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Use of BBC Content after Publication or Broadcast

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13.1 Introduction

The BBC's editorial archives are an important national record and a useful and valuable resource. It is in the public interest¹ for the archives to be available where possible and appropriate.

The archives consist of all content produced and published by the BBC. They also include some unpublished/unbroadcast rushes and audio recordings and written material, such as research notes, correspondence and other data that relate to editorial content.

Not all of the BBC's archives are publicly accessible—and the extent to which archive material is publicly available varies. There is a presumption that material published online, such as BBC News content, is part of a permanently, publicly accessible archive, unless it is made available temporarily. Historic programming may be re-used or reverted by the BBC and, where appropriate and with permission, by third parties. Unpublished/unbroadcast rushes and audio recordings are not publicly available but continue to be part of the BBC's archives and may be accessed for re-use by the BBC or by third parties, where appropriate.

The BBC has a continuing responsibility to treat its content in accordance with the Editorial Guidelines after it has been published or broadcast, for example when it is re-used or reverted.

This section outlines the additional steps that should be taken when content is re-used or reverted. It applies to content that is recently broadcast or published, including via online services such as BBC Sounds or BBC iPlayer, and to content that is historic. It also applies whether the content is being re-used or reverted by the BBC or by a third party.

It covers requests by third parties for any BBC material and also addresses how to manage online content, including requests for removal or amendment².

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

² The sections of the Ofcom Broadcasting Code that relate to this are 2: Harm and Offence, 5: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions, 7: Fairness and 8: Privacy

13.2 Principles

- 13.2.1 When re-using or reversioning content, the current Editorial Guidelines must be taken into account. Content within the archives would have been made to the BBC's editorial standards of the day and, with the passage of time, those standards may have changed.
- 13.2.2 There is a continuing responsibility to respect privacy and to be fair to contributors, when re-using or reversioning content.
- 13.2.3 There is a presumption that material published online is part of a permanently, publicly accessible archive, unless it has only been made available temporarily. The online archive must be preserved in as complete a state as possible.
- 13.2.4 Content published with the expectation of remaining permanently available, particularly news content, should not normally be amended and should only be removed or hidden in exceptional circumstances.
See 13.4.27
- 13.2.5 There is a continuing responsibility to consider the BBC's impartiality, editorial integrity and independence; these must not be compromised when content is re-used or reversioned, whether by the BBC or a third party.
See Section 16 External Relationships, Including Commercial Relationships, and Financing: 16.2.1

13.3 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

- 13.3.1 All requests for unpublished, unbroadcast or otherwise unused material—including notes—from the police or in connection with court proceedings, possible court proceedings or other procedures in which the material may be regarded as evidence (such as disciplinary hearings by regulatory bodies), must be referred to Programme Legal Advice and Director Editorial Policy and Standards.

See 13.4.41

Other Referrals

- 13.3.2 Any proposal to use archive content that has previously been found in breach of editorial standards or content regulation codes must be referred to Editorial Policy.

See 13.4.2

- 13.3.3 Any proposal to use a light touch method of compliance for the large-scale release of content must be referred to Editorial Policy.

See 13.4.8

- 13.3.4 Any proposal to use potentially distressing archive content against the wishes of the relevant contributors, victims or the immediate family of dead people must be approved by a senior editorial figure, or for independent production companies by the commissioning editor, who should normally consult Editorial Policy.

See 13.4.15

- 13.3.5 Programme Legal Advice must be consulted about any proposed use of archive material of a crime if potentially related court proceedings are pending or in progress.
See 13.4.19
- 13.3.6 Any plans to re-use, reversion or otherwise make archive content available which features members of the Royal Family or the Royal Palaces must be referred to the BBC's Royal Liaison Officer. This does not apply to news content showing members of the Royal Family carrying out public duties.
See 13.4.20
- 13.3.7 If, in exceptional circumstances, there is a proposal not to observe restrictions on the re-use of distressing archive content Editorial Policy must be consulted.
See 13.4.23
- 13.3.8 Any proposal to remove publicly available online content from a BBC site or elsewhere, which is either inside the window of availability, or permanently available, must be referred to the relevant senior editorial figure, or for independent production companies to the commissioning editor, who may consult Editorial Policy.
See 13.4.27
- 13.3.9 Relevant Heads of Editorial Standards/Compliance and Complaints must be consulted over the wording of programme-specific explanations for a Revocation, Revision or Correction Label.
See 13.4.29
- 13.3.10 Requests to remove mothballed pages, with a banner headline stating the page has not recently been updated, must be referred to the relevant senior editorial figure.
See 13.4.30
- 13.3.11 All requests by third parties for published or broadcast content in connection with court proceedings, or other procedures in which the material may be regarded as evidence, must be referred to Programme Legal Advice and Editorial Policy.
See 13.4.32

- 13.3.12 UK Public Service and World Service teams must consult Consumer Technology & Products legal team³ about any request for re-use or reversioning of BBC material (including editorial content, metadata and other assets) by third parties as components of artificial intelligence. BBC Studios teams must consult BBC Studios Regulatory Affairs about any such requests. Editorial Policy may also be consulted in all cases.
See 13.4.34
- 13.3.13 Requests from third parties for access to unused material, including notes, rushes or audio recordings, must be referred to Editorial Policy who may consult Director Editorial Policy and Standards in sensitive cases.
See 13.4.36
- 13.3.14 Any proposal to give an individual's personal details, comments or other personal information to a third party without the individual's consent should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Programme Legal Advice and, where appropriate, Information Rights.
See 13.4.37

3 ConsumerTechnology&ProductsLegal@bbc.co.uk

13.4 Guidelines

General

- 13.4.1 When re-using or reversioning content, the current Editorial Guidelines must be taken into account. Content within the archives would have been made to the BBC editorial standards of the day and, with the passage of time, those standards may have changed.

This requirement applies irrespective of the proposed platform and the age of the material – including proposals involving artificial intelligence, to use archive BBC content.

- 13.4.2 Where content is re-used, reversioned or otherwise made available, findings of breaches of editorial standards by the BBC's Executive Complaints Unit, the BBC Trust or other predecessors, and of code breaches recorded by Ofcom or previous regulators must be taken into account.

Any proposal to use archive content that has previously been found in breach must be referred to Editorial Policy who will consider whether:

- there has been a change in standards since the original finding
- the content could be released if it were edited and/or additional information were given.

- 13.4.3 Editorial content originally broadcast or published in the UK that is re-used internationally may not be appropriate for re-use in all territories around the world out of duty of care to international contributors or BBC staff. Rights issues should also be considered.

- 13.4.4 Where appropriate it should be made clear to audiences when content is not contemporaneous. Labels, first transmission dates, contextual information or other signalling may be required to make clear when content is archive in order to avoid misleading audiences.

- 13.4.5 When content is re-used or reversioned, or otherwise made available for BBC or third-party use, its original context should be taken into account and it should not normally be misrepresented. There may be editorially justified exceptions, such as where content is used for a comedic/satirical purpose. However, fairness and harm and offence considerations apply.

Legal copyright, data protection issues and the legal right to privacy should also be considered.

- 13.4.6 While respecting that archive content is a record of history, consideration must be given to whether it is appropriate to use it unedited or whether this would breach the Editorial Guidelines or the law.

It may be appropriate to indicate when archive content has been edited or removed, in order to make audiences aware that a record has been changed.

- 13.4.7 Access or location agreements should be reviewed before content is made available as there may be special conditions for re-use.
- 13.4.8 With large-scale release of collections of archive content it may be acceptable to adopt a light touch method of compliance, where overall risks of breach of standards are mitigated by identifying parts of the collection which must be excluded or complied in full. When it is published or broadcast there should be a route for the public to get in touch and for a rapid response to take place if necessary.

Any proposal to use a light touch method of compliance for the large-scale release of content must be referred to Editorial Policy who will take into account the nature of the content and whether the proposed compliance arrangements are appropriate for that content.

- 13.4.9 There is a presumption that material published online is part of a permanently, publicly accessible archive, unless it has only been made available temporarily. The online archive must be preserved in as complete a state as possible.

See 13.4.28

Accuracy Issues

- 13.4.10 Content should not be re-used in a way that materially misleads the audience about a situation, events or what is being depicted. Labelling may be required. There may be exceptions for trails, comedy or entertainment purposes.

Editorial material that content makers plan to re-use or reversion may have become inaccurate or out of date and where appropriate it should be made clear to audiences that it is archive.

See Section 3 Accuracy: 3.4.32

Content Affected by Changing Circumstances

- 13.4.11 Content that is planned for repeat should normally be checked to make sure that it has not been overtaken by events, including the known death of, or significant life changes affecting, a contributor, and the arrest, appeal or charging of a suspect. In some cases an appropriate label or on-air announcement may be required; in others, the alteration or removal of some content may also be needed.

See Section 3 Accuracy: 3.4.32

Fairness, Consent and Privacy Issues

- 13.4.12 There is a continuing responsibility to respect privacy and to be fair to contributors.
- 13.4.13 Before content is re-used or reverted, any relevant available contributor consents must be checked and any restrictions on the re-use of the content should normally be observed, unless it can be established that circumstances have changed since the restrictions were imposed, so that they no longer apply.

See Section 6 Fairness: 6.4.1–6.4.2

13.4.14 Archive content may become more sensitive over time, for example if contributors:

- have died or suffer illness, emotional trauma or were otherwise featured as vulnerable contributors
- have disclosed sensitive personal information in the archive content
- featured as children when they were unable to give informed consent
- featured as young people whose lives may have changed.

See Section 6 Fairness: 6.4.10

Consideration must be given to how to minimise possible distress to surviving contributors when such content is re-used, reversioned or otherwise made available.

13.4.15 When use of the archive may cause distress to contributors, victims or the immediate family of dead people featured they should normally be notified of plans for re-use so far as is reasonably practicable. **If they object to re-use, any proposal to do so must be approved by a senior editorial figure, or for independent production companies by the commissioning editor, who should normally consult Editorial Policy.** Approval will only be given if the objections are outweighed by the public interest⁴.

13.4.16 Archive content of identifiably grieving or distressed people should only be used when there is editorial justification. The circumstances of the recording, such as the location; and the nature of the content, such as the intimacy and length of it, should be weighed against the public interest in re-using the content.

See Section 7 Privacy: 7.4.53–7.4.57

⁴ See Section 1 The BBC's Editorial Standards:
1.3 The Public Interest

- 13.4.17 Re-use of factual content in dramas and drama-documentaries, entertainment, comedy and satirical content must be editorially justified and must not create unfairness.

It should not cause unjustified embarrassment or offence to identifiable people featured in the archive or their living close relatives.

See Section 5 Harm and Offence: 5.4.44 and Section 6 Fairness: 6.4.27

For portrayal of real people in drama see Fairness.

See Section 6 Fairness: 6.4.58–6.4.59

For any proposal to use material from the chambers or committees of Parliaments or Assemblies, including Westminster, see Politics and Public Policy.

See Section 10 Politics and Public Policy: 10.4.10

Secretly Recorded Content

- 13.4.18 Secretly recorded content may infringe privacy and/or reveal wrongdoing. The editorial justification for re-use must assess the public interest.

See Section 7 Privacy: 7.4.11–7.4.29

Content Depicting Illegal or Anti-Social Activity

- 13.4.19 The use of archive material relating to crimes and to victims of crime must be editorially justified. While content depicting illegal or anti-social behaviour may have a clear public interest on first transmission, this may diminish over time. Any re-use must be considered on a case-by-case basis.

When releasing archive content relating to crimes, victims of crime and anti-social activity, content makers should:

- avoid repeated use of the same incident to illustrate a general theme
- not use archive content of one identifiable crime to illustrate another

- take care when using archive shots of prisoners to illustrate a specific crime or type of crime. Individuals should not be identifiable if they were not involved in the crime in question.

Programme Legal Advice must be consulted about any proposed use of archive material of a crime if potentially related court proceedings are pending or in progress.

See guidance: Re-use of Factual Content Featuring Illegal or Anti-Social Behaviour

Royal Archive Content

- 13.4.20 Content featuring members of the Royal Family or the Royal Palaces is often subject to specific contractual arrangements, especially when the BBC has negotiated particular access.
- Any plans to re-use, reversion or otherwise make such archive content available must be referred to the BBC's Royal Liaison Officer. This does not apply to news content showing members of the Royal Family carrying out public duties.**

Harm and Offence Issues

- 13.4.21 The re-use of any archive content must take account of the current guidelines on Harm and Offence. In assessing appropriateness for re-use, consideration should be given to:
- current events and circumstances which may make release inappropriate
 - changes in public attitudes to potentially offensive content
 - changes in platform, service or timeslot which would have an effect on audience expectations
 - whether the way that content may be discovered online, via links or embedding on other sites, means that audiences may not be prepared or realise it is archive, possibly increasing the risk of offence.
- See Section 5 Harm and Offence: 5.4.35**

- 13.4.22 When archive content would not have been made by the BBC today because standards or attitudes have changed, there may, nonetheless, be reasons to make it available. These might include if it is of historical or cultural interest, or if it is otherwise editorially justified in the public interest⁵. The content should be appropriately scheduled and/or signposted.

See Section 5 Harm and Offence: 5.1

- 13.4.23 The use of traumatic archive content, particularly when it features identifiable people, must be editorially justified and the public interest must outweigh issues around privacy or harm and offence. It should not be used as ‘wallpaper’.

Any restrictions placed on re-use should normally be observed. If, in exceptional circumstances, there is a proposal not to observe restrictions on distressing archive content, Editorial Policy must be consulted.

Managing Online Content

- 13.4.24 At the time that editorial content is published online, there should be a strategy for its management over time. It should be considered whether content needs to be updated or, if not, how it is to be treated.
- 13.4.25 To avoid materially misleading users, it should normally be clear when the content they are accessing was first published and, where relevant, when it was last updated significantly. Amendments, to both time limited and permanently available content, should be clearly signposted.

⁵ See Section 1 The BBC's Editorial Standards:
1.3 The Public Interest

- 13.4.26 When a material change is made to content, the change should normally be indicated to users. In exceptional circumstances there may be reasons, including legal or editorial considerations, not to do so.
- 13.4.27 The BBC's online content available in perpetuity is a permanent public record and its existence is in the public interest. It should not normally be amended.

Where there is an expectation that content, from an individual's name to a whole programme, is made available permanently, it should only be removed or hidden in exceptional circumstances.

These may include legal reasons, safety risks to individuals or a serious breach of editorial standards that cannot be rectified except by removal of content; or where tragic events make a programme containing similar content unsuitable for continued availability.

Removal is a last resort and content producers should not normally hide or remove content while requests, including so called 'right to be forgotten' requests, are considered, unless there are legal or editorial reasons to do so.

Any proposal to remove publicly available online content from a BBC site or elsewhere, which is either inside the window of availability, or permanently available, must be referred to the relevant senior editorial figure, or for independent production companies to the commissioning editor, who may consult Editorial Policy.

Considerations should include:

- the potential harm of removal to the public interest and the integrity of what remains publicly available
- any significant harm or distress continued publication may cause an individual to whom content producers have a duty of care
- whether information has been put in the public domain other than by the BBC or is available in public records. If so, requests to remove it should normally be refused.

Even when content is already circulating widely on the internet, any decision to remove it must be consistent with the Editorial Guidelines.

See guidance: Removal of BBC Online Content

Where there may be legal repercussions, any proposals to remove content should normally be referred to Programme Legal Advice, who may consult Information Rights where content contains personal information that might identify a living person.

- 13.4.28 Requests to remove content where contributors to the BBC complain that they did not give consent to their contribution appearing online or being made available in perpetuity should normally be refused, providing they gave informed consent to one part of the BBC and their safety is not endangered by the content's presence.

- 13.4.29 Requests to remove comments on BBC platforms and other social media platforms should normally be refused as long as the BBC's terms and conditions or privacy policy published at the time provide adequate protection.

See Section 17 Competitions, Votes and Interactivity: 17.4.64–17.4.66

Removal and revocations to online content should only be initiated by the relevant executive producer, commissioner or senior editorial figure. This also applies to any proposed removal of distributed content from partners' platforms.

Relevant Heads of Editorial Standards/Compliance and Complaints must be consulted over the wording of programme-specific explanations for a Revocation, Revision or Correction Label. In some circumstances the Press Office should be informed if a Revocation, Revision or Correction Label and explanation are to be applied.

Amendments that have been approved in order to avoid unjust or unfair treatment should normally be carried out promptly, clearly and appropriately and they should normally set out what was wrong, as well as putting it right.

See Section 3 Accuracy: 3.4.33–3.4.35

- 13.4.30 Requests to remove mothballed pages, with a banner headline stating the page has not recently been updated, must be referred to the relevant senior editorial figure who will consider whether, exceptionally, to remove the page that is a public record.

Third-Party Requests for BBC Content⁶

- 13.4.31 The BBC has a continuing responsibility towards its content. Its use by third parties must not compromise the BBC's impartiality, editorial integrity and independence.

Published/Broadcast Material

- 13.4.32 All requests by third parties for published or broadcast content in connection with court proceedings, or other procedures in which the material may be regarded as evidence, must be referred to Programme Legal Advice and Editorial Policy. Editorial Policy will consider whether accepting the request would compromise the BBC's impartiality, editorial integrity or independence.
- 13.4.33 For other requests by third parties for editorial content, when deciding whether its release is appropriate, the following should be taken into account:
- any copyright, legal, contractual and editorial implications
 - whether the content is controversial, sensitive, does not meet today's generally accepted standards or could affect the privacy of a contributor if released
 - the nature of the third party
 - whether this is a contributor request for material relating to the original contribution
 - whether there is an existing external relationship, including whether the organisation is a partner

⁶ This section of the Editorial Guidelines, covering both published/broadcast and unpublished/unbroadcast content, does not apply where there is a statutory requirement to produce content, for example to Ofcom

- whether the use would be commercial and/or should be handled by a BBC commercial subsidiary
- whether the use would be non-commercial, including educational or for training purposes, for data journalism or otherwise in the public interest.

For non-commercial use a fee which reflects the cost of providing the content should normally be charged and a licence or other written agreement setting out how it can be used is normally required.

A BBC website sets out how the public can request content⁷.

13.4.34 The re-use or reversioning of BBC material (including editorial content, metadata and other assets) by third parties as components of automated technology, such as artificial intelligence, should be in accordance with the values and standards of the Editorial Guidelines. For UK Public Services and World Service requests Consumer Technology & Products legal team must be consulted⁸. For BBC Studios requests referral must be made to BBC Studios Regulatory Affairs. Editorial Policy may also be consulted in all cases.

13.4.35 Licensing arrangements should normally include a provision for BBC material to be promptly removed or blocked if required by the BBC. BBC material must not be edited unless agreed by the BBC.

See Section 16 External Relationships, Including Commercial Relationships, and Financing: 16.4.5

⁷ Can I Use BBC Content? website

⁸ ConsumerTechnology&ProductsLegal@bbc.co.uk

Unpublished/Unbroadcast Material

13.4.36 Requests from third parties for access to unused material, including notes, rushes or audio recordings, must be referred to Editorial Policy who may consult Director Editorial Policy and Standards in sensitive cases. Editorial Policy will consider:

- the public interest
- whether release would compromise the BBC's impartiality, editorial integrity or independence and
- the proposed use of the material.

See 13.4.32–13.4.34 and 13.4.41

There is a separate process for the BBC Written Archives Centre.

13.4.37 Any proposal to give an individual's personal details, comments or other personal information to a third party without the individual's consent should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should normally consult Programme Legal Advice and, where appropriate, Information Rights.

13.4.38 Access to unused material must never be provided:

- when to do so would endanger people, including those who work for the BBC
- when it would make it more difficult to gather such material in the future
- if the requests appear to be fishing for evidence
- if the material contains information that identifies a confidential source or contributor
- when it conflicts with the BBC's contractual obligations
- when the rights of third parties may be impaired by handing it over.

13.4.39 The BBC will only release unpublished/unbroadcast material to individuals or organisations for public relations, marketing or commercial purposes in exceptional circumstances, and when its editorial integrity and independence can be maintained.

13.4.40 Where the BBC has a partnership agreement, unpublished or unbroadcast material will only be released when the BBC's editorial integrity and independence can be maintained.

13.4.41 All requests for unpublished, unbroadcast or otherwise unused material—including notes—from the police or in connection with court proceedings, possible court proceedings or other procedures in which the material may be regarded as evidence (such as disciplinary hearings by regulatory bodies), must be referred to Programme Legal Advice and Director Editorial Policy and Standards.

The BBC will not normally hand over unused material in such circumstances, including to the police, without a court order. Sometimes it is appropriate to accede to such an order; at other times it will be necessary to contest it and appeal it to higher courts.

There is no legal obligation for documents, records or unused material to be kept unless and until they are the subject of a request from the police or the courts or there is a realistic threat of litigation.

