

8

Crime and Anti-Social Behaviour

Crime and Anti-Social Behaviour

8.1 Introduction 192

8.2 Principles 193

8.3 Mandatory Referrals 194

8.4 Guidelines 199

- **Reporting Crime** 199
- **Impact on Victims** 202
- **Reconstructions** 203
- **Reporting Police and Regulatory Investigations** 203
- **Court Reporting and Covering Trials** 204
- **Dealing with Criminals and Perpetrators of Anti-Social Behaviour** 205
- **Payments** 206
- **Interviews with Prisoners** 207
- **Paedophiles and Other Sex Offenders** 208
- **Identifying People Involved in Criminal or Anti-Social Behaviour** 209
- **Children and Young People** 210
- **Dealing with Witnesses and Victims of Crime** 211
- **Investigations into Crime and Anti-Social Behaviour** 214
- **Untransmitted and Unused Material from Discontinued Investigations** 215

8.1 Introduction

The BBC reports crime and anti-social behaviour as a matter of public interest. BBC content is aimed at giving audiences the facts in their context and reflects broadcasters' right to freedom of expression and audiences' right to receive information and ideas¹.

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

Investigations into crime must be proportionate to the level of wrongdoing, and content makers must observe the standards of behaviour set out in the Editorial Guidelines.

BBC output may involve contributions from, or contact with, people who have engaged in criminal or anti-social acts. Contributors must be challenged, and criminal or anti-social behaviour should not be glamorised, condoned or encouraged. The public interest² in reporting crime must be balanced with respect for the privacy and dignity of victims and their families.

Internationally there are different definitions of what constitutes a crime. For example, interviewing political dissidents or activists can be important in providing a full understanding of events.

Reporting of crime should not unnecessarily add to people's fear of becoming victims of crime if statistics suggest it is very unlikely.

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

² See Section 1 The BBC's Editorial Standards—Essential Information: 1.3 The Public Interest

8.2 Principles

- 8.2.1 Content makers must ensure that material likely to encourage or incite crime, or lead to disorder, is not included in BBC output. However, this is not intended to restrict freedom of expression or the broadcasting of any content where a clear public interest can be demonstrated. There will be times when it is in the public interest to include views which may be perceived to be provocative or extreme. On those occasions, there must be sufficient context and/or challenge to those views. Context includes the editorial purpose of the output.
- 8.2.2 Hate speech, abusive or derogatory language or treatment of individuals, groups or communities on the grounds of, for example, race, religious belief or sexual orientation should not normally be included in output unless it is justified by the context.
- See 8.4.3**
See Section 5 Harm and Offence: 5.4.33–5.4.35
See guidance: Racist Language
- 8.2.3 Detailed descriptions or demonstrations of criminal techniques which could encourage or enable illegal behaviour should not be included unless editorially justified and in the public interest.
- 8.2.4 The public interest in reporting crime must be weighed against respect for the privacy and dignity of victims and their families.
- 8.2.5 Investigations into crime or anti-social behaviour, involving deception and/or intrusion, must be editorially justified, in the public interest and proportionate to the wrongdoing they seek to expose.

8.3 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

- 8.3.1 Content likely to encourage or incite crime, or lead to disorder, must not be included in BBC output. Any proposal to publish or broadcast content which risks inciting crime or disorder must be referred to Director Editorial Policy and Standards.
See 8.4.1
- 8.3.2 When investigating criminal activity, content makers may want to record a specific crime or the planning of a specific crime. Where that might raise questions about their relationship with the criminal, or involves witnessing criminal activity, it must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor, and to both Director Editorial Policy and Standards and Programme Legal Advice.
See 8.4.4
- 8.3.3 Any proposal to contact or interview a criminal active in, or wanted in, the UK must be referred to Director Editorial Policy and Standards.
See 8.4.14
- 8.3.4 Any proposal to contact or interview escaped prisoners or others wanted by the UK police must be referred to Director Editorial Policy and Standards and Programme Legal Advice.
See 8.4.17
- 8.3.5 Any proposal to pay a fee or to make a payment in kind to criminals, former criminals, their families or their associates (directly or indirectly) for interviews or other contributions relating to their crimes, must be referred to Director Editorial Policy and Standards.
See 8.4.19

-
- 8.3.6 Any proposal to enter a UK prison to conduct an interview with a prisoner without permission of the prison authorities must be referred to Director Editorial Policy and Standards.
See 8.4.21
 - 8.3.7 Any proposal to publish or broadcast the name or picture of a convicted paedophile or other sex offender, when their name has not been made publicly available by the police, the courts or other tribunal, or if their conviction is spent, must be referred to Director Editorial Policy and Standards.
See 8.4.26
 - 8.3.8 Any proposal to interview a paedophile or other sex offender who has been convicted of serious offences, who is in prison or on release from prison, should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Director Editorial Policy and Standards.
See 8.4.28
 - 8.3.9 Any proposal to grant anonymity to someone seeking to evade UK law, where there is an ongoing investigation, must be referred to Director Editorial Policy and Standards.
See 8.4.30
 - 8.3.10 Any proposal to interview a witness or potential witness about their evidence once criminal proceedings are underway, or to pay them, must be referred to Director Editorial Policy and Standards and Programme Legal Advice.
See 8.4.33–8.4.35

- 8.3.11 Director Editorial Policy and Standards must approve any proposal to employ or pay someone known to have a criminal record or background of illegal activity to work on a BBC investigation.
See 8.4.40
- 8.3.12 Any proposal to inform the police or investigatory authorities of any wrongdoing uncovered during an investigation, unless part of a right of reply process or after publication or broadcast, must be referred to Director Editorial Policy and Standards.
See 8.4.42
- 8.3.13 When considering whether material from a discontinued investigation should be made available to the police or any other appropriate authority, content makers must consult Director Editorial Policy and Standards.
See 8.4.43
- 8.3.14 Any intention to supply material of any sort from a discontinued investigation to the police, or any other third party, must be referred to Director Editorial Policy and Standards and Programme Legal Advice.
See 8.4.43

Other Referrals

- 8.3.15 Any proposal, in the public interest, to record the harming of animals, for the purpose of gathering evidence or to illustrate malpractice or illegal, cruel, anti-social or controversial behaviour, must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor.
See 8.4.6
See Section 5 Harm and Offence: 5.4.42
- 8.3.16 Consideration must be given in the early stages of a criminal or regulatory investigation as to whether there is justification for naming a suspect under investigation before charges—or their equivalent—are brought. If the intention is to name a suspect in these circumstances, Programme Legal Advice and Editorial Policy must be consulted.
See 8.4.12

- 8.3.17 When considering whether to publish information which is likely to identify a child or young person who is the subject of an order relating to their behaviour, has a conviction or is involved in court proceedings, Programme Legal Advice and Editorial Policy must be consulted.

See 8.4.13 and 8.4.31–8.4.32

- 8.3.18 Any proposal to contact or interview an active criminal, or person wanted anywhere outside the UK, must be referred to Editorial Policy. Internationally there are different definitions of what constitutes a crime and criminal behaviour. In some countries, for example, political dissidents and activists are defined as criminals, but interviews with them can be important in providing a full understanding of events. Generally, however, if a crime has been committed abroad, the same principles should apply as in the UK.

See 8.4.17–8.4.18

- 8.3.19 Any proposal to make payments, or payments in kind, to those who may not have committed a crime, but whose behaviour is clearly anti-social, for interviews or other contributions about their behaviour, must be referred to Editorial Policy.

See 8.4.20

- 8.3.20 Any proposal to enter an overseas prison to conduct an interview with a prisoner must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy. If approved, the relevant international bureau should normally be informed and Programme Legal Advice consulted.

See 8.4.22

- 8.3.21 A live call from a prisoner requires strong editorial justification and should not be broadcast without referral to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy.

See 8.4.23

8.3.22 Any proposal to ask a prisoner to make a contribution for broadcast purposes or to broadcast an unsolicited contribution from a prisoner should be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy.

See 8.4.23

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

See 8.4.38

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

See 8.4.39

8.3.25 Where investigations into criminal activity may infringe privacy, the relevant mandatory referrals can be found in the section on Privacy. These relate to:

- contacting people or groups suspected of acts of extreme violence for political or ideological ends, serious criminal acts or violence, or proposing covert surveillance or recording of such people or groups
- any proposal to send someone to work as an undercover operative
- job applications by undercover operatives working on BBC investigations.

See Section 7 Privacy: 7.4.20–7.4.21

8.3.26 A decision to proceed with a reconstruction or dramatisation of past events involving criminal or anti-social behaviour, when there are 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.

See 8.4.7

See Section 7 Privacy: 7.4.57

8.4 Guidelines

Reporting Crime

Material Likely to Encourage or Incite Crime

- 8.4.1 Content likely to encourage or incite crime, or lead to disorder, must not be included in BBC output. Any proposal to publish or broadcast content which risks inciting crime or disorder must be referred to Director Editorial Policy and Standards.

Content may include:

- that which directly or indirectly amounts to a call to criminal action or disorder
- that which promotes or encourages engagement in acts of terror or other forms of criminal activity or disorder
- hate speech which is likely to encourage criminal activity or lead to disorder.

There will be times when it is in the public interest³ to include views which may be perceived to be provocative or extreme, particularly in news, current affairs and other factual output. In considering whether such output is likely to encourage or incite crime or disorder, the relevant factors include:

- whether the output includes direct or indirect calls to action
- whether there is sufficient context and/or challenge to those views
- the editorial purpose of the output
See Section 5 Harm and Offence: 5.1
- the nature and seriousness of the behaviour being incited
- the status or position of anyone featured in the output

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

- whether the output is scheduled to be broadcast before the watershed or when children and young people are likely to be in the audience
- whether there are significant freedom of speech considerations that justify the broadcast.

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

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

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

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

See Section 5 Harm and Offence: 5.4.52–5.4.56

Hate speech

8.4.3 Material that contains hate speech should not be included in output unless it is justified by the context. Broadcasting hate speech can constitute a criminal offence if it is intended or likely to stir up hatred relating to race, or intended to stir up hatred relating to religious belief or lack of religious belief, disability, sexual orientation or transgender identity.

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

See Section 2 Impartiality: 2.4.16 and Section 5 Harm and Offence: 5.4.43

Witnessing and Depicting Illegal Activity

8.4.4

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

Approval to be present at, or record, illegal activity will be given only if it is clearly in the public interest⁴. Even then the following must be avoided:

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

Anyone admitting to, or carrying out, an illegal act could be prosecuted. Research notes, diaries, emails, texts, social media messages and any other paperwork connected to the investigation, as well as untransmitted rushes, may be sought by the police using a court order. This material may also have to be disclosed as evidence to a court, tribunal or inquest. Care should be taken to ensure that the identities of any confidential sources are protected, and shared only with people who need to know. It must be possible to redact any identifying details in notes that might become the subject of a court order.

See Section 6 Fairness: 6.4.31–6.4.36 and Section 13 Use of BBC Content After Publication or Broadcast: 13.4.31–13.4.41

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

- 8.4.5 Criminal techniques should not normally be demonstrated or depicted in detail because of the risk of imitation. Where there is editorial justification to show this content, revealing information that could enable illegal activity, or the ways in which it can be made more effective, should be avoided.
- 8.4.6 Any proposal, in the public interest, to record the harming of animals, for the purpose of gathering evidence or to illustrate malpractice or illegal, cruel, anti-social or controversial behaviour, must be referred to a senior editorial figure or, for independent production companies, to the commissioning editor.

See Section 5 Harm and Offence: 5.4.42

Impact on Victims

- 8.4.7 Interviewing those responsible for crime or anti-social behaviour, or reconstructing or dramatising past events, may cause distress to victims and their relatives. As far as is reasonably practicable, surviving victims, or the immediate relatives of the deceased, should be contacted to advise them of the proposal. If it is necessary to use an intermediary, such as the police or social services, it is still up to content makers to check that the victims or immediate relatives have been informed and have the necessary details to contact the BBC.
- 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 Section 7 Privacy: 7.4.57

- 8.4.8 Reporting the facts about criminals may include detailing their family circumstances, but content producers should avoid causing unwarranted distress to these families. They should not imply guilt by association, without evidence.
- 8.4.9 When reporting on historic crime, consideration should be given to the possibility that some of those involved

—offenders, suspects, witnesses, relatives or victims—may have changed their names or addresses in order to re-establish their lives. Should that be the case, the extent to which they are identified or their new whereabouts are revealed should be given particularly careful thought, as should the likely impact on them of reporting the historic crime.

- 8.4.10 Consideration should be given to the impact reporting crime may have on audiences. Care should be taken not to add to people's fears of becoming victims of crime if, statistically, this is very unlikely.

See guidance: Reporting Statistics

Reconstructions

- 8.4.11 Output may include crime reconstructions which should be made clear by labelling or by using other production techniques. Content makers in news should not normally commission crime reconstructions except for use at the conclusion of a trial or for reporting historic cases. Revisiting the scene of a crime and/or interviewing a victim or witness does not constitute a reconstruction.

See Section Accuracy: 3.4.30

Reporting Police and Regulatory Investigations

- 8.4.12 Consideration must be given in the early stages of a criminal or regulatory investigation as to whether there is justification for naming a suspect under investigation before charges—or their equivalent—are brought. If the intention is to name a suspect in these circumstances, Programme Legal Advice and Editorial Policy must be consulted.

Court Reporting and Covering Trials

- 8.4.13 Reporting restrictions which cover preliminary proceedings in magistrates' courts and Crown Courts may be different across the UK. In England and Wales normally only basic details can be reported. Separate advice should be sought for reporting preliminary proceedings in Scotland and Northern Ireland. Advice for Scotland is available from Legal Director, Scotland; advice for Northern Ireland should be sought from Programme Legal Advice.

In Scotland, the reporting of all court proceedings, as well as preliminary proceedings, may be different from the rest of the UK. Again, advice is available from Legal Director, Scotland.

Reporting restrictions cover proceedings in Youth Courts to protect the identity of any under-18 involved. Any child who is the subject of ongoing proceedings in family law cases (which includes, for example, care proceedings) must not be identified. Courts may also pass orders limiting what can be reported in individual cases. Particular care is needed to avoid the identification of victims in prosecutions for sexual abuse within the family.

When considering whether to publish information which is likely to identify a child or young person who is the subject of an order relating to their behaviour, has a conviction or is involved in court proceedings, Programme Legal Advice and Editorial Policy must be consulted.

See Section 9 Children and Young People as Contributors: 9.4.22 and Section 18 The Law: 18.4.3

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

See Section 18 The Law: 18.4.3

Dealing with Criminals and Perpetrators of Anti-Social Behaviour

Interviews

- 8.4.14 Any proposal to contact or interview a criminal active in, or wanted in, the UK must be referred to Director Editorial Policy and Standards. Interviews should only proceed if they are editorially justified, for example, in eliciting important information or insight.
- 8.4.15 When interviewing criminals, care must be taken to minimise the potential distress this may cause to victims of the crime or their relatives.
See 8.4.7–8.4.9
See Section 7 Privacy: 7.4.57
- 8.4.16 Interviews with active or convicted criminals must be appropriately challenging and should not glamorise wrongdoing, celebrate the flouting of the judicial process or reveal details that would enable a crime to be copied.
See 8.4.4–8.4.6
- 8.4.17 Contact with escaped prisoners or people wanted by the UK police may constitute a criminal offence. Any proposal to contact or interview such people must be referred to Director Editorial Policy and Standards and Programme Legal Advice.
- 8.4.18 Internationally, there are different definitions of what constitutes a crime and criminal behaviour. In some countries, for example, political dissidents and activists are defined as criminals, but interviews with them can be important in providing a full understanding of events. Generally, however, if a crime has been committed abroad, the same principles should apply as in the UK. Any proposal to contact or interview an active criminal, or person wanted anywhere outside the UK, must be referred to Editorial Policy.

Payments

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

Any proposal to pay a fee or to make a payment in kind to criminals, former criminals, their families or their associates (directly or indirectly) for interviews or other contributions relating to their crimes, must be referred to Director Editorial Policy and Standards. A fee should only be paid for a contribution that is of clear public interest⁵ and which could not have been obtained otherwise.

However, it may be appropriate to reimburse expenditure or loss of earnings incurred during the making of a contribution.

These guidelines are not intended to inhibit the rehabilitation of criminals, or prevent payment to people with a criminal conviction whose contribution does not relate to their crime.

- 8.4.20 People who may not have committed a crime, but whose behaviour is clearly anti-social, must not normally be paid a fee or a payment in kind for interviews or other contributions about their behaviour. Any proposal to make such payments, including payments in kind, must be referred to Editorial Policy.

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

Interviews with Prisoners

- 8.4.21 Prior to visiting a UK prison and conducting an interview with a prisoner for broadcast, content producers should normally seek permission from the UK prison authorities. Any proposal to enter a UK prison to conduct an interview with a prisoner without permission must be referred to Director Editorial Policy and Standards.
- 8.4.22 Prior to visiting an overseas prison and conducting an interview with a prisoner for broadcast, content producers should normally ask permission from the prison authorities.
- Any proposal to enter an overseas prison to conduct an interview with a prisoner must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy. If approved, the relevant international bureau should normally be informed and Programme Legal Advice consulted.
- 8.4.23 Prisoners may have access to public telephones and mobile phones, though their use may be restricted by prison rules. The following must be referred to a senior editorial figure, or for independent production companies to the commissioning editor, who should consult Editorial Policy:
- live calls from prisoners require strong editorial justification and should not be broadcast without prior referral
 - any proposal to ask a prisoner to make a contribution for broadcast purposes from prison
 - any proposal to broadcast an unsolicited contribution from a prisoner which was not referred before it was recorded.
- 8.4.24 In the case of prisoners convicted of serious crimes, particularly violent crimes, content producers must consider how they can minimise distress to the victim or victim's family.
- See 8.4.7–8.4.9
- See Section 7 Privacy: 7.4.52–7.4.54

Paedophiles and Other Sex Offenders

- 8.4.25 When paedophiles and other sex offenders have been released back into the community, there may be local sensitivities. Content producers should only report such matters where there is a public interest⁶, and avoid the following possible consequences:
- incitement or facilitation of vigilante action
 - mistaken identity
 - driving the offender underground, away from supervision where he or she is far more likely to reoffend
 - negative impact on the victims and their families, or the family of the offender
 - unjustified infringement of an offender's privacy.

- 8.4.26 The BBC will normally only consider publishing or broadcasting the names or pictures of paedophiles or sex offenders who have served their sentences and been released from prison in certain circumstances. Publication by other media is not a sufficient justification in itself.

Any proposal to publish or broadcast the name or picture of a convicted paedophile or other sex offender, when their name has not been made publicly available by the police, the courts or other tribunal, or if their conviction is spent, must be referred to Director Editorial Policy and Standards.

- 8.4.27 When reporting on paedophiles and other sex offenders or when exposing potential offenders, it is normally reasonable to name the town or city where they live. However, information that could reveal their exact location should generally be avoided. The relevant police force should be consulted if broadcasters intend to reveal an offender's location or show a picture of them. This is to enable the police to address potential

⁶ See Section 1 The BBC's Editorial Standards—
Essential Information: 1.3 The Public Interest

issues in relation to the victim, the victim's family, the offender and the offender's family.

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

See 8.3.8

Identifying People Involved in Criminal or Anti-Social Behaviour

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

- legal reasons, such as possible contempt of court or defamation
- protecting a source or sources
- safety reasons, either in the UK or abroad
- a situation where the consequences of public identification would risk being disproportionate to the wrongdoing
- where anti-social or criminal practice is being exposed but the individuals involved are simply illustrative of the behaviour, for example when secretly filming for consumer or social research
- where anti-social or criminal practice is being exposed but the individuals involved are not sufficiently culpable or responsible for their actions
- where anti-social or criminal practice by children and young people is being exposed

- where the contribution is of clear public interest in terms of the insight given and could not be obtained without disguising the contributor's identity
- where content is being re-used and the passage of time makes re-identification disproportionate.

See Section 6 Fairness: 6.4.31–6.4.36; and Section 9 Children and Young People as Contributors: 9.4.22

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

- 8.4.30 Any proposal to grant anonymity to someone seeking to evade UK law, where there is an ongoing investigation, must be referred to Director Editorial Policy and Standards.

Children and Young People

- 8.4.31 A strong editorial justification is required for the broadcast of material related to the identity of anyone under 18 who is involved as a potential defendant in a court case before proceedings are commenced. There may also be legal restrictions once proceedings are active. Where there are active proceedings Programme Legal Advice must be consulted.
- 8.4.32 When considering whether or not to identify under-18s involved in anti-social or criminal behaviour, the consequences of identification, their age, and the seriousness of their behaviour should be balanced against the public interest⁷ in identification and the BBC's right to freedom of expression. However, under-18s should not normally be identified when featuring such behaviour simply to illustrate a practice.

See Section 9 Children and Young People as Contributors: 9.4.22

⁷ See Section 1 The BBC's Editorial Standards—Essential Information: 1.3 The Public Interest

When considering whether to publish information which is likely to identify a child or young person who is the subject of an order relating to their behaviour, has a conviction or is involved in court proceedings, Programme Legal Advice and Editorial Policy must be consulted.

The situation regarding the reporting of court proceedings may differ in Scotland and advice is available from the Legal Director, Scotland.

Dealing with Witnesses and Victims of Crime

Interviews

- 8.4.33 Any proposal to interview a witness or potential witness about their evidence once criminal proceedings are underway must be referred to Director Editorial Policy and Standards and Programme Legal Advice.

Interviews with witnesses, both in the UK and overseas, must not interfere in the legal process. When conducting news interviews with people who have recently witnessed a crime, content makers should be aware of the possibility of contempt of court if proceedings are imminent or are active. By interviewing a witness, content makers may be considered to be coaching them prior to their appearance in court. There is a risk they will give witnesses information they do not already have and that the court could order the BBC to hand over any material gathered. Witnesses include both defendants and victims.

Once proceedings are underway, and until a verdict has been reached, care should be taken when interviewing witnesses, to avoid the accusation that they may have been coached, or their evidence interfered with.

Payments

- 8.4.34 Witnesses, or anyone who may reasonably be expected to be called as a witness during active criminal proceedings, must not be paid, or promised a payment, directly or indirectly, such as through fixers or intermediaries, for their story. No payment should be suggested or made dependent on the outcome of the trial. Only actual expenditure or loss of earnings necessarily incurred during the making of a contribution may be reimbursed.
- 8.4.35 People who might reasonably be expected to be witnesses where criminal proceedings are likely and foreseeable should not be paid for their story unless there is a clear public interest⁸, such as the investigation of a crime or serious wrongdoing. Where such a payment is made it will be appropriate to disclose the payment to both defence and prosecution if the person becomes a witness in any subsequent trial.

Any proposal to pay a witness or potential witness once criminal proceedings are underway must be referred to Director Editorial Policy and Standards and Programme Legal Advice.

Disguising Identities of Witnesses and Victims of Crime

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

Care should be taken not to identify people indirectly by what is known as a 'jigsaw effect'. This occurs when separate reports, which could be in different media, give different details of a case

⁸ See Section 1 The BBC's Editorial Standards—
Essential Information: 1.3 The Public Interest

which, when pieced together, reveal the identity of the person involved. The risk is at its highest when reporting sexual crime within the family. For example, content makers should take care not to refer to incest where someone might be identified as the victim. In such cases, incest should be described as a ‘serious sexual offence’.

See Section 6 Fairness: 6.4.31–6.4.36 and Section 18 The Law: 18.4.2

Children and Young People Who are Witnesses or Victims of Crime

- 8.4.37 Care should be taken when dealing with anyone under 18 involved as a witness or victim when reporting an investigation into an alleged criminal offence in the UK. Judgements should be made about their vulnerability before revealing their name, address, school or other educational establishment, how they are identified on social media, place of work, or any identifiable audio or image.

See Section 9 Children and Young People as Contributors: 9.4.22

If criminal proceedings follow, there are likely to be legal restrictions surrounding the publication of information leading to the identity of anyone under 18 who is a witness or a victim. For further information contact Programme Legal Advice. There are separate legal considerations in Scotland. Advice is available from the Legal Director, Scotland.

Investigations into Crime and Anti-Social Behaviour

- 8.4.38 Investigations are an important way of uncovering matters of significant public interest⁹, but must be editorially justified.

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

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

Detailed advice about undercover investigations, secret recording and weighing privacy and public interest considerations is contained in the section on Privacy.

See Section 7 Privacy: 7.4.17
See guidance: Investigations

- 8.4.40 Director Editorial Policy and Standards must approve any proposal to employ 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.

See Section 7 Privacy: 7.4.19

- 8.4.41 For any investigation, the BBC's involvement may continue far beyond the original content gathering. The police or prosecuting authorities may wish to interview members of the investigating team, including undercover operatives, about methods and findings. Members of the team may be called as

⁹ See Section 1 The BBC's Editorial Standards—
Essential Information: 1.3 The Public Interest

witnesses in a prosecution. It is important to ensure that the editorial justification and methods used during the investigation can withstand scrutiny.

For requests for BBC material in connection with possible legal proceedings, from the police or any other authority see Section 13.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.32 and 13.4.41

For all other external requests for transmitted or untransmitted BBC content, see Section 13.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.32–13.4.41

- 8.4.42 The BBC does not normally inform the police or investigatory authorities of any wrongdoing uncovered during an investigation, unless part of a right of reply process or after publication or broadcast. Any proposal to do otherwise must be referred to Director Editorial Policy and Standards.

Untransmitted and Unused Material from Discontinued Investigations

- 8.4.43 Occasionally circumstances will arise in which allegations or evidence of illegal behaviour are discovered in the course of an investigation which is not broadcast. Access to unused material should never be provided if it contains information that could identify a confidential source.

Content makers should normally consider whether material suggesting illegal behaviour should be made available to the police or to any other appropriate authority, and must consult Director Editorial Policy and Standards.

Any intention to supply material of any sort to the police or any other third party in these circumstances must be referred to Director Editorial Policy and Standards and Programme Legal Advice.

See Section 13 Use of BBC Content After Publication or Broadcast: 13.4.36–13.4.41

