

EDITORIAL POLICY GUIDANCE NOTE

PRIVACY AND FACTUAL ENTERTAINMENT

(Last updated: October 2010)

EDITORIAL GUIDELINES ISSUES

This guidance note should be considered in conjunction with the following Editorial Guidelines:

- **Reporting Crime and Anti-Social Behaviour**
See Editorial Guidelines Section 8 Reporting Crime and Anti-Social Behaviour
- **Privacy**
See Editorial Guidelines Section 7 Privacy.
- **Fairness, Contributors and Consent**
See Editorial Guidelines Section 6 Fairness, Contributors and Consent

SUMMARY OF MAIN POINTS

- Set ups and stunts that combine investigation with factual entertainment should be editorially justified by the wrongdoing or other behaviour they expose – not simply for entertainment.
- The factual entertainment approach to investigative journalism needs to be considered on a case by case basis; the fact a particular technique has been utilised on one programme does not mean it will necessarily be appropriate for another.
- Production teams should keep in mind and work within the Editorial Guidelines on doorstepping when using set-ups as a means of getting answers to allegations of wrongdoing.

- Production teams should keep in mind the laws relating to trespass, and normally leave private land or property when asked to do by the legal occupier.
- If it is intended to secretly film a set-up or stunt and it is unlikely the subject of the filming would give retrospective consent, the secret filming should be justified by the public interest it serves.
- Any deception should be in proportion to the wrongdoing or other behaviour under scrutiny and should not be solely for entertainment.

GUIDANCE IN FULL

- Introduction
- Set Ups and Stunts
- Secret Recording
- Deception

Introduction

Our programmes cover serious topics in a variety of ways, but while series such as 'Mischief' may take a more irreverent approach to current affairs than, for instance, a 'Panorama', it is important to remember that the techniques employed by both are equally rooted in journalism.

Factual investigations use 'Mischief'-style devices and stunts only when it's editorially justified – for example to capture specific illegal behaviour, expose hypocrisy, or highlight dubious business practices.

Where deception and other investigative techniques are used in a way that elicits material that is entertaining as well as evidentially essential, this should not be done solely for entertainment purposes, but should

also serve a serious purpose, meeting the BBC's standards of accuracy, fairness and respect for privacy.

The factual entertainment approach to investigative journalism needs to be considered on a case by case basis, taking into account the nature of the target, any wrongdoing being revealed and the extent of any intrusion that results from our investigative methods. The fact a particular technique has been utilised on one programme does not mean it will necessarily be appropriate for another.

Set Ups and Stunts

Set ups and stunts often involve some sort of disturbance or activity which the target is likely to consider unexpected and unauthorised, so they cannot be justified unless there is a public interest to be served.

Set-ups and stunts should not obstruct or get in the way of a company's normal business, or interfere with its customers. Nor should they unjustifiably invade the privacy of innocent bystanders. So, for example, a stunt focussed on a supermarket should not normally block the door or any area inside the entrance, but could potentially be organised on the street nearby, or also possibly - depending on the nature of the location and any safety implications - in the car park. Editorial Policy can offer advice on what is appropriate in individual circumstances.

As with all intrusions, the degree of the intrusion needs to be in proportion to the wrongdoing we are exposing. As a consequence, it can be more difficult to justify staging a set-up or stunt at a personal address, unless that address is also the target's place of business and its location is already in the public domain.

Production teams should keep in mind the laws relating to trespass, and normally leave private land or property when asked to do by the legal occupier.

Depending on the individual circumstances of the story and location, it may be appropriate to use props, but this needs to be carefully considered in advance, and will not be possible if it creates a nuisance to the public or neighbouring businesses.

Doorstepping

Whilst some set-ups or stunts may be carried out undercover, as part of the investigative process proving wrongdoing, at other times they may be carried out as a means of getting answers to allegations of wrongdoing. When this occurs, they are essentially a doorstep, and should be conducted in keeping with the Editorial Guidelines on doorstepping. Consequently, production teams conducting an investigation into a business or organisation should not normally turn up outside an address exhorting someone to appear unless that target has previously been contacted, and given a fair opportunity to respond to any allegations – or unless Director Editorial Policy and Standards has granted permission for a doorstep without prior approach.

(See Editorial Guidelines Section 7 Privacy: Doorstepping)

However if during the course of a stunt, the target (or someone authorised to speak for them) willingly approaches the crew to discuss the relevant issue in the knowledge that they are appearing on camera, it can often be argued that they have, by implication, consented to being filmed.

Secret Recording

If it is intended to secretly film a set-up or stunt and it is unlikely the subject of the filming would give retrospective consent, the secret filming should be justified by the public interest it serves.

Care should also be taken to consider who it is appropriate to identify when any secretly recorded material is transmitted.

(See Editorial Guidelines Section 7 Privacy: Secret Recording)

(See Guidance: Secret Recording and Guidance: Anonymity)

Deception

Though it is sometimes appropriate to use deception in an investigation – and that deception may contribute to ensuring the investigation is entertaining or engaging – any deception should be in proportion to the wrongdoing or other behaviour under scrutiny and should not be solely for entertainment.

Deception can raise issues of fairness and privacy. Therefore, when making use of deception to facilitate a set-up or stunt, it is advisable to have an early discussion with Editorial Policy to consider the editorial justification.

(See Editorial Guidelines Section 6 Fairness, Contributors and Consent: Deception)