

7

Privacy

Privacy

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7.1 Introduction

The BBC respects privacy and does not infringe it without good reason, wherever in the world it operates. The law protects the privacy of individuals and private information about them, but balances that with a broadcaster's right to freedom of expression. In regulation, the Ofcom Broadcasting Code¹ states 'Any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.'²

An infringement of privacy is considered in two stages, requiring justification for both the gathering and the broadcasting of material where there is a legitimate expectation of privacy.

Legitimate expectations of privacy will vary according to the place and nature of the information, activity or circumstances in question, the extent to which it is in the public domain, if at all, and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place. Some activities and circumstances may be of such a private nature that filming or recording, even in public, could involve an infringement of privacy. People under investigation or in the public eye, and their immediate family and friends, retain the right to a private life, although private behaviour can raise issues of legitimate public interest.

See Section 1 The BBC's Editorial Standards: 1.3

¹ The section of the Ofcom Broadcasting Code that relates to this is 8: Privacy

² Rule 8.1, The Ofcom Broadcasting Code

7.2 Principles

- 7.2.1 The BBC must balance the public interest in freedom of expression with the legitimate expectation of privacy by individuals, taking into account ethical, regulatory and legal obligations. Any infringement of privacy in the gathering of material must be proportionate.
See Section 1 The BBC's Editorial Standards: 1.3
- 7.2.2 Any infringement of an individual's privacy without their consent must be justified by demonstrating that the intrusion is outweighed by the public interest. The greater the intrusion, the greater the public interest required to justify it.
- 7.2.3 Content producers should normally only report the private behaviour of public figures where their conduct is unlawful, anti-social or where broader public issues are raised either by the behaviour itself, or by the consequences of it becoming widely known. The fact of publication by other media may not justify the BBC reporting of it.
- 7.2.4 Content producers must not go on 'fishing expeditions', ie secret recording in search of crime or anti-social behaviour by identifiable individuals, or groups, when there is no prima facie evidence of such behaviour.
- 7.2.5 The public interest in the full and accurate reporting of stories involving human suffering and distress must be balanced with an individual's privacy and respect for their human dignity.
- 7.2.6 When gathering personal information from contributors, audiences and other members of the public, it must be clear how it is intended to be used. It must be handled in accordance with the BBC's Editorial Guidelines and the Data Protection Act 2018.
See 7.4.58–7.4.63

7.3 Mandatory Referrals— must be referred in advance

Mandatory referrals are an essential part of the BBC's editorial and compliance process and must be observed.

Referrals to Director Editorial Policy and Standards

- 7.3.1 Any proposal to gather material illegally outside the UK by disregarding privacy or other similar laws in the relevant country must be referred to Director Editorial Policy and Standards. Programme Legal Advice must also be consulted.
See 7.4.13
- 7.3.2 Director Editorial Policy and Standards must approve any proposal to employ and/or pay someone known to have a criminal record or background of illegal activity to work on a BBC investigation.
See 7.4.19
- 7.3.3 Any proposal to use secret recordings made by others must be referred to Editorial Policy prior to approval by a senior editorial figure or, for independent production companies, by the commissioning editor. If the BBC would not have considered it justifiable to gather the material under similar circumstances, the proposal must be referred to Director Editorial Policy and Standards.
See 7.4.29
- 7.3.4 Any proposal to broadcast, without consent, recordings originally made for note-taking purposes must be agreed by Director Editorial Policy and Standards. Permission to broadcast material gathered in this way will only be granted in exceptional circumstances.
See 7.4.31

- 7.3.5 Any proposal to equip third parties with body-worn cameras and microphones, where to do so might infringe the privacy of an individual or where the third party is entering private premises without permission, must be referred in advance to Director Editorial Policy and Standards.
See 7.4.32
- 7.3.6 Any proposal for unmonitored recording equipment on private property without consent of the occupier must be referred to Programme Legal Advice and Director Editorial Policy and Standards.
See 7.4.34
- 7.3.7 Any proposal to use a tracking device where it would infringe the privacy of an individual must be referred to Director Editorial Policy and Standards.
See 7.4.35
- 7.3.8 Any proposal for a private investigator acting for the BBC to breach the Editorial Guidelines or, exceptionally, to break the law in pursuit of an investigation must be approved in advance by a senior editorial figure, who must consult Director Editorial Policy and Standards prior to approval, and Programme Legal Advice must also be consulted where it is believed laws may be broken.
See 7.4.42
- 7.3.9 If during the course of making programmes or content, it is believed laws may be broken by someone working for the BBC, it must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Programme Legal Advice and Director Editorial Policy and Standards.
See 7.4.13 and 7.4.43
- 7.3.10 Any proposal to engage in hacking or commission hacking activities by third parties must be referred in advance to Director Editorial Policy and Standards.
See 7.4.45

- 7.3.11 Any proposal to secretly record a doorstep must be agreed with Director Editorial Policy and Standards. Permission to gather material in this way will only be granted in very exceptional circumstances and must be in the public interest.

See 7.4.49

Other Referrals

- 7.3.12 Any proposal to carry out secret recording, other than for note-taking purposes, must be referred to Editorial Policy. This should be prior to approval by the relevant senior editorial figure or, for independent production companies, by the commissioning editor.

See 7.4.13

- 7.3.13 Any deception required to obtain secretly recorded material, beyond the concealing of recording equipment, should be the minimum necessary and proportionate to the subject matter and must be referred to Editorial Policy prior to approval by the relevant senior editorial figure or, for independent production companies, to the commissioning editor.

See 7.4.13

- 7.3.14 Any proposal to send someone to work undercover on an investigation must be referred to Editorial Policy and Programme Legal Advice.

See 7.4.17

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

See 7.4.20

- 7.3.16 BBC Safety's High Risk Team, Editorial Policy and Programme Legal Advice must be consulted before investigating, contacting or potentially secretly recording groups or individuals suspected of being involved in serious or potentially violent criminality, acts of extremism or terror related activity.

See 7.4.21

- 7.3.17 Any proposal to identify individuals or organisations secretly recorded for consumer, scientific or social research without their consent must be referred to Editorial Policy who will consider the public interest in identification and the BBC's fairness obligations.
See 7.4.24
- 7.3.18 Any proposal to feature identifiable people in a live broadcast for comedy, entertainment or satire, without their knowledge, whether in person, on the phone, or via any other medium must be referred to Editorial Policy at the outset.
See 7.4.28
- 7.3.19 Any proposal to gather material using a drone where it might infringe privacy must be referred to a senior editorial figure or, for independent production companies, the commissioning editor.
See 7.4.33
- 7.3.20 Any proposal to transmit a live stream without alerting those who may be shown in the broadcast must be referred to Editorial Policy.
See 7.4.40
- 7.3.21 Any proposal to use a private investigator must be approved by a senior editorial figure who may consult Director Editorial Policy and Standards before going ahead.
See 7.4.42
- 7.3.22 Any proposal to access data derived from hacks or leaks must be referred to Editorial Policy and Programme Legal Advice. Where such data has been sent to the BBC, it must be referred to Editorial Policy and Programme Legal Advice before use.
See 7.4.44
- 7.3.23 Any proposal to doorstep an individual or organisation, where a request has previously been made for an interview or a statement, must be referred to Editorial Policy before approval by a senior editorial figure or, for independent production companies, by the commissioning editor.
See 7.4.47

7.3.24 Any proposal to doorstep an individual or organisation, where an interview or statement has not previously been requested, must be referred to Editorial Policy prior to approval by a senior editorial figure or, for independent production companies, the commissioning editor, and a written record of the decision kept. This does not apply to the legitimate gathering of material for the daily news agenda.

See 7.4.48

7.3.25 Any proposal to doorstep an individual or organisation for comedy, entertainment or satirical purposes should normally be approved in advance by a senior editorial figure or, for independent production companies, by the commissioning editor. Editorial Policy should also be consulted.

See 7.4.50

7.3.26 A decision to proceed with a reconstruction or dramatisation of past events involving suffering or trauma, when there are reasonable objections from surviving victims and relatives who have a legitimate expectation of privacy, should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Editorial Policy.

See 7.4.57

7.3.27 Any request by a public authority for a contributor's personal information, or where content producers are proposing to share that information for safeguarding or welfare reasons, must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who must refer to Editorial Policy and Programme Legal Advice before information is shared.

See 7.4.61

7.3.28 Any proposal to collect personal information on a BBC Public Service website which might be disclosed to third parties, including BBC Commercial Services, must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may wish to consult Information Rights and BBC Fair Trading.

See 7.4.62

- 7.3.29 Any proposal to reveal an under-18's personal details to a third party without their consent must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy, Safeguarding, and Information Rights.

See 7.4.63

7.4 Guidelines

Privacy and Consent

- 7.4.1 When contributors give informed consent to take part in BBC output, they can be assumed to have waived their expectations of privacy in relation to their contribution, subject to any agreed conditions placed on their participation.

See Section 6 Fairness: 6.4.1–6.4.5

- 7.4.2 Content producers should operate openly where there is a risk of infringing people's privacy, unless secret recording has been approved. This is important when using inconspicuous recording devices or live streaming. Where practicable, notices should be used to make people aware of recording or live streaming and to enable them to avoid it.

See 7.4.40–7.4.41

- 7.4.3 When filming openly in places accessible to the public, consent is not normally required from individuals who are incidentally caught on camera as part of the general scene, unless they are engaged in an activity where they have a legitimate expectation of privacy that is not outweighed by a public interest in showing them.

However, if content makers are asked to stop filming or recording by individuals or an organisation because of a concern about privacy, they must decide if it is justified in the public interest to continue.

If content producers are contacted by someone immediately after filming has taken place with a request not to show them, and their request for privacy is warranted, it should be carefully considered.

- 7.4.4 Two separate consents should normally be obtained in potentially sensitive places, for example, ambulances, hospitals, schools, prisons or police stations; one for gathering the material and the other for broadcasting it, unless it is justified not to obtain such consents.
See guidance: Filming in Medical Emergencies
- 7.4.5 Content makers should take responsibility for ensuring consent has been obtained where necessary. It may sometimes be appropriate to ask third parties to assist with seeking consent, but responsibility still rests with the BBC.
- 7.4.6 Consent should normally be obtained before recording on private property. However, recording without prior permission may be justified on private property where the public has general access, for example, on public transport, or in a shopping mall, railway station or airport. It may also be justified where there is reason to believe the recording will aid the exposure of illegal or anti-social behaviour or is otherwise justified in the public interest. When recording without prior consent on private property, if the owner, legal occupier or person acting with their authority asks for the recording to stop, content makers should normally do so unless it is justified in the public interest to continue.

Content makers should be aware of the law of trespass and should normally leave private property when asked to do so by the legal occupier. Accessing private property without consent can constitute a civil wrong, but is not usually a police matter.

Consideration should be given as to whether there is a justification for publishing information that may reveal the precise location of an identifiable person's home or family.

- 7.4.7 When filming, content makers should be aware of the risk of inadvertently capturing private information without consent, such as on written records, on computer screens or inside offices.

Children, Young People and Vulnerable Contributors

- 7.4.8 When children feature in output in a way that potentially infringes their legitimate expectation of privacy, content makers should have the informed consent of a parent, legal guardian or other adult who is acting in loco parentis. They should normally also establish the child's willingness to participate where appropriate. Content makers may also need to obtain the informed consent of a responsible adult when considering featuring a vulnerable person in output. There may be additional legal considerations about children or vulnerable people and advice can be sought from Programme Legal Advice.

Children do not lose their right to privacy because, for example, of the fame or notoriety of their parents or because of events in their schools.

See Section 9 Children and Young People as Contributors: 9.4.1–9.4.9

See guidance: Working with Children and Young People as Contributors; and Working with Contributors including Vulnerable Contributors or Contributors at Risk of Vulnerability

Third Parties

- 7.4.9 The privacy of an individual may be infringed by content that reveals private personal information about them, even if they are not contributing to the output or directly included in it. This may include information that someone is under police or regulatory investigation as well as personal testimony about a third party. When such information is not already in the public domain the public interest should outweigh any legitimate expectation of privacy. Individuals are entitled to recount their own experiences; however, the privacy implications for any third parties they may refer to should be assessed.

See 7.4.58–7.4.63

See Section 8 Crime and Anti-Social Behaviour: 8.4.12

Material from Social Media

- 7.4.10 When video and images from social media and other websites accessible to the public are used by the BBC, they may gain greater authority than on other digital platforms. Content makers should consider the privacy of those featured, particularly where they did not make or publish the material. It may also be necessary to seek further consent. Re-use may have an impact on those involved, particularly when in connection with tragic, humiliating or distressing events.

Where content features individuals who have openly posted material about themselves on social media, their legitimate expectation of privacy may be reduced. This is particularly the case where an individual has shown an understanding of the impact that posting on social media may have on their own privacy, or where privacy settings have not been used. This may not apply to other individuals who appear in that content, particularly if they are children.

Copyright must also be considered. Within the BBC, advice is available from Intellectual Property. Independent production companies are responsible for any copyright issues in the content they make for the BBC.

See guidance: User-Generated Contributions

Secret Recording

- 7.4.11 There must be a public interest justification for secret recording. Normally, secret recording should only be used for the following purposes:
- as an investigative tool where:
 - there is prima facie evidence of behaviour, or intention to carry out behaviour, that it is in the public interest to reveal, and
 - other ways of corroborating the source material have been considered and judged to be insufficient to prove the behaviour

- it is important to witness and record evidence of the behaviour first hand
- there are reasonable grounds to believe that further material evidence could be obtained to prove the behaviour
- the recording is necessary to provide context, credibility and contribute to the authenticity of the content
- to obtain material outside the UK where a country's laws make the normal gathering of material difficult or impossible
- as a method of consumer, scientific or social research in the public interest, where no other methods could naturally capture the attitudes or behaviour in question
See 7.4.24
- for electronic note-taking
See 7.4.30
- for satirical investigations which enhance understanding or appreciation of matters in the public interest
- secret recording may also be used for comedy and entertainment output where the secret recording and any deception involved are intrinsic to the editorial purpose of the content.
See 7.4.25–7.4.28

7.4.12 The following techniques may be methods of secret recording that risk infringing privacy:

- the use of hidden cameras or microphones, or any other technique aimed at concealing the fact of recording from its subject
- the use of audio-video equipment including long lenses, small video cameras, mobile phone cameras, live streaming, radio microphones, body-worn cameras and microphones and cameras fitted to drones
- the use of body-worn cameras or microphones on third parties when a BBC content producer is not in attendance with visible cameras
See 7.4.32
- recording telephone or video calls for possible broadcast without consent

- deliberately continuing a recording when the other party thinks that it has come to an end, or starting it before the other party thinks it has begun
- leaving an unmonitored camera or recording device on private property without the informed consent of the occupiers or their agent.

See 7.4.34

Approval of Secret Recording

7.4.13 Any proposal to carry out secret recording, other than for note-taking purposes, must be referred to Editorial Policy. This should be prior to approval by the relevant senior editorial figure or, for independent production companies, by the commissioning editor.

The gathering and broadcast of secretly recorded material is always a two-stage process, requiring a justification for any intrusion at each stage. So, the decision to gather is always taken separately from the decision to transmit.

A record must be kept of the approval process, even if the request is turned down or the material gathered is not broadcast. Each department is responsible for maintaining its own secret recording records to enable the BBC to monitor and review its use across all output.

See Forms: Secret Recording Forms

Any deception required to obtain secretly recorded material, beyond the concealing of recording equipment, should be the minimum necessary and proportionate to the subject matter and must be referred to Editorial Policy prior to approval by the relevant senior editorial figure or, for independent production companies, to the commissioning editor.

When proposing to carry out secret recording outside the UK, content producers should be aware that the laws relating to privacy vary around the world. Any proposal to gather material illegally outside the UK by disregarding privacy or other similar laws in the relevant country must be referred to Director

Editorial Policy and Standards, who will consider the editorial justification. Programme Legal Advice must also be consulted.

A list of authorisers can be found on the Editorial Policy website and on the online version of the secret recording forms.

See 7.4.43

- 7.4.14 The re-use of secretly recorded material must be justified in the public interest.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.18

See guidance: Secret Recording

Secret Recording for Investigations including Undercover Investigations

Investigations are an important way of uncovering matters of significant public interest³ but must be editorially justified.

- 7.4.15 Any intrusion caused by the gathering and transmission of secret recording must be proportionate to the public interest it serves, taking into account the legitimate expectations of privacy of the individuals recorded. Some situations attract a higher legitimate expectation of privacy. These include, but are not limited to:

- secret recording in a private place where the public do not have access
- secret recording of health care or medical treatments
- secret recording of identifiable people in grief or under extremes of stress or where they are otherwise vulnerable.

- 7.4.16 Content producers must not go on 'fishing expeditions', ie secret recording in search of crime or anti-social behaviour by identifiable individuals, or groups, when there is no prima facie evidence of such behaviour.

³ See Section 1 The BBC's Editorial Standards:
1.3 The Public Interest

- 7.4.17 Any proposal to send someone to work undercover on an investigation must be referred to Editorial Policy and Programme Legal Advice.
- 7.4.18 Before an investigation is commissioned which may intrude into people's privacy, it is good practice to seek editorial approval and legal advice, and 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?
 - are any of the sources confidential and can their confidentiality be maintained?
 - what are the possible consequences?
- See Section 8 Crime and Anti-Social Behaviour: 8.4.4–8.4.6
- 7.4.19 Director Editorial Policy and Standards must approve any proposal to employ and/or pay 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.
- 7.4.20 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.
- 7.4.21 BBC Safety's High Risk Team, Editorial Policy and Programme Legal Advice must be consulted before investigating, contacting or potentially secretly recording groups or individuals suspected of being involved in serious or potentially violent criminality, acts of extremism or terror related activity.
- See Section 12 War, Terror and Extreme Violence, Disaster and Disorder: 12.4.24
- 7.4.22 During an 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.

- 7.4.23 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 their methods and findings. Members of the team may be called as witnesses in a prosecution. It is important to ensure that the editorial justification and methods used during the investigation can withstand scrutiny.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.31–13.4.41

See guidance: Investigations

Secret Recording for Consumer, Scientific or Social Research

- 7.4.24 Secret recording may be used as a method of consumer, scientific or social research in the public interest, where no other methods could naturally capture the attitudes or behaviour in question. In such cases, although there may be no evidence against known individuals, there should normally be a prima facie indication that the behaviour to be researched exists in general. The results of the research should be presented so as to provide a fair and accurate representation of the research. Consent should normally be obtained retrospectively from individuals or organisations to be included in BBC content, or their identities should be appropriately obscured. Any proposal to identify individuals or organisations secretly recorded for consumer, scientific or social research without their consent must be referred to Editorial Policy who will consider the public interest in identification and the BBC's fairness obligations.

See guidance: Secret Recording

Secret Recording for Comedy, Entertainment and Satire

- 7.4.25 Secretly recording material solely for comedy, entertainment or satirical investigations may be justified if it is intrinsic to the entertainment and does not amount to a significant intrusion into privacy and cause significant annoyance, distress, humiliation or embarrassment. If people realise they are being recorded secretly and ask for the recording to stop, content makers must do so.

For material that is social research in a satirical context see 7.4.24 above.

- 7.4.26 After the material has been gathered, people who feature prominently must give their consent before it is broadcast, or their identities must be appropriately obscured. If the recording might cause significant embarrassment to other recognisable individuals who have been caught on camera or on the phone but have not given consent, their identities must also be disguised.

See Section 5 Harm & Offence: 5.4.44

- 7.4.27 Anyone identifiable who has been secretly recorded in a telephone or video call for comedy or entertainment purposes must give their consent before the call is broadcast.

- 7.4.28 Any proposal to feature identifiable people in a live broadcast for comedy, entertainment or satire without their knowledge, whether in person or on the phone, or via any other medium must be referred to Editorial Policy at the outset.

Secret Recordings from Third Parties

- 7.4.29 When offered secret recordings made by others, content makers should consider whether, under similar circumstances, the BBC would have deemed it justifiable to carry out the recording. If it would not have been considered justifiable to gather the material, it should not normally be broadcast.

Any proposal to use secret recordings made by others must be referred to Editorial Policy prior to approval by a senior

editorial figure or, for independent production companies, by the commissioning editor. If the BBC would not have considered it justifiable to gather the material under similar circumstances, the proposal must be referred to Director Editorial Policy and Standards, who will consider whether the public interest in broadcasting it outweighs any concerns about how it was obtained.

Electronic Note-Taking

- 7.4.30 Conversations for note-taking purposes can be recorded electronically in order to achieve due accuracy in the reporting of those conversations. Content producers should normally do so openly and with the consent of the other party in order to avoid infringing their privacy.

However, where it would be counter-productive to ask for permission, and it is editorially justified, conversations may be recorded in both audio and video without obtaining consent or approval for secret recording. The intention of such recordings must be for note-taking and research, not for broadcast. Editorial justifications include, for example, ensuring accuracy and integrity, and enabling content makers to gather evidence to defend the BBC against possible legal action or complaints. Where it is practicable to do so, a contemporaneous note about the justification for the recording should be kept.

See Section 3 Accuracy: 3.4.15

- 7.4.31 Recordings, including telephone calls, originally made for note-taking purposes, should not normally be broadcast. Any proposal to broadcast, without consent, recordings originally made for note-taking purposes must be agreed by Director Editorial Policy and Standards. Permission to broadcast material gathered in this way will only be granted in exceptional circumstances.

Such circumstances may include the following:

- recordings are the only way to prove significant wrongdoing and
- there is a strong public interest.

Inconspicuous Recording Devices

Body-Worn Cameras and Microphones Used by Third Parties, including Animals

7.4.32 Any proposal to equip third parties with body-worn cameras and microphones, where to do so might infringe the privacy of an individual or where the third party is entering private premises without permission, must be referred in advance to Director Editorial Policy and Standards, who will consider:

- the public interest in the material gathered in this way
- what measures have been taken to avoid unjustified infringement of privacy
- whether there is adequate technical provision for ensuring that the recording equipment is under the BBC's control.

See 7.4.40

See guidance: Body-Worn Cameras ('Go-Pros') and Microphones

Drones

7.4.33 Any proposal to gather material using a drone where it might infringe privacy must be referred to a senior editorial figure or, for independent production companies, the commissioning editor, who will consider:

- the public interest in the material gathered in this way
- the safety issues around use of drones
- whether there are sufficient safeguards to prevent an unjustified infringement of privacy.

Where identifiable individuals will be filmed without consent and it would infringe the privacy of an individual, Programme Legal Advice should normally be consulted.

Drones should not normally be used to identify individuals without their consent, or capture close-up images of areas such as private homes, private gardens or private areas of offices without the consent of the owner, unless they can be seen from

a publicly accessible place or there is a public interest that outweighs any legitimate expectations of privacy. Consideration should be given as to whether there is a justification for using drone images that may reveal the precise location of an identifiable person's home or family.

Drones are subject to Civil Aviation Authority regulation and safety considerations.

See guidance: Use of Drones

Unmonitored Recording Equipment

7.4.34 Any proposal for unmonitored recording equipment on private property without consent of the occupier or their agent must be referred to Programme Legal Advice and Director Editorial Policy and Standards, who will consider:

- whether the public interest in the recorded material is sufficient to outweigh the legitimate expectations of privacy of all those captured by the recording
- whether there are sufficient safeguards to prevent an unjustified infringement of privacy.

Tracking Devices

7.4.35 Any proposal to use a tracking device where it would infringe the privacy of an individual must be referred to Director Editorial Policy and Standards, who will consider:

- whether the public interest in the data recorded is sufficient to outweigh the legitimate expectations of privacy of all those who are tracked
- whether there are sufficient safeguards to prevent an unjustified infringement of privacy.

Material from Inconspicuous Recording Devices Supplied by Third Parties

- 7.4.36 Such material may include footage recorded by the public, emergency services or other groups with body-worn cameras, drones, CCTV or fixed webcams, doorbell cameras, mobile phones or other inconspicuous personal devices. When such material is used, it must be editorially justified and appropriately labelled. Reasonable steps should be taken to verify such footage. Content producers should consider harm and offence issues and any infringement of privacy. The footage may also raise legal issues such as trespass, defamation, contempt of court or data protection.

Where the material from inconspicuous recording devices may amount to secret recording, see Secret Recordings from Third Parties.

See 7.4.29 and 7.4.41

See guidance: Use of Drones; and Body-Worn Cameras ('Go-Pros') and Microphones

Live Streaming

- 7.4.37 Live streaming—the broadcasting of video or audio on the internet or on social media, as events unfold—is the same as live broadcasting. It enables audiences to access content in real time. Material may be live streamed from remote locations via devices such as webcams or mobile phone cameras. While audiences may expect to be filmed on a mobile device, they may not envisage that what is being filmed is also being broadcast live.

The BBC should only operate a live stream where it is editorially justified. Live streaming should cease when that purpose has been achieved.

The BBC should retain editorial responsibility for monitoring the output of a live stream, regardless of who provides or owns it. The level of monitoring should be appropriate for the likely content. A producer should normally be in a position to cut the feed from a live stream if it becomes necessary.

If recorded footage of a live stream is shown, it should be made clear it is not live.

See Section 15 Independence from Commercial and Other External Interests: 15.4.8

See guidance: Links and Feeds

Live Streaming from Studios

- 7.4.38 Guests should be warned in advance if their contribution is going to be live streamed from a BBC studio. This is particularly important for radio guests who may not expect to be in vision.

Live Streaming in Public

- 7.4.39 When the BBC live streams from places where the public has general access and individuals are likely to be identifiable, for example, because the live stream transmits a sufficiently high level of detail, reasonable steps should be taken to warn people that the BBC is operating a live stream. At a live event, outside broadcast or similar, this may be done by notices outside the venue and a line of information on any posters or tickets, or with stage announcements, that a live stream is operating. If the live stream is in a public space, like a street or a park, a clear warning notice should be placed nearby and, where practicable, announcements should be made. For some events, the visible presence of broadcast vehicles and/or equipment may provide sufficient indication.

Inconspicuous Live Streaming in Public

7.4.40 Any proposal to transmit a live stream without alerting those who may be shown in the broadcast must be referred to Editorial Policy, who will consider:

- the strength of the editorial justification in reporting the particular event
- whether the public interest justifies filming without alerting those whose privacy may be infringed
- the legitimate expectation of privacy of those who would be shown
- whether the public interest in the event is so great that the benefit of transmitting it live outweighs potential risks of live output, such as infringement of privacy or harm and offence considerations.

Third-Party Live Streams, CCTV and Recordings

7.4.41 Recordings and live streams provided by others may pose additional issues, such as accuracy, anonymity, offence, defamation, contempt of court, trespass or data protection. Such content includes closed circuit television (CCTV), material from live streams, webcams and recordings provided by the emergency services (including 999 calls), Customs and Excise, or other public authorities, organisations or individuals.

In all cases its origins should be researched and consideration should be given as to whether it amounts to secret recording before a decision to broadcast it is made.

See Section 15 Independence from Commercial and Other External Interests: 15.4.8, Section 16 External Relationships, Including Commercial Relationships, and Financing: 16.4.20–16.4.21 and Section 17 Competitions, Votes and Interactivity: 17.4.67

See also Section 5 Harm and Offence: 5.4.26 and Section 12 War, Terror and Extreme Violence, Disaster and Disorder: 12.4.19

Private Investigators

- 7.4.42 Content makers should normally undertake all the tasks associated with investigative journalism themselves. Private investigators may be used where they can offer specialist skills or contacts or where it is more cost-effective to employ a specialist sub-contractor, for example, for surveillance purposes, to confirm an individual's whereabouts. There must be a public interest justification for their use. Any proposal to use a private investigator must be approved by a senior editorial figure who may consult Director Editorial Policy and Standards before going ahead. The senior editorial figure must record the decision and its purpose. These records should be retained by the department commissioning the activity for an appropriate length of time.

All private investigators used to aid investigations must work to the standards in the Editorial Guidelines at all times. It is the senior editorial figure's responsibility to ensure that they do so.

Any proposal for a private investigator acting for the BBC to breach the Editorial Guidelines or, exceptionally, to break the law in pursuit of an investigation must be approved in advance by a senior editorial figure, who must consult Director Editorial Policy and Standards prior to approval, and Programme Legal Advice must also be consulted where it is believed laws may be broken. Any proposal will require a public interest justification.

See Section 18 The Law: 18.3.1

See guidance: Use of Private Investigators

Breaking the Law

7.4.43 There may be occasions where providing accurate, impartial and fair coverage in the public interest involves possible conflict with the law, particularly with regard to the potential intrusion into people's privacy. Where such cases arise content makers should consider:

- what effect breaking the law might have on the BBC
- what the effect might be on the people concerned
- internationally, the effect on the BBC's future coverage of the region.

If it is believed laws may be broken by someone working for the BBC, it must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Programme Legal Advice and Director Editorial Policy and Standards.

See Section 18 The Law: 18.3.1

Hacking

7.4.44 Any proposal to access data derived from hacks or leaks must be referred to Editorial Policy and Programme Legal Advice. Where such data has been sent to the BBC, it must be referred to Editorial Policy and Programme Legal Advice before use.

See Section 11 Statistics, Data, Polls and Surveys: 11.4.18–21

See guidance: Internet Research

7.4.45 The BBC would not normally engage in hacking or commission hacking activities by third parties. Any proposal to do so must be referred in advance to Director Editorial Policy and Standards.

Doorstepping

Doorstepping is when someone is confronted and told they are being recorded, or an attempt is made to record an interview, phone call, video call, intercom conversation or similar, without prior warning, for use in BBC content. It may involve an infringement of privacy, which must be justified in the public interest.

Doorstepping does not include vox pops. Additionally, the guidelines on doorstepping that follow are not intended to prevent the legitimate gathering of material for the daily news agenda, research purposes or for comedy and entertainment output.

- 7.4.46 Proposals for doorstepping should be proportionate and in the public interest. Consideration should be given to the safety of production staff and the risk of infringing the privacy of third parties. Partners, children, other family members or employees should not normally be doorstepped, and care should be taken that they are not caught up in it.

Doorstepping With Prior Approach for Investigations in the Public Interest

- 7.4.47 Any proposal to doorstep an individual or organisation, where a request has previously been made for an interview or a statement, must be referred to Editorial Policy before approval by a senior editorial figure or, for independent production companies, by the commissioning editor.

Approval will normally only be given when there is a public interest or where an individual's role requires them to be publicly accountable and for one, or more, of the following reasons:

- the subject of a doorstep, who faces allegations of wrongdoing, has failed to respond substantively to offers of a right of reply or requests for an interview or statement

- a request for an interview or statement has been refused without good reason and either substantial allegations of wrongdoing have been avoided or questions to an individual in a publicly accountable role have been avoided
- there is a history of failure to substantively engage or respond to interview or statement requests or refusal to be interviewed or provide statements.

See Section 6 Fairness: 6.4.43–6.4.46

Doorstepping Without Prior Approach for Investigations in the Public Interest

7.4.48 Any proposal to doorstep an individual or organisation, where an interview or a statement has not previously been requested, must be referred to Editorial Policy prior to approval by a senior editorial figure or, for independent production companies, the commissioning editor, and a written record of the decision kept. This does not apply to the legitimate gathering of material for the daily news agenda.

The considerations are as follows:

- there is clear evidence of crime or significant wrongdoing, and
- it has not been possible to request an interview or statement, or
- there is reason to believe that an investigation will be frustrated or allegations avoided (for example, because those under investigation are likely to become out of contact) if a prior approach is made, or
- there is no reasonable expectation of receiving a response
- it is for satire in the public interest.

See Section 6 Fairness: 6.4.43–6.4.46

Secretly Recorded Doorstepping

- 7.4.49 Doorsteps should not normally be secretly recorded. Any proposal to secretly record a doorstep must be agreed with Director Editorial Policy and Standards. Permission to gather material in this way will only be granted in very exceptional circumstances and must be in the public interest.

A record must be kept of the approval process in the usual way for secret recording.

See 7.4.11–7.4.24

See Section 6 Fairness: 6.4.43–6.4.46

Doorstepping for Comedy and Entertainment

- 7.4.50 Any proposal to doorstep an individual or organisation for comedy, entertainment or satirical purposes should normally be approved in advance by a senior editorial figure or, for independent production companies, by the commissioning editor. Editorial Policy should also be consulted. People who are doorstepped should normally give their consent before the material is broadcast unless their identity is disguised.

See Section 6 Fairness: 6.4.51–6.4.53

Tag-Along Raids

- 7.4.51 A tag-along raid is when content producers accompany police, customs, immigration, environmental health officers or other bodies to observe them working on behalf of public authorities. Tag-along raids are only justifiable when there is a public interest and after consideration of editorial and legal issues including privacy, consent and trespass.

When content makers go on tag-along raids on private property they should normally:

- ensure anyone present understands the recording is for the BBC as soon as practicable

- only film those who are the target of the raid and avoid any third parties, especially children and vulnerable adults
- avoid filming irrelevant personal property or spaces and concentrate on filming where evidence has been found or is likely to be found
- stop recording and leave immediately if asked to do so by the owner, legal occupier or person acting with their authority.

Exceptions may include where there is reason to believe serious illegal or serious anti-social behaviour is being exposed, and the public interest will justify continued recording or presence.

Editorial Policy and Programme Legal Advice should normally be consulted about proposals involving tag-along raids.

See 7.4.6

See Section 6 Fairness: 6.4.38–6.4.39

Reporting Death, Suffering and Distress

- 7.4.52 Content makers must balance the public interest in full and accurate reporting with the need to be compassionate and to avoid unjustified infringement of privacy when reporting on accidents, disasters, disturbances, violence against individuals or war.

They must consider the editorial justification for portraying graphic or intrusive material of human suffering and distress. When crews arriving at the scene of a disaster or emergency are under pressures that make it difficult to judge whether recording is an unjustified infringement of privacy, they will often record as much material as possible. However, in such a situation, care must be taken to assess any privacy implications prior to broadcast.

The demands of live output and speed in the use of pictures, including those from social media, should not override consideration of the privacy of those suffering or in distress.

See Section 5 Harm and Offence: 5.4.1–5.4.8 and 5.4.37–5.4.42 and

Section 12 War, Terror and Extreme Violence, Disaster and Disorder: 12.4.9

See guidance: Filming in Medical Emergencies

7.4.53 In the immediate aftermath of an event involving death, suffering or distress, the use of more graphic material may be justified to provide a reasonable account of the full horror. Consideration should be given to the privacy and dignity of victims wherever they are in the world. However, as the story unfolds, it may become more difficult to justify the continued use of such material. Later, when it comes to considering the story in a contemporary historical context or, for example, marking its anniversary, it may become editorially justified to use the material again. Editorial Policy may be consulted over the re-use of graphic and/or upsetting material.

See Section 5 Harm and Offence: 5.4.37–5.4.42 and 5.4.21–5.4.23 and Section 13 Use of BBC Content After Publication or Broadcast: 13.4.14–13.4.16

7.4.54 Requests for interviews with people who are injured or grieving following an accident or disaster should normally be made by approaching them through friends, relatives or advisers. Content makers should not:

- put them under pressure to provide interviews
- harass them with repeated phone calls, emails, text or social media messages or knocks at the door
- stay on their property if asked to leave
- normally follow them if they move away.

See Section 6 Fairness: 6.4.7–6.4.12

7.4.55 Public expressions of grief vary around the world, as do perceptions of whether it is an acceptable intrusion to broadcast those scenes of grief. It is important to avoid self-censorship, but the expectations of those being recorded and audiences must be considered. Graphic scenes of grief are less likely to offend or distress those victims and relatives who consented to the recording, but they may offend or anger some of the audience. When introducing scenes of extreme distress or suffering, words explaining the circumstances in which they were gathered may help to prevent misunderstandings and offence.

See Section 5 Harm and Offence: 5.4.1–5.4.6

7.4.56 Recording at private funerals should normally only take place with the consent of the family. If a decision is made to proceed against requests for privacy there must be a clear public interest.

Revisiting Past Events

7.4.57 Content makers must consider whether surviving victims and relatives have any legitimate expectation of privacy when they intend to examine past events which involved suffering and trauma. This applies even if the events or material to be used were once in the public domain. The scale and location of the original incident as well as the time that has elapsed since it occurred should be considered. So far as is reasonably practicable, surviving victims or the immediate families of dead people who are to feature in the programme should normally be notified. A decision to proceed against any reasonable objections from those concerned should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Editorial Policy.

Approval will only be given if the objections are outweighed by the public interest.

See 7.4.53

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.14–13.4.16

Personal Information

7.4.58 The collection of personal information must be handled in accordance with data protection legislation and the BBC's data protection policies⁴. When collecting personal information for online services from children under 13, and in Scotland, under 12, the Data Protection Act requires content makers to exercise caution and may require verifiable 'parental consent'. The BBC Editorial Guidelines require the same caution when collecting any personal data from children under 16.

See Section 9 Children and Young People as Contributors: 9.4.3 and 9.4.28

See guidance: Interacting with Children and Young People Online

⁴ See Data Protection Handbook: available on Gateway for BBC staff or via commissioning editors for independent producers; and the BBC Privacy and Cookies Policy

- 7.4.59 Personal information about contributors and potential contributors should not normally be accessible to other departments outside the production area which has collected it. Any proposal to make an exception should be referred to Information Rights. Contributor details must be securely stored and only held for as long as there is a legitimate purpose.
- 7.4.60 Adult contributors' personal details, comments or other personal information should not normally be shared with third parties without the knowledge of the contributor, unless there are legal requirements, safeguarding or welfare concerns. Where it is essential, it should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may wish to consult Information Rights before going ahead. A contract should require the third party to use the information only for the use agreed between the BBC and the third party.

- 7.4.61 Any request by a public authority for a contributor's personal information, or where content producers are proposing to share that information for safeguarding or welfare reasons, must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who must refer to Editorial Policy and Programme Legal Advice before information is shared.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.36–13.4.39

- 7.4.62 Any proposal to collect personal information on a BBC Public Service website which might be disclosed to third parties, including BBC Commercial Services, must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who may wish to consult Information Rights and BBC Fair Trading.

7.4.63 Any proposal to reveal an under-18's personal information to a third party without their consent must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy, Safeguarding, and Information Rights. Approval will normally only be given:

- for safeguarding and child protection reasons or
 - where there is a public interest that outweighs the expectations of privacy or
 - where there is a legal requirement to provide the information.
- See Section 9 Children and Young People as Contributors: 9.4.28

Use of Technology

7.4.64 Where personal information is collected through the use of technology, including automated systems involving artificial intelligence or machine learning, it must be handled in accordance with the BBC Editorial Guidelines and current data protection law. Advice may be sought from Information Rights.

Any BBC use of software must be authorised by the software asset management process.

See Software Asset Management Process on Gateway

7.4.65 When using technology to enhance the technical quality of content, such as sound or pictures, any relevant privacy implications should be considered.

Missing People

7.4.66 The BBC may sometimes report on missing people by broadcasting details provided by relatives, friends and the police. However, content makers should take editorial responsibility for the publication or broadcast of such details and be aware that not every missing person wishes to be found. It may be appropriate to hold back information the missing person might regard as private, embarrassing or distressing.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.24–13.4.30
See guidance: Privacy and Missing People