

## Not above the law

By Will Harraton 13-02-2014

The Oxford English Dictionary's definition of duty of care is a "moral or legal obligation to ensure the safety or well-being of others." After 10 years of making true-crime documentaries and dealing with content that is often quite difficult in tone, these words remain at the forefront of my mind whenever I embark on any new project.

As all bona fide UK factual programme makers know, there is a clearly defined Ofcom broadcasting code on the subject of notifying victims or victims' relatives when making a film.

"How do we not offend family members?" "What are victims' relatives going to say?" "Would they actually want this programme to be made?" "Have we sought out a proper right of reply?" These are the first questions any programme maker should ask themselves when producing a programme and I know most of my colleagues in factual TV work very hard to stay within these rules.

From a moral perspective, I am 100% in favour of this legal and compliance framework – and any other international broadcast regulatory codes for that matter. From the outset of any project, we jump through hoops and go to great lengths to track down loved ones of victims of crime. It is simply not always possible, but when we succeed we ask them if they mind us making a programme or if they want to appear for an interview.

We do our utmost to seek a right of reply from police authorities or government institutions. In an age when resources are thin, these institutions don't always want to spend the time replying or collaborating but they must be given the opportunity. It is correct that broadcast content of this kind is regulated and we take our duty of care very seriously, we welcome legal and compliance checks.

So why is it that some social media platforms and citizen journalists appear to be above the law?

I've lost count of the number of vlogs, blogs, Facebook pages, Twitter and YouTube accounts that just seem to say what they want, often re-telling a gruesome, gory murder story without seeking permission or collaboration with those affected or involved.

Unlike journalists and producers, they don't seem to be compliance-bound or concerned about being held to account. There's very little, if any, fact-checking going on.



### TODAY'S CORRESPONDENT

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Will has spent 20 years in the broadcast industry as a journalist and presenter for the

BBC, Sky and ITV.

He is a founder and creative director of FirstLook TV, an independent TV company with a host of prime-time credits in factual, news, current affairs, comedy, comedy entertainment and entertainment programming. He has also won or been nominated for 13 Royal Television Society awards.

Of course, it's not always possible to track people down or get a reply. Sometimes you just have to accept that some people simply don't want to be found. But as credible storytellers it's our responsibility to make every possible effort to present a film from multiple points of view. If that's not achievable, then at the very least, 'true crime' content producers must let the police family liaison officer aware that a programme is being made about a case concerning people they have cared for.

Unfortunately, in today's culture of instant content gratification I'm seeing all the due diligence and leg-work increasingly ignored.

I must point out that it's not just content on social media and digital platforms that are falling foul of compliance rules.

Let's take the recent example of the new Oscar-nominated documentary short film *Detachment*, which charts the police investigation of Robert Thompson and Jon Venables, the killers of Liverpool toddler James Bulger. According to reports, the filmmakers decided to produce this half-hour film without notifying James' mum, Denise, or the family. On the face of it, a morally questionable decision at best.

It is, of course, a legitimate subject for discussion – we all pay for the justice system, we all consent to it and the behaviour of the individuals guilty of this heinous crime is a valid area of journalistic scrutiny. Getting to the whole truth is part of justice system.

Indeed, as a Liverpool native, I have longed to tell this 'story.' But one thing has stopped me: I don't think for a second James' parents would want me to make a film from the perspective of the perpetrators.

As a filmmaker, I have a duty of care to them.

Can you imagine the likes of the BBC, Discovery ID or other UK crime channels allowing such a film to go ahead without the knowledge of the Bulger family? I can't. They would be rightly appalled if we went ahead and made a programme without communication with family members.

I feel the time has come for unregulated digital platforms to start taking responsibility for curation of content. It's time to take this one step further. Controversial a view as this may be, the time has come where we have to start doing some research into how we can effectively regulate factual content on the internet. Yes, I know internet devices will go bananas – they will say the whole point of having the internet is that it's regulation-free. But you can't escape the fact that damaging content creates damage – wherever it appears.

At a time when we need truth, facts and a fair depiction of events more than ever before, I think it's time that social media outlets and unregulated platforms should take this 'duty of care' much more seriously and consider doubling-down on their moral and legal obligations as content becomes more and more widely viewed and shared.

Truth and moral obligation – not to mention legal obligation – has never been more important.

**SECTIONS:** [CrimeFactual](#)

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**Terry C. Jones**



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## **Table of Contents Not Above The Law Klett**

1. Understanding the eBook Not Above The Law Klett
  - The Rise of Digital Reading Not Above The Law Klett
  - Advantages of eBooks Over Traditional Books
2. Identifying Not Above The Law Klett
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Not Above The Law Klett
  - User-Friendly Interface
4. Exploring eBook Recommendations from Not Above The Law Klett
  - Personalized Recommendations
  - Not Above The Law Klett User Reviews and Ratings
  - Not Above The Law Klett and Bestseller Lists
5. Accessing Not Above The Law Klett Free and Paid eBooks
  - Not Above The Law Klett Public Domain eBooks
  - Not Above The Law Klett eBook Subscription Services
  - Not Above The Law Klett Budget-Friendly Options

6. Navigating Not Above The Law Klett eBook Formats
  - ePub, PDF, MOBI, and More
  - Not Above The Law Klett Compatibility with Devices
  - Not Above The Law Klett Enhanced eBook Features
7. Enhancing Your Reading Experience
  - Adjustable Fonts and Text Sizes of Not Above The Law Klett
  - Highlighting and Note-Taking Not Above The Law Klett
  - Interactive Elements Not Above The Law Klett
8. Staying Engaged with Not Above The Law Klett
  - Joining Online Reading Communities
  - Participating in Virtual Book Clubs
  - Following Authors and Publishers Not Above The Law Klett
9. Balancing eBooks and Physical Books Not Above The Law Klett
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Not Above The Law Klett
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Not Above The Law Klett
  - Setting Reading Goals Not Above The Law Klett
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Not Above The Law Klett
  - Fact-Checking eBook Content of Not Above The Law Klett
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements

- Interactive and Gamified eBooks

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