



RELEVANT EXCERPTS ONLY

What follows is an overview of things we need to consider. It's by no means exhaustive but will hopefully guide you along the way, and a useful tool to dip in and out of during production. If there is anything you are unclear of or want clarification on, just shout.

Useful contacts

[] is our in house Lawyer.

[] is our Editorial policy contact.

[] is our Safety Advisor

We use [] and [] for all our secret filming kit.

• RESEARCH – VERIFYING A STORY

It's often the case that Rogues don't leave a paper trail. Get as much paperwork as you can from complainants, even ones you don't intend to feature in the programme, as it's useful for building your case. It's important to know what happened when the contributor complained to the company; how did they react, what did the trader say?

Talk to the local Trading Standards or Environmental Health Officers and any trade associations that might be relevant. Look on our database, chat rooms, local papers etc.

Is there a Freedom of Information request you can do? Remember these can only be made to public bodies.

Please read the following Ed Pol guidance on posting messages and private messaging people on forums, when looking for contributors.

- Where a programme is carrying out a covert investigation which is sanctioned by the linear exec, immediate transparency may not be possible because it will pose a significant risk to the investigation being blown before it is carried out. Because such covert action should always be done in the public interest, in these circumstances we recognise the need for transparency being offered in private and under confidential circumstances only. Editorial guidelines give advice for these circumstances and can be found here (and on linked to pages)

<http://www.bbc.co.uk/guidelines/editorialguidelines/onguide/accuracy/transparency.shtml> which state:

“Transparency

*A BBC researcher should normally use a BBC address when they are searching for material or contributors online. This will make it clear that they are acting on behalf of the BBC. However, there may be some occasions when it may not be appropriate to let other people know that they are from the BBC. The BBC Editorial Guidelines apply to the Internet on this issue as elsewhere. See Section 5: **Deception** and Section 7: **Investigations into crime and antisocial behaviour**.*

Researchers should only hide their identity:

- *where there is a clear public interest*
- *when dealing with serious illegal or antisocial activity.*

*Any deception should be the minimum necessary in proportion to the subject matter and **will require approval from the relevant Interactive Executive Editor or equivalent and in the most serious cases, when for example it is proposed to use a false identity, from Controller Editorial Policy.***

If a researcher or producer actively intervenes to steer the course of a chat room discussion to help a programme, they should say who they are and what they are doing.”

- Current recommendations for practical best practice may follow these lines: where possible contributors are identified as above and a call to action can be placed in an appropriate location, this should not mislead the public but should tell users that they are researching the issue and to get in touch with a generic (i.e. non BBC email address). Also, possible contributors who have mentioned a connection to an issue as above, can be directly contacted according to the same principles. Transparency must be offered at the *earliest* opportunity, which is usually after members of the public have chosen to make private contact. At this point the standard factual guidelines will come into effect, making sure that the linear exec is across all activity to find contributors in this way.
- If there is any uncertainty about the best course of action where transparency is not possible, guidance from Editorial Policy should be sought.

- **DEALING WITH WHISTLEBLOWERS**

- Treat them all sceptically. Be nice, but be questioning. Meet them. Why have they come forward? Who are they? Why did they leave the company? Do they bear a grudge? Lay it on the line early on, **ask them what is the worst thing the company can say about them.**

- **SECRET FILMING**

Secret filming is crucial to Rogue, and over a series we will end up with hours and hours of footage. However, we mustn't become complacent; it's essential that we follow all the correct procedures. How much evidence you need to get permission to secretly film will depend of the strength and nature of individual stories, and the degree of anti social, or even criminal behaviour. It may be 2 cases, it may be ten. Can you see a pattern of behaviour that we could expose?

BEING FAIR

Always have in mind that our accusation is serious, you are outing someone on primetime national TV. Always ask yourself if you are justified in putting this person / company into a TV programme called Watchdog /Rogue. It could have a serious effect on their business, do they deserve that?

SECRET FILMING FORMS

Secret filming forms can be found in the hard drive, and must be completed before any secret filming can be agreed. Forms should be sent to me in the first instance. They should then be signed off by Editorial Policy who will approve whether you have enough prime facie to warrant secret filming. [] will then need to sign them off. In [] absence they have to be signed off by [], but in these instances I will liaise with []. You should still talk [] in Ed Pol for advice, and add her comments onto the form for [] to see, but Ed Pol are not able to sign off secret filming. Once the form is agreed a copy should be put in the Secret Filming form file which will remain with me. On some occasions (such as applying for a job undercover) requests require a mandatory referral to Director Editorial Policy & Standards.

UNDERCOVER OPERATIVES

Think carefully about the type of person you put undercover. If it's a homeowner, is there a particular pattern of complainants? E.g. are they predominantly elderly or single females. If the investigation involves going into a company, make sure the most suitable person applies for the job. We do have budgets to employ undercover operatives. Please remember that we are responsible for their safety. We are asking them to do a lot on our behalf. It involves risk and it involves lying. You need to be confident they can pull it off.

EDITORIAL GUIDELINES

Please make sure you have read the following editorial guidelines for secret filming:

1. EDITORIAL VALUES

Truth and Accuracy

We strive to be accurate and to establish the truth.

We need to gather sound evidence, to be honest and open about what we know or don't know.

Accuracy is more important than speed. We need to get our facts right.

Impartiality and Objectivity

We strive to be fair and open minded.

We will be objective and even handed in our approach.

Fairness

We must be fair with the people we are filming.

We need to treat the people we are filming with respect.

Accountability & Responsibility

We are accountable to our audience. The continuing trust in the BBC is crucial in our relationship with our audience.

We are legally responsible.

BASIC PRINCIPLES FOR THE UNDERCOVER OPERATOR

You are there to witness first-hand what is happening and to record it on camera.

You are there to gather evidence and record the story, not to 'create' a story. However, if the manager or experienced staff instruct you to do something against the rules and regulations you must do what you are told – it is part of the process showing how a company operates and manages their staff. You must not lead the story or the rogue into saying something they may not otherwise have said.

If you are ever in doubt on how to proceed, ask the manager or a more senior/experienced member of the staff who is supposed to know.

DEBRIEFING

Make sure you report to your handler/producer everything that happened that day.

Minor details can be big issues.

Don't be embarrassed to report situations where you may have behaved foolishly. In order to address a problem we need to know first what it is.

- **Legals**

A word from our Lawyer:

Defamation

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Contempt

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Privacy and the Human Rights Act.

This Act gives effect to rights and freedoms guaranteed under the European Convention on Human Rights. The main areas as far as broadcasters are concerned are Article 6 - the right to a fair trial, Article 8 - an individual's right to respect for private and family life and Article 10 - freedom of expression. It is essential that there is a public interest reason to publish something which may infringe the right to privacy and special care needs to be taken over particularly private revelations concerning medical or physical health, sexuality, politics, sex or love life. Cases involving breach of privacy allegations have often tended to be decided on the law of confidence (see below) but in privacy cases are now on the increase and it is increasingly an area of concern to broadcasters. (J K Rowling's child and Hugh Grant/Liz Hurley cases) The European court caused shock in the UK legal world when, in a case brought by Princess Caroline of Monaco, they decided that being photographed in a public place was an infringement of her privacy. More recently the Mosley case against the News of the World found that the paper had breached his privacy. The Judge said that Mosley could expect privacy for consensual "sexual activities (albeit unconventional)". He said that there was no public interest for the secret recording.

Data Protection Act 1998

This Act gives an individual the right to prevent processing of data likely to cause unwarranted damage or distress. Processing can include filming on a digital camera. (see Naomi Campbell case). The Act also gives individuals the right to demand to see information stored about them. Journalistic defences may apply though. The Act does not apply to companies and inevitably people will hide behind it if they do not want to supply information.

Breach of Confidence

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This type of legal action is usually taken by someone trying to prevent a programme being broadcast rather than after transmission. It applies when the programme maker makes use of information of a confidential nature such as whistleblowers, financial information circulated to very few people within a company, private correspondence, private information about health or sexual liaisons, or private memos or e-mails. It is a defence to this type of action to show that there is a sound public interest in publishing (and public interest is to be distinguished from what is interesting to the public). It is also worth noting that it may be possible for a court to order that the source of the information is disclosed making it difficult to promise anonymity.

Trespass

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Copyright

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Police Access to journalistic material

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ROGUE TRADERS SPECIFIC HEALTH AND SAFETY GUIDANCE

Surveillance

The process by which Rogue Traders gain intelligence and information on a Rogue, this activity is most often carried out by the hiring of a specialist security company to gather intelligence about a rogue's habits and movements and often used to help determine a possible doorstep location.

Covert Filming

Undercover filming of a Rogue, this can be via the use of an performer and member of the production team secret filming and following a trader or by going under cover as a employee, or attending interviews for example.

1. General Risks

Responsibilities

The Producer is responsible for ensuring before any covert filming, door step or sting goes ahead the risk associated with the activity have been assessed and a risk assessment produced to communicated those hazard and controls to be implemented. The risk assessment must be emailed to all involved in the activity to ensure they are informed of the controls.

For surveillance activities the production must agree with the surveillance operative the scope and limitations to the surveillance task and ensure activities are carried out within acceptable legal limitations.

SURVEILLANCE

Surveillance activities are often undertaken by a specialist and the responsibility for surveillance personnel safety rest with the security company hired for the task. The surveillance specialists are however provided by production with a surveillance brief to help them assess the risk and control of which they need to undertake in order to fulfil RT requirements:

The production will supply the following information:

- Why surveillance is needed
- What purpose it will serve i.e. is it to carry out a possible moving door step? Or to gather further information or photographs of target?
- The length and duration of surveillance task outline to surveillance operatives.

COVERT FILMING

Staff undertaking covert filming are often more experienced team members. Prior to undertaking such activity production will assess the risk and task of the activity and implement suitable controls. This is documented in a specific risk assessment specific to the under covert task.

[]
Series Producer
Rogue Traders