

# **2**

# **CHANNEL 4'S COMPLIANCE PROCEDURES**

## 1. INTRODUCTION

Channel 4's internal compliance procedures are intended to enable, through best practice and reference-up, the responsible making and broadcast of the boldest and most challenging programmes which can be successfully defended to Ofcom and in the courts where necessary and in which our audience can safely place its trust. To be effective the compliance process must include ALL staff involved in the making and broadcasting of programmes and programme material such as trails, press information and marketing. The process requires knowledge of and adherence to the rules in the Ofcom Broadcasting Code ('the Ofcom Code'), the Independent Producer Handbook ('the Handbook'), including the Viewer Trust Guidelines and other internal guidelines. Also essential is close collaboration between commissioning editors (including deputies, editors, assistant editors, programme executives, editorial administrators and assistants) and programme-makers, input from editorial and compliance managers in all channels and platforms and advice from the programme lawyers in the legal & compliance department. The reference-up process, which lies at the heart of effective compliance, involves editorial heads of department, channel heads and ultimately the Director Of Television & Content and Chief Executive. Also involved in and key to the process of compliance along with the editorial and legal teams, are staff in new media (especially web sites and VOD), creative services, press, the programme planning and strategy departments, media planning, scheduling and marketing departments.

The following internal procedures apply to all programmes commissioned by, purchased for and broadcast on Channel 4 and all its platforms, including E4, More4 and Film4 (including all '+1' catch-up channels) and to material published on

the web. The same essential principles will apply to radio, although some procedures and terminology will vary. There are separate procedures for the digital channels and New Media, including VOD (see reference to these below), which should be read in the light of the over-arching principles in this document. These are available from the legal & compliance department.

**It is essential that all editorial staff at Channel 4 read and are familiar with the Ofcom Code and the Handbook as well as these procedures.**

## 2. THE COMPLIANCE PROCESS AND ROLE OF COMMISSIONING

Although the Channel's approach will always be one of collaboration, the cardinal principle is that programme lawyers (and compliance advisers where appropriate) advise and editors decide. In other words, working closely with programme-makers who have their own obligations, commissioning editors, editorial heads, the channel heads, and ultimately the Director of Television & Content and Chief Executive, by a process of 'referral-up', are responsible for the editorial content of the programmes. Crucially this includes making sure that all programmes - in their production and broadcast - have been subject to the appropriate level of scrutiny at every stage to ensure compliance with the Ofcom Code. This includes reviewing co-productions, programmes commissioned or acquired by commissioning editors' predecessors and all repeats on all platforms, in conjunction with the channel's editorial compliance manager.

Editorial staff are also responsible for ensuring that before and after broadcast any matters giving rise to legal issues or requiring legal advice on content issues such as libel, contempt of court and fair dealing are referred to the legal &

compliance department for timely advice. A central aim of the legal & compliance department is creative risk-taking – to enable the broadcast of the boldest possible programmes within legal and regulatory constraints so that they may be successfully defended after broadcast. To best achieve this aim and the creative ambitions of the Channel itself, therefore, a programme lawyer should be consulted and involved at the earliest stages of a project requiring advice and then work closely with the editorial team and programme-makers.

## 3. THE LEGAL & COMPLIANCE DEPARTMENT

The programme lawyers and compliance advisers in the legal & compliance department are enablers with considerable expertise in dealing with the full range of media law and regulatory compliance issues, dealing with Ofcom on a daily basis. They advise on all content-related legal and compliance issues in the making and broadcast of programmes and other content on all Channel 4 platforms, before and after broadcast. In addition they provide guidance on ethical issues and best practice in relation to the making and broadcast of our programmes.

The programme lawyers in the legal & compliance department are involved in legal and compliance training of internal staff and independent producers, draw up specific guidelines for programmes, series and genres where needed and are instrumental in the robust defence of programme content both where complaints are made to Ofcom and where litigation is threatened. They are also the first point of contact with Ofcom and are involved in proactive lobbying on legal and regulatory changes affecting programme content.

In addition to being easy to find during

office hours by visiting the legal & compliance department, a designated programme lawyer is on call 24 hours a day, 7 days a week ('the duty lawyer'). A duty lawyer memo is circulated at the end of each week and this contains the name of the following week's duty lawyer and their full contact details.

## 4. THE VIEWERS' EDITOR

The Viewers' Editor's role is to assess and consider audience comments, concerns and views on Channel 4's output from a position of independence within the Channel and to represent these views where appropriate at editorial and legal and compliance discussions. It is also to provide advice and guidance where appropriate, to the Director of Television & Content and channel heads, on decisions to commission and broadcast programmes on behalf of viewers. The Viewers' Editor also acts as an additional sounding board on sensitive or challenging content decisions before and after broadcast, with particular emphasis on the audience perspective. This will include, but not be limited to, content which might cause or has caused significant offence or concern to the audience. They will also act as another level into existing complaint handling, picking up information from many different sources that already exist within the Channel and outside and acting as a source of intelligence on viewers.

The Viewers' Editor can ask, where necessary, the question "why are we broadcasting this?" even where the view of the editorial team and legal & compliance is that it complies with the Ofcom Code. This role is complementary to the pivotal role played by research & insight and the editorial and legal/compliance process. Consulting or briefing the Viewers' Editor where an issue in a programme may cause or has caused a significant audience

reaction will help not only with public accountability but may assist in defending that programme from subsequent complaints to Ofcom. Final editorial control resides with the Director of Television & Content and the Chief Executive.

## 5. THE ROLE OF OFCOM

Channel 4 is directly accountable to Ofcom under its licence for both the making and the content of all its programmes (including all programme trails). All independent production companies in turn have contractual obligations to comply with the Ofcom Code and the Handbook in their making of programmes and to alert their commissioning editors to potential issues and problems. Ultimately all issues arising under the Ofcom Code relating to the content and making of programmes (and most legal issues) will need to be defended by Channel 4 but the production company which made the programme, and the programme-making team, will play a crucial role in its defence. A serious failure in compliance can result in the imposition of a very heavy fine, a direction not to repeat a programme, a direction to broadcast Ofcom's adjudication on air and even, in the case of all but Channel 4 itself, the shortening or the revocation of a channel's licence. The imposition of a sanction can also be highly damaging both to Channel 4's and its programme-makers' reputation and potentially undermine the audience's trust in our programmes.

### Responses to Complaints to Ofcom after Broadcast

If a programme or a trail for a programme attracts significant complaints or otherwise gives rise to concerns, Ofcom may seek the Channel's justification for broadcast and an explanation of how it was felt it complied with the Ofcom Code. This may relate to the programme's scheduling as well as its content and any warnings that

did or did not precede it.

In most cases, a member of the legal & compliance department will draft the reply to Ofcom with input from the commissioning editor (or creative services, if a trail) and, if appropriate, the programme-makers. However, the commissioning editor (or creative services, if a trail) must be able to provide a defence of editorial decisions taken and to assist in preparing the section of the letter relating to this. Ofcom normally allows ten working days for a response but in some circumstances may impose a shorter deadline.

Responses to fairness and/or privacy complaints and more complex standards issues generally entail a significant amount of work and the programme lawyer will need full cooperation and assistance from the programme-makers and commissioning editor who may be required to attend any Ofcom hearing.

## 6. WHEN A PROGRAMME IS COMMISSIONED OR PURCHASED

When a programme is commissioned or purchased, the commissioning editor is responsible for consulting the legal & compliance department for advice where needed at the appropriate stages. Some programmes will be so straightforward that a programme lawyer will not need to be consulted at all. However, in the case of many programmes likely to give rise to legal or compliance challenges, advice will be needed at a very early stage, in some cases even before the programme is commissioned or acquired.

The commissioning editor must also ask the executive producer or producer to provide assurances that the programme team has adequate experience, ability and resources to enable them to understand

and address the Ofcom Code, and the legal and best practice issues their programme is likely to throw up. Please see the **Viewer Trust Guidelines** for further details of these obligations, including the importance of referral up within the production company and to Channel 4.

The compliance process works best as a collaborative process between the programmes-makers, commissioning editor and the legal & compliance department. Where programme-makers are liaising directly with the programme lawyer, which will quite often be the case, commissioning editors must discuss the advice that has been given with the programme lawyer and ensure that it is properly acted upon.

## 7. EDITORIAL REFERRAL-UP PROCESS

The editorial 'referral up' procedure is at the heart of creative risk taking and compliance and it exists to ensure that difficult or fine-cut decisions on legal and compliance matters are properly considered by the most appropriately experienced and senior editorial executives and programme lawyers within the Channel and, in the unlikely event of any disagreement concerning the programme lawyer's advice, that this is discussed at a senior level.

**The key principle is "if in doubt refer".** Initial referral up is by the commissioning editor or deputy or assistant to their editorial head and then to the Channel Head, together with the Controller of Legal & Compliance or one of her deputies. The Channel Head and/or Controller of Legal & Compliance may then take the decision to refer up further to the Director of Television & Content.

On more contentious or significant

programmes and issues, the Director of Television & Content will also inform the Chief Executive for his final decision as Editor-in-Chief. The Chief Executive, in conjunction with Director of Television & Content will decide whether the circumstances are so exceptional that it is necessary to inform the Channel 4 Board.

In addition to the above editorial process, the Controller of Legal & Compliance reports directly to the Group Finance Director on potentially serious legal or compliance risks concerning programme content, legal action taken or threatened against the Channel and serious regulatory action.

### See point 8 below for Issues Requiring Reference-up

#### Difficult and fine-cut compliance decisions

After consideration and advice from the legal & compliance department, where necessary, all such compliance decisions or issues should be referred up by the commissioning editor to the relevant editorial head and, if appropriate, to the Head of Channel 4 (or Channel Head) and ultimately the Director of Television & Content and then Chief Executive. Such matters might concern a significant viewer trust or programme authenticity issue, the inclusion of potentially harmful or offensive material e.g. very strong language, explicit sexual content or graphic violence; or may relate to a difficult ethical, fairness or privacy issue. At the same time the commissioning editor (or programme lawyer) will also refer the matter up to the Controller of Legal & Compliance or one of her deputies.

#### Where there is disagreement

Compliance issues and advice may give rise to considered discussion but a programme lawyer's advice on legal matters must always be followed, with reference up to the Controller of Legal &

Compliance. If a commissioning editor disagrees with a programme lawyer's advice on a compliance issue it must be referred up to the Controller of Legal & Compliance and Head of Channel 4 (or channel head) and, if necessary, to the Director of Television & Content and then Chief Executive.

## 8. ISSUES REQUIRING REFERRAL-UP

**It is impossible to set out an exhaustive list of issues which require referral-up but the golden rule is - if in doubt, refer. The following list outlines the main areas where timely and appropriate editorial and compliance referral-up before (and in some cases after\*\*) broadcast is required:**

- Where there are significant viewer trust issues; \*\*
- Where there are serious questions or concerns about the authenticity of factual material; \*\*
- Apparently dishonest conduct by a member of the production team; \*\*
- Programmes containing material which will potentially cause widespread offence e.g. extreme violence, explicit sexual material, highly offensive humour, material causing significant religious or racial offence or offence to other minority groups;
- Programmes containing the most offensive language;
- Consideration of plans to use Premium Rate Telephone Services (including red button) for voting or competitions, or other forms of viewer interaction;
- Where there are plans to film or record surreptitiously or broadcast such material;
- Where there are serious concerns about the health or safety of programme makers or contributors; \*\*
- Where there are sensitive or ethical issues relating to contributors, particularly those under 18 or vulnerable adults; \*\*
- Projects which involve travel to a

dangerous country;

- Where there are plans to research or film in potentially dangerous situations;
- Where there are plans to provide an undertaking of anonymity to a source (see also point 9 (viii) below);
- Where a potentially contentious programme is relying on a single source;
- Where there are plans for highly controversial figures to appear in programmes;
- Any proposal to grant a preview to a contributor or other third party in unusual circumstances;
- Any proposal to pay a criminal or someone who has engaged in seriously anti-social behaviour for an interview about their crime/behaviour;
- Footage of executions or individuals at the point of death;
- The portrayal of highly controversial figures or events in factual dramas;
- Where there are plans to film entertainment "set-ups" or high profile stunts;
- Any other material which requires a difficult call on a compliance or sensitive ethical issue;
- Programmes in respect of which there is a serious risk or threat of legal action; \*\*
- Where there is serious risk or threat of police action against the programme, programme-makers or a contributor; \*\*
- Where there are plans to enter into a commercial relationship, including for any product or service, with a third party in connection with a programme or programmes, particularly where it is planned to make reference on air to the company and/or products or services;
- An issue giving rise to a significant conflict of interest in respect of the programme makers or Channel 4. \*\*

\*\*Some of the above issues might also arise after transmission of a programme and will therefore require referral-up at that stage and these are denoted with a double asterisk.

## 9. AREAS OF POTENTIAL CONCERN WITH SPECIFIC PROCEDURES

### i) Viewer Trust

Channel 4 has a bond of trust with its audience and a duty to ensure that viewers are not deceived or misled by our programmes (including programme trails and other promotional/press edits). This bond must not be broken and, if it is, the most serious consequences will follow. Programmes must be truthful, accurate and fair and not mislead the audience. Programme-makers must understand the importance of this issue and that they must never stage, construct, reconstruct, re-enact or otherwise fake any scenes of actuality and pass them off to our viewers or to Channel 4 as the real thing.

The importance of viewer trust is not limited to current affairs, documentaries or conventional factual programmes. Simply because a programme is primarily designed to entertain or is 'formatted' does not mean that there is a licence to mislead the audience. Our viewers are entitled to respect and that means they must feel confident that they can take what they see or are told in a programme at face value.

At the heart of the commissioning system, which is central to Channel 4's broadcasting remit, is the relationship between the commissioning team and independent producers. To be effective and to achieve the highest quality programmes, the relationship must operate with honesty, openness and trust. It is important that the commissioning process does not act as a disincentive to programme-makers at any level, inhibiting them from telling Channel 4 if a project is not working.

In addition, it is important that everyone involved in the programme, whether at the production company or the Channel, avoids, even inadvertently, making anyone involved in the production feel they are under pressure to deliver 'results' or to 'hype' the story at the expense of the truth. On rare occasions, halting a project which is not working out (perhaps because the story does not stand up) is the right course of action; inventing the story is never an option and "the show must go on" is not an excuse.

There is an equal responsibility here for footage obtained from a third party as there is for footage shot by our programme-makers.

**The Viewer Trust Guidelines**, which must be read and followed, set out further practical steps and guidance designed to ensure truth and accuracy in programmes and explain what constitutes acceptable and unacceptable practice. The guidelines contain more detail on these areas:

● **Fact-checking and Accuracy.** A cornerstone of maintaining viewer trust is ensuring that programmes are factually accurate.

● **Editing Interviews.** As well as not misleading the viewer, it is vital that interviews and other contributions, including observational filming, are edited fairly and do not distort or misrepresent the person's known views, position or experience.

● **Hoaxes.** If it seems too good to be true perhaps it is. Make further enquiries as to their authenticity to ensure that you, and hence Channel 4 and the viewer, have not been fooled.

● **Filming Criminals or Criminal Behaviour.** This is an area fraught with difficulty and can lead to authenticity problems.

### ● Other areas where authenticity issues can arise:

- Use of secret filming
- Use of disguised or anonymous interviews
- Drawing on anonymous sources
- Reliance on uncorroborated claims
- Advertising for contributors
- Payments to participants, especially criminals.

### ii) Strong Language

The most offensive language i.e. the words 'fuck' and 'cunt' and their derivatives (e.g. 'fucking' and 'motherfucker'), cannot be used before the 9pm watershed as this would breach the Ofcom Code and must be removed or obscured by bleeping or dipping. This includes the words in written form (including subtitles) and gestures. Any proposed use of the word 'fuck' or any of its derivatives after the watershed should be referred up by the commissioning editor to the relevant editorial head for approval in writing before transmission and arrangements for an on-air warning must be made. A 'swear form' (commonly referred to as a 'fuck form') must be completed, copied to the programme lawyer where appropriate. Because of its greater potential to offend, any proposed use of the word 'cunt' post-watershed should be referred up by the commissioning editor to the Head of Channel 4 or relevant channel and/or Controller of Legal & Compliance, copied to the editorial head, for approval in writing before transmission, following advice from the particular programme lawyer.

### Remember: these words and their derivatives must never be broadcast before 9pm in any form.

Note: If the word 'cunt' is to be included within a programme, the warning must refer to "very strong language", rather than merely "strong language".

### iii) Suitability for Slot and On-Air Warnings and Flaggings

The Ofcom Code stresses the importance of viewer expectation which includes appropriate scheduling and providing the audience with the necessary clear information to enable informed viewing choices. Commissioning editors are responsible for ensuring that their programmes are appropriately scheduled, edited for their slot (including repeats at an earlier time) and preceded by any appropriate announcements to warn viewers about, for example, strong language, violence, explicit sexual content, flashing images etc. They must consult with a programme lawyer in the legal & compliance department and then liaise directly with the relevant personnel in media planning. An online request form is in the process of being developed to simplify this.

What used to be called "family viewing time" starts at 5.30am and, therefore, material not suitable for pre-watershed transmission, including strong language, must not be broadcast between 5.30am and 9pm. In addition, if there is +1 service the time of original broadcast must take this into account. Specifically, care must be taken with scheduling programmes between 4.30am and 5.30am.

Warnings are not restricted to post-watershed programmes. Sometimes, it will be necessary to provide viewers with information flagging up the content of programmes transmitted before 9pm where, notwithstanding its acceptability for family viewing, some viewers may not wish to watch or wish their children to watch e.g. medical programmes involving surgery, food programmes that show animal slaughter or scenes that very young children may find upsetting. In such cases, commissioning editors should arrange with the relevant personnel in media planning for the content to be

'flagged up' and a draft announcement should be agreed in consultation with a programme lawyer.

Some programmes, pre- or post-watershed, may require a warning into each part or into the part where the potentially offensive material occurs e.g. the word 'cunt' is included in part 3 of a post-watershed programme or a documentary contains particularly graphic images in part 2. Viewer expectation is the key and the programme lawyer will advise on whether an 'into-part warning' is necessary.

All on-air introductions for contentious or sensitive programmes e.g. Dispatches, must be approved by the commissioning editor and the relevant programme lawyer before transmission.

### Warnings or flaggings must be clear and explicit. They can be customised but not to the point of losing clarity. They are not a substitute for appropriate scheduling.

Some examples of warnings are:

- "Contains strong language"
- "Contains strong language from the start"
- "Contains very strong language" (for 'cunt')
- "Contains sexual scenes"
- "Contains adult humour"
- "Contains scenes of explicit violence and sexual violence"
- "Contains scenes of human suffering and distress"
- "Contains images of animal slaughter some viewers may find distressing"
- "Contains footage of surgical procedures and some nudity"
- "Contains flashing images"
- "Suitable for adults only" (only with the most extreme material scheduled late)

Live programmes expected to contain, for example, strong language, adult humour or flashing images (such as flash

photography or strobe lighting effects) should also be preceded by an appropriate warning. Please see Live Programmes Procedures.

### Where a programme contains strong language in the opening minutes and starts at 9pm, the relevant personnel in media planning should be informed to make sure that it does not start just before the watershed.

### iv) Surreptitious or Secret Filming or Recording

All secret filming and recording (including recording telephone conversations for broadcast and where a subject does not realise that a visible camera or microphone is actually recording) must comply with section 8.13 of the Ofcom Code and be warranted (unless it is for entertainment purposes, in which case there are other rules). The term 'secret filming' will be used for ease of reference but it is intended to cover all covert or surreptitious filming or recording. Please refer to and follow the **Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes ('Secret Filming Rules')**. In outline the following procedure must be followed:

a. Other than in exceptional circumstances, programme-makers must give commissioning editors and programme lawyers at least 2-3 working days notice of an intention to secretly film.

b. Other than in exceptional circumstances, all secret filming will require a written request to be made to and approved by the Head of Channel 4 or the Head of News and Current Affairs or his/her appointee at two crucial stages, (1) before it is undertaken, and (2) before it is broadcast:

1. Before any secret filming is undertaken, the commissioning editor must request permission in writing from the Head of

Channel 4 or the Head of News and Current Affairs, any such request having been seen and approved by the programme lawyer. **A suggested proforma for this written request is appended to the Secret Filming Rules.** Advice from the Controller of Legal & Compliance or one of her deputies should be also sought before submission if one of them is not the programme lawyer advising.

2. Later, if the secret filming has been successful and it is to be included in the programme as transmitted, the commissioning editor must request written permission in writing from the Head of Channel 4 or the Head of News and Current Affairs before it can be broadcast – once again, acting on the advice of the programme lawyer and the Controller of Legal & Compliance (or one of her deputies). **A suggested proforma for this written request is appended to the Secret Filming Rules.**

**Note: all written requests to secretly film and stage one and stage two approvals must be copied to the Controller of Legal & Compliance, who keeps a central record, the appropriate programme lawyer (if different from the Controller of Legal & Compliance) and the relevant editorial head.**

In addition, commissioning editors and programme-makers must read and follow the **Rules of Practice and Procedure for Secret Filming and Recording for Channel 4 Programmes.** This is appended to the Handbook and available from the legal & compliance department. **Commissioning editors should send this document to all programme-makers contemplating undertaking any secret filming.**

**v) Deceptions and Set-Ups and Recordings for Covert Purposes**  
Programmes which involve set-up

situations, deceiving contributors for entertainment purposes or wherever a subject has consented to be recorded for a purpose other than that intended covertly by the programme-makers, must comply with Sections 7.14 and 8.15 of the Ofcom Code.

In addition, in all such cases, commissioning editors should seek the early advice of the legal & compliance department and where necessary refer-up for approval, both before recording takes place and again before it is broadcast.

#### **vi) Live Programmes**

Channel 4 has specific rules contained in the **Live Programme Procedures** protocol, including an apologies procedure where a problem occurs on air, which must be followed. This is appended to the Handbook and available from the legal & compliance department.

Commissioning editors should ensure that presenters of live programmes are capable of dealing with the particular demands of the programme and that arrangements are made at an early stage for legal & compliance briefings and advice from the legal & compliance department. With few exceptions e.g. sporting events, all live programmes must be viewed and monitored by an editorial representative of Channel 4.

If any inappropriate material is inadvertently broadcast live which might be in breach of the Ofcom Code, an appropriate apology must be actioned immediately in consultation with the duty lawyer. The Controller of Legal & Compliance, Channel Head and the Director of Television & Content should also be notified as soon as possible thereafter and a written report of the incident prepared by the commissioning editor without delay. Where material which is potentially legally problematic is inadvertently broadcast, the programme lawyer advising on the show will direct

what action, if any, should be undertaken. In the event a programme lawyer is not watching the show, the editor must call the duty lawyer immediately i.e. while the show is on air.

If there is any use of premium rate services in connection with a live programme, there must be an agreed contingency plan in place, as referred to in the Live Programme Procedures, detailing what is to be done if/when technology fails.

There are additional procedures governing the '+1' time-shifted broadcast services (Channel 4+1, E4+1 and More4+1) which are referenced in the Live Programme Procedures and which are set out in more detail in the relevant Channel Editorial and Compliance Protocols. The procedures cover situations where live programmes are relying on premium rate telephone services that close within the live programme or within an hour of it or where a potentially serious legal issue or potentially serious breach of the Ofcom Code occurs which needs to be obscured before the '+1' repeat.

#### **vii) Programme-Makers Travelling to a Hostile Environment**

Before a programme team departs to a potentially hostile environment (even where the programme itself is not a sensitive or controversial one e.g. a holiday programme) and whether or not they are actually filming, the commissioning editor must ensure that the team is adequately experienced and prepared for the trip and that relevant personnel at the production company read and comply with the Checklist for Security Protocol for Filming in Potential Hostile Countries **aka the Hostile Environment Protocol or "CLSP"** (appended to the Handbook and available from the legal & compliance department) and satisfactorily complete a protocol form for that trip. A programme lawyer in the legal & compliance department

will advise on the protocol's completion. The commissioning editor must also ensure that their programme finance manager addresses all necessary insurance issues with the programme team before they depart. Where the nature of the trip, those travelling or the country being visited merit it, the commissioning editor must seek the advice of a programme lawyer and see to it that the programme team are properly briefed on safety issues before they depart.

A surprisingly large number of countries are designated as potentially risky for travel – the Foreign Office web site (<http://www.fco.gov.uk/travel>) has useful and up to date information.

There is a separate protocol outlining the steps to be taken in the event of a kidnapping and the current affairs duty executive and duty lawyer should be contacted immediately.

#### **viii) Undertakings of Anonymity to Sources**

If a programme-maker wishes to or has given an unequivocal undertaking of anonymity to a source or interviewee, immediate advice must be sought from a programme lawyer in the legal & compliance department. If the undertaking might ultimately bring the programme maker into conflict with the law and he/she is expecting Channel 4 to be bound by the undertaking, this must be referred up via the Director of Television & Content and Chief Executive to the Channel 4 Board.

## **10. COMPLAINTS ABOUT PROGRAMMES**

Viewer Enquiries respond to the vast majority of calls, emails and letters of complaint about programmes but commissioning editors bear primary responsibility for answering letters of complaint about their programmes where

they raise significant, unusual, complex or otherwise sensitive issues. Replies should be reasonably prompt, duly courteous and appropriate to the issues raised.

If a complaint raises legal, compliance or ethical issues (including those involving viewer trust) they must be discussed with a programme lawyer in the legal & compliance department before reply and referred-up as appropriate. The Viewers' Editor should be consulted where necessary and will assist in accountability where there is a significant reaction to a programme – before or after broadcast – on web sites or forums.

## 11. THE COMPLIANCE ROLE FOR OTHER DEPARTMENTS

### Media Planning

Separate guidelines and protocols (available from the legal & compliance department) set out in detail the procedures to be followed in respect of:

- Programme trails/promotions /launch tapes;
- Presentation announcements;
- On-air warnings and flaggings;
- Legal apologies and corrections;
- Ofcom adjudication summaries;
- Promotions for Programme Support material;
- Appeals;
- Helplines;
- Competitions;
- Phone line details e.g. for voting or solicits for programme contributors.

### Warnings and Flaggings

Each day the announcer for each Channel must run all warnings, flaggings and potentially problematic or sensitive announcements for that day past the duty lawyer from the legal & compliance department and record this in the daily 'warnings and flaggings log'.

All relevant staff will be informed who the duty lawyer is for a particular day by a weekly duty lawyer memo, which contains the lawyer's full contact details.

Note: references to the 'presentation department' later in this Handbook are, in the case of Channel 4, intended to refer to 'Media Planning'.

### Press Office

The material published by the press office (e.g. press tapes for review purposes and press launch clip tapes) is not regulated by Ofcom but can be the subject of legal action, such as libel, in the same way as programmes and can give rise to viewer trust and other corporate issues. Channel 4 is potentially liable for what newspapers publish on the basis of tapes/DVDs of preview/review copies of our programmes. Programmes may have a range of issues which make pre-broadcast publicity potentially problematic – this may include issues with contributors. It is vital therefore that press strategy for potentially contentious or sensitive programmes is discussed and agreed in advance with the commissioning editor and programme lawyer. All billings and press releases must be seen in advance by the programme's makers and the commissioning editor to ensure they are accurate and to identify any problems. Billings and press releases should also be cleared by the programme lawyer before publication, especially where the programme is in any way contentious or sensitive. The programme lawyer must also be consulted, along with the commissioning editor, before tapes/ DVDs are sent to the press.

There is an agreed protocol covering this often highly sensitive area and copies are available from the legal & compliance department.

Other departments in the channel such as corporate relations or sponsorship may

also put together clip tapes of the channel's programming. Please note that this material is the subject of this agreed protocol in a similar fashion to press material.

### Creative Services, Trails and Marketing

All trails must be viewed and approved by a programme lawyer, or in some cases a compliance adviser, in the legal & compliance department, who will advise on any edits required, when the trail can be scheduled and whether, in exceptional cases, a warning is required. The commissioning editor must also view the trail for their programme before broadcast. Normally, for programmes with factual elements the programme maker should also see the trail in advance to identify any problems relating to viewer trust, accuracy or contributors. Marketing for all programmes of a sensitive or contentious nature must be discussed at an early stage with the commissioning editor and the relevant programme lawyer in the legal & compliance department who must approve the final version.

There is an agreed protocol covering this often highly sensitive area and copies are available from the legal & compliance department.

### Viewer Enquiries

A separate guide (available from the legal & compliance department) also sets out in detail the procedures to be followed in respect of reference from the viewer enquiries department to the legal & compliance department of communications which potentially raise legal or compliance issues. Where a particularly contentious programme is to be broadcast the commissioning editor responsible should give appropriate advance notice to the viewer enquiries department and, on the advice of the relevant programme lawyer, draft appropriate wording to assist the viewer enquiries department in dealing with calls.

Where a programme is likely to or does give rise to a significant number of complaints the commissioning editor, in consultation with the legal & compliance department and the Viewers' Editor, should draft a standard response to assist the viewer enquiries department in dealing with callers and respond to emails and letters.

### Digital Channels

Channels including E4, More4 and Film4 have their own Editorial, Legal & Compliance procedures and reference-up procedures, copies of which are available from the legal & compliance department. In addition, editorial and compliance managers play a key role in the compliance process, including organising compliance for live streaming and reverting of post-watershed shows which are repeated pre-watershed, identifying problems in the schedule and arranging warnings. These procedures should be read in the light of the principles outlined in this document.

### New Media

There are separate written and/or established procedures for editorial staff involved in commissioning and producing content for dissemination on all new media platforms, particularly websites (including podcasting), mobile, red button and radio, to ensure that appropriate consultation takes place with lawyers from the legal & compliance department before material requiring advice is published/ broadcast. These procedures must be viewed in the context of the principles outlined in this document and in particular the requirements of the **Editorial Referral-Up** section above.

Detailed guidelines and processes for the conduct of competitions, whether they are entered for free on the channels' websites, or involve a premium rate service, are in place. Similarly, all online and premium rate voting is governed by detailed rules and guidance designed to ensure the

integrity of processes involved.

## **VOD**

Video on Demand ('VOD') is regulated by the Association for Television-On-Demand ('ATVOD') and its code of practice, which must be followed. It is very similar to the Ofcom Code. One of its key provisions is that the Ofcom Code's requirements are adhered to. VOD's Compliance Manager deals with all regulatory content issues in close liaison with the programme lawyers in the legal & compliance department. Important issues include adequate systems for the protection of under 18s, the suitability of programmes for availability on VOD (catch-up and archive have different considerations), the need for carefully worded guidance and warnings and procedures for the take-down of programmes where required. There are special considerations concerning promotional material and clips for the VOD services. Further details are available from the VOD Compliance Manager.

## **Sponsorship**

The sponsorship department should liaise regularly with the legal & compliance department on the suitability of sponsors for particular programmes, as well as the nature and content of proposed sponsor credits. Where appropriate this process must also involve the commissioning editors for the programmes concerned. Commissioning editors must always be made aware by the sponsorship department of sponsorship of any of the programmes for which they are editorially responsible. Any issues should be referred to the legal & compliance department, at the earliest appropriate stage, so that scripts can be considered and potentially problematic material dealt with before any filming takes place.

## **Channel 4 News**

Channel 4 News has its own Compliance Manual and reference-up procedures. Please refer to the Head of News & Current

Affairs or the Controller of Legal & Compliance for more details.

## **Radio**

Radio will have its own procedures and protocols modelled on those in place for television and other visual media. The Ofcom Code also applies to radio and so does the Handbook and these referral-up procedures. References, therefore, to viewers includes listeners to radio programmes.

## **12. ADDITIONAL GUIDELINES AND PROCEDURES FOR CHANNEL 4 PROGRAMMES**

In addition, for many programme series, areas of programme making and programme genres Channel 4 has bespoke guidelines and protocols, many of which are referred to in this document, e.g. best practice rules for Secret Filming, Live Programmes and Filming in Hostile Environments. The key guidelines and protocols are appended to the Handbook and many are available on the 4producers web site. All of these documents are available from the legal & compliance department.

## **13. CHANGES TO THE OFCOM BROADCASTING CODE, OFCOM GUIDANCE, THE HANDBOOK, GUIDELINES AND PROCEDURES**

The legal & compliance department will, from time to time, circulate to staff details, guidance and advice covering any significant changes to the Code, Ofcom Guidance on the Ofcom Code or the Channel's guidelines and procedures since the publication of the Handbook.

**Channel 4 Television Corporation  
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