

## Your response

| Question   | Your response   |
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| <p><b>Question 1:</b><br/>Do you agree with our rationale for proposed new Rules 2.17 and 2.18? Please give reasons for your answer.</p> | <p>Yes. The Society strongly endorses the argument that vulnerability and the need for safeguarding, expressed as ‘duty of care’, does not stop when a person reaches the age of 18 years. Like children, adults have individual profiles of vulnerability and resilience. These arise from an individual’s innate characteristics and their life experiences (Schnittker, 2015). Broadcast productions also differ from each other in the challenges, risks and potential harms involved, therefore there is a need to consider the risk profile of each production and how that interacts with the vulnerability profiles of the potential contributors. Describing persons as ‘vulnerable’ is risky in terms of potential disempowerment and stigmatisation (Brown, 2011) but recognising a person’s specific strengths and specific vulnerabilities is less so.</p> <p>Certain programme genres such as competition and reality shows intentionally ‘challenge’ contributors and participating in any type of production may take people outside of their ‘comfort zone’.</p> <p>It is clear from some broadcasts that the encouragement of extreme behaviour is part of the approach of some reality TV productions. While evidence of behind the scenes coercion is anecdotal from participants and production staff, statements by such persons suggest that pressure is commonly exerted before recording. It has been stated that many reality shows use tactics to encourage on-screen conflict, such as using leading questions or having consecutive early starts so that contributors start to feel more irritable and more likely to engage in confrontational behaviour. The environment of a TV studio or location recording is potentially disempowering for individuals unused to such situations, leading to greater susceptibility to influence. The atmosphere of tension and time pressure, plus the presence of technology and production staff, often in communication through earpieces etc., can contribute to the disempowerment. Research in social psychology has shown the strong influence that settings can have on people’s behaviour and sense of well-being and has also highlighted the dominant effects of authority figures. (Atkin, 1976; Bandura, 1999; Valkenburg &amp; Peter, 2013; Beresin &amp; Olson, 2018).</p> <p>Recognising that psychological stresses may lead to short-term or longer-term effects mandates, in our view, the use of effective risk assessments for productions and competent screening of potential contributors to identify the specific needs for protection, support and mitigation. Very different guidance will be needed for different kinds of productions. Developing a checklist of the types of risks (or ‘challenges’) and how they can best be explained to potential contributors would be useful.</p> <p>We believe that contributors should expect continuity of care, respect, transparency and a sense of collaboration. These will be realised in shared goals, that is, by aiming to create content that contributors and producers can feel proud to be part of. In general, we would expect that the more diligent the care</p> |

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|  | <p>of contributors and the more agency they are given during filming, the less crisis aftercare will be required. The more confident a contributor feels about their role and the support available, the better able they will be to deal with media and social media attention. Given that many broadcast projects may take more than a year from conception to transmission, a thorough risk assessment and consequent duty of care protocol should be completed at the early development or commissioning stage.</p> <p>The Society recommends the application of the six principles of adult safeguarding (<a href="https://www.scie.org.uk/safeguarding/adults/introduction/highlights#definition">https://www.scie.org.uk/safeguarding/adults/introduction/highlights#definition</a>) that apply to health and care settings and are stated in the Care Act:</p> <p><b>Empowerment:</b> People being supported and encouraged to make their own decisions and informed consent</p> <p><b>Prevention:</b> It is better to take action before harm occurs.</p> <p><b>Proportionality:</b> The least intrusive response appropriate to the risk presented.</p> <p><b>Protection:</b> Support and representation for those in greatest need.</p> <p><b>Partnership:</b> Local solutions through services working with their communities. Communities have a part to play in preventing, detecting and reporting neglect and abuse (the application of this principle would need re-interpreting in relation to stakeholders in the broadcasting industry, and would include broadcasters, producers, directors, other production staff, mental health practitioners etc).</p> <p><b>Accountability:</b> Accountability and transparency in safeguarding practice.</p> |
| <p><b>Question 2:</b><br/>Do you agree with the proposed meaning of 'participant' for the purpose of these rules? Please give reasons for your answer.</p> | <p>Yes. The term 'participant' is acceptable but programme 'contributor' is more widely used within factual and entertainment productions. 'Participant' is a useful term in that it implies more agency than 'contributor', which suggests a more passive role.</p>  |
| <p><b>Question 3:</b><br/>Do you agree with the proposed scope of these rules?</p>   | <p>Yes. Most adult, non-fiction contributors are unpaid which is one of the reasons why there is a significant imbalance between their power and those of production teams. A paid professional such as a reporter is likely to have an agent or representative body and be able to assert some control about how they are represented. This may also be true of academics who have a specialist knowledge or expertise which is critical to the production. Longitudinal contributors also</p>   |

**Please give reasons.**

have a form of power as the production teams need to maintain the relationship with the subject. It is those individuals who lack power, financial rights and who are deemed replaceable by the production who require the most protection. It should be recognised that the impacts of participation may extend beyond the 'contributor' to other persons, such as partners, family members, relations, colleagues and groups and communities. A competent risk assessment will consider such possibilities.

We identify an important issue for attention in that production companies usually work on a 'task and finish' basis and that longer-term duty of care to contributors, where risks of enduring harms are present, would require financial and continuity of care commitments that would go beyond current practice. We see a need for broadcasters to consider how such commitments might best be met to ensure compliance with the proposed new rules and to ensure ongoing protection and support of contributors (as well as other persons where further risks are identified).

In common with professional practice in other domains, monitoring of standards of duty of care will need to be conducted in such a way as to avoid bias and conflict of interest; therefore independence of monitoring must be ensured and be transparent. At the same time, there must be accountability for the adequacy of the monitoring. Currently, those with the greatest experience and responsibility (lawyers, executive producers etc.) are the furthest removed from contributors which means that the most vulnerable and inexperienced production staff are managing the most vulnerable contributors on a day to day basis. Enhancing the role of production lawyer(s) in the planning, discharge and evaluation of companies' duty of care processes could help to ensure consistent application of best practice and provide, by way of the professional duties of the lawyer, a duty-bound internal champion to provide oversight. There would be great benefit in clarifying who has responsibility for duty of care (and for how long) among the broadcaster, editorial policy, production company, managing director, executive producer, lawyer, psychologist, producer and researcher.

Given the complexity of interacting factors in psychological well-being, it would be valuable to consider defining limits of duty of care, so that productions are able to demonstrate that due care has been taken to identify those factors (risks) within the production that could be associated with subsequent outcomes, while limiting the production's/broadcaster's responsibility only to those and not for extraneous factors. However, a competent prior risk assessment will also identify pre-existing, extraneous factors that could confer elevated vulnerabilities to stressors in the production.

**Question 4:  
Do you agree with the proposed wording for the new Rules 2.17 and 2.18?  
Please give**

Yes. The BPS broadly agrees with this. However, 'due care' and 'unjustified' are clearly open to interpretation and are subject to the moral and ethical position of the contributor, production team and broadcaster. It is essential to find ways to define minimum standards that define 'due care' and what counts as 'justified' distress or anxiety. In addition, it will be essential to define the levels above which directly or indirectly caused distress or anxiety would be unacceptable and never justifiable, for example in terms of long-term effects. Similarly, standards will need to be developed that define what may count as failing to respect the dignity of individuals.

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| <p><b>reasons for your answer.</b></p>  | <p>We recommend that respect for privacy be made explicit in the proposed rules.</p>  |
| <p><b>Question 5:<br/>Do you agree that Rule 1.28 should be amended in this way? Please give reasons for your answer.</b></p> | <p>Yes. We believe that this is clear and consistent.</p>   |
| <p><b>Question 6:<br/>Do you agree that Rule 1.29 should be amended in this way? Please give reasons for your answer.</b></p> | <p>Yes. We believe that this is clear and consistent.</p> <p>We recommend that Ofcom also consider the issue of harms that may be caused other than to the persons under eighteen years of age; for example, to other family members or to peers. This parallels the concern we express for adults that the risks in productions are not only restricted to the contributors but also may potentially affect other people in their social and relational networks.</p>  |
| <p><b>Question 7:<br/>Do you agree with the proposed approach to the Code guidance? Please give reasons.</b></p>              | <p>Yes. Most productions and producers are familiar with these pre-, during and post-production ethical requirements. However, as much as there is a power inequality between programme-makers and contributors, there is also a power inequality between ‘people’ (contributors and staff) and ‘the production’. As such, these guidelines are often not followed through to preserve the status of ‘the production’ which often overrides the needs of others. This guidance helps to minimise this power differential and ensure that the needs of the most vulnerable groups are protected.</p> <p>We believe that guidance should be developed regarding the inclusion of contributors with identified mental health conditions. People have an equal right to have their voices heard and their challenges recognised and understood. Where such matters are covered, productions should aim to have properly qualified and appropriately experienced psychologist(s)/mental health practitioner(s) fully involved in the screening process and making the judgement call regarding whether the risks to a participant can be adequately managed to avoid harms. This would avoid the need for rigid rules and enforcement regarding who can and cannot participate in a show, especially when it comes to factual and documentary type shows. The main problems lie where vulnerabilities are exploited for entertainment purposes, where participants are exposed to unusual, challenging situations for long durations and high-profile productions where participants’ lives are transformed as a result of appearing in the show. Risk assessments for productions should include consideration of titling and trailers for broadcasts as well as the programme content.</p> |

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|   | <p>While the need to retain editorial control is acknowledged, the Society recommends that productions should consider how best to respect duty of care by involving contributors and in appropriate cases, psychologists or other mental health professionals in post-production to avoid causing harms through insensitive, disrespectful portrayals.</p>  |
| <p><b>Question 8:</b><br/> <b>Can you provide examples of best practice in the due care of programme participants which you think should be included in the guidance? Please share details if possible.</b></p> | <p><b>SCREENING &amp; TESTING</b></p> <ul style="list-style-type: none"> <li>· Use of a risk assessment proforma based on understandings of psychological risks and harms, tailored to the expected demands and challenges of the proposed participation level in that particular production</li> <li>· Initial screening of potential participants conducted by psychologists with the appropriate qualifications and experience to use the various tools available, including psychometric tests, structured interviews and clinical judgements</li> </ul> <p><b>DIRECT CARE OF PARTICIPANTS</b></p> <ul style="list-style-type: none"> <li>· Psychologists to provide ongoing advice regarding the monitoring of participants.</li> <li>· Working with suitably experienced and qualified chaperones or other persons in caring roles to ensure that adequate sensitivity to risks and potential harms is in place, along with appropriate protocols for intervening if problems are seen to arise.</li> <li>· Planning aftercare that is tailored to the needs of the contributor, the level of exposure to risk posed by the specific production and the potential consequences, informed by the reactions of the participants during the production.</li> <li>· Provision of a part-time after-care producer post-transmission; recognised as a skilled role in its own right.</li> <li>· One point of contact for contributors to provide continuity of care in a trusting relationship</li> <li>· Signposting support services for contributors in non-constructed programmes e.g. observational documentaries</li> <li>· Therapeutic services provided for constructed/interventionist programme participants</li> <li>· Fact-checking and informing contributors about their involvement before transmission</li> </ul> <p><b>GOVERNANCE</b></p> <ul style="list-style-type: none"> <li>· Multi-disciplinary approach among editorial policy, Child and Vulnerable Adult Protection, Legal and Production.</li> <li>· Senior production personnel to engage with the ethical, psychological and emotional difficulties faced by participants.</li> </ul> <p><b>DUTY OF CARE TO PRODUCTION TEAM</b></p> <ul style="list-style-type: none"> <li>· Clinical supervision for production team members exposed to complex psychological issues and emotional material</li> <li>· Recruitment of production personnel who have an additional skillset in participant welfare. In this way, care becomes integrated into the production team and production culture rather than just being seen as the domain of psychologists and therapists</li> </ul> |

· Less burden of responsibility on junior researchers and runners to manage day to day contributor difficulties

## **References**

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