EDITORIAL POLICY GUIDANCE NOTE

WORKING WITH VULNERABLE CONTRIBUTORS

(Last updated: October 2010)

EDITORIAL GUIDELINES ISSUES

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

- Contributors and Informed Consent
  See Editorial Guidelines Section 6 Fairness, Contributors and Consent

- Children and Vulnerable People
  See Editorial Guidelines Section 7 Privacy

SUMMARY OF MAIN POINTS

- Contributors who are vulnerable may have particular needs according to their disability or condition at the time of filming. These require a carefully considered approach by production staff. It is important to take advice both from professionals with expertise in their condition and from those responsible for their care, if appropriate.

- Vulnerable adults may not always be in a position to give informed consent. In such cases, in addition to the consent of the vulnerable person, someone over eighteen with primary responsibility for their care should normally give consent on their behalf, unless it is editorially justified to proceed without it.

- When contributors are unable to give informed consent or their condition is unstable and subject to sudden deterioration, with the possibility that they may become incapable of giving informed
consent, we have an ongoing duty, together with those responsible for their care, to consider the impact of broadcast on the individual.

- We should normally establish with the medical professionals responsible for them, as well as those who look after them, whether vulnerable contributors are medically fit and psychologically robust enough to take part in filming.

- Potential contributors may sometimes be psychologically assessed by an independent expert as part of the selection process, particularly in the context of constructed documentaries or programmes in which they will be filmed outside of their everyday environment or face challenges of a new kind.

- We should pay particular attention to the expectations of privacy and have due regard for the dignity of vulnerable people before putting any sensitive facts about their condition or experience into the public domain.

GUIDANCE IN FULL

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Introduction

The BBC aims to reflect the world as it is, including all aspects of the human experience. In our output we can offer a voice to people confronting complex challenges arising from extreme poverty, illness, old
In working with vulnerable people and featuring them in our content, we have a responsibility to protect them from harm.

Informed Consent

Vulnerable contributors need all the information given to contributors generally but as part of the consent procedure it is also necessary to:

- Consider if the person has the capacity to give properly informed consent.
- Engage professional expert opinion, where appropriate
- Discuss potential consequences in detail, keeping a contemporaneous note of conversations.
- Assume more responsibility for the contributor's welfare, as affected by their taking part; which may include offering help and reassurance up to the point of transmission and beyond.
- Consider including family or friends in the negotiations.

We do not normally rely on third parties to gain consent from an adult but it is sometimes sensible to approach a vulnerable contributor via a third party in the first instance.

Vulnerable adults may not always be in a position to give informed consent; for example, people with learning difficulties or significant dementia. In such cases, in addition to the consent of the vulnerable person, someone over eighteen with primary responsibility for their care should normally give consent on their behalf, unless it is editorially justified to proceed without it. On occasion this may also apply to others, such as those who are grievously or terminally ill. It might also be advisable to consult with those closest to them before inviting them to participate in our output. We should also consider whether people who are very recently bereaved have the capacity to give informed consent.
In developing a working relationship with potential contributors, a clear description of the programme’s aims and content must be given. Bear in mind that this may need to be repeated at subsequent meetings, and the contributor should be given the opportunity to ask questions. The same applies to any responsible adults and intermediaries: parents, care agencies, medical advisors etc.

**Capacity and Consent**

It may sometimes be advisable to have vulnerable contributors assessed by a professional with expertise in their particular condition or area of disability to determine whether they have the capacity to consent to filming and/or the broadcast of the material. This expert should normally be independent of Production and the BBC.

Questions about capacity and consent are about whether the individual understands the nature of the question being asked and the implications of the decision that is to be made. People are unable to make an informed decision for themselves if they are unable to understand the information relevant to the decision, retain that information, weigh that information as part of the decision-making process and communicate their decision effectively. A person’s capacity (or lack of it) refers to their capacity to make a particular decision at the time it needs to be made.

**Vulnerable People with the Capacity to give Informed Consent**

If a vulnerable contributor is deemed to have capacity, and we would like to film with them, the nature of the programme should be explained in a clear and open manner. Sometimes this explanation may best be given by an independent expert, or with the help of such an expert, but it may also be given by the programme-makers – if necessary in the presence, and with the help, of a person responsible for the vulnerable person’s care. It should be made clear that there is no obligation to be filmed or recorded and, if they are undergoing treatment of any kind, this will not
be affected one way or another. Equally, that the contributor should act and speak as they would normally.

Consent for broadcast can only be confirmed when it is clear that the vulnerable person has the capacity to give informed consent on the issue of broadcast. A professional will sometimes be required to assess whether this is the case and it may be useful to get written confirmation that the person has the capacity. It may sometimes be appropriate to give a vulnerable contributor the opportunity to view their story so that they may understand how it is being told and can discuss any concerns before broadcast.

(See Editorial Guidelines Section 6: Fairness, Contributors and Consent: 6.4.1)

**Vulnerable People who Lack the Capacity to give Informed Consent**

When contributors are unable to give informed consent or their condition is unstable and subject to sudden deterioration, with the possibility that they may become incapable of giving informed consent, we have an ongoing duty together with those responsible for their care to consider the impact of broadcast on the individual. We may decide to offer a viewing of the edited story to the vulnerable person and/or those responsible for their care so that we can discuss issues such as the pertinence of private information to their story, and allay any concerns they may have about context or portrayal. If their concerns cannot be resolved satisfactorily, Editorial Policy may be consulted.

(See Editorial Guidelines Section 6: Fairness, Contributors and Consent: 6.4.1)

It is often useful to provide a letter which explains the purpose of the film, which may be referred to by the vulnerable person, their carer or family members later. On occasion, it may be appropriate to ask them to sign to say they have received this letter. Friends and/or relatives may also be given written information about the programme. They may be asked if they would like to participate in the programme, but should be under no obligation to do so and should not normally be recorded without their consent.
In exceptional circumstances (for instance, when filming with people suffering from a serious mental illness, when their condition may change dramatically during the course of filming), it may be useful to think of consent as a two stage process – recording and transmission. The primary consideration should be the vulnerable person’s welfare during filming and on transmission. It is important to maintain a dialogue with contributors, their legal guardians and their carers throughout the period of filming and editing in order to consider their interests. All footage should be kept securely before broadcast. It may be appropriate, at a later stage, to destroy footage that is considered unsuitable for broadcast.

**Assessing the Suitability of Vulnerable Contributors**

It is sometimes advisable to assess potential contributors psychologically as part of the selection process, particularly with regard to constructed documentaries or other types of programmes in which vulnerable contributors will be filmed outside of their normal living environment or face challenges of a new kind. This assessment should be carried out by a psychiatrist (who should normally be independent of Production and the BBC) who can impartially advise both the programme-makers and the individual about the impact – if any – of taking part on their personal welfare and condition.

We should normally establish with the professionals responsible for their medical care as well as their day-to-day carers that vulnerable contributors are medically fit and psychologically robust enough to take part in filming. It is sometimes advisable to ask for a statement of health from their GP or consultant.

Consideration should be given to personal events or behaviours which it might not be in the vulnerable person’s interest to reveal to a wider public but which may be integral to telling a true and accurate story about their experience, and which might therefore make it difficult or sometimes impossible to feature a particular contributor.
Assessing the Impact of Filming and Broadcast

A vulnerable person may have specific and individual needs, according to their disability or condition at the time of filming and transmission. These should be carefully appraised by production staff before filming. As much information as possible should be sought about potential contributors prior to filming but ongoing assessment will also be necessary as familiarity develops. Where necessary, expert advice should be taken about the nature of the individual and their condition and any potentially negative impacts on them thoroughly discussed.

There may be issues which come to light during filming as part of a contributor’s direct experience, or which are a significant part of a close family member's life and therefore important to their story, which might on broadcast put the vulnerable person potentially at risk (or further at risk), either from within their extended family, or from their community. A final judgement on whether to include such material will depend on an assessment of how the vulnerable person may be affected, how well known these facts are in their immediate community, what support they have in place and what support is available going forward.

Some documentary formats involve contributors revealing aspects of their personalities which may expose them to malicious gossip locally or public scrutiny of their character and behaviour in the media or on the internet. Such contributors could become psychologically vulnerable. When recruiting such contributors it may be necessary to have them assessed to ensure they are psychologically robust enough to cope with any likely consequences of the experience.

Working with Vulnerable Contributors

Production staff may sometimes require appropriate training in order to deal sensitively and practically with the challenges that arise when
working with vulnerable contributors. Production should be tailored to suit the likely needs of vulnerable contributors.

Some disabilities and types of mental illness affect the way people think and feel and their reactions may be unpredictable to those around them. Some vulnerable contributors may display certain behaviours which others find disconcerting. Production staff will need to understand and manage their own responses in relation to these unusual behaviours and should take advice where necessary from those who are familiar with the contributor and the nature of their condition.

We have a duty of care to ensure vulnerable contributors have sufficient support throughout filming and around the time of broadcast. We should find out what support they already have in place and, where necessary, liaise with these people during filming and particularly when the programme is broadcast. It is advisable to stay in close contact with contributors, their carers and their families in order to monitor their situation and offer support or help where necessary; however, we also need to be clear about the limits of any assistance we can offer and the time frame within which we can offer it. When the film has been edited it may be useful to show the film to contributors, as well as to the people who support or take care of them, so that they have the opportunity to absorb its impact, discuss any concerns and prepare themselves for broadcast.

(See Editorial Guidelines Section 6: Fairness, Contributors and Consent: 6.4.1)

**Dealing with Stressful or Conflict Situations**

Filming will, in most cases, be a new experience for vulnerable contributors and there may be risks to their welfare arising from it. These can be managed by taking advice from those with specialist knowledge of their condition, having a clear understanding of how to minimise the chance of harm or distress and having strategies in place should it occur.

Ahead of filming, it can be advisable to discuss with the experts or those responsible for their care possible scenarios which could unfold during
production, particularly those in which the welfare of the contributor may be compromised.

If it is clear that the presence of the crew is causing distress to a vulnerable contributor, filming should normally be halted or moved to a different area, as appropriate. We should take advice from and work closely with carers who are likely to be able to anticipate difficulties before they happen.

If a vulnerable contributor indicates (by any means) that they do not wish to participate, or if they become distressed, such communication should normally be respected, and no pressure brought to bear on them or their carers to continue.

If a particularly stressful situation develops during an important filming sequence, for example if a vulnerable person has to be restrained, we should film sensitively and be guided by any relevant professionals. Options such as filming from a distance, focussing on the staff involved rather than the contributor (if filming at an institution for example), filming in a way that does not identify the person or recording only the audio are available to us.

Having taken expert advice at the outset, if during production we become aware that a vulnerable person is at risk of imminent and significant harm, we should take action to inform the relevant authorities in good time. For example, this could be where life is at risk, or a contributor needs immediate medical treatment, or if a vulnerable person communicates in some way that they are a victim of sexual or other physical abuse.

**Privacy and Security**

We should pay particular attention to the expectations of privacy of people who are vulnerable. In featuring them as individuals we will be putting personal information about their condition into the public domain. We must take care to point out to potential contributors that
their condition will become known to a wide audience including family, friends, work colleagues and managers, and we must ensure that they are happy to proceed on that basis.

In some circumstances it may be appropriate to have measures in place to protect information concerning vulnerable contributors, their carers, friends or relations which could reveal the vulnerable person’s identity or location. On occasion, it may be necessary to ensure that the precise whereabouts of contributors is kept confidential throughout production and their location is not revealed in any filmed material.

(See Editorial Guidelines Section 7: Privacy)