



# General procedures for investigating breaches of broadcast licences

Publication date:

3 April 2017

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## Introduction

- 1.1 This document outlines Ofcom's General procedures for investigating possible breaches by broadcasters<sup>1</sup> ("the General Procedures") which are not covered by any of the specific procedures set out below in paragraph 1.11.
- 1.2 The General Procedures set out in this document are those Ofcom will usually follow in order to investigate whether a breach of a "relevant requirement" (as set out at paragraph 1.13 below) has occurred, before any action may be taken under the *Procedures for the consideration of statutory sanctions in breaches of broadcast licences* ("the Sanctions Procedures").<sup>2</sup>
- 1.3 These Procedures do not apply to BBC UK Public Broadcasting Services and BBC UK Public On Demand Programme Services<sup>3</sup>. Separate procedures apply to these services: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0030/99417/procedures-bbc.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0030/99417/procedures-bbc.pdf). These procedures do apply to BBC commercial broadcasting companies licensed by Ofcom.
- 1.4 The General Procedures set out in this document are effective from 3 April 2017.
- 1.5 If Ofcom considers that it is necessary to depart from these General Procedures in any material respect in a particular case for reasons of fairness and/or in order for Ofcom properly to consider a complaint or carry out an investigation, it will write to the broadcaster concerned (and any other relevant parties) in advance, setting out the nature/extent of its departure, and its reasons for doing so.

## Statutory framework

- 1.6 The main statutes governing broadcasting are the Broadcasting Act 1990 ("the 1990 Act"), the Broadcasting Act 1996 ("the 1996 Act") and the Communications Act 2003 ("the 2003 Act"). These statutes impose general duties on Ofcom in relation to broadcasting, and include the duty to secure the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests (section 3(2)(c) of the 2003 Act).
- 1.7 Ofcom also has more specific duties in relation to, for example:<sup>4</sup>
  - the requirement for certain types of radio station to deliver specific types of music or speech content (sections 106 of the 1990 Act and 314 of the 2003 Act);

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<sup>1</sup> References to "broadcasters" in these General Procedures are to any radio or television broadcaster licensed and/or regulated by Ofcom.

<sup>2</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)

<sup>3</sup> Such as the BBC iPlayer and iPlayer Kids (both audiovisual and sound programmes).

<sup>4</sup> This is not an exhaustive list of Ofcom's specific duties that give rise to relevant requirements to which these General Procedures apply.

- the requirements relating to independent, original and regional programming on public service television services (Chapter 4 of Part 3 of the 2003 Act);
- the requirements in television licences relating to European production and European independent production (section 335 of the 2003 Act);
- the provision of subtitling, signing and audio description on relevant television services (sections 303 to 307 of the 2003 Act); and
- applying rules restricting those who may hold broadcasting licences (sections 5 and 88 of the 1990 Act and sections 5 and 44 of the 1996 Act).

1.8 Ofcom carries out its duties by granting licences to certain radio and television broadcasters and including in those licences conditions it thinks are appropriate to help it carry out its duties.<sup>5</sup> These conditions include requirements upon licensees to offer specific programmes and types of content, to provide information to Ofcom to enable us to perform our regulatory functions<sup>6</sup> and to pay fees and to comply with various codes issued by Ofcom. Examples of relevant codes are listed in paragraph 1.13.

### ***The Welsh Authority***

1.9 The Welsh Authority (which operates its television service under the name S4C) does not require a licence from Ofcom but is nonetheless subject to certain requirements.<sup>7</sup>

1.10 Relevant requirements that the Welsh Authority are subject to include those under the Code on Television Access Services,<sup>8</sup> requirements on independent programme quotas<sup>9</sup> and retaining and producing recordings when required by Ofcom to do so.<sup>10</sup>

## **When do these General Procedures apply?**

1.11 Ofcom has produced specific procedures which apply to investigations of potential breaches of certain categories of regulatory requirement. These specific procedures are listed in the table below. A breach of the types shown in the table below would generally be investigated under the corresponding specific procedure and would not be covered by these General Procedures.

Category of regulatory requirement	Specific procedure
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<sup>5</sup> See sections 3 and 4 of the 1990 Act and sections 3 and 4 of the 1996 Act (for television services) and sections 85 to 87 of the 1990 Act and sections 42 and 43 of the 1996 Act (for radio services).

<sup>6</sup> For example, information about changes in those controlling broadcasters, annual reports from community radio stations and annual relevant turnover data from specified radio and television licensees.

<sup>7</sup> Relevant provisions governing the Welsh Authority are sections 203 and 338 of, and Schedule 12 to, the 2003 Act, as well as provisions such as those in Part IV of the 1996 Act.

<sup>8</sup> Applicable to the Welsh Authority under sections 203 and 338 of, and Schedule 12 to, the 2003 Act.

<sup>9</sup> Applicable to the Welsh Authority under sections 203 and 338 of, and paragraph 7 of Part 2 of Schedule 12 to, the 2003 Act.

<sup>10</sup> Applicable to the Welsh Authority under sections 203 and 338 of, and paragraph 20 of Schedule 12 to, the 2003 Act.

Content standards objectives set out under section 319 of the 2003 Act and applied in the Ofcom Broadcasting Code and other codes. <sup>11</sup>	Procedures for investigating breaches of content standards for television and radio. <sup>12</sup>
Fairness and/or privacy requirements set out under Part 5 of the 1996 Act and applied in the Ofcom Broadcasting Code.	Procedures for the consideration and adjudication of Fairness & Privacy complaints. <sup>13</sup>
Licence conditions and relevant codes to ensure fair and effective competition in the provision of broadcast services. <sup>14</sup>	Procedures for investigating breaches of competition-related conditions in Broadcasting Act licences; <sup>15</sup> Advice for complainants: submitting a complaint to Ofcom. <sup>16</sup>

1.12 These General Procedures apply to investigations of breaches of all other categories of regulatory requirement which are not included in the list above. These requirements are referred to in this document as “relevant requirements”.

1.13 The relevant requirements include, for example, requirements placed upon broadcasters to:

- broadcast certain types of content (e.g. radio formats and delivery of news and regional programming quotas);
- comply with television licence obligations to fulfil certain production and programming quotas set out in accordance with UK and European legislation;
- provide Ofcom with information it has requested;
- pay fees; and
- comply with various codes, such as:

<sup>11</sup> “Other codes” includes the *Cross-Promotion Code* and the *Code on the Scheduling of Television Advertising*. These codes and the Broadcasting Code can be found on Ofcom’s website at <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>. It also includes the UK Code of Broadcast Advertising, which can be found at <https://www.cap.org.uk/Advertising-Codes/Broadcast.aspx>.

<sup>12</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

<sup>13</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/57388/fairness-privacy-complaints.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf)

<sup>14</sup> The Code on Electronic Programme Guides (“EPG”) sets out practices to be followed by EPG providers to (i) give appropriate prominence for public service channels, (ii) provide features and information needed to enable EPGs to be used by people with disabilities affecting their sight or hearing or both and (iii) secure fair and effective competition ([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/19399/epgcode.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/19399/epgcode.pdf)). Generally, Ofcom will apply the *Procedures for investigating breaches of competition-related conditions in Broadcasting Act licences* for breaches of (iii), and these General Procedures for breaches of (i) and (ii).

<sup>15</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-2/ofcoms-approach-to-enforcement>

<sup>16</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0029/96806/Draft-advice-for-complainants.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0029/96806/Draft-advice-for-complainants.pdf)

- the Code on Television Access Services (i.e. subtitling, sign language and audio description);<sup>17</sup>
- the Code on Sports and Other Listed and Designated Events<sup>18</sup>
- the Code on Electronic Programme Guides (in respect of issues relating to prominence of public service channels and access services);<sup>19</sup> and
- technical codes for television<sup>20</sup> and radio.<sup>21</sup>

## General Procedures

1.14 Ofcom may launch investigations on its own initiative as well as investigate complaints made by others. The General Procedures in a complaint-led investigation and an Ofcom-initiated investigation are the same.

### Making a complaint

1.15 Complaints under these General Procedures can be made to Ofcom by any person or body who considers that a broadcaster has failed to comply with a relevant requirement.

1.16 Unless a complainant asks Ofcom not to do so, Ofcom may disclose the complainant's identity to the broadcaster that is the subject of the complaint as well as sharing a non-confidential version of the complaint submission with it for comment. Ofcom will consider requests from complainants to remain anonymous. However, it may not be feasible to open or conduct an investigation without revealing the identity of the complainant. This does not apply to whistleblowers.<sup>22</sup>

### Complaints relating to broadcast content

1.17 Complaints relating to broadcast content which fall under these General Procedures should be made as soon as possible after the relevant broadcast or occurrence due to the time limits for broadcasters retaining recordings of their output.<sup>23</sup>

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<sup>17</sup> <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/tv-access-services/code-tv-access-services-2015>.

<sup>18</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0029/35948/ofcom\\_code\\_on\\_sport.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0029/35948/ofcom_code_on_sport.pdf).

<sup>19</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/19399/epgcode.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/19399/epgcode.pdf). See also footnote 14 above.

<sup>20</sup> For example, the Television Technical Performance Code

([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/58910/tv\\_tech\\_platform\\_code.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/58910/tv_tech_platform_code.pdf)).

<sup>21</sup> For example, the Site Engineering Code for Analogue Radio Broadcast Transmission Systems ([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/37133/code2013.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/37133/code2013.pdf)), the Digital Technical Code ([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/47831/digi\\_tech\\_code.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/47831/digi_tech_code.pdf)) and the Technical policy guidance for DAB multiplex licensees ([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/51650/policy\\_guidance.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/51650/policy_guidance.pdf)).

<sup>22</sup> Ofcom is a "prescribed person" under Part IVA of the Employment Rights Act 1996 (as inserted by the Public Interest Disclosure Act 1998) to which "qualifying disclosures" can be made about certain matters, including broadcasting and the provision of television and radio services. Ofcom has published guidance (available on our website at: <https://www.ofcom.org.uk/about-ofcom/policies-and-guidelines>) on how individuals working in the communications sector may contact us if they have concerns about possible wrongdoing at their own organisation (or their former organisation) and where they have been unable to raise or resolve those concerns internally.

<sup>23</sup> Recordings of radio programmes must be kept by broadcasters for 42 days after the broadcast. Recordings of television programmes must be kept by cable and satellite broadcasters for 60 days,

1.18 Complaints considered under these General Procedures are dealt with by Ofcom according to the type of broadcasting service. Please send your complaint to the appropriate email address:

- Complaints about a television channel: [tv.licensing@ofcom.org.uk](mailto:tv.licensing@ofcom.org.uk).
- Complaints about a community radio station: [community.radio@ofcom.org.uk](mailto:community.radio@ofcom.org.uk).
- Complaints about a commercial radio station: [commercial.radio@ofcom.org.uk](mailto:commercial.radio@ofcom.org.uk).
- Complaints about a temporary radio station (also known as a Restricted Service Licence or RSL): [rslenquiries@ofcom.org.uk](mailto:rslenquiries@ofcom.org.uk).

1.19 Alternatively, you can contact us at: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA, or telephone 0300 123 3333 or 020 7981 3040.

### ***Complaints relating to access services (subtitling, sign language and audio description)***

1.20 In the case of complaints about the provision of subtitling, sign language and audio description, complainants can, if they wish, seek to resolve the matter directly with the broadcaster before making a complaint to Ofcom<sup>24</sup>. We understand that this has previously produced speedy and effective resolution of complaints and that receiving complaints and feedback from consumers assists broadcasters in improving the quality of the access services they provide. If you are not satisfied with the response you receive from the broadcaster then please complete our [complaint form](#).<sup>25</sup>

1.21 People with sensory impairments who find it easier to do so may call our text phone on 020 7981 3043 (please note that this number only works with special equipment used by people who are deaf or hard of hearing). People with visual impairments wishing to complain about audio description may wish to use our dedicated email address: [adcomplaints@ofcom.org.uk](mailto:adcomplaints@ofcom.org.uk). A Video Relay Service to contact Ofcom in British Sign Language is available on Ofcom's website.

1.22 Alternatively, you can contact us at: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA, or telephone 0300 123 3333 or 020 7981 3040.

### ***Information to be included in a complaint***

1.23 All complaints should include sufficient detail about the matter complained of to enable Ofcom to investigate fully. All complaints should, therefore, include: details about what is alleged to have been done, or not done, by which broadcaster, when, where and how. The complainant's full contact details (including email address where appropriate) should also be included<sup>26</sup>. The inclusion of these details (or as many of

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and by ITV, STV, UTV, Channel 4, Channel 5, S4C and digital terrestrial television channels for 90 days.

<sup>24</sup> The contact details of all television broadcasters can be found on Ofcom's website at <https://www.ofcom.org.uk/manage-your-licence/tv-broadcast-licences/current-licensees>.

<sup>25</sup> <https://ofcomforms.secure.force.com/formentry/SitesFormCSLEStandardsComplaints>.

<sup>26</sup> Please see Ofcom's General Privacy Statement (available on our website at: <https://www.ofcom.org.uk/about-ofcom/foi-dp/general-privacy-statement>) for information about how Ofcom handles your personal information and your corresponding rights.

them as possible) is very important. A failure to provide them may mean that Ofcom is not able to investigate the complaint.

## **Initial assessment**

- 1.24 Ofcom may investigate a broadcaster's compliance with a relevant requirement following receipt of a complaint or on its own-initiative (for example, where information comes to Ofcom's attention during routine monitoring). When deciding whether to open an investigation, Ofcom will first consider whether, on its face, there are potentially substantive issues in relation to a relevant requirement which warrant investigation by Ofcom. It will do so by reference to the gravity and/or extent of the matter at issue.
- 1.25 If Ofcom considers that it should assess the matter further, it may at this stage provide the broadcaster with a non-confidential version of the complaint (if applicable) and ask the broadcaster for information to assist our consideration of the matter(s), and/or – in cases relating to the output of a broadcast service – recordings of the relevant output/programme(s), which must normally be provided within five working days.<sup>27</sup>
- 1.26 Based on an initial assessment of the issue and any complaint and a review of any relevant broadcast output, Ofcom will consider whether there may have been a breach of a relevant requirement(s). Ofcom aims to complete an initial assessment usually within 15 working days.
- 1.27 Where, following the initial assessment, Ofcom decides not to investigate further, Ofcom will normally notify the complainant of its decision. If Ofcom has contacted the broadcaster for information or recordings to assist in the assessment of the issue or complaint, Ofcom will notify the broadcaster of its decision not to pursue the matter. Ofcom will also normally publish details of its decision not to investigate in a table in its Broadcast and On-demand Bulletin<sup>28</sup>. However, there may be some cases where Ofcom considers it would be inappropriate to publicise the matter, for example because the issues raised are particularly sensitive and/or publicity could have a detrimental impact on third parties (although there may be exceptional cases where we do publish in such circumstances, such as where there is a high level of public interest in the matter complained of).

## **Investigating possible breaches**

- 1.28 Where, following Ofcom's initial assessment, Ofcom decides to open an investigation into a broadcaster's compliance with a particular relevant requirement, Ofcom will generally inform the broadcaster and any complainant by sending them each a case opening letter explaining the scope of Ofcom's investigation (i.e. the particular relevant requirement(s) which Ofcom considers are relevant and applicable to the complaint(s) or matters concerned).
- 1.29 Shortly after sending the case opening letter(s), Ofcom will normally publish details of issues under investigation in a table in its Broadcast and On-demand Bulletin. However, there may be some cases where Ofcom considers that it would be inappropriate to publicise the matter at this stage, for example because the issues raised are particularly sensitive and/or publicity could have a detrimental impact on

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<sup>27</sup> It is a condition of all broadcast licences that a licensee must make and then retain a recording of all its programmes for a fixed period of days from broadcast.

<sup>28</sup> <https://www.ofcom.org.uk/about-ofcom/latest/bulletins/broadcast-bulletins>



third parties (although there may be exceptional cases where we do publish in such circumstances, such as where there is a high level of public interest in the matter complained of). In such cases, Ofcom may delay publicising the investigation until after Ofcom has completed its consideration of the broadcaster's compliance with a relevant requirement, or may decide not to publicise such cases at all (see further at paragraphs 1.44 and 1.46 below).

- 1.30 Other than in cases falling within paragraph 1.31 below, when Ofcom sends the broadcaster the case opening letter, Ofcom will invite the broadcaster to make representations in response (and to provide any relevant material/evidence in support) within 10 working days.
- 1.31 If in any case Ofcom considers that it is necessary to obtain further information to ensure that it can fairly and properly prepare its Preliminary View, Ofcom may seek such information before preparing that View.
- 1.32 There may be specific cases where the matter(s) in issue, on the facts, mean that Ofcom does not consider it necessary to seek representations or any further information from the broadcaster at this stage. This will normally be where the question of whether there is a breach of a relevant requirement is a matter of objective fact (for example, relating to whether a broadcaster has paid licence fees). There may also be other specific cases where the matter(s) in issue, on the facts, mean this approach is appropriate. In these cases, Ofcom will not usually seek the broadcaster's representations at this stage. Instead, Ofcom will write to the broadcaster with its Preliminary View on the substance of the matter(s).
- 1.33 Ofcom aims to complete those cases that it takes forward for investigation usually within 50 working days.

#### **Representations from third parties**

Ofcom recognises that there may be persons/bodies who may be directly affected by the outcome of Ofcom's investigation and determination of a complaint(s) and who may have interests independent of the relevant broadcaster. Wherever possible, broadcasters should seek to take account of and include the representations of such persons/bodies in their submissions in response to a complaint and confirm to Ofcom that they have done so.

However, such persons/bodies may make representations on their own behalf direct to Ofcom in respect of a complaint which Ofcom proceeds to investigate. In such a case, persons/bodies should seek to make representations to Ofcom as early in an investigation of a complaint as possible, setting out if/to what extent their representations differ from those of the broadcaster. Ofcom will as appropriate take those representations into account and include those persons/bodies in its decision-making process under these General Procedures.

#### Preparation of Ofcom's Preliminary View

- 1.34 Ofcom will prepare its Preliminary View on the substance of the possible breach of the relevant requirement(s). This Preliminary View is only provisional and may be



subject to change in the light of subsequent representations/material provided by the broadcaster<sup>29</sup>: see paragraphs 1.38 and 1.40, below.

- 1.35 Where Ofcom considers in a particular case that it would be appropriate in order to reach its Preliminary View, Ofcom will provide a draft Preliminary View to a panel of Ofcom's Content Board members<sup>30</sup> for their advisory opinion. The decision to issue a Preliminary View will be taken by a senior member of Ofcom's Executive with appropriate Board-delegated authority. Typically, this would be the person who is responsible for overseeing the investigation.
- 1.36 The Preliminary View will contain:
- a summary of the matter and, if relevant, any complaint;
  - a summary, if relevant, of the material parts of any broadcast output to which the matter and/or any complaint relates;
  - the particular relevant requirements which Ofcom considers are relevant and applicable to the matter/complaint; and
  - Ofcom's preliminary assessment of whether any breaches of those requirements have occurred and the reasons for that assessment.
- 1.37 When Ofcom has prepared its Preliminary View, Ofcom will provide it to the broadcaster (and any relevant third party).
- 1.38 The broadcaster (and any relevant third party) will have the opportunity to make written representations on Ofcom's Preliminary View. The period for written representations will normally be 10 working days.
- 1.39 Ofcom considers that it will normally be able to reach its final Decision fairly and properly following written representations and without oral representations from the broadcaster. However, there may be some cases where, in view of the nature of the breach under consideration and the complexity of the issues raised, Ofcom considers it appropriate to give the broadcaster the opportunity to make its representations orally to Ofcom, following the submission of any written representations to Ofcom. Ofcom will inform the broadcaster if it considers that it is appropriate to offer the broadcaster the opportunity to make oral representations in a particular case<sup>31</sup>.
- 1.40 In any event, a broadcaster may, in any particular case, make a written request to make its representations orally to Ofcom in addition to any written representations. Ofcom will agree to such a request if Ofcom considers that an oral hearing is appropriate in view of the nature of the breach under consideration and the complexity of the issues raised.

## **The final Decision**

- 1.41 Once Ofcom has received and considered the broadcaster's representations on its Preliminary View (if any) and/or any representations from a relevant third party, it will

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<sup>29</sup> including any relevant third party (see "Representations from third parties" text box below).

<sup>30</sup> The Content Board is a committee of the main Ofcom Board established by the Communications Act 2003. It includes members with extensive broadcasting experience. See

<https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/content-board>

<sup>31</sup> The final decision maker would chair any oral hearing

reach its final decision (i.e. whether or not to record a breach of a licence or other relevant requirements) (“the Decision”).

- 1.42 Where a panel of Content Board members has reviewed in the draft Preliminary View in a particular case, generally the draft decision in that case would be provided to a panel of Ofcom’s Content Board members (who have not been involved in the investigation) for their advisory opinion before a final decision is taken.
- 1.43 The final decision will be taken by a senior member of Ofcom’s executive with appropriate Board-delegated authority, who will not have been involved in the investigation and/or the preparation of the Preliminary View.

## Publication of Decision

- 1.44 Where Ofcom has found that a broadcaster has breached a relevant requirement(s), Ofcom will publish its Decision in Ofcom’s Broadcast and On-demand Bulletin<sup>32</sup> and/or in the relevant broadcast licensing section of the website. Ofcom will normally publish all breach and resolved Decisions, even where Ofcom has not previously publicised details of the matters under investigation in accordance with paragraph 1.29 above.
- 1.45 Ofcom will provide the broadcaster for information only with an embargoed copy of the Decision one working day before publication.
- 1.46 Ofcom will also normally publish information in its Broadcast and On-demand Bulletin about Decisions in which it has found that the broadcaster has **not** breached a relevant requirement. However, where Ofcom has not published details of an issue under investigation in accordance with paragraph 1.32 Ofcom would not normally publish a “not in breach” decision at the conclusion of the investigation.

## Non Disclosure

- 1.47 It is an essential part of the integrity of Ofcom’s processes and its ability to regulate fairly that all parties concerned abide by Ofcom’s published rules and procedures, including those relating to non-disclosure below.

### Non Disclosure

Parties (complainants, broadcasters, Ofcom and any directly affected third parties) may, unless otherwise indicated, make public the fact that a complaint has been made or that Ofcom is investigating a case. They may also use any information which is already in the public domain.

However, parties should not disclose any correspondence, documents or other material concerning the complaint during the course of the investigation<sup>33</sup>. Failure to follow these requirements may result in Ofcom ceasing to consider the party’s representations.

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<sup>32</sup> <https://www.ofcom.org.uk/about-ofcom/latest/bulletins/broadcast-bulletins>.

<sup>33</sup> Ofcom is obliged to meet various statutory obligations relating to the disclosure of information (for example, under the Freedom of Information Act 2000 and the Environmental Information Regulations 2004). Information provided to Ofcom as part of a complaint may need to be disclosed by Ofcom in order to meet such obligations.

This does not limit what Ofcom can publish in its Decision at the end of the investigation<sup>34</sup>.

## Time limits

- 1.48 Complainants and broadcasters should keep to the time limits specified in these Procedures. However, Ofcom may consider it appropriate (in the interests of fairness and/or properly to carry out an investigation) to amend or adapt the time limits set out in the Procedures in a particular case. Any complainant or broadcaster seeking an extension to a time limit should explain in writing to Ofcom why it believes it is appropriate.

## Sanctions

- 1.49 Where Ofcom decides that there has been a breach (or breaches) of a relevant requirement, Ofcom may consider that it justifies consideration of a statutory sanction against the broadcaster. If so, Ofcom will make that clear in its Decision “Procedures for the consideration of statutory sanctions in breaches of broadcast licences” will apply. These are available on Ofcom’s website at [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).

## Directions

- 1.50 Ofcom has the power under the Broadcasting Acts<sup>35</sup> to issue a direction pursuant to a broadcaster’s licence.
- 1.51 Ofcom may issue such a direction in any case it considers appropriate. This may include, for example, cases in which, in Ofcom’s view:
- the broadcaster has committed a serious breach of a relevant Code, but in which Ofcom does not think that the breach justifies consideration of a sanction against the broadcaster under Ofcom’s Sanctions Procedures referred to in paragraph 1.38 above;
  - a broadcaster has failed to comply in a timely manner with any relevant requirement; and/or
  - there are other reasons which make the taking of a specific step by a broadcaster appropriate.
- 1.52 A Notice of Direction will normally be published in Ofcom’s Broadcast and On-demand Bulletin.
- 1.53 Failure by a broadcaster to comply with a direction issued by Ofcom pursuant to its licence can lead to the consideration of statutory sanctions against the broadcaster (for example, the imposition of a financial penalty, or the revocation of a licence). In such cases, the Sanctions Procedure referred to in the previous paragraph would apply.

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<sup>34</sup> Ofcom may (in investigating and publishing its decision) withhold material it believes to be confidential, market sensitive or legally privileged or that it is under some other legal obligation to protect from disclosure. In such cases, the broadcaster will be notified that relevant material has been withheld and the reasons why.

<sup>35</sup> See, for example, sections 4(2) and 87(2) of the Broadcasting Act 1990.

