

Reference: 1013234

Jerin John
Information Rights Adviser
Information.requests@ofcom.org.uk

30 October 2020

Freedom of Information: Right to know request

Thank you for your request for information about the advice Ofcom provided to Broadcasters in reporting Covid-19.

We received this request on 2 October 2020 and have considered it under the Freedom of Information Act 2000 (“the FOI Act”).

Your request and our response

In your request, you asked a number of questions to which we have responded below:

1. *Did you provide advice or guidance of any kind to broadcasters and/or media execs and/or newsrooms regarding the reporting and discussing of Coronavirus?*

Ofcom has provided guidance to broadcasters outlining our approach to enforcement of their regulatory obligations during the coronavirus pandemic. This has highlighted issues which may arise in broadcast content relating to the Coronavirus, and reminded broadcasters of the importance of compliance with Ofcom’s [Broadcasting Code](#) (“the Code”). The guidance was published in the relevant issues of the [Broadcast and On Demand Bulletin](#) (“the Bulletin”) as set out below:

Note to Broadcasters	Bulletin Issue	Date
Coronavirus further update (PDF, 309.0 KB)	403	26 May 2020 ¹
Coronavirus further update (PDF, 239.9 KB)	401	27 April 2020 ²
Coronavirus (PDF, 198.6 KB)	399	23 March 2020 ³

¹ Prior to publication in Issue 403 of the Bulletin, this guidance was first emailed to broadcasters on 22 May 2020.

² This guidance was also sent directly to broadcasters on the date of publication in the Bulletin on 27 April 2020.

³ Prior to publication in Issue 399 of the Bulletin, this guidance was first emailed to broadcasters on 20 March 2020.

Ofcom provided an update letter to broadcasters on 27 March 2020 on the need to ensure that factual programming about the Coronavirus was presented with appropriate care. We have disclosed the letter to you in Annex A of this letter.

We have also issued guidance to certain individual broadcasters in the context of our initial assessment of complaints received about content relating to the Coronavirus in accordance with our [published procedures for investigating breaches of content standards for television and radio](#). In these cases, whilst we decided that these complaints did not raise potentially substantive issues under the Code warranting investigation, we considered it appropriate to draw the broadcaster's attention to our guidance.

We do not routinely publish our reasons for determining a programme does not raise issues warranting investigation. However, in the case of our initial assessment of complaints received about *This Morning* broadcast by ITV on 13 April 2020, we decided to publish [our full reasoning and guidance](#) in the Bulletin on 20 April 2020.

Our published guidance and decisions on Coronavirus-related programming are also available on our webpage "[Broadcast standards during the coronavirus pandemic](#)". This page explains that, as we make clear in all our decisions: "Consistent with the right to freedom of expression, broadcasters have the editorial freedom to analyse, discuss and challenge issues relating to the coronavirus. If broadcasters include potentially harmful material in their programming, they must ensure they provide adequate protection for the audience from such material."⁴

2. *If you provided guidance, when was sent to your recipients?*

I have indicated the dates on which our guidance was published, or otherwise provided to broadcasters, in answer to question 1 above.

As to the guidance that we issued to certain individual broadcasters following our decision not to pursue an investigation of complaints received, these were issued within the period of 13 March 2020 to 30 September 2020.

3. *If you did provide advice or guidance, may I see a full copy of all guidance and advice given to broadcasters and media execs including a list of organisations you sent the guidance to.*

Please see our answer to question 1 above, where we have provided links to the guidance published in the Bulletin, as well as a copy of our letter of 27 March 2020. Each of these guidance notes was also sent directly to all licensed broadcasters – our website provides a list of [TV](#) and [Radio](#) broadcast licensees.

⁴ See for example our decisions on programmes broadcast by [Uckfield FM](#), [Loveworld](#) and [London Live](#), in addition to the guidance issued to [ITV](#) referred to above.

With the exception of the published guidance issued to ITV in relation to *This Morning* provided above, we are unable to disclose copies of the guidance that we issued to certain individual broadcasters, or the broadcasters to which guidance was issued, as this information is exempt under section 44 of the FOI Act. This is because Ofcom is prohibited under section 393 of the Communications Act 2003 from disclosing information relating to a business which we have obtained in the course of exercising our functions in relation to broadcast standards complaints, unless we have the consent of that business or one of the statutory gateways under section 393(2) of the Communications Act 2003 is met, neither of which applies here.

Section 44 is an absolute exemption under the FOI Act, which means that the application of the exemption is not subject to a public interest test.

4. *If you provided guidance, please can you give a breakdown of who was involved in compiling such guidance and if any of the guidance was compiled with the help of anybody working in government or at the Department of Health or any other body outside of Ofcom.*

The guidance relating to the broadcast of Coronavirus content referred to in our response to question 1 above was compiled by members of the Ofcom Standards and Audience Protection (“SAP”) Team. The SAP Team sits within the Broadcasting and Online Content Group.

We are unable to provide the names of the colleagues involved in the compilation of the guidance, as this constitutes personal data that is exempt from disclosure under section 40(2) of the FOI Act. Section 40(2) provides that personal data which relates to persons other than the requester is exempt where, amongst other things, its disclosure would contravene any of the data protection principles in the General Data Protection Regulation and the Data Protection Act 2018. Those principles include that personal data must be processed fairly and lawfully. This is an absolute exemption and is not subject to a public interest test.

I can confirm that none of the guidance was compiled with the help of anybody working in government or at the Department of Health or any other body outside of Ofcom.

I hope this information is helpful. If you have any further queries, then please send them to information.requests@ofcom.org.uk quoting the reference number above in any future communications.

Yours sincerely,

Jerin John

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 exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Corporation Secretary
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