

## Background

This Agreement has been established in response to a need for a formal relationship between KCLSU and the Student Media groups it funds. This Agreement will be available to any member of KCLSU or other concerned party upon request as a constituent part of the Union Student Media Governance structure. It is the responsibility of the signed parties that their group members are made aware of this Agreement and adhere to it and all other constituent documents.

## Media Agreement Contract

Any breach of this Agreement will in the first instance be referred to the Student Life Team who will contact and liaise with the president of the media group involved. Any complaints brought about through a breach of this Agreement will be subject to the KCLSU complaints process.

## Media Group Rights

By signing to this agreement, KCLSU and the KCLSU Student Media groups recognise the following rights:

- The right of groups to access to information
- The right to freedom of the press and independent reporting
- The right of the media to inform the student community of issues of concern deemed as being in the public interest – See IPSO S.1 ECP for details on what is “public Interest”
- Where ratified, the right of societies to funding, support, suitable space and equipment

## KCLSU Rights

- That any KCLSU activities that are reported, are done so accurately (S.1 ECP)
- The right to ensure that student media does not produce material that contravenes any KCLSU policy or the KCLSU agreement

## Conducting Interviews

Interviews should be declared as such and pre-agreed by both the individual and the interviewer where possible and the interviewee should initial any notes of interviews or get a copy of the transcript.

Where phone interviews are made permission must be sought from the interviewee if the conversation is to be recorded. Although not a legal requirement it would be good practice within KCLSU. All records of interviews should be filed and kept for at least one year after print or broadcast. In the case of broadcast media, records should be kept for a minimum of one year after broadcast. Where a complaint has been received, records should be kept until the complaint has been resolved.

## Interviewing KCLSU Officers

Interviews with Union Officers will be conducted in accordance with the above section of this Agreement. Union Officers have an option to provide quotes where requested, provided the subject matter is appropriate to their role as a KCLSU officer. Please also remember that OFCOM and IPSO Editors Code of Practice guidelines apply to any interviews being undertaken.

## Interviewing KCLSU Staff

KCLSU Staff will not be available for interview unless otherwise previously agreed and cleared by KCLSU Senior Leadership Team. Staff members will not take part in any public discussion of Union Policy issues, nor give public expression to views contrary to the policies of the Union. If appropriate permission has been granted for interviewing [This needs to refer to staff student protocol which is published in our policy zone.](#)

staff, interviews must be conducted in accordance with this Agreement and the section above relating to officers. For more information on this area please refer to the Staff-Student Protocol section of the KCLSU policy zone <http://www.kclsu.org/policyzone/>

## **Publishing and Broadcasting**

Editors, programme directors and group members are expected to have legal journalism training and therefore a reasonable grasp of legal issues. KCLSU will provide training to this effect. Broadcast media shall abide by statutory regulations as defined by OFCOM guidelines. IPSO shall be adhered to when reporting in print, online or via linked social media accounts.

## **Online Publishing**

The rules in this media Agreement apply to online news websites and other online publishing run by media outlets. As well as any social media accounts linked to those sites. Before publishing articles “considered likely to be contentious” by the groups themselves using the training they have received from KCLSU and the Media advisor, advice needs to be sought from the KCLSU Student Media coordinator, KCLSU VPAD and the Media Law Advisor

If the KCLSU VPAD in association with the Media Law Advisor considers an article to be a risk in some way to the union to the welfare of any member, or if the article breaks other terms of this Media Agreement the article must be removed or changed from the website within 4 hours.

By “risk to KCLSU” we mean that it can be described by any of the points that are at the back of this document in the appendix and that the article or area of reporting in question has been highlighted by the group, the KCLSU VPAD, Student Media Coordinator and then the Media Advisor.

It may be republished only with approval of the KCLSU VPAD with advice from the Media Law advisor and potentially if changes are made. Broadcast media shall abide by statutory regulations as defined by OFCOM guidelines. IPSO & ECP shall be adhered to when reporting and broadcasting

## **Managing Print Risk**

KCLSU’s Student Media groups are as capable of incurring legal liability as any mainstream media outlet. As such, it is important that procedures are in place to avoid these risks. This means that each Student Media President / Editor / Station Manager (Student Media Leaders) must have a good working knowledge of the potential risks and how to avoid them.

Training will be provided to make Student Media Leaders and other volunteers aware of the legal risks involved. It is compulsory that members of the societies, particularly those fulfilling an editorial role, attend such training.

Student Media Leaders, if they believe an item carries legal risk, should seek early advice from the KCLSU VPAD or relevant staff who, when necessary, will seek legal consultation in order that risks are avoided and production of an edition is not delayed or halted. In order that legal risks are detected and minimised, copies of publications and individual articles for publication online, must be made available, in their entirety, to the KCLSU VPAD and the Media Panel as early as possible prior to publication in line with the virtual Media Panel process, which is explained below.

If any legal risk is identified, the articles must be modified to make them safe or withdrawn from publication and replaced. Each Student Media Leader, via the KCLSU VPAD, may receive instruction from the KCLSU legal consultant.

It is possible, on rare occasions, that articles cannot be made legally safe without rendering them unfit for print and the article may need to be omitted by the editor so that further work can be done to try to make it legally sound.

Omission of articles will not take place unless, after relevant advice is sought, they are deemed to be carrying a legal risk or infringing the welfare of KCLSU members that cannot be satisfactorily mitigated. Final decision in this rests with the KCLSU VPAD, as KCLSU is the organisation liable for any such legal risk incurred.

Notwithstanding the above, situations may arise where legal risk is unidentified until an edition is distributed. Where such risk is deemed imminent and financially grave, KCLSU, as the publisher, has the right to withdraw editions from circulation or order that articles are removed from websites. VPAD should seek to obtain a legal opinion from the relevant KCLSU legal consultant prior to such action being taken where possible. Publications should be retained by the Student Media Groups involved until legal advice is returned. Once the legal threat has been removed, copies can be redistributed.

It is clear that the above has limited application to broadcast media, where material cannot be withdrawn once broadcast. It is therefore of even greater importance that they are aware of legal risk. The Student Media Groups must have procedures in place to make sure that all students broadcasting are fully aware of legal risks; senior members of the society are responsible for overseeing and approving content for broadcast by other members and should check for legal risk at this stage. When broadcasting live, especially when covering topics liable to give rise to legally difficult content, consideration should be given to introducing a time delay on broadcast to enable removal of such content before it is broadcast. This may also mean seeking legal opinion before broadcasting certain items. Attendance at training events is, again, compulsory for all members.

Below is a guideline for the process of viewing and mitigating risk for any print media. The process must be followed in terms of actions, although the times are flexible, providing that the Media Panel views and signs off the publication before print. Dates for when the panel will convene will be sent out to groups who need to submit documentation each term.

Action	Deadline
Highlight articles which are identified as carrying a potential legal risk to KCLSU	No later than a week prior to publication
Final draft of article sent to KCLSU Media Panel / Staff with supporting evidence for content	Within 24 hours of article first being highlighted to panel
<b>Week of publication</b>	
Media Panel decides if legal advice is required	4 days prior to publication - 10 am
Paper to email over all other article ideas to Media Panel	4 days prior to publication - 10 am
Media Panel seek legal advice (if decided required)	4 days prior to publication - end of day
Paper to send right of reply requests to parties to allow them to respond/comment to proposed article	3 days prior to publication - midday
Paper to have backup article in place	3 days prior to publication - end of day
Decision made by Panel on whether article can run without / with amendment, or whether back-up article should be used	2 days prior to publication by midday
If final article can run, but with amendments, re-draft sent to Media Panel	2 days prior to publication – end of day
Final sign-off of article by Media Panel	Day prior to publication

## Financial Risk Management

To help manage the expenditure of Student Media groups, KCLSU will take the following responsibilities.

The KCLSU Student Life Team will hold the account with any printers and take responsibility for ordering the papers. The print run will only go ahead when the KCLSU is sure the media group has sufficient funds to cover the cost of the print run, and at this point the KCLSU will place the order.

KCLSU will take into account any future income from advertising if the Finance department have received an order form, contract or advertising Agreement signed by the advertiser.

KCLSU will assess the financial state of all student media groups and monitor production plans for the following term. If the Union considers that the paper cannot afford to print, they have the authority to reduce number of issues authorised

## Complaints Procedure

All printed media shall publish in each issue details on how to complain using the KCLSU complaints procedure complaints procedure. Broadcast media shall display procedures in an accessible location.

Complaints shall be upheld where any media group has breached the PCC ECP where the complainant considers that they have been subject to defamation, libellous comment, slander or other unsubstantiated allegation. Any person wishing to complain about any item printed/broadcast by KCLSU's student media, should make the complaint using the KCLSU Complaints procedure on the KCLSU website

Any printed apology should be in compliance with Press Complaints Commission Procedures. Each print media society and KCLSU should retain a copy of these procedures. Copies of apologies should be kept by the group concerned and by the Student Media Coordinator. If concern about the content of a publication is serious enough that its retraction is required the ultimate decision lies with the Student Life Manager

Student Media groups are responsible for providing the KCLSU Student Life Team or the appointed person with an up to date list of distribution locations to facilitate retraction where necessary. Retraction must only be made where it is judged that the published material poses a realistic legal threat to individual students or organisations.

In the event of a retraction the KCLSU Student Life Team must make all reasonable efforts to ensure that the Student Media group is informed of the decision and reasonable justification offered before retraction. Decisions regarding retraction must be fully transparent to the Student Media group.

Retraction of printed media takes the form of collection of all issues remaining at distribution points and the removal of any relevant articles from media websites. Broadcast media retraction takes the form of the removal of any listen/watch again items from the broadcaster websites.

All efforts should be made to resolve any retraction as quickly as possible. Where possible a resolution should be reached within the next working day. All stories and comments should be published with a right to reply

## Adherence to Insurer Requests

Endsleigh, our insurers have given us a list of areas we need to cover in order for us to be insured. Student Media groups must make sure they adhere to these requests. Included within every groups editorial processes should be an action plan to follow in circumstances where a piece has been identified as potentially litigious. This should include when material should be referred to lawyers or an independent journalist (who should have at least 3 years' experience in the industry). An example template is provided above.

As a result of an upwards trend of defamation claims under the scheme over the last 12-18 months, defamation will cease to be covered by Endsleigh unless KCLSU can confirm that its Media outlets (papers, radio, TV, statement published on your website etc.) adhere to certain controls. These controls are defined as:

- Evidence of an action plan to follow in circumstances where a piece has been identified as potentially litigious. This should include when material should be referred to lawyers or an independent journalist (who should have at least 3 years' experience in the industry).
- Media law training provided to editors, editor-in-chief and others involved in the final decision making process.
- For all live broadcasts, processes in place to ensure areas for discussion or review are vetted for any potential legal problems prior to broadcast.
- An easily accessible link for users to report issues with content appearing on the site.
- Take-down procedures in place.
- Disclaimer on your website regarding comments left by third parties on content.
- For any photographs and pictures used in your publications, groups to make sure that all licences and consents are obtained from copyright holders prior to publication

## Adherence to the KCLSU Society Group Agreement

Student Media groups, **like any other society**, must adhere to the KCLSU group Agreement, policies and procedures as a premise for ratification to be identified as a Student Media group. They must also attend PAT training like any other group.

Should a story place a member of KCLSU at specific social, academic, physical or mental risk, then the published story must not breach the student's anonymity unless it conforms to Section 1 of the PCC code. Breach of anonymity includes the use of name, photo, physical description, or any material that can lead directly to their identification.

Should a member of KCLSU waive their constitutional right to anonymity, they are fully entitled to do so, however they will not be able to break other individual(s) rights to anonymity on campus.

Should (a) reported individual(s) not be a member of the Students' Union or cease to be a member of the Students' Union then there are no grounds to support or defend their aims. Therefore constitutional issues do not apply and the individual(s) can be identified in accordance with the law of the land.

By signing below you agree that you, your group, and its members will abide by the rules and guidelines set out in this agreement.

<b>Student Media Representative Signature</b>	
<b>Student Media Representative Printed Name</b>	
<b>Student Media Group</b>	
<b>Student Media Group Position</b>	
<b>Date</b>	
<b>KCLSU Signature</b>	
<b>KCLSU Staff Name</b>	
<b>KCLSU Job Title</b>	
<b>Date</b>	

## Appendix – Main Areas of Risk to KCLSU

The notes below briefly explain some of the laws that can be broken in print, broadcast, online or via social media. It is not an exhaustive list, and if you are concerned about the legal or ethical aspects of anything you are covering, please contact KCLSU staff to obtain advice and support from the editorial legal consultant who will be able to advise.

Often the best advice when trying to avoid problems is simply to use common sense. However, ignorance of the law is not an excuse for breaking it you need to be aware of these potential risks.

If you have any worries about something you are about to print, broadcast, post, or that you have already done so, **seek guidance**.

### Defamation

Defamation law protects the reputation of individuals and corporations.

Defamation is punished by damages (cash) set by the court and awarded to the claimant. Even where cases are settled before court action it can be extremely expensive.

Defamatory meaning covers any suggestion of criminal activity, dishonesty, fraud, hypocrisy, immorality, lack of professionalism, incompetence, failing in a duty, sexual impropriety and bullying. This is by no means an exhaustive list.

### Repetition Rule

It is important to note that it is not a defence to say you are just repeating what others have said. The rule in defamation is that anyone who repeats a libel has a liability for it. This is particularly true of sharing material online and via social media.

### Main defences

- **Justification** - Truth. Truth is a complete defence against a libel action. However, the court assumes anything defamatory to be untrue and so you have to prove truth. Truth is a tough defence and if you lose it will result in heavier damages than if you tried another defence.
- **Absolute privilege** – a defence for reporting court proceedings. Your report must be fair, accurate and published when the case is in court, or very shortly afterwards
- **Qualified privilege** – a defence for reporting much of the material that comes out of government and governmental sources, such as local authorities and police. Protects reports of council proceedings agendas, documents for public information, and official statements. Your item must be fair, accurate, on a matter of public interest and published without malice.
- **Honest comment**, formerly fair comment. This is a defence of free expression of opinion. The comment must be clearly identified as an opinion and it must be based on facts that are true or privileged. This defence fails when a commenter gets their facts wrong.
- **Time limit** – In England and Wales this is 12 months from publication, broadcast or first upload of material online.

### Malicious Falsehood

This is another civil wrong related to defamation, but slightly different. You commit a malicious falsehood if you recklessly publish something about someone, which is false and causes them damage. For example, you might say someone has retired, or they are dead, when they are neither. Both suggestions are not defamatory, but if they are

not true they could have a serious impact on the claimant's livelihood. The claimant has to show that what has been said is false; caused them loss and that it was made maliciously, i.e., a failure to check properly.

## Penalties

Damages, which can be quite severe if substantial financial loss can be shown by the claimant.

The best way to deal with a malicious falsehood is prompt and prominent correction, which undoes or minimises the damage and makes legal action a less rewarding prospect for the claimant.

## Copyright

Copyright is part of the laws that protects intellectual property.

You need to know how much of other people's words or photography you can use. A copyright owner can claim substantial damages for material used without permission.

### What is protected?

Literary, dramatic, artistic, musical works, sound recordings, photographs, film, broadcast or typographical arrangement (layouts)

Copyright does not have to be registered – so just because there's no © sign, doesn't mean you can copy.

There is NO copyright in facts, news, ideas or information. What is copyrighted is the exact words used to express those stories or ideas.

### Defences

Fair dealing for reporting current events is not breach, but you must acknowledge the author.

There is no fair dealing defence for news purposes if you use a photograph.

### Length of copyright

70 years from the end of the year of the author's death. Broadcast copyright is 50 years from date of broadcast

## Online and social media

The presence of material online does not make it copyright free. It is in public, but not public domain. But this makes it very easy to copy. Be careful, especially of imagery taken by professional photographers or agencies. Some of them use automated systems to detect copyright breach and charge very large bills when they find it. There are many creative commons databases which offer royalty-free imagery.

## Contempt of Court

Contempt laws protect the judicial process and a person's right to a fair trial.

For publishers contempt laws sometimes punish publication of articles that might prevent a witness giving true testimony or a jury reaching a true verdict.

For contempt to be an issue there someone needs to have been arrested, or a warrant has to have been issued for their arrest.

### How is contempt breached?

By publishing something which causes:

**Substantial risk of serious prejudice or serious impediment to active proceedings.**

### What does that mean?

Avoid the following:

Pictures, video or descriptions, 'where identity is at issue' i.e. the defendant is denying the offence completely and the prosecution are calling eyewitnesses. Those eyewitnesses will be involved in an ID parade and must rely on their memory of the crime, not your publication.

Assumptions of guilt – reporting that the arrested person is the one who committed the crime.

Character assassination – attacking a defendant's name, so preventing a jury from trying him fairly.

## **Court orders**

Contempt is also committed by disobeying an order of the court, such as an injunction.

Online publication is a particular risk here. While court reporters are familiar with these orders and contempt rules, the public often are not.

## **Penalties**

Contempt is a criminal offence, it is dealt with by a heavy fine.

## **Privacy**

People who live in European countries signed up to the European Convention on Human Rights have, among others, a right to privacy.

This means that a number of aspects of their lives are not to be revealed unless it can be shown it is in the public interest to do so.

Matters which are often regarded by the courts as being private are:

- Family life and children
- Sexual relationships
- Health
- Religion
- Commercially confidential relationships
- Employee/employer relationships
- Religious confessions

Such information should not be misused – which often means published – without permission, or a valid public interest reason for doing so.

## **Penalties**

Damages, or an injunction to prevent breach.

## **Victims, Children and vulnerable people**

If you publish items on crime or court proceedings you need to be careful of laws aimed at protecting those involved.

## **Sexual offences**

In the UK victims of sexual offences are given anonymity as soon as they report a sexual offence. That report can be to any third party – a bystander, a friend or colleague. Anonymity lasts for the victim's lifetime, regardless of the outcome of any subsequent trial of the offence. Anonymity can be lifted if an adult victim gives written consent.

Defendants in sexual offence cases do not get any anonymity in the UK. Sexual offending covers a wide range of offences and in the UK now includes new offences such as voyeurism, trafficking for sexual exploitation and grooming.

You must not publish 'any matter' that would identify someone as a victim of a sexual offence. The offence is

committed if a detail is included which allows someone who knows the victim to identify them as such.

## **Penalties**

It is a criminal offence, a sexual offence, to identify a victim of a sexual offence. Sometimes the prosecuting authorities with charge not only the publication, but also its editor, or other responsible manager. The penalty is usually a fine, but a conviction for this type of offence can have far-reaching consequences personally.

## **AUTHOR'S NOTE**

These guidelines were produced by David Banks, media law consultant, and are to the best of my knowledge a correct statement of the law as it stood in September 2015.