

Retention and production of recordings, Radio Scarborough Limited

Type of case	Broadcast Licence Conditions
Outcome	In Breach
Service	Radio Scarborough
Date & time	7 to 13 March 2022
Category	Retention and production of recordings
Summary	The Licensee failed to provide recordings to Ofcom for the purpose of assessing the content. Breaches of licence conditions 8(1) and 8(2)(a) and (b).

Introduction

Radio Scarborough is a community radio station for the communities in Scarborough Town. The licence is held by Radio Scarborough Limited (“Radio Scarborough” or “the Licensee”).

Ofcom received a complaint stating that the service did not serve the community and was not in compliance with its Key Commitments. Ofcom therefore requested recordings of Radio Scarborough’s output for the week commencing 7 March 2022.

The Licensee initially provided Ofcom with recordings within the given deadline. However, upon assessing the recordings, Ofcom noted that the recordings provided did not contain any audio. Ofcom therefore requested the Licensee to re-send the recordings, ensuring that all the files contained audio. The Licensee did not understand why the files did not contain any audio, and requested an extended deadline to send the recordings, as it had to wait until its technical manager returned from annual leave to resolve the issue.

Following the return of the Licensee’s technical manager, the Licensee contacted Ofcom, informing us that the technical manager did not understand why the recordings did not contain any audio and believed it may be due to a cabling issue. As a result, the Licensee stated it was unable to provide all the recordings requested and was only able to provide the provide recordings of programmes it planned to broadcast for the week requested, provided by its automated playout provider.

Ofcom considered that this raised potential issues under Conditions 8(1) and 8(2)(a) and (b), which state that:

“8(1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings of the Licensed Service’s broadcast output.

8(2) In particular, the Licensee shall:

- (a) make and retain, for a period of 42 days from the date of its inclusion therein, a recording of every programme included in the Licensed Service together with regular time reference checks;
- (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction...”

We requested comments from Radio Scarborough on how it was complying with these conditions.

Response

In its response, Radio Scarborough accepted that it did not comply with its Key Commitments in relation to locally-produced output. It also stated that “It is also with regret that the technical facility, assured by the volunteer responsible, to record the Radio Scarborough Ltd FM output, was not of an acceptable level to Ofcom with regard to its quality and content”.

The Licensee explained that it has made changes to its existing broadcasting content and volunteers, to ensure that Radio Scarborough’s Key Commitment relating to locally-produced output is in compliance at all times and has stated that it will use a “front line recording facility” and a backup service to ensure that it can provide “the correct recording of the FM output” in the future.

Decision

In each broadcaster’s licence, there are conditions requiring the licensee to retain recordings for a specific number of days after broadcast, and to comply with any request by Ofcom to produce recordings of programmes as broadcast. For community radio licensees, this is reflected in Licence Conditions 8(1) and 8(2)(a) and (b).

Breaches of Licence Conditions 8(1) and 8(2)(a) and (b) are significant because they impede Ofcom’s ability to assess whether a particular broadcast raises potential issues under the relevant codes and licence conditions. This is fundamental to Ofcom’s ability to carry out its statutory duties in regulating broadcast content.

We acknowledge that Radio Scarborough took steps in trying to retrieve the recordings. We also note the efforts Radio Scarborough has made in ensuring that a backup service to retain recordings is available. However, the Licensee could not provide recordings of its broadcast output for the week as requested.

We note from the information provided by the Licensee and the recordings of the programmes it was able to provide that it appeared that Radio Scarborough was not meeting its original output and locally-produced output requirements, as stated in its Key Commitments, for the week in question. However, we were unable to assess its compliance with these requirements because we did not receive full recordings for the week as requested. Radio Scarborough's failure to record and provide the material was significant in this case as it impeded Ofcom's ability to assess the content and the Licensee's compliance with its Key Commitments.

Ofcom's Decision is therefore that Radio Scarborough Limited is in breach of Conditions 8(1) and 8(2)(a) and (b). We will be monitoring the service in the future to ensure that Radio Scarborough is complying with its Key Commitments.

We expect the Licensee to work to rectify these issues immediately.

Breach of Conditions 8(1) and 8(2)(a) and (b).