

Ofcom Broadcasting Code (an overview)

Black Country Radio's legal requirements for our FM licence

Ofcom, the regulator for UK broadcasting, has set rules for broadcasters about what they can and can't do. It is strongly recommended that you read, in full, the Ofcom Broadcasting Code to familiarise yourself with their regulations, especially with regard to news bulletins.

Below is an outline of the key points:

Section One – Protecting the Under 18s

- Broadcasters must take all reasonable steps to protect the under 18s
- There is no “9 o'clock watershed” as there is on TV – the radio equivalent is to “be mindful of when children are likely to be listening”. This especially refers to the school run and during the school holidays. Adjust your show content accordingly – strictly no offensive content or swearing.
- Material which could impair the physical, mental or moral development of people under 18 must not be broadcast – any material which is unsuitable must be appropriately scheduled
- Any material which could distress children when they are likely to be listening must be made clear to the audience prior to broadcast
- Any material where illegal drugs, drug abuse, smoking, solvent abuse or alcohol misuse is included must:
 - not be featuring in programmes aimed at children unless there is strong editorial justification (e.g. an anti-drugs educational awareness broadcast)
 - generally be avoided and, in any case, must not be condoned, encouraged or glamorised when under 18s are likely to be listening
- Do not interview under 18s without the permission of a parent or guardian. Due care must be taken over the welfare of people under 18, even if permission is granted.
- Do not broadcast anything that is overly descriptive in terms of sexual or illegal content
- Never identify an under 18 who has been the victim of, or who has witnessed, a crime. This includes giving information which could lead to them being identified, even if they are not named directly. Bear in mind that if the offence is “incest”, then identifying the offender would also identify the victim.
- Demonstrations of the occult or paranormal which purport to be real must not be broadcast when children are likely to be listening, even if for entertainment purposes only.
- Prizes (for example, in a competition) which are aimed at children must be appropriate to the age range of both the target audience and the participants.

Section Two – Harm & Offence

- Do not portray opinions as fact or broadcast any swear words (even if quoting someone)
- Factual programmes must not mislead the audience
- Material which may cause offence must be justified by the context (e.g. if broadcasting racist views, this would only be acceptable in a setting such as a debate on such an issue)
- Violent, dangerous or anti-social behaviour must not be glamorised or encouraged
- Methods of suicide and self-harm must not be broadcast unless justified by the context
- Demonstrations of the occult or paranormal which purport to be real must be treated with due objectivity (i.e. no claim must be made that they are real) and, if broadcast for entertainment purposes only, this must be clearly signalled to the audience and any advice given must not contain life-changing advice directed at individuals, specifically health, finance, employment or relationships
- Hypnotic techniques must not be broadcast in order to prevent hypnosis and/or adverse reactions in listeners
- Simulated news (e.g. a comedy news bulletin) must be broadcast in such a way that listeners are not misled into believing they are listening to actual news
- Competitions and voting must have rules written up which are made known to the audience and conducted fairly – listeners must not be misled and prizes must be described accurately

Section Three – Crime

- Never broadcast anything that is likely to encourage or incite crime or disorder, or could endanger life (e.g. saying something that could affect the outcome of a hostage taking at a local bank)
- Descriptions or demonstrations of criminal techniques must not be broadcast unless editorially justified (e.g. for the purpose of reviewing a product's security)
- No payment may be made to:
 - convicted criminals for a contribution to a programme or any other person related to the crime in question unless it is in the public interest
 - any witness or anybody who could be called as a witness in active criminal proceedings
 - any individual, nor may it be offered, if that payment depended on the outcome of a trial

Section Four – Religion

- Do not criticise religious views or broadcast content about religious organisations looking to recruit people to a religion or a religious denomination
- Do not promote religious views or beliefs by stealth

- Religious programmes must not exploit the susceptibilities of the audience
- Claims that a living person or group has special powers or abilities must be treated with due objectivity and must not be broadcast when children are likely to be listening

Section Five – Due Impartiality, Due Accuracy and Undue Prominence of Views & Opinions

- Do not broadcast biased stories – always give both sides of the argument and do not give undue coverage to one side of the argument
- If a serious mistake is made in the broadcast, always acknowledge the mistake and correct it as soon as possible – the correction should be appropriately scheduled
- No politician may be used as a newsreader, interviewer or reporter in any news programmes unless editorially justified. If it is justified, the political allegiance must be made clear to the audience

Section Six – Elections & Referendums

- Election periods begin approximately a month before elections but this can vary – at this point, the rules on political coverage and significant matters relating to the election are tightened significantly
- Any programme focusing on a particular electoral ward or constituency must include a list of all candidates standing in that particular area, including first names and surnames, as well as the party they are representing or the fact that they are an independent candidate – this list only needs to be included once per broadcast; subsequent mentions on the same day can direct people to a website where they can find the list of candidates. In the case of European Parliament elections, only the parties who have a candidate in the appropriate region (e.g. the West Midlands) should be listed – only independent candidates must be listed by name.
- Make sure you are not talking excessively about one political party over another
- Due weight must be given to the coverage of larger parties in the election period (larger parties are defined as Conservatives, Labour, Liberal Democrats and UK Independence Party) but appropriate coverage should also be considered in relation to other parties and independent candidates with significant views and perspectives
- Due weight must be given to designated organisations during a referendum period but appropriate coverage should also be considered in relation to permitted participants with significant views and perspectives (“designated organisations” and “permitted participants” are defined by the Electoral Commission – speak to station management for guidance)
- No person who is standing as a candidate, nor any representative of a permitted participant (seek management guidance for “permitted participants”) may act as a newsreader, presenter or interviewer of any type of programme whatsoever – regardless of the subject matter of that programme and even if the subject matter is

totally unrelated to the election – for the duration of the election period – speak to station management for guidance

- As soon as polling stations open on the day of an election or referendum:
 - there must be no discussion and analysis of election and referendum issues until polling stations close (this includes polling stations outside of the UK, if the elections are for the European Parliament)
 - no encouragement must be given to members of the public as to who to vote for or even that they should vote at all
 - the results of any exit polls must not be broadcast until polling stations close
- Due impartiality must be maintained within each electoral area
- If a candidate is offered the opportunity to take part in an interview, all other candidates within the same constituency or electoral ward who represent the larger parties (see definition of larger parties above) must also be given the opportunity to take part, while smaller parties and independent candidates for whom there is previous significant electoral support or current significant support must also be invited to take part.
- Candidates do not have to take part in the same interview or the same programme, but the link between different broadcasts should be made clear to the listener. If a candidate refuses to take part, then the item may go ahead in their absence, but it is sensible to address to the audience that the absent candidate was offered the opportunity to take part.
- Where a candidate is taking part in a programme on any matter after the election has been called, they must not be given the opportunity to make points directly related to the constituency/electoral area they are representing if no other candidates in that area will be given the same opportunity (for example, the leader of Dudley Council would not be allowed to talk specifically about his own ward unless there was an intention for all other candidates from that ward to be offered the same opportunity within the station's election coverage)

Section Seven – Fairness

Unjust or unfair treatment of individuals in programming must be avoided

- Never omit facts in a way that is unfair to an individual or an organisation
- If you ask someone for a comment about a story and they decline to comment, you should always state this
- Never obtain information through deception
- When an individual is asked to contribute to a programme (unless the subject matter is trivial or the participation is minor) they must be (unless it is justified in the public interest or under other provisions of the Broadcasting Code):
 - told about the nature and purpose of the programme and given a clear expectation of what they are being asked to contribute
 - told what kind of contribution they are being asked to make (live, pre-recorded, interview, discussion, edited, unedited etc.)
 - told about the areas of questioning and the nature of other likely contributors

- told about any significant changes to the programme as it develops which are likely to affect their consent to participate
- told of their contractual rights and obligations and those of the broadcaster in relation to their contribution
- given clear information, if offered an opportunity to preview the programme, about whether they will be able to effect any changes to it
- Consent should always be obtained from a parent or guardian, or another person aged 18 or over (such as their teacher if on a school visit) if a contributor to a programme is under the age of 16 or, if the person is over the age of 16 but is not in a position to give consent, such consent should come from a person with primary responsibility for their care. Such individuals should not be asked for views on matters likely to be beyond their capacity to answer properly
- Contributions must be fairly represented in programmes which are edited
- Guarantees such as confidentiality or anonymity should be honoured
- The re-use of material originally recorded and then used in another programme or for another purpose must not create unfairness
- Programmes such as dramas must not portray facts, events, individuals or organisations in a way which is unfair to those individuals or organisations
Programmes which allege wrongdoing or incompetence or makes significant allegations should give those concerned an appropriate and timely opportunity to respond
- If a person approached to contribute to a programme chooses to make no comment or declines the invitation, the programme should make it clear that the individual chose not to appear and should give their explanation as to why they do not wish to appear if it would be unfair not to do so
- 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
- Programmes must not obtain audio or voice recordings through deception unless:
 - it is in the public interest to do so (e.g. exposing fraud) and cannot be obtained through other means
 - in the case of 'wind-ups' or 'prank' calls, permission must be granted from the individual before the material is broadcast, unless they cannot be identified
 - material involving celebrities and those in the public eye can be broadcast without consent, but only if it is in the public interest if it is likely to result in public ridicule or personal distress

Section Eight – Privacy

- You should never broadcast anything that could be seen to infringe a person's privacy, unless it can be justified as being in the public interest
- Information which discloses the location of a person's home or family should not be revealed without permission, unless it is warranted (e.g. as a result of a trial)

- If a person or organisation's privacy is being infringed and they ask a recording or live broadcast to be stopped, the broadcast should cease, unless continuing can be editorially justified and it is in the public interest to continue
- Recordings on private premises (such as within an institution, organisation or other agency) must have permission of a relevant authority and management, unless recording without their permission can be justified, however separate consent should normally be obtained before recording or broadcasting in sensitive areas, such as hospitals, ambulances, prisons or police stations
- The means used to obtain material must be proportionate to the subject matter of the programme
- The re-use of material that is then used for another purpose must not create an unwarranted infringement of privacy
- Broadcasters should not attempt to record someone without prior warning unless it is justified by other means or an interview with that person could not otherwise reasonably be obtained. This does not apply when in a public place, nor does it apply to vox-pops
- If recording telephone calls, broadcasters must identify themselves and state that a telephone call is being recorded for possible broadcast at the beginning of the call. If this is not stated, the consent of the person being recorded must be obtained prior to broadcast, unless it can otherwise be justified
- Secret recordings should only be used in exceptional circumstances, such as:
 - there is substantial evidence of a story in the public interest
 - there are reasonable grounds to suspect that further material evidence could be obtained by doing so
 - it is necessary to the credibility and authenticity of the programme
- Broadcasters must not record or broadcast a recording of people caught up in emergencies, victims of accidents or those suffering personal tragedy, even if in a public place, if it infringes on their privacy, unless the circumstances can be justified or the person has given their consent.
- People in a state of distress should not be pressured to take part in programmes or provide interviews
- Broadcasters should not reveal the identity of a person who has died, or is a victim of an accident or violent crime, unless it is clear that next of kin has been informed or unless it can be exceptionally justified
- Broadcasters should reduce the potential distress to victims when broadcasting programmes to examine past traumatic events – this also includes reconstructions and factual dramas – and surviving victims and their relatives should be informed of any plans for broadcast
- Particular attention should be paid to the privacy of those under 16 years of age and, if they are the subject of the privacy infringement, consent must be obtained from a parent, guardian or other appropriate authority figure, as well as the individual concerned, unless the subject matter is trivial or uncontroversial and the participation is minor

Section Nine – Commercial References in Television Programming

This section exclusively governs television programming and, as such, is not applicable to Black Country Radio.

Section Ten – Commercial Communications in Radio Programming

- Programmes which are blatantly offering a 'free advert' for a commercial profit-making organisations must not be broadcast
- Programmes about commercial companies are fine as long as they can be justified by the context
- It is acceptable to run stories about non-profit and charitable organisations holding events, such as a fete
- Programming which is subject to, or associated with, a commercial arrangement must be made clear to the audience
- Advert breaks must be clearly separated from programming (see **Advertising and Income Policy**)
- Commercial references in or around news bulletins are prohibited, with the exception of crediting a news source or news supplier (e.g. Sky News, Sky Sports, etc.), the use of premium rate services, the promotion of the station's own products/ services, such as an event or website
- Commercial references must not be broadcast in children's programming, with the exception of credits for competition prizes, the use of premium rate services for the purpose of entering competitions, the promotion of the station's own products/ services, such as an event or website
- No commercial arrangement that involves payment or other valuable consideration may influence the selection or rotation of music being broadcast
- Commercial references must comply with the advertising and scheduling rules that apply to radio broadcasting
- Commercial references that require confirmation or substantiation prior to broadcast must be cleared for broadcast in the same way as advertisements

- No commercial reference or commercial arrangement may be made in a broadcast in which an individual is being interviewed in a programme
- Any premium rate telephone services used in programming must comply with the Code of Practice issued by PhonepayPlus and any charges must be made clear to the audience
- Fund-raising activities on behalf of a charity are only permitted if it is:
 - broadcast free of charge
 - does not contain any commercial reference
 - reasonable steps have been taken to prove charitable status or that a fund has been set up to deal with the appeal
- Broadcasters may appeal on-air for donations to fund their service or make programmes, but the amount raised and the purpose it is used for must be made clear, and money raised must be separately accounted for and used for the stated purpose
- When broadcasting financial promotions and investment recommendations such as shares, the presenter must disclose any relevant personal interests he has which are relevant to the audience (e.g. if a presenter advises buying shares in a company and they are a shareholder, they must make this clear to the audience)

The full copy of the Ofcom Broadcasting Code is available to view at:

<https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

For further information please contact CEO / Head of Programming.

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Black Country Radio Directors (as managed by Waterfront Media CIC) have overall responsibility for this policy.