

Ofcom ref: 00567037

Information Requests  
Email: [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

23 August 2018

## Ref: 00567037 Freedom of Information: Right to Know Request

Thank you for your request for information on Ofcom's policies and guidance to broadcasters in relation to anti-Semitism. Your request was received on 31 July 2018 and has been considered under the Freedom of Information Act 2000.

You requested the following information:

*I am writing to ask where I can find the detailed text of the standards/policies that Ofcom requires TV companies to adhere to in relation to racial discrimination/hate speech, in particular in relation to anti-Semitism.*

*It has been regularly reported by BBC, Channel 4 and Sky TV that anti-Semitism in the Labour Party is demonstrated by the failure to adopt the International Holocaust Remembrance Alliance definition of anti-Semitism in full i.e. including all the examples. These broadcasters have all claimed that this is a definition that has been adopted by a wide-range of public bodies. Please let me know if Ofcom has adopted the IHRA definition of anti-Semitism in full, where I can find the detailed text of this policy on your website and when it was adopted by Ofcom. If it has been adopted by Ofcom, please let me know where I can find the detailed guidance issued to broadcasters by Ofcom on this matter.*

We should explain at the outset that Ofcom treats all complaints of racial discrimination and anti-Semitism in broadcast programmes very seriously.

We set out in further detail below Ofcom's role in the regulation of broadcast content and how we treat complaints about such material.

### **Ofcom's Broadcasting Code**

Ofcom, as the communications regulator in the UK, is responsible for setting standards which are designed to secure that (amongst other things) generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection to members of the public from offensive or harmful material<sup>1</sup>. The way that Ofcom gives effect to this duty is through the publication of the Ofcom Broadcasting Code ('the Code') and associated Guidance, which you can find on our website here: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast->

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<sup>1</sup> Sections 3(2)(e) and 319 of the Communications Act 2003.

[codes/broadcast-code](#). All broadcasters, including those to whom you refer in your request, must, under the terms of their broadcast licences, comply with the rules set out in the Code.

Sections Two, Three and Four of the Code are particularly relevant to the matters raised in your request, relating to the standards which Ofcom has put in place with respect to protecting audiences from harm, offence, hatred and abuse (including religious abuse). In particular:

- Rule 2.1            Generally accepted standards must be applied to the contents of television and radio services and BBC ODPS [on demand programme services] so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material;
- Rule 2.3            In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context<sup>2</sup> ... Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation, and marriage and civil partnership). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence;
- Rule 3.2            Material which contains hate speech<sup>3</sup> must not be included in television and radio programmes or BBC ODPS except where it is justified by the context;
- Rule 3.3            Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services or BBC ODPS except where it is justified by the context; and
- Rule 4.2            The religious views and beliefs of those belonging to a particular religion or religious denomination must not be subject to abusive treatment.

Anti-Semitic content would be likely to fall within the scope of the rules set out above. If Ofcom considers that broadcast material raises issues under the Code, we investigate<sup>4</sup>, and impose statutory sanctions where appropriate<sup>5</sup>.

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<sup>2</sup> The concept of “context” is further explained in the Code with respect to these rules.

<sup>3</sup> Defined in the Code as: “all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation”.

<sup>4</sup> In line with our published procedures - [https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/procedures#accordion\\_target-89861](https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/procedures#accordion_target-89861)

<sup>5</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0030/71967/Procedures\\_for\\_consideration.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0030/71967/Procedures_for_consideration.pdf)

In relation specifically to the broadcast of anti-Semitic material, here are two examples where Ofcom concluded that such broadcasts were serious breaches of the Code which warranted the imposition of financial penalties on the relevant licensees<sup>6</sup>:

- [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/96124/Noor-TV.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/96124/Noor-TV.pdf)
- [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0032/93866/Peace-TV-Urdu-Sanctions-Decision.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0032/93866/Peace-TV-Urdu-Sanctions-Decision.pdf)

### Definition of anti-Semitism

You have also asked whether Ofcom has adopted the International Holocaust Remembrance Alliance's (IHRA) definition of anti-Semitism and if so, where you might find "the detailed text of this policy on [our] website" and any "detailed guidance issued to broadcasters by Ofcom".

Ofcom has, in the context of its role in determining complaints about anti-Semitic material, adopted in full the IHRA's definition of anti-Semitism. This is reflected, for example, in our decision in relation to *The Lobby*, published in our Broadcast Bulletin on 9 October 2017<sup>7</sup>. In this case, Ofcom relied upon the IHRA's definition in coming to our final view.

All of the decisions which are published in our Broadcast Bulletin act as guidance to broadcasters. Therefore, *The Lobby* decision makes clear that Ofcom has adopted in full the IHRA's definition of anti-Semitism and that we will rely on this definition when determining whether Ofcom licensees have complied with the rules set out under the Broadcasting Code.

We hope this information is helpful. If you have any queries, then please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk). Please remember to quote the reference number above in any future communications.

Yours sincerely,

### Information Requests

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

#### Timing

If you wish to exercise your right to an internal review you should contact us within two months of the date of this letter. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Jacqui Gregory

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<sup>6</sup> Please note, these cases were considered under Rules 2.1 and 2.3 of the Code, as Rules 3.2 and 3.3 were brought into place on 9 May 2016 following public consultation and were not yet in force at that time.

<sup>7</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0033/106989/issue-338-broadcast-on-demand-bulletin.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0033/106989/issue-338-broadcast-on-demand-bulletin.pdf), pp 20 - 28

The Secretary to the Corporation  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF