

# Reporting Crime and Anti-Social Behaviour



**08**

**8.1** *(p.150)*

## **Introduction**

**8.2** *(p.151)*

## **Mandatory Referrals**

## 8.3 (p. 155)

# Guidelines

- Reporting Crime
- Impact on Victims
- Reconstructions
- Reporting Police and Regulatory Investigations
- Court Reporting and Covering Trials
- Dealing with Criminals and Perpetrators of Anti-Social Behaviour
- Payments
- Interviews with Prisoners
- Paedophiles and Other Sex Offenders
- Disguising Identities
- Children and Young People
- Dealing with Witnesses and Victims of Crime
- Investigations into Crime and Anti-Social Behaviour
- Untransmitted and Unused Material from Discontinued Investigations



## 8.1 Introduction

The BBC reports crime and anti-social behaviour as a matter of public interest. Our coverage is aimed at giving audiences the facts in their context and reflects our right to freedom of expression and the audience's right to receive information and ideas<sup>1</sup>.

The BBC will also reflect the work of the agencies which fight crime, examine the nature of criminality, and report on its causes and consequences.

Some of this output is likely to require production methods that carry risks and we must weigh them up, and ensure we act proportionately, so that we observe appropriate standards of behaviour, consider the consequences of our actions and avoid obstructing the work of the authorities.

This output is also likely to involve contributions from, or contact with, people who have engaged in criminal or anti-social acts. We must ensure that we do not glamorise, condone or encourage criminal behaviour. We must seek to balance the public interest<sup>2</sup> in reporting crime with respect for the privacy and dignity of victims and their families. We should ensure our reporting does not add to people's fear of becoming victims of crime if statistics suggest it is very unlikely.

Material likely to encourage or incite the commission of crime, or lead to disorder, must not be included in our services. There will be times when it is in the public interest to include extreme or challenging views. On those occasions, we must provide sufficient context and/or challenge to those views. Context includes the editorial purpose of the output. Detailed descriptions or demonstrations of criminal techniques which could enable the commission of illegality should not be included unless editorially justified.

1 The sections of the Ofcom Broadcasting Code that relate to this are 3: Crime, Disorder, Hatred and Abuse and 8: Privacy.

2 See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

Investigations into crime or anti-social behaviour, which involve deception and/or intrusion, must be editorially justified and proportionate to the wrongdoing they seek to expose.

We must ensure that material which contains hate speech is not included in our output without editorial justification.

See Section 5 Harm and Offence: 5.3.38

## 8.2 Mandatory Referrals

*(Mandatory Referrals are part of the BBC's editorial management system. They are an essential part of the process to ensure compliance and must be observed.)*

### Referrals to Director Editorial Policy and Standards

---

**8.2.1** Material likely to encourage or incite the commission of crime, or lead to disorder, must not be included in our services. Any proposal to broadcast content which risks inciting crime or disorder must be referred to Director Editorial Policy and Standards.

See 8.3.1

**8.2.2** When investigating criminal activity we may want to record a specific crime or the planning of a specific crime. Where that might raise questions about our relationship with the criminal or involves witnessing serious criminal activity, it must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor, and to both Director Editorial Policy and Standards and Programme Legal Advice.

See 8.3.4

**8.2.3** Any proposal to interview a criminal active in, or wanted in, the UK must be referred to Director Editorial Policy and Standards.

See 8.3.14



- 8.2.4** Any proposal to contact or interview escaped prisoners or others wanted by the police must be referred to Director Editorial Policy and Standards and must be referred to Programme Legal Advice.  
See 8.3.17
- 8.2.5** Any proposal to pay a fee or to make a payment in kind to criminals, former criminals, their families or their associates (directly or indirectly) for interviews or other contributions relating to their crimes, must be referred to Director Editorial Policy and Standards.  
See 8.3.19
- 8.2.6** Any proposal to make payments to anyone who may not have committed a crime but whose behaviour is clearly anti-social, for interviews or other contributions about their behaviour, including payments in kind, must be referred to Director Editorial Policy and Standards.  
See 8.3.20
- 8.2.7** Any proposal to enter a UK prison without permission to conduct an interview with a prisoner must be referred to Director Editorial Policy and Standards.  
See 8.3.21
- 8.2.8** Any proposal to put the name of a convicted paedophile or other sex offender into the public domain, when their name has not been made publicly available by the police, or to broadcast pictures of them, must be referred to Director Editorial Policy and Standards.  
See 8.3.26
- 8.2.9** Any proposal to grant anonymity to someone seeking to evade UK law, where there is an ongoing investigation, must be referred to Director Editorial Policy and Standards.  
See 8.3.30

- 8.2.10** Any proposal to pay a witness or potential witness in a trial must be referred to Director Editorial Policy and Standards and Programme Legal Advice.  
See 8.3.36
- 8.2.11** Director Editorial Policy and Standards must approve any proposal to employ someone known to have a criminal record or background of illegal activity to work on a BBC investigation.  
See 8.3.42
- 8.2.12** Any intention to supply material of any sort from a discontinued investigation to the police or any other third party must be referred to Director Editorial Policy and Standards and to Programme Legal Advice.  
See 8.3.47

## Other Referrals

---

- 8.2.13** Any proposal, in the public interest, to record the illegal harming of animals by third parties, for the purpose of gathering evidence or to illustrate malpractice or cruel, anti-social or controversial behaviour, must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor.  
See 8.3.6
- 8.2.14** When considering whether to identify a child or young person with a Criminal Behaviour Order or involved in court proceedings, Programme Legal Advice must be consulted.  
See 8.3.13 and 8.3.32
- 8.2.15** Any proposal to interview an active criminal or person wanted anywhere outside the UK must be referred to Editorial Policy.  
See 8.3.18

- 8.2.16** Any proposal to enter an overseas prison without permission to conduct an interview with a prisoner must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may consult Director Editorial Policy and Standards. If approved, the relevant international bureau should normally be informed and Programme Legal Advice consulted.  
See 8.3.22
- 8.2.17** Any proposal to invite a prisoner to initiate a call for broadcast purposes from a public or mobile telephone in prison or to broadcast an unsolicited, pre-recorded call from a prisoner which was not referred before it was recorded, must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may consult Director Editorial Policy and Standards.  
See 8.3.23
- 8.2.18** Any proposal to interview a witness about their evidence once court proceedings are under way, must be referred to Programme Legal Advice and Editorial Policy.  
See 8.3.33
- 8.2.19** Any proposal to undertake an investigation into crime or serious anti-social behaviour must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor. Editorial Policy and Programme Legal Advice should normally be consulted.  
See 8.3.39
- 8.2.20** Any proposal to send someone to work as an undercover operative on an investigation into crime or serious anti-social behaviour must be referred to Editorial Policy.  
See 8.3.40

**8.2.21** Editorial Policy must be consulted about job applications by undercover operatives working on BBC investigations.

See 8.3.43

**8.2.22** Before commencing investigations into serious criminality involving covert surveillance or recording of, and/or contacting people suspected of, acts of terror, serious criminal or extremist acts or violent groups, BBC Safety's High Risk Team must be consulted. Editorial Policy and Programme Legal Advice must also be consulted.

See 8.3.44

## 8.3 Guidelines

### Reporting Crime

---

#### 8.3.1 **Material Likely to Encourage or Incite Crime**

**Material likely to encourage or incite the commission of crime, or lead to disorder, must not be included in our services. Any proposal to broadcast content which risks inciting crime or disorder must be referred to Director Editorial Policy and Standards.**

Material may include:

- content which directly or indirectly amounts to a call to criminal action or disorder
- content promoting or encouraging engagement in terrorism or other forms of criminal activity or disorder
- hate speech which is likely to encourage criminal activity or lead to disorder.

There will be times when it is in the public interest<sup>3</sup> to include extreme or challenging views, particularly in news and current affairs output. In considering

<sup>3</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

whether such output is ‘likely’ to encourage or incite crime or disorder, the relevant factors include:

- whether the output includes direct or indirect calls to action
- whether there is sufficient context and/or challenge to those views
- the editorial purpose of the output

See Section 5 Harm and Offence: 5.1

- the nature and seriousness of the behaviour being incited
- the status or position of anyone featured in the output
- whether the output is scheduled to be broadcast before the watershed or when children and young people are likely to be in the audience
- whether there are significant freedom of speech considerations that justify the broadcast.

### 8.3.2

In cases where potential law-breaking or civil disobedience form part of a current news story or public policy debate, editors must consider both their responsibility to reflect the debate or events fully and accurately and their obligation not to broadcast material likely to encourage or incite crime. Context and explanation will be critical.

The recording and broadcasting of criminal activity will not normally amount to encouragement or incitement, unless it reveals imitable detail. However, we should take care that criminal acts are not condoned or glamorised.

Direct calls or provocation to audiences to commit criminal acts should be challenged.

Illegal activities such as drug use should not be portrayed as problem-free or glamorous. It may be appropriate to reflect the negative consequences of such activities, over and above the fact they are illegal.

See Section 5 Harm and Offence: 5.3.41-5.3.44

### 8.3.3

#### Hate speech

We must ensure that material which contains hate speech is not included in our output unless it is justified by the context. Broadcasting hate speech can constitute a criminal offence if it is intended or likely to stir up hatred relating to race, religious belief or lack of religious belief or sexual orientation.

Further advice is available from Programme Legal Advice. The situation may differ in Scotland and advice is available from the Legal Director, Scotland.

See Section 5 Harm and Offence: 5.3.38  
and Section 4 Impartiality: 4.3.14

### 8.3.4

#### Witnessing and Depicting Illegal Activity

**When investigating criminal activity we may want to record a specific crime or the planning of a specific crime. Where that might raise questions about our relationship with the criminal or involves witnessing serious criminal activity, it must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor, and to both Director Editorial Policy and Standards and Programme Legal Advice. Approval to be present at, or record, serious illegal activity will be given only if it is clearly in the public interest<sup>4</sup>. Even then we must avoid:**

- condoning or glamorising criminal behaviour
- encouraging or provoking behaviour which would not otherwise have occurred
- directing the activity in any way.

Anyone admitting to or carrying out an illegal act could be prosecuted. Our research notes, diaries, emails, electronic communications and other paperwork as well as untransmitted rushes, may be obtained by the police using a court order. This material may also

<sup>4</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

have to be disclosed as evidence to a court, tribunal or inquest. Care should be taken to ensure that the identities of any confidential sources are protected and do not appear in any notes that might become the subject of a court order.

See Section 6 Fairness to Contributors and Consent: 6.3.26-6.3.30, Section 13 Re-use, Reversioning and Permanent Availability: 13.3.29-13.3.35, Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.39-8.3.46, and Section 11 War, Terror and Emergencies: 11.3.9-11.3.11

**8.3.5** We should not normally demonstrate or depict criminal techniques, because of the risk of imitation. Where we have editorial justification to show this material, we should still avoid revealing detail that could enable the commission of illegal activity or the ways in which it can be made more effective.

**8.3.6** **There may be times when in the public interest<sup>5</sup> we may be justified in recording the illegal harming of animals by third parties, for the purpose of gathering evidence or to illustrate malpractice or cruel, anti-social or controversial behaviour. Any proposal to do so must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor.**

See Section 5 Harm and Offence: 5.3.31

## Impact on Victims

---

**8.3.7** When we interview those responsible for crime/anti-social behaviour or reconstruct/dramatise past events, it may cause distress to victims and/or their relatives. We should, as far as is reasonably practicable, contact surviving victims, and/or the immediate relatives of the deceased and advise them of our plans. If it is necessary to use an intermediary, such as the police

<sup>5</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

or social services, it is still our responsibility to check that the victims and/or immediate relatives have been informed and have the necessary details to contact us.

See Section 7 Privacy: 7.3.46

**8.3.8** Reporting the facts about criminals may include detailing their family circumstances, but we should avoid causing unwarranted distress to these families. Nor should we imply guilt by association without evidence.

**8.3.9** When we report historic crime, consideration should be given to the possibility that some of those involved – offenders, suspects, witnesses, relatives or victims – may have changed their names or addresses in order to re-establish their lives. Should that be the case, the extent to which we identify them or their new whereabouts should be given particularly careful thought.

**8.3.10** We should consider the impact our reporting of crime may have on our audiences. We must take care not to add to people's fears of becoming victims of crime if, statistically, this is very unlikely.

See Guidance online: Reporting Statistics

## Reconstructions

---

**8.3.11** News programmes may report crime reconstructions staged by the police to gather evidence. They should not normally commission crime reconstructions themselves except for use at the conclusion of a trial or for reporting historic cases. Revisiting the scene of a crime and/or interviewing a victim or witness does not constitute a reconstruction.

See Section 3 Accuracy: 3.3.24



## Reporting Police and Regulatory Investigations

---

**8.3.12** Careful thought must be given in the early stages of a criminal or regulatory investigation as to whether there is justification for naming a suspect under investigation before charges – or their equivalent – are brought. Programme Legal Advice and Editorial Policy should normally be consulted.

See Section 7 Privacy: 7.1

## Court Reporting and Covering Trials

---

**8.3.13** Reporting restrictions cover preliminary proceedings in magistrates' courts and Crown Courts in England and Wales so that normally only basic details can be reported. Reporting restrictions cover all proceedings in Youth Courts to protect the identity of any under-18s involved. We must not identify any child as being the subject of ongoing proceedings in family law cases (which includes, for example, care proceedings). Courts may also pass orders limiting what can be reported in a particular case. Particular care is needed to avoid the identification of victims in prosecutions for sexual abuse within the family.

See Section 6 Fairness to Contributors and Consent: 6.3.31

Reports of court proceedings must be fair and accurate. Unfairness may occur if we fail to report both the prosecution and defence cases. Having started covering court proceedings, we must report the verdict. If we are able and wish to cover a trial live on social media we must consistently cover the prosecution and defence case or only cover the verdict. Advice is available from Programme Legal Advice.

**When considering whether to identify a child or young person with a Criminal Behaviour Order or involved in court proceedings, Programme Legal Advice must be consulted.**

The situation may differ in Scotland and advice is available from the Legal Director, Scotland.

See Section 9 Children and Young People as Contributors: 9.3.24 and Section 18 The Law: 18.4.3

## Dealing with Criminals and Perpetrators of Anti-Social Behaviour

---

### 8.3.14

#### Interviews

**Any proposal to interview a criminal active in, or wanted in, the UK must be referred to Director Editorial Policy and Standards.** Interviews should only proceed if they are editorially justified, for example, in eliciting important information or insight.

### 8.3.15

When interviewing criminals, care must be taken to minimise the potential distress this may cause to victims of the crime or their relatives.

See Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.7-8.3.9 and Section 7 Privacy: 7.3.41-7.3.42

### 8.3.16

Interviews with active or convicted criminals must not glamorise wrongdoing, celebrate the flouting of the judicial process or reveal details that would enable a crime to be copied.

See Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.4-8.3.6

### 8.3.17

Contact with escaped prisoners or people wanted by the police may constitute a criminal offence. **Any proposal to contact or interview such people must be referred to Director Editorial Policy and Standards and must be referred to Programme Legal Advice.**

### 8.3.18

Internationally, there are different definitions of crime and a criminal. In some countries, for example, political dissidents and activists are defined as

criminals, but interviews with them can be important in providing a full understanding of events. For others, we should apply the same principles as in the UK.

**Any proposal to interview an active criminal or person wanted anywhere outside the UK must be referred to Editorial Policy.**

## Payments

---

### 8.3.19

The BBC does not normally make payments, promise to make payments or make payments in kind, whether directly or indirectly (such as through fixers or intermediaries), to criminals, or to former criminals, who are simply talking about their crimes. In general the same should apply to families or relatives of criminals or former criminals. This is to protect our reputation, and the credibility of our interviewees and sources, as well as respecting the sensitivities of the victims of crime.

**Any proposal to pay a fee or to make a payment in kind to criminals, former criminals, their families or their associates (directly or indirectly) for interviews or other contributions relating to their crimes, must be referred to Director Editorial Policy and Standards.** A fee should only be paid for a contribution that is of clear public interest<sup>6</sup> and which could not have been obtained otherwise.

It may be appropriate to reimburse expenditure or loss of earnings incurred during the making of a contribution. Note that this is not intended to inhibit the rehabilitation of criminals or prevent payment to people with a criminal conviction who are making a contribution not about their crime.

### 8.3.20

People who may not have committed a crime but whose behaviour is clearly anti-social must not normally be paid a fee or a payment in kind for interviews or other

<sup>6</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

contributions about their behaviour. **Any proposal to make such payments, including payments in kind, must be referred to Director Editorial Policy and Standards.**

## Interviews with Prisoners

---

### 8.3.21

Prior to visiting a UK prison and conducting an interview with a prisoner for broadcast, content producers should normally seek permission from the UK prison authorities.

**Any proposal to enter a UK prison without permission to conduct an interview with a prisoner must be referred to Director Editorial Policy and Standards.**

### 8.3.22

Prior to visiting an overseas prison and conducting an interview with a prisoner for broadcast we should normally ask permission from the prison authorities.

**Any proposal to enter an overseas prison without permission to conduct an interview with a prisoner must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may consult Director Editorial Policy and Standards. If approved, the relevant international bureau should normally be informed and Programme Legal Advice consulted.**

### 8.3.23

Prisoners may have access to public telephones and mobile phones, though their use may be restricted by prison rules. We would not normally broadcast live phone calls from prisoners without prior referral unless there is a strong editorial justification.

**The following proposals for phone interviews must be referred to a senior editorial figure,**

or for independent production companies to the commissioning editor, who may consult Director Editorial Policy and Standards:

- inviting a prisoner to initiate a call for broadcast purposes from a public or mobile telephone in prison
- broadcasting an unsolicited, pre-recorded call from a prisoner which was not referred before it was recorded.

See Section 6 Fairness to Contributors and Consent: 6.3.1-6.3.2

### 8.3.24

In the case of prisoners convicted of serious crimes, particularly violent crimes, producers must consider how they can minimise distress to the victim or victim's family.

See Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.7-8.3.9 and Section 7 Privacy: 7.3.41-7.3.43

## Paedophiles and Other Sex Offenders

---

### 8.3.25

When paedophiles and other sex offenders have been released back into the community, there may be local sensitivities. We should report such matters where there is a public interest<sup>7</sup> while trying to avoid the following possible consequences:

- incitement or facilitation of vigilante action
- mistaken identity
- driving the offender underground away from supervision where he or she is far more likely to reoffend
- negative impact on the victims and their families, or the family of the offender
- unjustified infringement of an offender's privacy.

### 8.3.26

The BBC will normally only consider broadcasting the names or pictures of paedophiles or sex offenders

<sup>7</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

who have served their sentences and been released from prison where the police have made these details public. Publication by other media is not a sufficient justification in itself.

**Any proposal to put the name of a convicted paedophile or other sex offender into the public domain, when their name has not been made publicly available by the police, or to broadcast pictures of them, must be referred to Director Editorial Policy and Standards.**

### 8.3.27

When reporting on paedophiles and other sex offenders or when exposing potential paedophiles or sex offenders it is normally reasonable to name the town or city where they live. However, we should generally avoid giving information that could reveal their exact location. We should also consider consulting with the relevant police force if we intend to reveal their location or show a picture, to enable the police to address management issues in relation to the victim, the victim's family, the offender and the offender's family.

### 8.3.28

Interviews with paedophiles or other sex offenders must have strong editorial justification. Care should be taken to minimise potential distress an interview may cause to their victims or victims' families. Any proposal to interview a paedophile or other sex offender who has been convicted of serious offences, in prison or on release from prison, should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Director Editorial Policy and Standards.

See Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.7 and Section 7 Privacy: 7.3.41-7.3.42

## Disguising Identities

---

### 8.3.29

When someone in our output is involved in criminal or anti-social behaviour the BBC will normally reveal their identity. However, there may be circumstances when it is acceptable to disguise identities. These include:

- legal reasons, such as possible contempt of court or defamation
- protecting a source or sources
- safety reasons, either in the UK or abroad
- a situation where the consequences of public identification would risk being disproportionate to the wrongdoing
- where we are exposing anti-social or criminal practice but the individuals involved are simply illustrative of the behaviour, for example when secretly filming for consumer or social research
- where we are exposing anti-social or criminal practice but the individuals involved are not sufficiently culpable or responsible for their actions
- where the contribution is of clear public interest in terms of the insight given and could not be obtained without disguising the contributor's identity
- where content is being re-used and the passage of time makes re-identification disproportionate.

See Section 6 Fairness to Contributors and Consent: 6.3.26-6.3.30  
See Guidance online: Re-use of Factual Content Featuring Illegal or Anti-Social Behaviour

### 8.3.30

**Any proposal to grant anonymity to someone seeking to evade UK law, where there is an ongoing investigation, must be referred to Director Editorial Policy and Standards.**  
Programme Legal Advice should normally be consulted.

## Children and Young People

---

### 8.3.31

A strong editorial justification is required for the broadcast of material related to the identity of anyone under 18 who is involved as a potential defendant in a court case before proceedings are commenced. There may also be legal restrictions once proceedings are active. Where there are active proceedings Programme Legal Advice must be consulted.

### 8.3.32

When considering whether or not to identify under-18s involved in anti-social or criminal behaviour, we should balance the consequences of identification, their age, and the seriousness of their behaviour against the public interest<sup>8</sup> in identification and our freedom of speech. However, we should not normally identify under-18s when featuring such behaviour simply to illustrate a practice.

See Section 9 Children and Young People as Contributors: 9.3.24

**When considering whether to identify a child or young person with a Criminal Behaviour Order or involved in court proceedings, Programme Legal Advice must be consulted.**

## Dealing with Witnesses and Victims of Crime

---

### 8.3.33

#### Interviews

**Any proposal to interview a witness about their evidence once court proceedings are under way, must be referred to Programme Legal Advice and Editorial Policy.**

We must be scrupulous about our interviews with witnesses, both in the UK and overseas, to ensure that we do not interfere in the legal process. When conducting news interviews with people who have recently witnessed a crime we should be aware of

<sup>8</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.



the possibility of contempt of court if proceedings are imminent or are active. By interviewing a witness, we may be considered to be coaching them prior to their appearance in court. There is a risk we will give them information they do not have and a risk that any material we gather could be required by the court. Note that witnesses could include defendants and victims. Witnesses should not normally be interviewed about their evidence once proceedings are under way and until the verdict has been reached. Witnesses sometimes claim to have been coached by a journalist. To protect ourselves against any unfair accusation and, with the knowledge of the interviewee, we should record and keep the entirety of the material.

### 8.3.34

#### Payments

Witnesses, or anyone who may reasonably be expected to be called as a witness during active criminal proceedings, must not be paid, or promised a payment, directly or indirectly (such as through fixers or intermediaries), for their story. No payment should be suggested or made dependent on the outcome of the trial. Only actual expenditure or loss of earnings necessarily incurred during the making of a contribution may be reimbursed.

### 8.3.35

People who might reasonably be expected to be witnesses where criminal proceedings are likely and foreseeable should not be paid for their story unless there is a clear public interest<sup>9</sup>, such as the investigation of a crime or serious wrongdoing, and the payment is necessary to elicit the information. Where such a payment is made it will be appropriate to disclose the payment to both defence and prosecution if the person becomes a witness in any subsequent trial.

<sup>9</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

**8.3.36** Any proposal to pay a witness or potential witness in a trial must be referred to Director Editorial Policy and Standards and Programme Legal Advice.

**8.3.37** **Disguising Identities of Witnesses and Victims of Crime**

There may be legal reasons why the identities of people involved in a trial may not be reported. If it is necessary to protect the identity of crime victims and witnesses, anonymity normally means no name, no address, no photograph, or any other clue as to identity.

We should also take care not to identify people indirectly by what is known as a 'jigsaw effect'. This occurs when separate reports, which could be in different media, give different details of a case which, when pieced together, reveal the identity of the person involved. The risk is at its highest when reporting sexual crime within the family. For example, we should take care not to refer to incest where someone might be identified as the victim. In such cases, incest should be described as a 'serious sexual offence'.

See Section 6 Fairness to Contributors and Consent: 6.3.26-6.3.30 and Section 18 The Law: 18.4.2

**8.3.38** **Children and Young People Who Are Witnesses or Victims of Crime**

We must take care when dealing with anyone under 18 involved as a witness or victim, when reporting an investigation into an alleged criminal offence in the UK. We must make judgements about their vulnerability before revealing their name, address, school or other educational establishment, how they are identified on social media, place of work, or any still or moving picture of them.

See Section 9 Children and Young People as Contributors

If criminal proceedings follow, there are likely to be legal restrictions surrounding the publication of

information leading to the identity of anyone under 18 who is a witness or a victim. For further information contact Programme Legal Advice. There are separate legal considerations in Scotland. Advice is available from the Legal Director, Scotland.

## Investigations into Crime and Anti-Social Behaviour

---

### 8.3.39

Investigations are an important way of uncovering matters of significant public interest<sup>10</sup>, but must be editorially justified.

**Any proposal to undertake an investigation into crime or serious anti-social behaviour must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor. Editorial Policy and Programme Legal Advice should normally be consulted.**

### 8.3.40

**Any proposal to send someone to work as an undercover operative on an investigation into crime or serious anti-social behaviour must be referred to Editorial Policy.**

### 8.3.41

It is good practice before an investigation is commissioned and before seeking editorial approval and legal advice, to consider the following questions:

- what is the justification for using any deception, undercover work or secret recording to gather further evidence?
- is this the only way to proceed?
- what prima facie evidence already exists?
- what is the background and motivation of any sources?

<sup>10</sup> See Section 1 The BBC's Editorial Standards: 1.3 The Public Interest.

- are any of the sources confidential and can their confidentiality be maintained?
- what are the possible consequences of our actions?

See Section 7 Privacy: 7.1 and 7.3.10-7.3.16 and Section 8 Reporting Crime and Anti-Social Behaviour: 8.3.4-8.3.6

### 8.3.42

**Director Editorial Policy and Standards must approve any proposal to employ someone known to have a criminal record or background of illegal activity to work on a BBC investigation.** This includes editorial members of the production team and undercover operatives.

### 8.3.43

**Editorial Policy must be consulted about job applications by undercover operatives working on BBC investigations.** The use of false information on a job application should normally be kept to the minimum necessary.

See Guidance online: Investigations

### 8.3.44

**Before commencing investigations into serious criminality involving covert surveillance or recording of, and/or contacting people suspected of, acts of terror, serious criminal or extremist acts or violent groups, BBC Safety's High Risk Team must be consulted. Editorial Policy and Programme Legal Advice must also be consulted.**

See Section 11 War, Terror and Emergencies: 11.3.22

### 8.3.45

During the investigation, the methods used (including any secret recording, undercover work or other deception) must be kept under constant review to ensure they continue to be justified and relevant.

See Section 7 Privacy: 7.3.10-7.3.16

### 8.3.46

If an investigation is successful the BBC's involvement may continue far beyond the original broadcast. The police or prosecuting authorities may wish to interview members of the investigating team, including undercover operatives, about our methods and findings. Members of the team may be called as witnesses in a prosecution. It is important to ensure that our editorial justification and methods used during the investigation can withstand scrutiny.

See Section 13 Re-use, Reversioning and Permanent Availability: 13.3.29-13.3.35

See Guidance online: Investigations

## Untransmitted and Unused Material from Discontinued Investigations

---

### 8.3.47

Occasionally circumstances will arise in which allegations or evidence of illegal behaviour are discovered in the course of an investigation which is not broadcast. Editorial managers should normally consider whether material suggesting serious breaches of the law should be made available to the police or to any other appropriate authority. Director Editorial Policy and Standards must be consulted. We must never agree to provide access to unused material if it contains information that identifies a confidential source. **Any intention to supply material of any sort to the police or any other third party in these circumstances must be referred to Director Editorial Policy and Standards and to Programme Legal Advice.**

See Section 13 Re-use, Reversioning and Permanent Availability: 13.3.31-13.3.35

