

**CITY AND COUNTY OF CARDIFF
DINAS A SIR CAERDYDD**

STANDARDS & ETHICS COMMITTEE:

**REPORT OF HEAD OF FUNCTION
(COMMUNICATIONS)**

AGENDA ITEM: 6

MEDIA PROTOCOLS OPERATING WITHIN THE COUNCIL

Reason for the Report

1. To provide the Committee with further information on the Council's Media Protocol and the Code of Conduct that exist for the Media.

Background

2. At its meeting on 17 July 2007 the Standards and Ethics Committee received a presentation from Kathryn Richards, Head of Function (Communications) and Anna Meredith, Operational Manager (Media) on the role of the Communications Section within the Council.

Following consideration of the item the Committee requested further information, the following information is appended to the report for consideration by the Committee.

- Cardiff Media protocol (Appendix A)
- Press Complaints Commission – Code of Conduct Guidelines (Appendix B)
- Code of Recommended Practice on Local Authority Publicity in Wales (Appendix C)
- The Ofcom Broadcasting Code (Appendix D)

Issues

3. The existing Council media protocol is based on best practice and is in line with protocols for other major public bodies and Councils within both England and Wales.

As Members of the Committee will note the media protocol is operational and gives clear guidance on interaction with the media on a practical level

but does not contain any guidance on how Councillors should interact with the media – this is common with other media protocols for major Local Authorities in the UK.

The Committee may wish to consider whether they are in a position to draw up guidelines for Councillors and Officers for how they interact with the media to ensure the reputation of Cardiff Council is protected.

Legal Implications

4. There are no legal implications arising from this report.

Financial Implications

5. There are no financial implications arising from this report.

Recommendations

6. The Committee may wish to consider whether they are in a position to draw up guidelines for Councillors on how they interact with the media to ensure the reputation of Cardiff Council is protected.

KATHRYN RICHARDS
Head of Function (Communications)
10 September 2007

CARDIFF COUNCIL: MEDIA PROTOCOL

The purpose of this protocol is to establish an agreed, consistent and robust approach to the way in which proactive and reactive relations with the media are handled to enable the good work carried out by the Council to be better communicated and potentially negative stories to be neutralised.

ROLES AND RESPONSIBILITIES

(a) The media team - first point of contact for all media enquiries:

1. The Council's media team is the first point of contact for incoming requests for information from the media. Working to an agreed procedure outlined below, the media team determines how best to respond either to stories appearing in the print or broadcast media, or to requests to issue a statement or provide a quote or interview.

2. The media team is responsible for:

- operating a diary to co-ordinate all council media activity
- providing appropriate briefing materials, training and guidance to designated spokespeople
- deliver an end-of-day electronic media briefing service

(b) Press Officers as 'account handlers':

3. Within the media team, individual Press Officers operate as 'account handlers', having responsibility for media communications for designated service areas and also for Scrutiny. This enables them to build knowledge and expertise in their subject areas and become recognised by journalists as the appropriate contact for enquiries associated with their portfolio. It also requires each Press Officer to build effective relationships internally with appropriate Members and Officers who will be designated spokespeople on policy and service delivery issues respectively. This arrangement is complemented by equivalent experienced Press/Communication Officers in key service areas, as shown below:

Press Officers	Service Area Responsibility
Anna Meredith	<ul style="list-style-type: none">• 'Corporate' issues, contingency planning
Steve Edwards	<ul style="list-style-type: none">• Major Projects (e.g. Sports Village and other major developments)
Andrea Currie	<ul style="list-style-type: none">• Schools Service

Claudia Hamilton	<ul style="list-style-type: none"> • Housing and Neighbourhood Renewal • Traffic and Transportation
Vacant	<ul style="list-style-type: none"> • Scrutiny
Rob Webb	<ul style="list-style-type: none"> • Families and Community Care • Children's Services • Adult Services
Malcolm Stammers	<ul style="list-style-type: none"> • Leisure, Libraries and Parks
Ian Lloyd-Davies	<ul style="list-style-type: none"> • Parks and Waste Management
Jody Keogh	<ul style="list-style-type: none"> • Consumer Direct Wales
Elaine Cripps/Rachel Squire (job share)	<ul style="list-style-type: none"> • Strategic Planning and Environment
Sian Parry-Jones	<ul style="list-style-type: none"> • Tourism
Julie Thomas	<ul style="list-style-type: none"> • Harbour Authority

(c) Designated spokespeople

4. To ensure clear responsibility and ownership of media communication, the Leader and the Executive will undertake interviews on agreed Council policy as will approved officers. Regulatory Committee Chairs, Scrutiny Committee Chairs or other members with specific delegated responsibility will act as the main spokespeople for the media *on associated policy matters* (N.B for issues on a general scrutiny matter these should be addressed to the current chairperson of the Scrutiny Liasion Forum)
5. Senior Officers will also act as spokespeople and it is up to the Corporate Directors/Chief Officers to approve who is the most appropriate person to be interviewed.
6. Clearly, Members are free to establish *political contacts* with the media; this needs, however, be distinct from the role of the council's officers and media team as designated by the National Assembly.
7. Designated spokespeople must:
 - be accessible to the media team and accept the team's professional advice

- recognise the need to respond within agreed timelines for enquiry response, interview handling and sign-off procedures
- participate in media training

8. Whilst because of the way that the service areas and Executive responsibilities have been separated it is not possible to designate one Press Officer to each Executive Member, as a first point of call these corporate Press Officers will usually deal with a specific area which will fall within a certain portfolio. All corporate Press Officers can, however, deal with any query and be able to assist regardless of portfolio responsibility.

Executive Member	Designated Corporate Press Officer
Leader	<ul style="list-style-type: none"> • Anna Meredith
Deputy Leader	<ul style="list-style-type: none"> • Vacant – to be covered by other press officers
Executive Member (Health, Social Care & Wellbeing)	<ul style="list-style-type: none"> • Anna Meredith
Executive Member (Sport, Leisure & Culture)	<ul style="list-style-type: none"> • Steve Edwards
Executive Member (Environment & Transport)	<ul style="list-style-type: none"> • Claudia Hamilton
Executive Member (Education & Lifelong Learning)	<ul style="list-style-type: none"> • Andrea Currie
Executive Member (Economic Development & Finance)	<ul style="list-style-type: none"> • Anna Meredith

9. Press Officers have also been assigned to the four Scrutiny Committee chairs and the two Regulatory Committee chairs. It is not anticipated that there will be a need for individual press officers for the remaining committees so they have not been specified but support for interviews will be provided if needed.

Scrutiny and Regulatory Committee Chairs	Designated Corporate Press Officer
Children & Young People Scrutiny Committee	<ul style="list-style-type: none"> • Vacant – to be covered by other press officers
Community & Adult Scrutiny Committee	<ul style="list-style-type: none"> • As above

Economic Scrutiny Committee	• As above
Environmental Scrutiny Committee	• As above
Policy Review & Performance Scrutiny Committee	• As above
Public Protection and Licensing Committees	• Elaine Cripps/Rachel Squire
Planning Committee	• Elaine Cripps/Rachel Squire

HANDLING INCOMING MEDIA ENQUIRIES

10. All incoming media enquiries should be directed in the first instance to the Council's media team. A Press Officer will establish the nature of the enquiry, what information is required and a deadline for response. The team will aim to work against the following response times:
- A level A enquiry is designated as a detailed (complex) or politically sensitive story which will require research in the development of a response, e.g. an allegation of bad practice, a Council position regarding proposed new UK or EU Government legislation that may impact on specific policy development or service delivery.
Provided the media team is informed of a request by 10am it will commit to deliver a same day response by 4pm.
 - A level B enquiry is designated as a request for information or a quote regarding routine aspects of council service delivery, e.g. "what is the Council's current policy on waste recycling?"
Provided the media team is informed of a request by 12 noon it will commit to deliver a same day response by 4 pm.
 - A level C enquiry is designated as routine requests for information such as the current status or timing of key council events and campaigns; clarifying information already in the public domain, etc.
This type of enquiry should be responded to within two to three hours.
11. If an incoming enquiry is marked "very urgent" by the media team and a Press Officer considers that a story will be run without a Council comment unless a response is swift, then every effort should be made by the appropriate Lead Member/Committee Chair and officer(s) to assist the team in meeting that deadline even if it is in a comparatively short framework.
12. All media requests must be dealt with professionally and quickly – this is standard good practice whether for a "good" news story or a "bad" news

story. Provided incoming media requests and associated deadlines are judged to be reasonable by the media team, they must be adhered to by appropriate lead members and officers. Same day responses for daily media outlets should be the norm.

PRO ACTIVE MEDIA RELATIONS

13. While the handling of incoming media enquiries forms an important part of the media team's day-to-day work an equally crucial role is the proactive work to spread the news about the good work which is being done by the Council.
 14. Press Releases, media campaigns and launches can all work to enhance the reputation of the Council and provide positive news stories for journalists and should be utilised as much as possible where appropriate.
- **Requests for press releases** - Service areas must inform the media office as soon as possible about a forthcoming event and provide background information and briefing notes on what is to be publicised. The media team will offer advice and guidance on how best the press release should be drafted but they will also offer advice on whether the proposed item is likely to create any media interest and if they do not think it will be appealing to the local press will suggest other avenues including in-house publications and specialist press.
 - **Press release protocol** - Press releases will be written on the advice of the service areas. Quotes from Lead Members with portfolio responsibility for that particular area and also from relevant senior officers will be included when appropriate unless it just a release on a statement of fact which would not need quotes. The Lead Member will be quoted on strategic direction and the officer on points of information. The Lead Member and Chief Officer will both be asked to approve the accuracy of the press release but the approval of the way it is written remains with the Media Manager and the media team as they are best placed to know what will appeal to the media.
 - **Launches and photo calls** - can be an effective way of ensuring media coverage for an event and can also be arranged by the media team usually to supplement a press release. But they must be used sparingly as not everything will be of interest and it could be potentially more negative to have a photocall with few people in attendance than just to issue a press release.

MEDIA BRIEFINGS

15. Informal briefings can prove to be a useful way of key politicians and officers conveying important messages to journalists and should be encouraged where possible. There is the potential for some pitfalls

when dealing with this kind of relationship but provided they are managed and both the journalist and the politicians and officers are clear about what is going to be discussed they should prove to be no problem.

16. Informal briefings have been established on a monthly basis between the Political and Business Editor of the Echo Phil Nifield and each of the Executive Members and other key media are also invited in as and when it is felt necessary. Quarterly meetings have also been established between the Leader of the Council, the Chief Executive and the Editor of the Echo.
17. The meetings are organised by the media team and where possible a list of proposed topics and subjects to be discussed will be agreed before the meeting. The effectiveness of the briefings is constantly monitored and the arrangements are reviewed on a six-monthly basis.

MEDIA TRAINING

18. Media training is essential for anyone who is likely to be asked to take part in an interview for the Council and it is imperative that all people in this position receive the necessary support as soon as possible. The media team is responsible for organising the courses and assessing where the need for training is most urgent.
19. As a matter of course training is offered to all the Executive Members and the Chairs of the Committees. Media training is also available through the medium of Welsh and due to the high volume of requests for Welsh interviewees every effort is made to train politicians and officers who can speak Welsh.
20. Training is also provided to officers who need to face the media on a regular basis and evaluation of the training is conducted by the media team who keep a database of all those who have been given training.

FREEDOM OF INFORMATION

21. The new Freedom of Information Act came into force on January 1. Journalists should identify whether they are requesting the information on a normal status of a day-to-day request or whether it is under FOI.
22. Any request under FOI is passed on to the relevant service area and the FOI unit for clearance and response which has to be issued in accordance with the timeline and guidance for FOI.
23. The media team will decide whether supporting information is needed to put the response into context and give useful information to the journalist who has made the request.

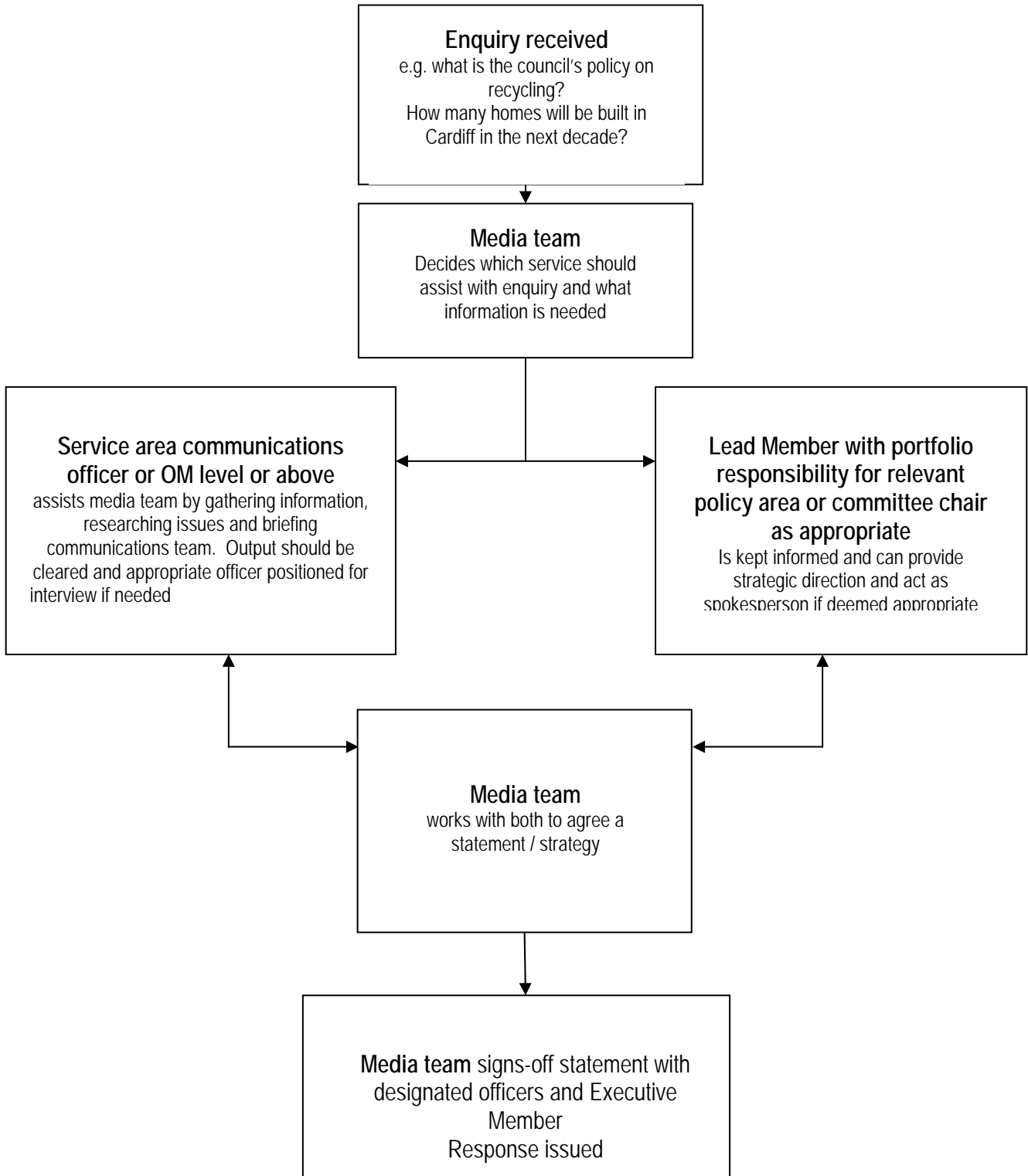
The following Appendices are attached:

Appendix A: Structure for Sign-off

Appendix B: Media Enquiries

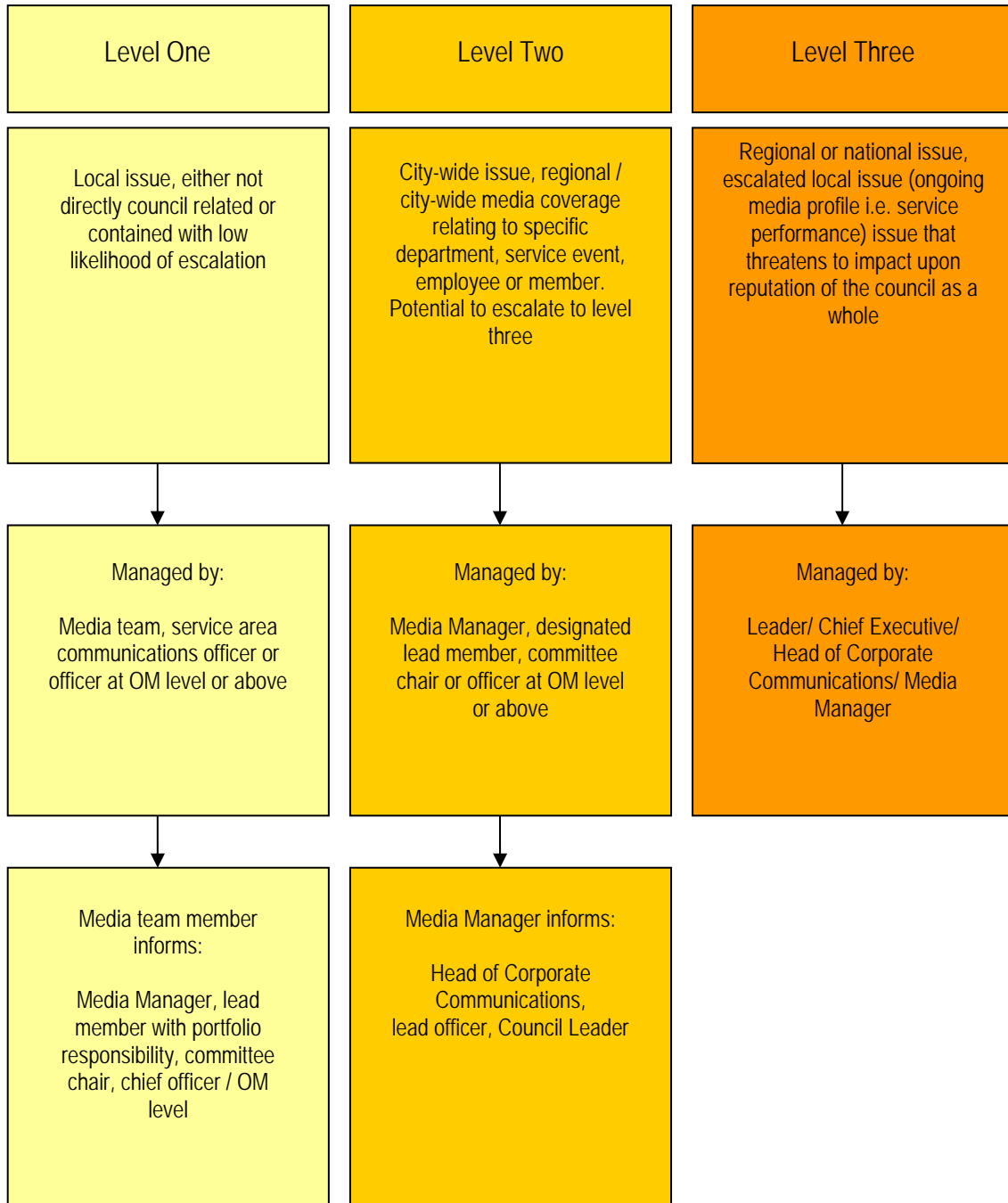
APPENDIX A

Structure for sign-off



MEDIA ENQUIRIES

Not all inquiries are of the same importance. The escalation procedure below provides guidance on who to involve according to the significance of an emergency issue or story in relation to its impact on the council’s reputation:



- **For requests to appear in the media or to issue a statement**, wherever and whenever possible, interviews should be given by the appropriate lead member, committee chair or by a senior officer.
- **In the event that no appropriate spokespeople are available**, the media manager should have the authority to issue a holding statement. In an emergency, and where is no viable alternative the Head of Corporate Communications or Media Manager will issue a statement , based on officer advice, where failure to do so would probably result in damage to the Council's reputation. They will immediately inform the Leader, the appropriate lead member/ committee chair and Chief Executive of their action and the reasons behind their decision.
- **When a query is party political or a response would stray into the party political arena**, the journalist will be referred to the political group concerned. If there is some confusion whether the query is party political or not then the matter will be referred to the lawyers for advice. The press office cannot be used to issue any statements or press releases which could be perceived as having the possibility to gain party political advantage as to do so would be in breach of strict guidelines lain down by the National Assembly.
- **When a ward councillor is contacted directly by a journalist on a matter which is to do with their ward**, the ward councillor can respond as they wish but it would be helpful if the press office were told of the request for information.
- **For a response to a story which has appeared in the media**, a decision on whether or not to issue a statement should rest with appropriate lead member/ committee chair/senior officer based on advice from the Media Manager.
- **When a story is considered by a lead member, committee chair or senior officer to be factually incorrect**, the Media Manager will be responsible for liaising with the relevant press officer and journalist to establish their positions and recommend an appropriate strategy. While retractions from the media for inaccuracy are rare, there can be opportunities to print a letter. Best practice is to look for another news or feature angle that will provide a positive opportunity to communicate or reinforce the council's position.

**PRESS COMPLAINTS COMMISSION CODE OF
CONDUCT GUIDELINES**

1 Accuracy

- i) Newspapers and periodicals must take care not to publish inaccurate, misleading or distorted material including pictures.
- ii) Whenever it is recognised that a significant inaccuracy, misleading statement or distorted report has been published, it must be corrected promptly and with due prominence.
- iii) An apology must be published whenever appropriate.
- iv) Newspapers, whilst free to be partisan, must distinguish clearly between comment, conjecture and fact
- v) A newspaper or periodical must report fairly and accurately the outcome of an action for defamation to which it has been a party.

2 Opportunity to reply

A fair opportunity for reply to inaccuracies must be given to individuals or organisations when reasonably called for.

3 Privacy

- i) Everyone is entitled to respect for his or her private and family life, home, health and correspondence. A publication will be expected to justify intrusions into any individual's private life without consent
- ii) The use of long lens photography to take pictures of people in private places without their consent is unacceptable.

Note - Private places are public or private property where there is a reasonable expectation of privacy.

4 Harassment

- i) Journalists and photographers must neither obtain nor seek to obtain information or pictures through intimidation, harassment or persistent pursuit
- ii) They must not photograph individuals in private places (as defined by the note to clause 3) without their consent; must not persist in telephoning, questioning, pursuing or photographing individuals after having been asked to

desist; must not remain on their property after having been asked to leave and must not follow them.

iii) Editors must ensure that those working for them comply with these requirements and must not publish material from other sources which does not meet these requirements.

5 Intrusion into grief or shock

In cases involving personal grief or shock, enquiries must be carried out and approaches made with sympathy and discretion. Publication must be handled sensitively at such times but this should not be interpreted as restricting the right to report judicial proceedings.

6 Children

i) Young people should be free to complete their time at school without unnecessary intrusion.

ii) Journalists must not interview or photograph a child under the age of 16 on subjects involving the welfare of the child or any other child in the absence of or without the consent of a parent or other adult who is responsible for the children.

iii) Pupils must not be approached or photographed while at school without the permission of the school authorities.

iv) There must be no payment to minors for material involving the welfare of children nor payments to parents or guardians for material about their children or wards unless it is demonstrably in the child's interest.

v) Where material about the private life of a child is published, there must be justification for publication other than the fame, notoriety or position of his or her parents or guardian.

7 Children in sex cases

1. The press must not, even where the law does not prohibit it, identify children under the age of 16 who are involved in cases concerning sexual offences, whether as victims or as witnesses.

2. In any press report of a case involving a sexual offence against a child -

i) The child must not be identified.

ii) The adult may be identified.

iii) The word "incest" must not be used where a child victim might be identified.

iv) Care must be taken that nothing in the report implies the relationship between the accused and the child.

8 Listening Devices

Journalists must not obtain or publish material obtained by using clandestine listening devices or by intercepting private telephone conversations.

9 Hospitals

i) Journalists or photographers making enquiries at hospitals or similar institutions must identify themselves to a responsible executive and obtain permission before entering non-public areas.

ii) The restrictions on intruding into privacy are particularly relevant to enquiries about individuals in hospitals or similar institutions.

10 Reporting of crime.

i) The press must avoid identifying relatives or friends of persons convicted or accused of crime without their consent.

(ii) Particular regard should be paid to the potentially vulnerable position of children who are witnesses to, or victims of, crime. This should not be interpreted as restricting the right to report judicial proceedings.

11 Misrepresentation

i) Journalists must not generally obtain or seek to obtain information or pictures through misrepresentation or subterfuge.

ii) Documents or photographs should be removed only with the consent of the owner.

iii) Subterfuge can be justified only in the public interest and only when material cannot be obtained by any other means.

12 Victims of sexual assault

The press must not identify victims of sexual assault or publish material likely to contribute to such identification unless there is adequate justification and, by law, they are free to do so.

13 Discrimination

i) The press must avoid prejudicial or pejorative reference to a person's race, colour, religion, sex or sexual orientation or to any physical or mental illness or disability.

ii) It must avoid publishing details of a person's race, colour, religion, sexual orientation, physical or mental illness or disability unless these are directly relevant to the story.

14 Financial journalism

i) Even where the law does not prohibit it, journalists must not use for their own profit financial information they receive in advance of its general publication, nor should they pass such information to others.

ii) They must not write about shares or securities in whose performance they know that they or their close families have a significant financial interest without disclosing the interest to the editor or financial editor.

iii) They must not buy or sell, either directly or through nominees or agents, shares or securities about which they have written recently or about which they intend to write in the near future.

15 Confidential sources

Journalists have a moral obligation to protect confidential sources of information.

16 Witness payments in criminal trials

i) No payment or offer of payment to a witness - or any person who may reasonably be expected to be called as a witness - should be made in any case once proceedings are active as defined by the Contempt of Court Act 1981.

This prohibition lasts until the suspect has been freed unconditionally by police without charge or bail or the proceedings are otherwise discontinued; or has entered a guilty plea to the court; or, in the event of a not guilty plea, the court has announced its verdict.

ii) Where proceedings are not yet active but are likely and foreseeable, editors must not make or offer payment to any person who may reasonably be expected to be called as a witness, unless the information concerned ought demonstrably to be published in the public interest and there is an over-riding need to make or promise payment for this to be done; and all reasonable steps have been taken to ensure no financial dealings influence the evidence those witnesses give. In no circumstances should such payment be conditional on the outcome of a trial.

iii) Any payment or offer of payment made to a person later cited to give evidence in proceedings must be disclosed to the prosecution and defence. The witness must be advised of this requirement.

17 Payment to criminals

Payment or offers of payment for stories, pictures or information, must not be made directly or through agents to convicted or confessed criminals or to their associates - who may include family, friends and colleagues - except where the material concerned ought to be published in the public interest and payment is necessary for this to be done.

18. The public interest

There may be exceptions to the clauses marked * where they can be demonstrated to be in the public interest.

1. The public interest includes:

- i) Detecting or exposing crime or a serious misdemeanour.
- ii) Protecting public health and safety.
- iii) Preventing the public from being misled by some statement or action of an individual or organisation.

2. In any case where the public interest is invoked, the Press Complaints Commission will require a full explanation by the editor demonstrating how the public interest was served.

3. There is a public interest in freedom of expression itself. The Commission will therefore have regard to the extent to which material has, or is about to, become available to the public.

4. In cases involving children editors must demonstrate an exceptional public interest to over-ride the normally paramount interest of the child

Media Information

Background

At the last meeting of the Standards and Ethics Committee it was requested that information on the existing media protocol for Cardiff Council and existing codes for recommended practice for local authority publication be provided for members of the committee.

It was also requested that copies of any existing codes for newspapers and broadcasters also be provided.

Attached are copies of Cardiff Council Media Protocol, a copy of the National Assembly's Code of Recommended Practice for Local Authority Publication. Also in appendices are copies of the Press Complaints Commission Code of Conduct and relevant extracts from the Office of Communication's Broadcasting Code.

Issues

The existing Council media protocol is based on best practice and is in line with protocols for other major public bodies and Councils within both England and Wales.

As members of the committee will note the media protocol is operational and gives clear guidance on interaction with the media on a practical level but does not contain any guidance on how councillors should interact with the media – this is common with other media protocols for major local authorities in the UK.

The Committee may wish to consider whether they are in a position to draw up guidelines for councillors on how they interact with the media to ensure the reputation of Cardiff Council is protected.

Legal Implications

There are no legal implications arising from this report.

Financial Implications

There are no financial implications arising from this report.

Recommendation

The Committee may wish to consider whether they are in a position to draw up guidelines for councillors on how they interact with the media to ensure the reputation of Cardiff Council is protected.

The Ofcom Broadcasting Code

This Code came into effect on 25 July 2005

This Code came into force and applies to programmes broadcast on or after 25 July 2005, including a repeat of a programme first broadcast before that date. (Rule 10.17 comes into force on 1 July 2005). A programme transmitted before 25 July 2005 will be regulated under the relevant legacy code available under the Legacy Codes section of the website.

Legislative Background to the Code

Ofcom is required under the Communications Act 2003 (“the Act”) and the Broadcasting Act 1996 (as amended) (“the 1996 Act”) to draw up a code for television and radio, covering standards in programmes, sponsorship, fairness and privacy. This Code is to be known as the Ofcom Broadcasting Code (“the Code”).

Broadcasters are reminded of the legislative background that has informed the rules, of the principles that apply to each section, the meanings given by Ofcom and of the guidance issued by Ofcom, all of which may be relevant in interpreting and applying the Code. No rule should be read in isolation but within the context of the whole Code including the headings, cross references and other linking text.

In setting these standards, Ofcom must secure the standards objectives set out in the Act. This not only involves setting minimum standards but also such other standards as may be appropriate. (See sections 3(1)(a) and (b), (2)(e) and (f) and (4)(b)(g)(h)(j)(k) and (l), 319, 320, 321 and 326 of the Act and sections 107(1) of the 1996 Act. These extracts can be found in Appendix 1 of the Code.)

The Code also gives effect to a number of requirements relating to television in EC Directive 89/552/EEC, as amended by EC Directive 97/36/EC (“The Television Without Frontiers Directive”). Extracts can be found in Appendix 2 of the Code.

The Code has also been drafted in the light of the Human Rights Act 1998 and the European Convention on Human Rights (the Convention). In particular, the right to freedom of expression, as expressed in Article 10 of the Convention, encompasses the audience’s right to receive creative material, information and ideas without interference but subject to restrictions proscribed by law and necessary in a democratic society. This Article, together with Article 8 regarding the right to a person’s private and family life, home and correspondence; Article 9, the right to freedom of thought, conscience and religion; and Article 14, the right to enjoyment of human rights without discrimination on grounds such as sex, race and religion, can be found in Appendix 3 of the Code.

Unless expressly stated otherwise, the Code applies to radio and television content (with certain exceptions in the case of the British Broadcasting Corporation (“the BBC”) – see below) in services licensed by Ofcom, services funded by the licence fee provided by the BBC and to Sianel Pedwar Cymru (“S4C”).

Broadcasters are required by the terms of their Ofcom licence to observe the Standards Code and the Fairness Code, which are to be interpreted as references to this Code. Observance of this Code is also required in the case of the BBC by the BBC Agreement⁽⁻²⁻⁾ and, in the case of S4C, by statute. Except where the Code states otherwise, the term "television broadcasters" refers to providers of television programme services (including any local services such as restricted television services), the BBC and S4C, and "radio broadcasters" refers to providers of radio programme services (including local and community radio services and community digital sound programme services) and the BBC. Sections Five, Six, Nine and Ten of the Code do not apply to BBC services funded by the licence fee or grant in aid.

Under the Act, the provider of a service is the person with "general control" over which programmes and other facilities and services are comprised in the service (section 362(2) of the Act).

General control is wider than editorial control in that it includes control over services and facilities to which access is provided (for example through the inclusion in the main service of a link or facility to interactive features) and over which the broadcaster may not have editorial control.

Although a link included in the service may lead to features outside of that service which are not regulated by Ofcom, the provision of access to those features by, for instance, the inclusion of a link, is within the control of the broadcaster and so within Ofcom's remit. Ofcom may therefore require such a link or facility to be removed where Ofcom has concerns, in the light of its statutory duties and, in particular, the standards objectives set out in section 319 of the Act, about the material to which it leads. In any event, the transition from broadcaster to third party control must be clear to the viewer, so as to manage both audience expectations regarding the material to which they are being led and the risk to the broadcaster of being found in breach of this Code (for example Rules 1.2 and 2.1).

Where the Code has been breached, Ofcom will normally publish a finding and explain why a broadcaster has breached the Code (these findings are available in Ofcom's Broadcast Bulletins at www.ofcom.org.uk). When a broadcaster deliberately, seriously or repeatedly breaches the Code, Ofcom may impose statutory sanctions against the broadcaster. Ofcom's procedures for investigating cases (following the receipt of a complaint or otherwise) and applying statutory sanctions to broadcasters are also on the website. Members of the public who have no access to the web can ask Ofcom to send them a copy of the procedures by post.

The Code is divided into sections which are primarily drawn from the objectives as set out in section 319(2) of the Act and section 107(1) of the 1996 Act, as well as the Representation of the People Act 1983 (as amended).

Footnotes:

1.- In this Broadcasting Code, where the context admits, references to any legislative provisions, whether in primary or secondary legislation, include a reference to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time; any reference to a statutory provision shall include any subordinate legislation made from time to time under that provision.

2.- The BBC Agreement is the Agreement dated 25 January 1996 between Her Majesty's Secretary of State for National Heritage (now the Secretary of State for Culture, Media and Sport) and the British Broadcasting Corporation as amended by the Amendment dated 4 December 2003 (or any replacement thereof).

Section 5 - Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions

(Relevant legislation includes, in particular, section 319(2)(c) and (d), 319(8) and section 320 of the Communications Act 2003, and Article 10 of the European Convention on Human Rights.)

This section of the Code does not apply to BBC services funded by the licence fee or grant in aid, which are regulated on these matters by the BBC Governors.

Principles

To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

To ensure that the special impartiality requirements of the Act are complied with.

Rules

Meaning of "due impartiality":

"Due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two: Harm and Offence of the Code, is important.

Due impartiality and due accuracy in news

5.1 News, in whatever form, must be reported with due accuracy and presented with due impartiality.

5.2 Significant mistakes in news should normally be acknowledged and corrected on air quickly. Corrections should be appropriately scheduled.

5.3 No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.

Special impartiality requirements: news and other programmes

Matters of political or industrial controversy and matters relating to current public policy

Meaning of “matters of political or industrial controversy and matters relating to current public policy”:

Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations, relevant European institutions, etc.

The exclusion of view or opinions

(Rule 5.4 applies to television and radio services except restricted services.)

5.4 Programmes in the services (listed above) must exclude all expressions of the views and opinions of the person providing the service on matters of political and industrial controversy and matters relating to current public policy (unless that person is speaking in a legislative forum or in a court of law). Views and opinions relating to the provision of programme services are also excluded from this requirement.

The preservation of due impartiality

(Rules 5.5 to 5.12 apply to television programme services, teletext services, national radio and national digital sound programme services.)

5.5 Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole.

Meaning of “series of programmes taken as a whole”:

This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two

programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.

5.6 The broadcast of editorially linked programmes dealing with the same subject matter (as part of a “series” in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air.

5.7 Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes.

5.8 Any personal interest of a reporter or presenter, which would call into question the due impartiality of the programme, must be made clear to the audience.

5.9 Presenters and reporters (with the exception of news presenters and reporters in news programmes), presenters of “personal view” or “authored” programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial controversy or matters relating to current public policy. However alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. Additionally, presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. Presenter phone-ins must encourage and must not exclude alternative views.

5.10 A personal view or authored programme or item must be clearly signalled to the audience at the outset. This is a minimum requirement and may not be sufficient in all circumstances. (Personality phone-in hosts on radio are exempted from this provision unless their personal view status is unclear.)

Meaning of “personal view” and “authored”:

“Personal view” programmes are programmes presenting a particular view or perspective. Personal view programmes can range from the outright expression of highly partial views, for example by a person who is a member of a lobby group and is campaigning on the subject, to the considered “authored” opinion of a journalist, commentator or academic, with professional expertise or a specialism in an area which enables her or him to express opinions which are not necessarily mainstream.

Matters of major political or industrial controversy and major matters relating to current public policy

5.11 In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in *clearly* linked and timely programmes.

Meaning of “matters of major political or industrial controversy and major matters relating to current public policy”:

These will vary according to events but are generally matters of political or industrial controversy or matters of current public policy which are of

national, and often international, importance, or are of similar significance within a smaller broadcast area.

5.12 In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

The prevention of undue prominence of views and opinions on matters of political or industrial controversy and matters relating to current public policy

(Rule 5.13 applies to local radio services (including community radio services), local digital sound programme services (including community digital sound programme services) and radio licensable content services.)

5.13 Broadcasters should not give undue prominence to the views and opinions of particular persons or bodies on matters of political or industrial controversy and matters relating to current public policy in all the programmes included in any service (listed above) taken as a whole.

Meaning of “undue prominence of views and opinions”:

Undue prominence is a significant imbalance of views aired within coverage of matters of political or industrial controversy or matters relating to current public policy.

Meaning of “programmes included in any service...taken as a whole”:

Programmes included in any service taken as a whole, means all programming on a service dealing with the same or related issues within an appropriate period.

Section 7 - Fairness

(Relevant legislation includes, in particular, sections 3(2)(f) and 326 of the Communications Act 2003 and sections 107(1) and 130 of the Broadcasting Act 1996 (as amended), Article 23 of the Television Without Frontiers Directive and Article 10 of the European Convention on Human Rights.)

Foreword

This section and the following section on privacy are different from other sections of the Code. They apply to how broadcasters treat the individuals or organisations directly affected by programmes, rather than to what the general public sees and/or hears as viewers and listeners.

As well as containing a principle and a rule this section contains “practices to be followed” by broadcasters when dealing with individuals or organisations participating in or otherwise directly affected by programmes as broadcast. Following these practices will not necessarily avoid a breach of this section. *However, failure to*

follow these practices will only constitute a breach of this section of the Code (Rule 7.1) where it results in unfairness to an individual or organisation in the programme. Importantly, the Code does not and cannot seek to set out all the “practices to be followed” in order to avoid unfair treatment.

The following provisions in the next section on privacy are also relevant to this section:

- the explanation of public interest that appears in the meaning of “warranted” under Rule 8.1 in Section Eight: Privacy;
- the meaning of surreptitious filming or recording that appears under “practices to be followed” 8.13 in Section Eight: Privacy.

Principle

To ensure that broadcasters avoid unjust or unfair treatment of individuals or organisations in programmes.

Rule

7.1 Broadcasters must avoid unjust or unfair treatment of individuals or organisations in programmes.

Practices to be followed (7.2 to 7.14 below)

Dealing fairly with contributors and obtaining informed consent

7.2 Broadcasters and programme makers should normally be fair in their dealings with potential contributors to programmes unless, exceptionally, it is justified to do otherwise.

7.3 Where a person is invited to make a contribution to a programme (except when the subject matter is trivial or their participation minor) they should normally, at an appropriate stage:

- be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute and when (if known) and where it is likely to be first broadcast;
- be told what kind of contribution they are expected to make, for example live, pre-recorded, interview, discussion, edited, unedited, etc;
- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness;
- be told the nature of their contractual rights and obligations and those of the programme maker and broadcaster in relation to their contribution; and
- be given clear information, if offered an opportunity to preview the programme, about whether they will be able to effect any changes to it.

Taking these measures is likely to result in the consent that is given being ‘informed consent’ (referred to in this section and the rest of the Code as “consent”).

It may be fair to withhold all or some of this information where it is justified in the public interest or under other provisions of this section of the Code.

7.4 If a contributor is under sixteen, consent should normally be obtained from a parent or guardian, or other person of eighteen or over in loco parentis. In particular, persons under sixteen should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent.

7.5 In the case of persons over sixteen who are not in a position to give consent, a person of eighteen or over with primary responsibility for their care should normally give it on their behalf. In particular, persons not in a position to give consent should not be asked for views on matters likely to be beyond their capacity to answer properly without such consent.

7.6 When a programme is edited, contributions should be represented fairly.

7.7 Guarantees given to contributors, for example relating to the content of a programme, confidentiality or anonymity, should normally be honoured.

7.8 Broadcasters should ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create unfairness. This applies both to material obtained from others and the broadcaster's own material.

Opportunity to contribute and proper consideration of facts

7.9 Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that:

- material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
- anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute.

7.10 Programmes – such as dramas and factually-based dramas – should not portray facts, events, individuals or organisations in a way which is unfair to an individual or organisation.

7.11 If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

7.12 Where a person approached to contribute to a programme chooses to make no comment or refuses to appear in a broadcast, the broadcast should make clear that the individual concerned has chosen not to appear and should give their explanation if it would be unfair not to do so.

7.13 Where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner.

Deception, set-ups and 'wind-up' calls

7.14 Broadcasters or programme makers should not normally obtain or seek information, audio, pictures or an agreement to contribute through misrepresentation or deception. (Deception includes surreptitious filming or recording.) However:

- it may be warranted to use material obtained through misrepresentation or deception without consent if it is in the public interest and cannot reasonably be obtained by other means;
- where there is no adequate public interest justification, for example some unsolicited wind-up calls or entertainment set-ups, consent should be obtained from the individual and/or organisation concerned before the material is broadcast;
- if the individual and/or organisation is/are not identifiable in the programme then consent for broadcast will not be required;
- material involving celebrities and those in the public eye can be used without consent for broadcast, but it should not be used without a public interest justification if it is likely to result in unjustified public ridicule or personal distress. (Normally, therefore such contributions should be pre-recorded.)