

Journalism: to sting or not to sting?

The line that editors walk between legitimate investigation and entrapment can sometimes be a fine one

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During the Leveson inquiry there were many references to journalistic "dark arts". Much less attention was paid, however, to the much more common problem of journalism's grey areas.

These are especially obvious when undercover reporting methods and elaborate subterfuge are used. Editors overseeing such investigations have to ask themselves several questions. The first one is the most crucial of all: is there enough prima facie evidence of wrongdoing by a person to warrant a sophisticated sting operation?

It is not regarded as legitimate to go fishing in the hope of catching someone. And there is where the first grey area opens up.

How firm does the evidence have to be? It is unlikely that there will be documentary proof (otherwise there wouldn't be any need for a sting). So, if hearsay is good enough, is one person's word good enough? Or two, perhaps?

Reporters are required to protect their sources' confidentiality, so they know they will never be able to say more than that they had an excellent reason for their suspicions. Most editors would, of course, expect to know the strength of their evidence.

The next dilemma centres on what lure to use to avoid being accused of entrapment, which is generally – but not always – regarded as unfair. Many people would surely be tempted if an offer was disproportionately high. This was an accusation levelled on occasion at some of the News of the World's past sting operations, which caused more than one judge to raise an eyebrow.

In gauging the amount of money to be offered, editors need to take into account the nature of the target's offence. Does it involve criminal behaviour? If not, and if the wrongdoing is regarded as a matter of immorality, then just how bad a sin is it? That editorial judgment will also take account of the position of the person, or groups of people, involved. What rank do they hold? Are they elected, and thus so-called servants of the people? How much power do they exercise?

In cases of sexual misconduct, editors would inevitably want to know if they had opened themselves to the possibility of blackmail and the consequences of having done so (such as potential breaches of national security).

All these arguments are reducible to the simple concept of "public interest", the journalistic justification for all such investigative reporting. And lots of knife-edge decisions have been taken before editors tell us, inevitably, that the public has a right to know.

The sting is a powerful tool, and should be used sparingly. But politicians should surely have been on their guard against a post-Leveson press deeply concerned about the likelihood of its freedom to report on their affairs being constrained.

Digital technology makes it easier to mount stings, though paradoxically it also makes them easier to disrupt because, should someone catch on, they can alert people instantaneously.

Then again, once people are trapped in the net, trying to escape by publicising the fact is all but hopeless.

Though some of the victim peers contacted their whips when they suspected they had been caught out by the Sunday Times, it didn't prevent the paper publishing.