documents will be in contempt of court even though documents could, perhaps by certain identifying marks, reveal a source. The court may in any event order the naming of the source.

## Journalistic material

Journalistic material, which includes television programmes/unbroadcast rushes, is given special protection from seizure by the police. If the police want to seize such material, they must apply to a judge. Normally, the holders of the material e.g. Channel 4/programme makers are entitled to make representations to the judge and argue against disclosure if they so wish.

Before a judge will order material to be handed over to the police, he/she must be satisfied that there are reasonable grounds for believing that a serious criminal offence has been committed; that the evidence would be admissible at any trial and would be of substantial value; and that disclosure would be in the public interest.

In practice, however, the courts usually order the broadcaster and journalists to disclose such material. For example, footage of the poll tax riots was ordered to be handed over to the police even though the police had not established that it would be of substantial value to their investigation. The judge said that until the police had seen the material, they could not say if it was relevant or not.

- *If an undertaking is given to a source, once it appears that such an undertaking may also become binding on Channel 4, you must immediately notify your Commissioning Editor who will, if appropriate, consult the Legal and Compliance Department and inform the Director of Programmes.*

- *If it appears that such an undertaking might bring Channel 4 into conflict with the law, the Director of Programmes will need to consider whether to discuss the matter with the Chief Executive and the Board of Channel 4.*

**Legislation under which journalists may be required to reveal their sources is as follows:**

- The Police and Criminal Evidence Act 1984;
- The Prevention of Terrorism (Temporary Provisions) Act 1989;
- The Contempt of Court Act 1981;
- The Official Secrets Act 1989;
- The Criminal Justice Act 1987;
- The Companies Act 1985 as amended by The Companies Act 1989;
- The Financial Services Act 1986;
- The Tribunals of Inquiry (Evidence) Act 1921; and
- The law of confidence

**The Prevention of Terrorism (Temporary Provisions) Act 1989**

The Prevention of Terrorism (Temporary Provisions) Act 1989 places a duty to inform the authorities of information which may be of material assistance in prosecuting or convicting someone suspected of terrorism in Northern Ireland, amongst other things. **Any producer intending to research a film about Northern Ireland should consult with the Legal and Compliance Department at the very earliest stage possible.** In particular, any matters relating to **undertakings of confidentiality** to sources must be referred, if possible via the Legal and Compliance Department, to the Director of Programmes before any such undertaking is given.

**Election Reporting**

The **Representation of the People Act 1983** concerns broadcasts of items about a constituency or electoral area where an election is pending – local government and by-elections are included, where the candidate takes part in the item. The ITC Programme Code contains a helpful flow chart to explain this law and guidance will be issued from the Legal and Compliance Department at times of elections.

## Telephone tapping, eavesdropping and interception of mail

Unauthorised eavesdropping on radio communications or use of transmitter bugs and/or the disclosure of information acquired in this way is a criminal offence. The penalty is a fine of up to £2000 – **Wireless and Telegraphy Act 1964**. The unauthorised interception of mail and tapping a public telecommunications system (including land lines and mobile telephones) are also criminal offences. The penalty is a fine of up to £2000 in a magistrates' court or an unlimited fine and/or up to 2 years imprisonment in the Crown Court – **Interception of Communications Act 1985**.

## Interviews with criminals

Interviews with criminals should be handled with extreme care. See the provisions in Section 5 of the ITC Programme Code. In particular, it is an offence to assist someone suspected of an arrestable offence or prisoners on the run.

## Copyright and clearances

Producers should contact their allocated Business Affairs Executive in the event of a query. Care should be exercised in the case of more complex matters like "Fair Dealing" – ie. the permitted use under the Copyright Designs and Patents Act 1988 of uncleared material for the purposes of **criticism or review** or **reporting current events**. The former requires an appropriate **acknowledgement** of the title and the author of the work and the latter does not apply to **photographs**. All broadcasters have negotiated a **Sports Access Code** applying to the use of extracts of sports footage in news programmes. Advice from the Legal and Compliance Department should be obtained before any steps are taken in respect of any material you might be able to use under the "fair dealing" provisions. Guidelines on fair dealing are available from the Legal and Compliance Department on request.

## Competitions

There are detailed statutory provisions which relate to competitions. Early advice from the Legal and Compliance Department should be sought if you are considering using a competition within a programme to ensure its legality and compliance with the regulatory codes.

## The Protection from Harassment Act 1997

Whilst this piece of legislation was principally intended to deal with stalkers, it could have serious implications for journalists. Attempting to contact, film, interview etc. an unwilling person may breach this law. The Act creates both civil and criminal liabilities for journalists.

- It is a **criminal offence** to *engage in a course of conduct which you know or should know amounts to harassment of the subject*. There is no specific defence for journalists. The only relevant defences are the prevention or detection of crime (unlikely to apply to journalists); or that *in the circumstances the conduct was reasonable*. This offence is punishable by a maximum of 6 months imprisonment and/or a maximum fine of £5,000.
- In addition, through a civil action, the subject of the harassment can (1) seek damages from the harasser for any anxiety caused and for any resulting financial loss; (2) apply for an injunction after only **one** act of harassment if they can show future harassment is likely; and, (3) apply to the court for an arrest warrant to be issued if the harasser breaches any court order. The maximum penalty for breaching such an order is up to 5 years imprisonment and/or an unlimited fine.
- The types of activity which could be problematic are: long lens filming; 'doorstepping'; interviewing/speaking to friends, business associates and family without the consent of the subject; contacting a subject after he/she has refused to comment; broadcasting a series of intrusive stories about a subject without consent; and, continuing to film a subject after they have asked you to stop.
- Compliance with the provisions of the Independent Television Commission and Broadcasting Standards Commission Codes on fair treatment and privacy would assist any defence.



# APPENDIX 1

## **documents**

## CHANNEL 4 DOCUMENTS APPENDED TO THE COMPLIANCE MANUAL:

### **Appendix 2**

Dispatches – Rules and Procedures for Best Practice and Compliance

### **Appendix 3**

Factual Programmes – Rules and Procedures for Best Practice and Compliance

### **Appendix 4**

Secret Filming Proformas – Stages I and II

### **Appendix 5**

Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes

### **Appendix 6**

Editorial, Legal and Compliance Procedures for Live Programmes

### **Appendix 7**

Proforma Request to Broadcast Strong Language

## ITC CODES AND RULES:

Programme Code

Code of Programme Sponsorship

Code of Advertising Standards and Practice

Rules on the Amount and Scheduling of Advertising

Technical Performance Code

*[Copies available from Information Department, Independent Television Commission, 33 Foley Street, London W1P 7LB/tel: 020 7255 3000]*

## BSC CODES

Code on Fairness and Privacy

Code on Standards

*[Copies available from Information Department, Broadcasting Standards Commission, 7 The Sanctuary, London, SW1P 3JS/tel: 020 7233 0544]*

## ICSTIS CODE

Code of Practice

*[Copies available from The Independent Committee for the Supervision of Standards of Telephone Information Services, 3rd Floor, Alton House, 177 High Holborn, London WC1V 7AA/tel: 020 7240 5511]*

## OTHER CHANNEL 4 DOCUMENTS:

Editorial, Compliance and Legal Guide for Presentation

Compliance and Legal Guide for Viewers Enquiries

Legal Guidance Note for Journalists – Protection From Harassment Act 1997

Basic Guide to the Law of Fair Dealing for Channel 4 Producers

*[Copies available from the Legal and Compliance Department, Channel Four Television, 124 Horseferry Road, London SW1P 2TX/tel: 020 7396 4444]*



## APPENDIX 2

### **Dispatches – rules and procedures for best practice and compliance**

This letter is sent to all companies with commissions and developments for **Dispatches**. It is the responsibility of the Producer (and Executive Producer, where appropriate) to ensure that the letter is circulated to every member of the production team and that they are not only aware of its contents but that you and they follow the rules and procedures it contains.

Channel 4 wishes to ensure that the methods independent production companies employ when making difficult programmes like **Dispatches** are in accordance with our regulatory obligations and the highest standards of journalistic practice.

Channel 4, as with the ITV companies and Channel 5, must ensure that its programmes comply with ITC's Codes, including the Programme Code, and the BSC Codes. We are also obliged to make our producers aware of their obligations to make programmes in accordance with these rules and guidelines. Your production team must be familiar with the Codes' provisions. The Channel 4 Compliance Manual summarises the regulatory codes and the main laws affecting broadcasting and sets out Channel 4 internal procedures for compliance.

Copies of the ITC Codes, BSC Codes and Channel 4's Compliance Manual are available from the Legal and Compliance Department.

In the spirit of engendering the highest possible common standard of journalistic methods and compliance, this letter sets out many of the basic ground rules that apply to current affairs. These rules and procedures do not replace the ITC Programme Code – but they do identify important areas.

## 1 SECRET FILMING AND RECORDING

Individuals should not be filmed or recorded secretly for inclusion in a programme unless this has been cleared with the Channel **in advance** – and that includes the dubious practice of leaving the camera running when the subject may think s/he is not being filmed. This could also apply to long lens stills photography. Permission sought after filming/recording has taken place is most unlikely to be granted, and only then in exceptional circumstances.

If you intend to film or record secretly please let me or my Deputy know straight away and discuss your plans with the Channel 4 lawyer. You need to set out in writing your justification for covert filming/recording – how does it meet the requirements of Section 2.4 of the ITC Programme Code? I will have to get prior approval from the Director of Programmes. Secret filming/recording will also need the Director of Programmes' approval before broadcast.

- Please read Channel 4's separate note of procedures and practice for Secret Filming and Recording which is attached and includes a pro-forma Secret Filming request you should follow.

- Please get your requests to us in good time, preferably at least three working days before you want to film. Late requests run the risk of being rejected if there is no good reason for the delay in submitting them.

Phone calls should not normally be recorded for broadcast unless you identify yourself, Channel 4 and the purpose of the programme and the interviewee consents. On rare occasions, eg where possible criminal or otherwise disreputable conduct is involved, these requirements may be waived. We will need to seek prior permission to broadcast such a recorded call from the Director of Programmes.

## 2 PAYMENTS

Please do not agree to make any payments to interviewees or sources without reference to myself, since this may undermine their credibility or breach the ITC Code. This includes a payment from a member of your team's own pocket or one funded from the production fee. You may pay modest out of pocket expenses, eg to cover meals and taxi fares. Anything over £100 must be approved by Channel 4 beforehand. If in doubt refer to me, my Deputy or to the Channel 4 lawyer.

No payment may be made to a criminal whose sentence has not yet been completed nor can payment (or commitment to pay) be made to any witness in a trial before its verdict. People should not be paid to talk about their crimes or about seriously anti-social acts they have committed unless an important public interest is served. If you think there is an important public interest in making a payment in these circumstances, you should discuss any proposals with me or my Deputy and the lawyer first.

## 3 APPROACHING INTERVIEWEES

You should be as clear as reasonably possible with interviewees or people you are approaching for facilities about the nature and purpose of the programme and their role in it. If there is a proper reason to be indirect (e.g. you are dealing with a criminal) then talk to me or the Channel 4 lawyer about it first. You may be required to tell an interviewee the identity and role of other proposed participants, where known.

You are required to copy in advance letters to your most important interviewees and contributors to myself or my Deputy and the Channel 4 lawyer for our approval before you send them to the interviewee. Such letters should first be approved by the Producer or Executive Producer.

The focus of a programme may change as an investigation develops. However, in most cases, you should give all potential contributors and those to whom you are giving a right of reply a consistent outline of the programme's nature. Therefore, before any letters are sent to potential contributors, please agree with my

Deputy or me and the Channel 4 lawyer a short description of what the programme is likely to be examining.

#### 4 CARRYING IDENTIFICATION

Journalists should carry documentation identifying them as such at all times when working on a **Dispatches**. This, for example, might reassure someone approached out of the blue who is vulnerable or where your approach is otherwise unwelcome.

#### 5 INTERVIEWS

Individuals, companies or organisations who are criticised in a programme should normally be given an appropriate and timely opportunity to respond to the programme's allegations.

If an interviewee wants to change the standard release form, please check with me, my Deputy or the Channel 4 lawyer. If you leave an interview with an altered release form, you may well have accepted the terms the interviewee has added to the form. If an interviewee is in any way disconcerted by an interview or places any restrictions or conditions as to how it is used or what is used notify the Channel 4 lawyer or myself as soon as you can.

Interviews must be edited fairly and not distort or misrepresent the interviewee's views.

If an interview is refused by someone whose right to reply has been sought it may be necessary to seek a statement in writing of their position for possible inclusion in the programme.

Material should not be obtained by misrepresentation or deception unless there is an overriding public interest. This would have to be approved by Channel 4 beforehand and only if the deception is proportionate to the alleged wrong-doing and avoids improper entrapment.

#### 6 "DOORSTEPPING"

The use of the 'doorstep' interview, whilst not improper in itself, needs to be judged with great care. An approach for an interview without prior arrangement is justifiable only when you have exhausted all other means of giving an interviewee the opportunity to respond to substantive questions or in exceptional circumstances; please talk through any intention to resort to 'doorstepping' with me or my Deputy beforehand.

It is only acceptable to doorstep someone at their home in exceptional circumstances. When doorstepping someone you should be careful about filming innocent parties, especially children.

## 7 OTHER FILMING WITH SPECIAL RULES

There are special rules in the ITC Programme Code and the BSC Fairness and Privacy Code about the following types of filming:

### **Interviews/filming with children**

Children must not be asked to speak about personal family matters nor to give their opinions on matters beyond their judgement. They must never be put at moral or physical risk.

### **In institutions like hospitals or department stores**

Where someone in a sensitive situation (like a patient in hospital) can be identified they must have consented to being filmed and to the use of the material. If they are not capable of agreeing, please get consent from their next of kin or carer.

### **On police operations**

You must identify yourself and the fact you are filming for Channel 4. You must leave if you are asked to by the occupant or owner of premises or by the police.

### **When individuals are bereaved or distressed**

Their right to privacy must be respected and they must not be distressed by insensitive or persistent questioning.

### **Situations where an individual's right to privacy might otherwise be unwarrantably infringed.**

Eg. a victim of a crime or an innocent relative of someone in the news or relative of someone who has done something criminal or anti-social.

**Check the ITC and BSC Code rules and seek advice from me, my Deputy or the lawyer beforehand.**

## 8 PREVIEWS

Channel 4's policy on previewing material is identical to that of all other broadcasters. Therefore, do not agree to show the film or any section of it to anybody prior to transmission. For all matters concerning press and publicity you must liaise with the Press Officer dealing with the programme.

## 9 EDITORIAL CONTROL

Final editorial control of its programmes belongs to Channel 4. Please do not cede to anyone the right to say what you may or may not use in the film. If such requests are made, refer them to Channel 4. You should not reach any deals with interviewees or sources that might govern the sort of programme you make without reference to myself. Such a deal could be changed by the Channel for legal or editorial reasons – we cannot back your guarantees.

## 10 ANONYMOUS SOURCES/INTERVIEWEES

There are occasions where the telling of the story depends on an anonymous witness. Each occasion will be judged by the Channel on its merits. Thus you must not promise any source or anonymous interviewee a blanket guarantee of anonymity. If anyone asks you not to reveal his or her identity you should refer it to me immediately, or to the Channel 4 lawyer.

## 11 NOTEBOOKS

**Dispatches** programmes, like most current affairs programming, may attract the risk of legal action and so it is particularly important that all notes (which may have to be disclosed in any subsequent libel action) are meticulous and avoid anything that could be interpreted as malicious or pejorative comment.

## 12 RUSHES

In the event of legal action and, in some cases, a complaint of unfair editing of an interview to the ITC or the Broadcasting Standards Commission, Channel 4 may be ordered to hand over, or may wish to volunteer, rushes. It is important, therefore, that all members of the production team remember that comments or activity at the beginning and end of interviews or at the start or end of secret recording are likely to be viewed and heard by others who may be hostile to the programme and are open to interpretation.

## 13 LEGAL PRIVILEGE

Notes of meetings or phone calls with a Channel 4 lawyer generally attract legal privilege and these notes must be set out separately in your notebook and labelled as a legal meeting. So do documents sent to the Channel 4 lawyer if the **dominant motive** is receiving legal advice. Documents and letters written for the purpose of seeking of confirming legal advice, particularly when they raise issues of a sensitive or controversial nature, should be headed "Privileged: for the purpose of seeking legal advice". Labelling something as legally privileged doesn't make it privileged. Proposals and development reports will seldom enjoy the protection of legal privilege where their primary function is to get a commission.

## 14 RECONSTRUCTIONS

Reconstructions of real events must be accurately portrayed and will need to be labelled. If apparent actuality in your programme is anything other than it appears to be you must tell me so that we can decide what information the viewer needs to be told.

## 15 RECONSTRUCTIONS – INFORMING INNOCENT PARTIES

Many **Dispatches** programmes will examine, reconstruct or dramatise events which could cause distress to victims and/or their families unless they are told in advance of transmission that the programme will feature such material. Please ensure that all victims and/or their immediate families are made sufficiently aware of the nature and content of the contribution they or their story will make in the programme.

If you relied on an intermediary, such as the police or social services, to make contact with a particular person it is your responsibility to ensure the victim and/or immediate family have been informed.

## 16 DUE IMPARTIALITY

Where a programme deals with matters of political or industrial controversy or issues of current public policy, Channel 4 is obliged to ensure that the programme is duly impartial. How this is achieved will vary from programme to programme and topic to topic. Where a *major matter* of controversy is covered – eg significant legislation currently passing through parliament, Channel 4 must ensure that justice is done to a full range of significant views and perspectives whilst the controversy is active.

## 17 PIECES TO CAMERA

I and the Channel 4 lawyer will need to approve the wording of all pieces to camera **before** you record them.

## 18 VIEWINGS

You must have available a **full transcript** of the programme as it then stands (including all sync, voice over and commentary) at all viewings for me, my Deputy and the Channel 4 lawyer. The script should say who the interviewees are where this is not obvious, eg the name and job title.

## 19 ADVERTISEMENTS FOR CONTRIBUTORS

It is sometimes legitimate to use advertisements in, for example, the local press magazines seeking contributors for programmes. If you plan to do this please discuss it with me or my Deputy. The wording of any such advertisements must be approved by us and the Channel 4 lawyer **beforehand**.

## 20 SUPERVISION OF TRAINEES

You must make me or my Deputy aware of all the individuals working on your programme. This includes trainees and interns, even if they are unpaid. All trainees and interns must be adequately supervised, particularly if they are to be writing to, speaking on the telephone with or meeting anyone outside the production team, in which case they must be closely monitored.

You will be allocated a Channel 4 lawyer at the start of your development or commission. All written reports at either commission or development stage must be sent to me and be copied to the lawyer. The Channel 4 lawyers are available to advise on all media law issues including libel, contempt, Official Secrets Act and fair dealing. Please take early advice from the Channel 4 lawyer on any legal or compliance problems or issues which arise. Advice is available out of hours if it's urgent – contact Viewer Enquiries on the main Channel 4 number for the duty lawyer's details.

If you have any doubts or worries please chat them through with me.

Yours sincerely

Commissioning Editor, Dispatches, Current Affairs Department  
Channel 4 Television, 124 Horseferry Road, London SW1P 2TX

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## APPENDIX 3

### **factual programmes – rules and procedures for best practice and compliance**

## Introduction

Channel 4 is proud of its factual programming output and we have faith in the honesty and integrity of our documentary-makers and, in the overwhelming majority of cases, that faith is justified.

Documentary film-making has always been more sophisticated than the simple recording of action in real time. It is a creative, rather than 'literal', medium, allowing the signature of the film-maker on his or her subject in the same manner as a writer. The structuring and compression of experience is essential to the making of a film. However, though the editing process will inevitably condense events which have occurred over a period of time, this must not be at the expense of distorting reality and misleading viewers. It is never acceptable to represent as having happened something that did not. It is the responsibility of broadcasters and producers not to confuse the aesthetic and structural issues of documentary from the issue of truth and falsehood. Clarity of intent is the key to honest dealing.

The truthfulness of television documentaries has become the subject of significant media and regulatory scrutiny and raises issues of the utmost importance. Viewers must not be misled about the nature of material they are watching. If it is claimed or suggested that footage is actuality, then that is what it should be; if it is not, then that *must* be made clear to viewers. **The ITC can impose the most serious sanctions for failure to ensure that programmes are accurate and truthful.**

Channel 4 has a bond of trust with its viewers that what they see in our factual programmes is true. This bond must not be broken and, if it is, the most serious consequences will follow. Channel 4 will have no hesitation in refusing to work with programme-makers who deliberately deceive our viewers and the Channel in these circumstances.

**Do not stage, construct, reconstruct, re-enact or otherwise fake any scenes of actuality and pass them off to Channel 4 and our viewers as the real thing.**

The use of a dramatic reconstruction, sometimes involving real people rather than actors, is a perfectly respectable form of documentary technique, provided viewers clearly understand or are told, by labelling where appropriate, the true nature of what they are seeing. Reconstructions must not distort the known facts. Contributors to documentaries are real people and should not be treated as actors. Viewers deserve to be informed and entertained, not deceived.

At the heart of the commissioning system, which is central to Channel 4's broadcasting remit, is the relationship between the commissioning body and independent producers. To be effective, and to achieve the highest quality programmes, the relationship must operate with honesty, openness and trust.

A criticism sometimes levelled at the commissioning process is that it can act as a disincentive to producers, inhibiting them from telling Channel 4 if a project is not working, since a valuable commission could be lost.

In addition, at times, Commissioning Editors can make producers feel they are under pressure to deliver 'results' or to 'hype' the story at the expense of the truth. This should not happen and Channel 4 would like to reassure producers that any such pressure will not have Channel 4's authority.

In fact, Channel 4 will have far more respect and trust in a producer who is prepared openly to identify problems in the production or development stages of a programme than a producer who chooses to conceal such problems. More often than not, problems brought to the Channel's attention can be resolved and the commission can proceed, albeit in a different direction to that originally envisaged.

On rare occasions, halting a project which is not working out (perhaps because the story does not stand up) is the right course of action; inventing the story is never an option.

Channel 4 is responsible for ensuring that its programmes comply with the ITC's Codes, including the Programme Code, and the BSC Codes. You must be familiar with the Codes' provisions. Channel 4 has a Compliance Manual which summarises the regulatory codes, the main laws affecting broadcasting and sets out (in Channel 4's internal compliance procedures) the responsibilities of Commissioning Editors and procedures for reference-up. All these documents are available from the Legal and Compliance Department at Channel 4.

The rest of this document provides guidance and sets out many of the basic ground rules relevant to factual programme-making. It is modelled on the rules and procedures document which has been issued, as updated, by the Current Affairs Department for a number of years and summarises and formalizes existing procedures and practice for Channel 4's factual output.

**This document identifies some important areas but does not replace the ITC Programme Code or the Channel 4 Compliance Manual. It should be read before a programme goes into production in conjunction with both the Code and the Manual.**

***The producer of each programme, and the executive producer if there is one, is responsible for ensuring that this document is circulated to every member of the production team and that they are not only aware of its contents but that they, the producer and executive producer follow the rules and procedures it contains.***

## 1 TRUTH AND ACCURACY

**Your programme must be truthful, accurate and fair.** Our first duty is to the evidence. You must have checked all facts and allegations and be able to substantiate their accuracy, as appropriate. This includes claims by interviewees which may sometimes need to be corroborated.

If an interviewee makes a damaging allegation about a third party, ask yourself 'why?'. Could they have an improper motive or a hidden agenda? Would they make a good and willing witness if the allegation is potentially libellous? Can you substantiate what they are saying by any other evidential means?

Many established documentary techniques are unproblematic and viewers would not find them surprising or troubling. For example, the use of a cutaway shot, 'a noddy' or a 'set up' shot to establish an interviewee. Often, a contributor might legitimately be asked to repeat an *insignificant* action, eg to walk into a room again or to do for the camera what they do normally. Contributors should not be asked to repeat or re-enact *significant* actions or events, eg to re-enact a row with their partner because you didn't like the camera angle when it originally happened or because you didn't get it on film.

The distinction is this: it is not acceptable to incite someone to take or recreate an action which will have a bearing on the outcome of the film's narrative and to present this action as something of significance observed as it happened on camera (even if it is something which actually happened in the past). This is an intervention different in kind to the creation of a filmed sequence representing everyday activity.

Inevitably, there are areas of ambiguity where the style and idiom of the film is intentionally heightened. This is often the case in deliberately lighthearted films. An obviously stylised documentary might be visually inventive, for example, filming shots of the same thing from several camera angles and intercutting them. But there is a world of difference between an imaginative film where the audience understands the nature of what it is they are seeing and methods which set out to mislead the audience, and claim evidential validation of a sequence which would not have happened without the intervention of the filmmaker.

The artifice of such imaginative documentaries are unproblematic, so long as it is clear that they do not seek to misrepresent contrivance as observed actuality. It is legitimate to innovate and take risks with the medium. We have, however, a duty to be clear as to the terms on which we engage a film's participants and its viewers.

Viewers are becoming more television literate and they will understand many conventions of television, but they must be equipped, by appropriate sign-posting, to make a proper judgment about what they have seen. Sometimes it may involve simply being upfront about the techniques used. The proposition of a programme and its genre will dictate what is acceptable and what the audience needs to be told. In a film purporting to be an undercover video diary it should, for example, be clear when any footage is *not* shot undercover. On the other hand, a history programme will use archive and stylised reconstructions of events, at least some of which will self-evidently not be contemporaneous or real.

**Use your common sense and good judgment. If you have distorted reality and the viewer has been misled, you have crossed the line of acceptability.**

People may behave differently when they know they are being filmed, although many will relax when they get used to the cameras. **You must not, however, deliberately provoke or encourage behaviour which would not have occurred naturally, without making it clear to the audience that you have done so.**

**Tell your Commissioning Editor anything he/she should know about the provenance or authenticity of any footage, including techniques used to get it, so that a judgment can be made about whether to include it and, if so, whether any sign-posting is necessary for the viewer. We have an equal responsibility for footage obtained from a third party as footage we shot ourselves.**

Members of the public have been the subject of hoaxes by programme-makers since programmes like *Candid Camera* started. Hoaxing has become increasingly sophisticated as technology has developed, and so has the viewing audience. Sometimes the tables are turned. **Look out for signs that you may have been hoaxed by a contributor.** Their motive may only be to attain their 15 minutes of fame. Hoaxers can be very convincing. Don't take everything at face value – make appropriate checks to establish people are who they say they are. If it seems too good to be true, make further enquiries as to their authenticity to ensure that you, and hence Channel 4 and the viewer, have not been fooled.

**If you have any doubt about any of your contributors or what they are saying, share your concerns with your Commissioning Editor at the earliest possible opportunity.**

## 2 SECRET FILMING AND RECORDING

Secret filming and recording are powerful journalistic tools. In the exposure of genuine wrong-doing it has undisputed legitimacy but it involves deception and the invasion of individual privacy. Technology makes it ever easier. It is therefore essential that we never let it become a device used for effect otherwise it will subvert the honesty and moral authority of the film-maker.

**Individuals should not be filmed or recorded secretly for inclusion in a programme unless this has been cleared with the Channel in advance** – and that includes the dubious practice of leaving the camera running when the subject may think he/she is not being filmed. Permission sought from Channel 4 after filming/recording has taken place is most unlikely to be granted, and only then in exceptional circumstances.

If you intend to film or record secretly please let your Commissioning Editor know straight away and discuss your plans with a Channel 4 lawyer. They will expect you to set out *in writing* your justification for covert filming/recording – how does it meet the requirements of Section 2.4 of the ITC Code? It must be demonstrably essential to establish the credibility and authority of a story of important public interest. Your Commissioning Editor will have to get prior approval in writing from the Director of Programmes. Secret filming/recording also needs approval in writing from the Director of Programmes before broadcast.

**Please read Channel 4's separate note of procedures and practice for Secret Filming and Recording which is attached. This contains a pro forma application which you should follow.**

### 3 RECORDING TELEPHONE CALLS

Phone calls should not normally be recorded for broadcast unless you identify yourself, Channel 4, explain the purpose of the programme *and* the interviewee consents. On rare occasions, eg where possible criminal or otherwise disreputable conduct is involved, these requirements may be waived. In these circumstances, discuss your plans beforehand with your Commissioning Editor. Prior permission to broadcast such a recorded call from the Director of Programmes will be required – your Commissioning Editor will seek this if he/she thinks it is justified.

### 4 PRIVACY AND THE PUBLIC INTEREST

Television is a powerful medium which both affects and reflects the lives of ordinary people. Individuals have a right to privacy which must be respected. Your right and that of Channel 4 to publish freely is subject to this limitation and sometimes an individual's right to privacy must be balanced against the public interest. Examples of how the public interest may be served include:

- Detecting or exposing crime or serious misdemeanour
- Protecting public health or safety
- Preventing the public from being misled by some statement or action of an individual or organisation

- Exposing significant incompetence in public office

Any act that relies upon a defence of public interest must be proportional to the actual interest served.

## 5 APPROACHING INTERVIEWEES AND CONTRIBUTORS

Contributors to your programme (including all interviewees) should be treated with due fairness and respect. You should be clear with interviewees, contributors or people you are approaching for facilities about the nature and purpose of your programme and their role in it. If there is a proper reason to be indirect (e.g. you are dealing with a criminal) then talk to your Commissioning Editor or a Channel 4 lawyer about it first.

On some programmes you may be required to tell an interviewee the identity and role of other proposed participants where known. On some programmes covering contentious subjects you may be required by Channel 4 to copy in advance letters to your most important interviewees and contributors to your Commissioning Editor and the Channel 4 lawyer for their approval *before* you send them to the interviewee. Such letters should first be approved by the Producer and/or Executive Producer.

## 6 INTERVIEWS

Individuals, companies or organisations who are criticised in a programme should normally be given an appropriate and timely opportunity to respond to the programme's allegations.

If an interviewee wants to make a significant change to a standard release form, please check with a Channel 4 lawyer or the negotiator in the Business Affairs Department. If you leave an interview with an altered release form, you may well have accepted the terms the interviewee has added to the form. If an interviewee is in any way disconcerted by an interview or places any restrictions or conditions as to how it is used or what is used notify Channel 4 as soon as you can. (See paragraphs 13 and 14 below).

**Interviews must be edited fairly and not distort or misrepresent the interviewee's known views.**

If an interview is *refused* by someone whose right to reply has been sought it may be necessary to seek a statement in writing of their position for possible inclusion in the programme.

**Material must not be obtained by misrepresentation or deception unless there is an overriding public interest. This would have to be approved by Channel 4 beforehand and only if the deception is proportionate to the alleged wrongdoing and avoids unacceptable entrapment.**

## 7 “DOORSTEPPING”

The use of the ‘doorstep’ interview, whilst not improper in itself, needs to be judged with great care. An approach for an interview without prior arrangement is justifiable only when you have exhausted all other means of giving an interviewee the opportunity to respond to substantive questions or in exceptional circumstances; please talk through any intention to resort to ‘doorstepping’ with your Commissioning Editor and a Channel 4 lawyer.

**It is only acceptable to doorstep someone at their home in exceptional circumstances. When door-stepping someone you should be careful about filming innocent parties, especially children.**

## 8 OTHER FILMING WITH SPECIAL RULES

There are special rules in the ITC Programme Code and the BSC Fairness and Privacy Code about the following types of filming:

### **Interviews/filming with children**

Children must not be asked to speak about personal family matters nor to give their opinions on matters beyond their judgment. They must never be put at moral or physical risk.

### **In institutions like hospitals or department stores**

- Where someone in a sensitive situation (like a patient in hospital) can be identified they must have consented to being filmed and to the use of the material. If they are not capable of agreeing, please get consent from their next-of-kin or carer

### **On police operations**

- You must identify yourself and the fact you are filming for Channel 4. You must leave if you are asked to by the occupant or owner of premises or by the police.

### **When individuals are bereaved or distressed**

Their right to privacy must be respected and they must not be distressed by insensitive or persistent questioning.

### **Situations where an individual’s right to privacy might otherwise be unwarrantably infringed**

Eg. a victim of a crime or an innocent relative of someone in the news or relative of someone who has done something criminal or anti-social.

**Check the ITC and BSC Code rules and seek advice from your Commissioning Editor and Channel 4 lawyer beforehand .**

## 9 FILMING CRIMINALS OR CRIMINAL BEHAVIOUR

If people talk about their crimes or are prepared to let you film them carry out an apparently criminal act you must tell your Commissioning Editor and a Channel 4 lawyer straight away and get advice.

Someone admitting to or carrying out a criminal act could well be prosecuted after transmission and your footage could be obtained by the police by a court order. Ask yourself why they are doing it. Do they understand the consequences? Or are they trying to have you on? Some other rules:

- Avoid creating the impression of condoning criminal behaviour.
- Avoid demonstrating criminal techniques like precisely how to make a bomb or steal a car.
- Drug abuse must not be portrayed as problem-free or glamorous.
- You must be scrupulous to avoid a charge of incitement or aiding and abetting any criminal behaviour.
- You must make a careful distinction between observation and participation and keep at arms length.
- You must never provoke behaviour which would not otherwise have occurred.
- Early legal advice from Channel 4's Legal and Compliance Department must be obtained.
- If you reconstruct a crime (with real people or with actors) it must be accurate and it must be labelled as such.

## 10 DECEPTION AND SET-UP SITUATIONS

**Any deception of an individual you are filming or want to film must always be proportionate to and justified by the story and approved by Channel 4 *beforehand*.**

**Any 'set-up' situation, ie where someone agrees to be filmed for a purpose which is different to the one you covertly intend, must be approved by Channel 4 *beforehand*.** Your Commissioning Editor will need to seek the Director of Programme's approval if the person's express permission is not to be obtained. This will only be granted where it is considered necessary to make an important point of public interest.

Some comedy and factual entertainment programmes involve some degree of deception of their contributors but operate under strict and specific procedures designed to ensure fairness and compliance and, where appropriate, safety.

## 11 PAYMENTS

Payments to interviewees and contributors are usually uncontroversial. It is perfectly acceptable to pay a fee to a celebrity or an expert or to pay a modest sum to an interviewee who has given up their time to be filmed.

On some occasions, however, a payment to an interviewee, contributor or source could seriously undermine their credibility or even breach the ITC Programme Code. **If a payment is proposed in any of the following circumstances, please discuss this with Channel 4 beforehand, ie if the interviewee/contributor/ source is any of the following:**

- a criminal whose sentence has not been discharged\*
- a witness in a trial before verdict is reached\*
- talking about their past crimes, unless there is an important public interest\*\*
- talking about their seriously anti-social behaviour, unless there is an important public interest\*\*
- someone making potentially libellous remarks against a third party and therefore might be needed as a witness if there was a libel action
- someone who has been secretly filmed or recorded

*\* Forbidden by the ITC Code*

*\*\* Channel 4 will assess whether there is in fact an important public interest (see Point 5)*

A payment includes one made from a member of your production team's own pocket or one funded by the production fee and could include a gift beyond basic expenses, eg paying for a meal or taxi fares, which should always be within reasonable limits.

Care should be taken in making any payments to children. Such payments or any gifts or purchases made for children should be appropriate.

## 12 ANONYMOUS SOURCES/INTERVIEWEES

There are occasions where the telling of the story depends upon an anonymous witness; this must be treated with care. You must consider why this person wants to remain anonymous. Do they have a good reason or is it because they have something to hide beyond their identity? Each occasion will be judged by the Channel on its merits. Thus you must not promise any source or interviewee a blanket guarantee of anonymity. If anyone asks you not to reveal his or her identity you should refer it to your Commissioning Editor immediately, or to a Channel 4 lawyer.

## 13 PREVIEWS

Channel 4's policy on previewing material is identical to that of all other broadcasters. Therefore, do not agree to show the film or any section of it to anybody (including interviewees and other contributors) prior to transmission without discussing it with your Commissioning Editor first. For all matters concerning press and publicity you must liaise with Channel 4's press office.

## 14 EDITORIAL CONTROL

You must not cede to anyone the right to say what you may or may not use in a programme. If such requests are made, refer them to Channel 4. You should not reach any deals with interviewees, contributors or sources that might govern the sort of programme you make without reference to your Commissioning Editor. Such a deal could be changed by the Channel for legal or editorial reasons – we cannot back your guarantees. **Final editorial control of all programmes broadcast on Channel 4 belongs to Channel 4.**

## 15 NOTEBOOKS

If your programme may attract the risk of legal action it is particularly important that all notes (which may have to be disclosed in a libel action) are meticulous and avoid anything that could be interpreted as malicious or pejorative comment. If your programme does raise legal issues like libel, please seek early advice from a member of the Legal and Compliance Department.

## 16 RUSHES

In the event of legal action and, in some cases, a complaint of unfair editing of an interview to the ITC or the Broadcasting Standards Commission, Channel 4 may be ordered to hand over, or may wish to volunteer, rushes. These may be the only independent record of what happened. It is important, therefore, that all members of the production team remember that comments or activity at the beginning and end of interviews or at the start or end of secret recordings could be viewed and heard by others who may be hostile to the programme and are open to interpretation.

## 17 INFORMING INNOCENT PARTIES AND FAIRNESS TO THEM

Some programmes examine, reconstruct or dramatise events which could cause distress to victims and/or their families. Where practicable and appropriate, their perspectives should be sought at an early stage. Whether or not they have co-operated with the programme, they must be told in advance of

transmission that the programme will feature such material. Please ensure that they and/or their immediate families are made sufficiently aware of the nature and content of the contribution they or their story will make in the programme and about trails, where appropriate. The same applies to the immediate families of central figures who have died. Special care should be taken where there is a lapse of time between filming and broadcast and with repeats.

If you rely on an intermediary, such as the police or social services, to make contact with a particular person, it is your responsibility to ensure the victim and/or immediate family have indeed been informed.

There are special rules governing the making of factual dramas and drama-documentaries which are bound by the same standards of fairness and impartiality that apply to factual programmes.

## 18 ADVERTISING FOR CONTRIBUTORS

Sometimes it is legitimate to place advertisements in, for example, local papers or specialist magazines, seeking contributors for a programme, eg 'Have you been ripped off by your plumber?'. Discuss any plans to do this with your Commissioning Editor and send them the proposed wording of the advertisement beforehand for their approval.

Seeking contributors in this way could invite hoaxers and so appropriate checks should be made on the identity of such individuals and the veracity of their claims.

**It is never acceptable to hire models, actors, or individuals from 'real people' agencies and pass them off as the genuine article.**

## 19 PERSONAL CONNECTIONS AND POTENTIAL CONFLICTS OF INTEREST

If anyone on the production team has a personal, financial or professional connection to someone granting access for the programme (including interviewees or other contributors) this must be disclosed to your Commissioning Editor at the outset. Proper consideration can then be given to whether it could be reasonably open to the criticism of influencing the programme's content and, if so, what action should be taken. It may be sufficient, for example, simply to disclose the connection to the viewer.

## 20 CARRYING IDENTIFICATION

As a good rule of practice, television journalists should carry documentation identifying them as such at all times when working on a programme. This could be a letter from the production company confirming the individual is employed by them on a particular project. Identification might, for example, reassure someone approached out of the blue who is vulnerable or where your approach is otherwise unwelcome.

## 21 SUPERVISION OF TRAINEES

Your Commissioning Editor should be made aware of all the individuals working on programmes for Channel 4, this includes trainees and interns, even if they are unpaid. All trainees and interns must be adequately supervised, particularly if they are to be writing to, speaking on the telephone with or meeting anyone outside the production team, in which case they must be closely monitored.

## 22 THE ROLE OF THE LEGAL AND COMPLIANCE DEPARTMENT

If your programme raises legal or compliance issues which require advice then a Channel 4 lawyer from the Legal and Compliance Department will be allocated to your programme. The lawyers in that Department advise on all media law issues including libel, contempt and the Official Secrets Act. If you need advice and you don't know who your lawyer is please ask your Commissioning Editor or call the Legal and Compliance Department direct. Channel 4 operates a duty lawyer system for programme advice out of hours. You can get advice from the duty lawyer if your problem is urgent. His or her contact details can be obtained from the Viewer Enquiries Department on the main Channel 4 telephone number.

***If you are unclear about anything in this document please seek advice from your Commissioning Editor and/or, as appropriate, a member of the Channel's Legal and Compliance Department.***

Director of Programmes, Channel 4 Television Corporation  
124 Horseferry Road, London SW1P 2TX

Issued May 1999



## APPENDIX 4

### **stage I and stage II secret filming proformas**

## STAGE I SECRET FILMING PROFORMA

To be typed on production company notepaper

**To** [Commissioning Editor]  
Channel 4 Television  
124 Horseferry Road  
London  
SW1P 2TX

**Cc** [Programme Lawyer], Legal and Compliance Department, Channel 4

**[PROGRAMME TITLE]**

### **APPLICATION FOR STAGE I SECRET FILMING AND/OR RECORDING PERMISSION UNDER SECTION 2.4 ITC PROGRAMME CODE**

DATE OF APPLICATION: *[Insert date]*

NUMBER OF APPLICATION: *[Insert sequential number for your project]*

SUBJECT(S): *[Insert name of individual(s) or organisation(s) to be secretly filmed or recorded including their address, if known]*

BACKGROUND: *[Details of the investigation (eg) An investigation to examine how staff at a funeral parlour are disrespectful to bodies placed in their care]*

EVIDENCE FOR CONCERN: *[Details of past abuses or cause of concern (eg) evidence from former employees; concerns raised by relatives; published reports of industry regulator in which the company is criticised]*

**Continued...**

**... Continued**

YOUR PLANS: [*include cover story (eg) to send a member of the production team undercover to work as a trainee funeral director. This includes his first interview, formal company training in the handling of bodies and on the job training and practice*]

WHY COVERT FILMING/RECORDING IS ESSENTIAL TO ESTABLISH THE CREDIBILITY AND AUTHORITY OF THE STORY: [*Explain why evidence could not be gathered by conventional methods*]

WHY STORY IS ITSELF OF IMPORTANT PUBLIC INTEREST: [*Set out reasons*]

PROPOSED DATE(S) OF FILMING/RECORDING: [*Insert date(s)*]

PROPOSED LIKELY VENUE(S) FOR SECRET FILMING/RECORDING:  
[*Insert venue(s)*]

**Signed** \_\_\_\_\_

**Print your name** \_\_\_\_\_

**Title** \_\_\_\_\_ (eg Producer)

**Date** \_\_\_\_\_

Issued February 1999

STAGE II SECRET FILMING PROFORMA

**Request for Stage II Permission to Broadcast Secretly Filmed or Recorded Material Under Section 2.4 ITC Programme Code**

**Date** \_\_\_\_\_

**To** \_\_\_\_\_ [Director of Programmes]

**Cc** \_\_\_\_\_ [Editorial Head of Department, if applicable]

\_\_\_\_\_ [Head of Legal and Compliance Department]

\_\_\_\_\_ [Lawyer advising on programme, if not Head of Legal and Compliance Department]

**From** \_\_\_\_\_ [Commissioning Editor]

**Re** \_\_\_\_\_ [Name of programme]

---

DATE OF TRANSMISSION:

*[insert date if scheduled]*

BACKGROUND:

*[details of the investigation (eg) an investigation to examine how staff at a funeral parlour are disrespectful of bodies placed in their care]*

SECRETLY FILMED OR RECORDED MATERIAL TO BE BROADCAST:

**(A)** *[list, in chronological order, all Stage I secret filming or recording permissions previously granted highlighting the following in each case:*

*Subject matter of the filming*

*Material filmed*

*Material to be broadcast*

*Copies of each signed and approved Stage I secret filming permission should be attached]*

OR

**(B)** *[If no Stage I approval was sought, (ie) the material was secretly recorded by someone else, explain the nature of the material, who filmed and recorded it, the circumstances, how the programme-makers obtained it and what checks have been made by the programme-makers to establish the veracity of the material]*

**Continued...**

... Continued

WHY THE BROADCAST OF COVERT FILMING/RECORDING IS ESSENTIAL TO ESTABLISH THE CREDIBILITY AND AUTHORITY OF THE STORY:

*[explain why evidence could not be gathered by conventional methods and what wrongdoing it demonstrates or provides evidence of]*

WHY THE STORY IS ITSELF ONE OF IMPORTANT PUBLIC INTEREST:

*[set out reasons – it is not enough to say that it is interesting to the public]*

IS IT INTENDED TO ANONYMISE ANYONE SEEN?

*[If yes, how and why?]*

IS/HAS A RIGHT OF REPLY BEING/BEEEN SOUGHT FROM THE SECRETLY FILMED/RECORDED SUBJECT?

*[If yes, in what form? If no, explain justification for the decision taken]*

ANY OTHER RELEVANT INFORMATION

*[eg) has a complaint been made by the secretly filmed/recorded subject? If yes, provide details including the basis of the complaint and any response]*

**MAKE SURE THIS APPLICATION HAS BEEN APPROVED BY LAWYER ADVISING ON PROGRAMME AND THEN SAY THAT THEY HAVE DONE SO**

Signed \_\_\_\_\_

**FOR DIRECTOR OF PROGRAMMES USE ONLY**

To \_\_\_\_\_ [Commissioning Editor]

cc \_\_\_\_\_ [Editorial Head, if appropriate]

From **Director of Programmes** \_\_\_\_\_

Date \_\_\_\_\_

**PERMISSION GRANTED/NOT GRANTED\***

**Comments:**

\*delete as appropriate



## APPENDIX 5

### **rules of practice and procedure for secret filming and recording for Channel 4 programmes**

## 1 INTRODUCTION

Secret filming and recording are powerful journalistic tools. Material obtained covertly may be the only independent account of the wrongdoing it captures. In the past, secretly filmed or recorded exposés have led to the revision of working practices, changes in the law, the closure of institutions and can even send criminals to prison.

But with power comes responsibility. Covert filming should never be considered just another programme technique and must not be abused. Law-abiding individuals who have done nothing wrong are entitled to have their privacy respected. The right to privacy can only be overridden where the public interest outweighs it.

Channel 4 has drawn up these rules of practice to ensure that the secret filming and recording carried out on our programmes is in accordance with the ITC and BSC Codes and in order to maintain the highest possible journalistic standards.

After transmission, footage obtained covertly may become evidence in a criminal prosecution or in a libel trial. The way in which the footage is obtained must not, therefore, be open to criticism as to its authenticity or for the methods used to obtain it. In addition, Channel 4's reputation depends on a bond of trust with its viewers that what they see is true and justified.

***This document must be copied to all members of your production team and it is the responsibility of the executive producer and the producer to ensure that its provisions are carefully read, understood and adhered to by all the team members.***

*This document refers throughout to secret filming but the rules apply equally to secret **audio** recording for the purpose of broadcast. Secret filming covers not just the use of covert camera technology but also certain situations where the subject does not realise they are being filmed, including when they may believe the camera is switched off.*

## 2 PROCEDURE **BEFORE** UNDERTAKING SECRET FILMING

All secret filming must be approved by Channel 4 *in advance*. This requirement will only be waived in exceptional circumstances. Please tell Channel 4 in good time of any plans to film secretly, preferably at least three working days in advance, so that the approval process is not delayed. Last minute requests run the risk of being rejected if there is no good reason for the delay in submitting them.

You should take the following steps:

- Consider how your proposals will meet the requirements of Section 2.4 of the ITC Programme Code which says that the material acquired through secret filming must be “*essential to establish the credibility or authority*” of a story which must itself be one of “*important public interest*”.
- Discuss your plans with your Commissioning Editor and then with the Channel 4 lawyer advising on your programme. If you do not know who your assigned lawyer is, ask your Commissioning Editor.
- **Make a detailed written request to the Commissioning Editor, copied to the lawyer, setting out your proposals including:**
  - Who will be operating the equipment and who will accompany them?
  - What equipment will be used and where will the secret camera(s) be placed, eg in a jacket or in a bag?
  - The subject(s) of the secret filming
  - The proposed circumstances of the filming
  - The reason you think it complies with the test under Section 2.4 – what evidence is there of wrong doing, why can't the footage be obtained conventionally and why is there a public interest in the story? A public interest is not simply something of interest to the public. Your case must be logically argued
  - What is the proposed cover story of the secret camera person and their companion(s)?
  - What arrangements have been made for their safety, where appropriate?

*An outline pro forma application which you should follow is attached.*

*You must notify Channel 4 in writing, beforehand if possible, of each new secretly filmed encounter even if it is already covered by an existing secret filming approval. Each new request should be numbered sequentially.*

### 3 PROCEDURE FOR OBTAINING APPROVAL AT CHANNEL 4

Your Commissioning Editor will discuss your proposals with the Channel 4 lawyer and with his/her Editorial Head, where appropriate. Once satisfied, the Commissioning Editor will make a written application to the Director of Programmes for approval. You will be told by your Commissioning Editor when approval has been granted or if your application has been turned down. In the latter case you may be required to provide more information.

#### 4 THE RESPONSIBILITIES OF THE PRODUCER ONCE SECRET FILMING HAS BEEN APPROVED BY CHANNEL 4

- There must be set up an adequate logging system for secretly filmed rushes which shows:
  - The date and time of filming
  - The place
  - Who was filmed and who was present with the secret camera person
  - When the rushes were received at the production company
  - When they were viewed by the producer and any other production personnel

*Channel 4 may wish to see rushes and/or accurate transcripts at any time during production, before transmission and after transmission, in the event of any legal or regulatory issue arising. Original secretly filmed rushes and the logging system must be preserved for at least four years from the date of the programme's transmission.*

- Producers are directly responsible for logging and viewing *all* the secretly filmed rushes as soon as reasonably practicable, preferably no later than 24 hours after they are delivered to the production company.
- The Executive Producer, if there is one, is responsible for ensuring that he/she has viewed all necessary secretly filmed rushes, depending on the nature of the project and production personnel.
- The producer (and executive producer where applicable) are responsible for telling the Commissioning Editor and/or the Channel 4 lawyer promptly of any matter of concern of which he/she becomes aware. This includes:
  - Any inappropriate behaviour by the secret cameraperson and/or their companions, for example, any attempt to provoke or improperly entrap the subject(s).
  - Anything which suggests that the footage is not authentic.
  - Any matters which could have a bearing on the direction of the story and the content of the film.
- No further secret filming should take place until the rushes of the previous secret filming have been checked by the producer, unless there is a compelling reason why this can't be done.

## 5 RULES OF CONDUCT FOR SECRET CAMERA OPERATORS

The producer (and executive producer, where applicable) are individually and directly responsible for the conduct of the secret cameraperson and anyone accompanying him/her undercover and for making them aware **before filming commences** that they:

- Must remember that whatever they say once the camera is running may one day be heard by the subject being covertly filmed. They must, therefore, be sensible about what they say and how they behave before and after the filming of the subject.
- Are required to keep a detailed diary of their secret filming and all other meetings/conversations with the subject(s). This will form a contemporaneous record of their dealings with the subject(s) and/or a valuable evidential record if the camera fails.
- Must agree their cover story with the producer beforehand. The level of any deception must be commensurate with the story.

*A secret cameraperson and anyone who accompanies them undercover will usually be playing a role which goes well beyond simple observation. **In the process of interacting with the secretly filmed subject(s) care must be taken to ensure that wherever possible the secret camera operator avoids encouraging conduct which might not have occurred at all but for their intervention.** A careful line must be trodden to avoid a subsequent accusation of improper entrapment.*

*If a subject becomes aware they have been secretly filmed Channel 4 must be notified as soon as reasonably practicable.*

- If any payment is made by the secret cameraperson or their companions to someone secretly filmed this payment should be referred to Channel 4, and, if possible, approved in advance. Such a payment may affect the credibility of that person and we may decide it is necessary to inform viewers about it.

***On no account must a secret cameraperson or anyone undercover construct, reconstruct or otherwise fabricate scenes and pass them off as if they really happened. No filming which could have taken place openly should be passed off as secret. Any scenes which reconstruct or re-enact real events, even with the real people involved, must be clearly labelled in the programme to avoid confusion on the part of the viewer.***

## 6 SUPERVISION OF SECRET FILMING BY THE PRODUCER

- The producer must ensure that:
  - all members of the production team have received a copy of this document and have read and understood its terms.
  - the person secretly filming is able to take on the tasks and responsibilities required of them. He/she must be familiar with the operation of the equipment and the risks involved. The safety of those undercover is paramount.
  - he/she adequately supervises the secret cameraperson throughout the research as well as throughout the undercover operation.
- If the secret cameraperson is not an experienced television journalist, Channel 4 requires, *before filming commences* to see:
  - A police check on whether he or she has any previous convictions, if considered appropriate
  - A detailed CV
  - References, as appropriate
  - A written report on any existing relationship between the secret cameraperson and the proposed subjects of the secret filming

*These must be sent to the Commissioning Editor and Channel 4 lawyer.*

- If it is thought appropriate, even if the secret cameraperson is an experienced television journalist, Channel 4 may well require him or her to undergo a police check on their previous convictions if the undercover operation is likely to involve him/her in the technical commission of a criminal offence, for example buying drugs or handling stolen goods.

*In the event that the journalistic purpose might involve the technical commission of a criminal offence, albeit without criminal intent, early advice should be obtained from the Channel 4 Legal and Compliance Department on the specific procedures which should be followed. A strong public interest case will have to be made out. The physical evidence obtained may well form the basis of a subsequent prosecution of the individuals whose criminality has been exposed.*

## 7 UNDERCOVER IN AN ORGANISATION OR COMPANY

If the secret camera operator or other person going undercover is to be obtaining a position as an employee or similar position in a company or organisation, specific advice must be sought from the Legal and Compliance Department beforehand. In particular, the following rules must be followed:

- Any remuneration received from the company/organisation must be paid into an account set up for that purpose.
- The secret cameraperson must not purport to have qualifications or experience which he/she does not where this might put themselves or others at risk or lead to legal problems.
- Channel 4's Legal and Compliance Department must be consulted before application forms for such positions are filled in.

## 8 PROCEDURE FOR APPROVAL OF THE SECRET FILMING BEFORE TRANSMISSION

Your Commissioning Editor is required to seek prior approval in writing from the Director of Programmes to broadcast material obtained by secret filming. The material for broadcast must satisfy the requirements of Section 2.4 of the ITC Programme Code.

*Other editorial, legal or compliance issues may be raised by the secretly filmed material. These will be discussed with you at rough and fine cut viewings.*

## 9 AFTER TRANSMISSION

- If the secret filming has revealed the commission of a criminal offence by the subject(s) of the secret filming, Channel 4 will generally volunteer the secret filmed footage and other materials to the prosecuting authorities.
- In these circumstances, it will usually be necessary for the police or other prosecuting authority to interview the secret camera operator about the methods they used. In addition to the diary he/she is required to keep, the secret camera operator should be made aware that their notes and other records may be considered relevant and that they will be a pivotal witness in any subsequent prosecution.

- In the event of legal proceedings or regulatory issues arising after transmission all rushes and other material will be central to our defence and so may be disclosed to the Plaintiff, in the case of legal proceedings, or to the complainant in the case of a regulatory issue, and the regulator itself.

***If you are in any doubt about anything in this document or require advice please contact your Commissioning Editor or Channel 4 lawyer, as appropriate.***

*If you need urgent legal advice out of office hours a member of the Legal and Compliance Department is always available on mobile or pager – contact the Viewer Enquiries Department on the Channel 4 main number for the duty lawyer details.*

Legal and Compliance Department, Channel 4 Television  
124 Horseferry Road, London SW1P 2TX

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## APPENDIX 6

### **editorial, legal and compliance procedures for live programmes**

Every live programme will be different, but these points must be considered and applied as appropriate in each case:

## 1 COMPLIANCE

- 1.1 The appropriate members of the production team, including researchers and, if necessary, presenter(s) must be **adequately briefed** by a member of the Legal and Compliance Department on the **regulatory issues and areas of law** relevant to the programme/series. If appropriate, this should be achieved by means of a seminar before the programme/series goes on air set up by the Commissioning Editor responsible for the programme/series who must be present.
- 1.2 **Briefing notes** should be prepared, if appropriate, in liaison with the Commissioning Editor, summarising advice given and as an aide memoire. The briefing notes should set out the **procedures for compliance** both before transmission and during transmission. This must include any necessary briefing of guests by the production company of the ITC Programme Code requirements for the particular programme/series given its nature and time of broadcast, eg briefing contributors (including bands) not to use inappropriate language pre-watershed.
- 1.3 The **written compliance procedures** must provide, inter alia, for the provision of necessary information by the production company to Channel 4 legal and editorial representatives before the recording on the proposed guests, subjects for discussion and other proposed content of each programme. Song lyrics must be checked beforehand for suitability for the time of broadcast. Phone-in shows will require careful procedures for screening calls from the public.
- 1.4 Copies of the Channel 4 Compliance Manual and the ITC Programme Code itself should be circulated to the production team.
- 1.5 The **Apologies Procedure** set out in point (2) below must be circulated to all key Channel 4 personnel and the procedures should be explained to the production company by the Commissioning Editor.

## 2 APOLOGIES PROCEDURE

Each incident will be different so hard and fast rules would not be practical. These guidelines were introduced following an extremely offensive remark made on *The Word* for which the ITC subsequently directed Channel 4 to apologise on air.

- 2.1 On the advice of the Channel 4 lawyer, **any potential libel problem** should be dealt with immediately. This may include a statement distancing the programme and Channel 4 from a libellous remark and apologising if necessary. The presenters must not make any further reference to the libellous remark in the programme.
- 2.2 If **an inappropriately offensive or tasteless remark** is made the presenter should attempt to diffuse the situation and distance the programme and Channel 4 from the remark. He or she should endeavour to apologise to viewers immediately. In the heat of the moment with a difficult guest this can be risky and should only be done if it is felt it will not cause further problems.
- 2.3 In the event of the use of **very strong language** (the 'f' - word, 'c' - word or their derivatives **pre-watershed**) an on-air apology must be made by the presenter at the earliest opportunity. Consideration must be given by the Commissioning Editor and lawyer to whether a **further apology** by Presentation at the end of the programme is appropriate. If the presenter has failed to apologise, or the opportunity has passed, there must be a Presentation apology immediately after the programme.
- 2.4 If the Commissioning Editor and the lawyer consider that an **on-air apology at the end of the programme** is appropriate (under either of the above scenarios), if practical, they should telephone the relevant Editorial Head, or, if unavailable, Channel 4 Duty Executive and discuss the options. If none of these individuals can be contacted or the time does not permit, the Commissioning Editor and lawyer acting together can authorise an apology. The Director of Programmes and the Duty Executive should be informed by the Commissioning Editor that this has happened as soon as reasonably practicable.
- 2.5 **If it is agreed that there should be an apology** then Presentation should make a simple apology directly following the transmission (see *Editorial, Legal and Compliance Guide for Presentation* which includes suggested wording).
- 2.6 An offensive or libellous remark which caused concern on transmission should be cut from any **repeat** or an entry made on the PIRATE system alerting users that the programme cannot be repeated or the need for an edit if it is.

### 3 EDITORIAL

- 3.1 All Commissioning Editors should take advice from a member of the Legal and Compliance Department **at an early stage** when commissioning a live programme or series so that the necessary arrangements can be made.
- 3.2 The Commissioning Editor should be involved in the discussion and drafting of any compliance procedures (See 1.2 and 1.3 above) and attend any compliance seminar arranged.
- 3.3 The Commissioning Editor must ensure that **the presenters** are equipped to handle the particular demands of the live show they are presenting.
- 3.4 The Commissioning Editor should ensure that any particularly difficult items, subjects or guests are **referred up** in advance to their Editorial Head and/or, if appropriate, to the Director of Programmes.
- 3.5 A Commissioning Editor or a Deputy Commissioning Editor must be **present** at all live recordings, or in exceptional circumstances, must view the programme as it is broadcast and be available on a designated telephone link to the producer, the Channel 4 duty lawyer and Presentation. The only exception to these requirements is the coverage of live sports events, including Channel 4 Racing.
- 3.6 The Commissioning Editor must ensure there is **effective communication** between the producer, the lawyer (if one is in attendance), the Commissioning Editor and the studio floor to deal with any problem. If the presenter will not be wearing an earpiece, another system must be set up.
- 3.7 If a serious incident arises during a live broadcast, eg the 'f' word is broadcast before the watershed, the Commissioning Editor must as soon as reasonable possible, and within 24 hours, debrief the programme makers and **write up a full report** of the incident for their Editorial Head, the Director of Programmes and the lawyer advising on the programme.
- 3.8 *Please note that the Channel 4 Board has undertaken to the ITC that Shaun Ryder will not appear live on Channel 4.*

## 4 LEGAL

- 4.1 The Legal and Compliance Department will decide whether the programme requires a lawyer present at the recording or on a designated telephone link or for there simply to be access to the duty lawyer in an emergency. They will inform the Commissioning Editor and programme-makers of the arrangements to be made and provide contact numbers, if appropriate.
- 4.2 The Commissioning Editor must ensure the programme-makers have **adequate facilities** for the lawyer to see and hear the live programme, if one is in attendance.

## 5 CONTRACTUAL ARRANGEMENTS

- 5.1 The Legal and Compliance Department may decide it is appropriate for the production agreement to contain a 'reverse indemnity' (which puts positive obligations on the production company to provide information to Channel 4 about the content of the recording and to comply with our instructions before and during the live recording).
- 5.2 In such cases the clause must be agreed with the programme-makers separately before the programme goes on air, even if the contract is unsigned.

## 6 E & O INSURANCE

The Head of Legal and Compliance, who administers Channel 4's Broadcasters' Errors and Omissions Policy (which covers civil claims like libel) will:

- 6.1 Decide if it is necessary for a separate producer's policy to be purchased.
- 6.2 Ensure that Channel 4's insurers are aware of the series and that the arrangements for legalling it are consistent with the requirements of the Channel's current policy.

Legal and Compliance Department  
Channel 4 Television Corporation

Issued April 1999



## APPENDIX 7

### **request to broadcast strong language**

**To** Director of Programmes

**cc** \_\_\_\_\_ [Editorial Head, if appropriate]  
 \_\_\_\_\_ [Lawyer, if appropriate]

**From** \_\_\_\_\_ [Commissioning Editor]

**Date** \_\_\_\_\_

TITLE OF PROGRAMME \_\_\_\_\_

NATURE OF PROGRAMME \_\_\_\_\_

TIME AND DATE OF BROADCAST \_\_\_\_\_

DURATION \_\_\_\_\_

IS THE PROGRAMME A REPEAT? YES/NO\* (\*delete as appropriate)

[NB. If 'Yes', it should have been rechecked for general suitability]

WHAT TIME WAS IT ORIGINALLY BROADCAST? \_\_\_\_\_

Time Code	Strong Language eg fuck, cunt or their derivatives	Context Who says it? Is it used aggressively? Swearword or descriptive term?

# Continue on separate sheet if necessary

**NB. Only instances of the words 'fuck', 'cunt' and their derivatives need be included in this memorandum. These words should NEVER be broadcast BEFORE 9pm.**

Continued...

... Continued

JUSTIFICATION FOR BROADCAST

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IS AN ON-AIR LANGUAGE WARNING NECESSARY? YES/NO\*

IS A WARNING REQUIRED FOR ANY OTHER REASON? YES/NO\*  
(E.G. VIOLENCE, SEX)

PROPOSED WARNING

e.g. 'This programme contains strong language'; 'This programme contains scenes of violence and very strong language from the outset and throughout':

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Signed \_\_\_\_\_

Date \_\_\_\_\_

**For Director of Programmes Use Only**

To \_\_\_\_\_ (Commissioning Editor)

cc \_\_\_\_\_ (Editorial Head, if appropriate)

\_\_\_\_\_ (Lawyer, if appropriate)

From Director of Programmes \_\_\_\_\_

Date \_\_\_\_\_

**PERMISSION GRANTED/NOT GRANTED\***

**Comments**

\*delete as appropriate

Issued March 1999

