

# **Ofcom Broadcast Bulletin**

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## Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act<sup>2</sup>.

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
  - the prohibition on ‘political’ advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising<sup>3</sup>.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters and ODPS, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

**It is Ofcom's policy to describe fully the content in television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.**

## Standards cases

### In Breach

#### Interview with Scott Whitaker

*Unity 101, 12 August 2013, 14:00*

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#### Introduction

Unity 101 is a community radio station broadcasting to the Southampton area. Under its licence the station's 'key commitments'<sup>1</sup> include promoting and broadcasting "...the music and culture of Asian and other ethnic minorities in Southampton". The licence for Unity 101 is held by Cultural Media Enterprise ("CME" or "the Licensee").

Ofcom was alerted by a complaint to an interview broadcast by Unity 101 in which an American proponent of alternative medicine, Scott Whitaker, appeared to "assert, unchallenged, that parents should not have their children vaccinated or immunised, at odds with current UK health policy". The complainant expressed their concern that vulnerable or impressionable listeners could be persuaded to follow Scott Whitaker's advice.

This content consisted of a 45-minute interview with Scott Whitaker, who was introduced as a "*naturopathic*<sup>2</sup> doctor". The interview was conducted by two presenters: a Unity 101 presenter and Arshad Sharif, Chair of the Muslim Council of Southampton. During the interview, Scott Whitaker gave his views on a range of subjects relating to diet and the food industry, including a critique of genetically modified and processed foods. At one stage in the interview there was the following exchange between Arshad Sharif ("AS") and Scott Whitaker ("SW") on the subject of diabetes:

AS: *"Scott, you know, in terms of – you talk about helping the Afro-American community because they have very specific illnesses [relating to their diet]. Same in the UK, we have the South Asian community, we have a diabetes, you know, epidemic here. Are there particular things – and I just want you to touch on maybe one kind of thing – where a food change, a lifestyle change can make you better. Obviously, you're going to go into this in a lot more detail in tomorrow evening's talk<sup>3</sup>."*

SW: *"Yes, if you just take – if you take diabetes for example, which is rampant throughout the Afro-American community, and is maybe the number three killer now in America. And that's just a basic consumption of processed foods. Nothing but starches and sugars. If you remove..."*

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<sup>1</sup> Key commitments form part of each community radio station's licence with Ofcom. They set out how the service will serve its target community.

<sup>2</sup> Naturopathy is a form of alternative medicine which uses techniques such as homeopathy to deal with various medical conditions. The NHS describes homeopathy as: "a 'treatment' based on the use of highly diluted substances, which practitioners claim can cause the body to heal itself", see: <http://www.nhs.uk/conditions/homeopathy/Pages/Introduction.aspx>.

<sup>3</sup> Scott Whitaker was due to give a public lecture in Southampton on the following day.

- AS: *“Is it as simple as that, just change your diet?”*
- SW: *“Simple as that. I have so many testimonials of people who are diabetic-free now after six weeks of just doing a simple thing of removing breads and cereals and starches from their diet and adding some minerals and some fats and the problem’s gone. Simple stuff.”*
- AS: *“Yeah, and where people are taking drug after drug after many years of many side-effects and still they’re struggling to control it.”*
- SW: *“Still struggling, and having to take shots with insulin and things of that sort. Taking pills for it. Just a nightmare. And then they let it progress longer. With diabetes you end up losing limbs from gangrene, poor circulation. And of course the eyesight goes.”*

A few minutes later, Arshad Sharif asked Scott Whitaker his opinion as to what action listeners could take to protect children. There was then the following exchange:

- SW: *“You don’t want your children vaccinated. And I’m going to go into that tomorrow too. But that’s number one. Once you vaccinate, you automatically set your child on a road of health problems that will eventually show its head 10 or 20 years down the line. And you wonder ‘how this happened? Johnnie was doing good, then all of a sudden this happened and then that happened’. And the vaccinations are all linked to auto-immune diseases...such as: the psoriasis; the eczemas, the MS. All these different diseases that are now popping up we can all directly relate them to vaccines.”*
- AS: *“This is a very controversial thing because there was a doctor [Andrew Wakefield]<sup>4</sup> here – the name has gone from my memory but it will come back to me – he’s actually in Texas now. He was struck off here for he found a link that kids who were taking these shots they had all kinds of gut problems and if he treated them to try and...remove some of the heavy metals they started getting better. And just for that simple observation, they really came down on him, you know, like a ton of bricks and he was struck off under some spurious charges. He’s actually taking the authorities to court from America.”*
- ...
- SW: *“The CDC<sup>5</sup>, which is the mouthpiece of the American Medical Association, has now so-called ‘recommended’ or required that children before they get to six years old have over 49 shots, which is crazy”.*

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<sup>4</sup> Andrew Wakefield is the former doctor who controversially published research in 1998 claiming falsely that there was a link between autism and the MMR (measles, mumps and rubella) vaccine. This research caused a large decrease in the number of children receiving the MMR vaccine. Andrew Wakefield’s research was subsequently discredited and in January 2010 the General Medical Council (“GMC”) found that Andrew Wakefield had acted unethically. In May 2010, the GMC subsequently found Andrew Wakefield guilty of serious professional misconduct and removed him from the medical register.

<sup>5</sup> The Centers for Disease Control and Prevention is the primary Federal agency for public health in the USA.

Ofcom considered that the content raised issues warranting investigation under Rule 2.1 of the Code, which states:

“Generally accepted standards must be applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material”.

We therefore sought CME’s comments as to how this material complied with Rule 2.1.

## Response

The Licensee said: “It is with deep regret that the comments of Dr Whitaker and those of our guest interviewer [Arshad Sharif] may have caused concern”. By way of background, CME said that Scott Whitaker: “is a board certified naturopathic doctor with over 20 years of experience in herbology, iridology, homeopathy, natural healing and detoxification” and that the guest presenter, Arshad Sharif, set out “Dr Whitaker’s naturopath views from the onset of the interview”. The Licensee also stated that whilst: “naturopathic – homeopathic – medicine is not generally endorsed by the NHS in the UK...it is recognised in the UK as a professional career choice...in the growing field of complementary medicine and there is a UK general register of naturopaths, which has been in existence for 40 years”.

CME said that: “As a community radio station, we often inform listeners of forthcoming community events, guest speakers, festivals etc that are taking place in Southampton and, due to our diverse audience, we are aware that not all events or guests will appeal to all our listeners.” Due to the fact that Scott Whitaker was giving a public lecture in Southampton on the day after the broadcast in this case, the Licensee said that it was “keen to interview” Scott Whitaker prior to this lecture “so that we could tell our listeners about this event”.

In relation to Rule 2.1, CME agreed that: “we could have spoken further with Dr Whitaker to ascertain each topic he would discuss prior to beginning the interview”. In relation to the comments made by one of the co-presenters, Arshad Sharif, the Licensee said that he “is not a trained Unity 101 presenter and, as such, is not familiar with the station’s extensive Code of Practice”.

In conclusion, CME said it would be taking various remedial steps in this case:

- broadcasting a “clarification message relating specifically to the elements of the programme which may have caused concern and to highlight that those views were those of Dr Whitaker’s and also the views of the guest interviewer and not those of Unity 101”; and putting the same message on the Unity 101 website;
- producing an audio disclaimer<sup>6</sup>, which it labelled as being “generic”, in English, Hindi, Urdu, Polish and Pashto Dary, which would be broadcast as appropriate in specific programmes;

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<sup>6</sup> CME provided Ofcom with a recording of the English version of the audio disclaimer. We noted this said: “The opinions, points of views and statements related to the comments expressed on this programme, by the hosts, its guests, phone contributors or via social media are solely the opinions of the original source who expressed them. They do not represent the opinions of Unity 101 Community Radio”.

- when medical topics are included in future programming, listeners would be advised to: “seek qualified and professional medical advice”; and
- producing a “refresher course” on the Code to be taken by all volunteer presenters and guest presenters.

## Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that “generally accepted standards are applied...so as to provide adequate protection for members of the public from the inclusion...of harmful and/or offensive material”. This objective is reflected in Section Two of the Code.

In reaching this Decision Ofcom has taken careful account of the broadcaster’s and audience’s right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights (“ECHR”). Article 10 provides for the right of freedom of expression, and as the Legislative Background to the Code states “encompasses the audience’s right to receive creative material, information and ideas without interference” by public authority.

Medical and health topics are matters of great interest to audiences. We recognise that broadcasters want the editorial freedom to explore the debates around particular medical conditions and their treatments, and to make this information available to their viewers and listeners. However, broadcasters must take special care and act responsibly when broadcasting medical or health advice, either preventative or for existing medical conditions, because of the harm that may result.

Rule 2.1 of the Code states that:

“Generally accepted standards must be applied to the contents of television and radio 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 2.1 is specifically concerned with the protection of listeners and viewers from harm. In this case, Ofcom had concerns about two sets of statements made by Scott Whitaker: advice to listeners in relation to the treatment of diabetes, and advice whether listeners should have their children vaccinated.

In assessing the material in this case under Rule 2.1, Ofcom had to consider whether the statements made by Scott Whitaker, laid out in the Introduction, could have encouraged listeners to follow his advice in relation to the treatment of diabetes, and/or vaccination of children. If this was the case, there was a potential for harm because some listeners – especially more vulnerable ones – may not (on the basis of what they had heard on Unity 101) seek, or may abandon existing, conventional medical treatment for diabetes, and/or not vaccinate their children. In Ofcom’s view, this clearly could have been very harmful.

First, we considered whether the advice given by Scott Whitaker about diabetes had the potential to cause harm. This advice was given about 30 minutes into the interview, after Scott Whitaker had given his viewpoint about various aspects of the food industry and stated what he believed were the harmful effects of various foods on people’s health. Specifically, when asked about the treatment of diabetes, Scott Whitaker stated his view that by removing “*starches and sugars*” from a person’s diet

and “*adding some minerals and some fats*” to their diet, then that person would no longer have diabetes.

Ofcom notes that there are two types of diabetes: Type 1 diabetes which “accounts for between 5 and 15 per cent of all people with diabetes and is treated by daily insulin injections, a healthy diet and regular physical activity”<sup>7</sup>; and Type 2 diabetes which “accounts for between 85 and 95 per cent of all people with diabetes and is treated with a healthy diet and increased physical activity. In addition to this, medication and/or insulin is often required”<sup>8</sup>. Therefore, while healthy eating is one aspect of the widely accepted treatment of diabetes, it is clear that many people who suffer from diabetes also require medication of some type<sup>9</sup>. We therefore considered that by stating that diabetes could be treated simply by modifications to a person’s diet, Scott Whitaker’s advice had the potential to cause harm, especially to those listeners in the audience who had been diagnosed with Type 1 diabetes. We considered that the potential for harm in this case would have been increased by the fact that both Scott Whitaker and one of the co-presenters of the programme, Arshad Sharif, appeared to question the use of diabetes medication, such as insulin. For example, we noted that Scott Whitaker said the following:

*“[People are] still struggling, and having to take shots with insulin and things of that sort. Taking pills for it. Just a nightmare. And then they let it progress longer. With diabetes you end up losing limbs from gangrene, poor circulation. And of course the eyesight goes”.*

Given Scott Whitaker espoused the view that diabetes could be solely treated by modifications to a person’s diet, we considered the likely effect of the above statement was to question the efficacy of diabetes medication, and imply that such medication was ineffective and could lead to serious illnesses. Given that the use of insulin is widely recognised by qualified medical practitioners as an essential part of successfully treating Type 1 diabetes, we considered that Scott Whitaker’s statement had the potential to cause serious harm.

We further noted that one of the co-presenters, Arshad Sharif, said:

*“Yeah, and where people are taking drug after drug after many years of many side-effects and still they’re struggling to control it”.*

Arshad Sharif’s comment immediately followed Scott Whitaker’s advice that, in his opinion, diabetes could be controlled solely by modifications to one’s diet. The likely effect of Arshad Sharif’s statement was to question the efficacy of diabetes medication and implicitly support the advice being given by Scott Whitaker. We considered that the apparent endorsement of Scott Whitaker’s advice by one of the co-presenters of this programme, Arshad Sharif, was likely to increase the likelihood of listeners taking it seriously. This likelihood was increased by the facts that: Arshad

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<sup>7</sup> According to Diabetes UK (See: [http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What\\_is\\_diabetes/What-is-Type-1-diabetes/](http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What_is_diabetes/What-is-Type-1-diabetes/)).

<sup>8</sup> Ibid (See [http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What\\_is\\_diabetes/What-is-Type-2-diabetes/](http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/What_is_diabetes/What-is-Type-2-diabetes/)).

<sup>9</sup>For example, Diabetes UK states that: “Leaving Type 1 diabetes untreated can lead to serious health problems, including diabetic ketoacidosis, which can result in a potentially fatal coma” (See: [http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/Signs\\_and\\_symptoms/?print=2](http://www.diabetes.org.uk/Guide-to-diabetes/Introduction-to-diabetes/Signs_and_symptoms/?print=2)).

Sharif is a community leader in Southampton's Muslim community; diabetes, as the programme acknowledged, is especially prevalent amongst the Asian community; and Unity 101 serves the Asian community in the Southampton area.

In summary, listeners would have reasonably understood from what was said by Scott Whitaker and Arshad Sharif that all forms of diabetes could be cured solely by modifications to a person's diet. Given that some listeners who heard this interview may have diabetes and may have been affected by the broadcast, Ofcom considered that this material had the potential to cause harm, and potentially very serious harm.

We next considered whether Scott Whitaker's comments about the vaccination of children had the potential to cause harm. These were made a few minutes after his comments about diabetes. Scott Whitaker stated his view to listeners that *"You don't want your children vaccinated"*, adding that: *"Once you vaccinate, you automatically set your child on a road of health problems that will eventually show its head 10 or 20 years down the line"*. He labelled as *"crazy"* that the: *"American Medical Association has now so-called 'recommended' or required that children before they get to six years old have over 49 shots"*.

There is an overwhelming body of evidence and conventional health advice that makes clear the importance of children receiving all relevant vaccinations during their development<sup>10</sup>.

Ofcom therefore considered that stating that listeners should not have their children vaccinated had the potential to cause harm. The potential for harm in this case would have been increased by the fact that Scott Whitaker appeared to state what he believed to be the link between child vaccinations and various forms of disease. For example, Scott Whitaker said:

*"And the vaccinations are all linked to auto-immune diseases they that called today such as: the psoriasis; the eczemas, the MS. All these different diseases that are now popping up we can all directly relate them to vaccines."*

The potential for harm in this case was further increased by one of the co-presenters of the programme, Arshad Sharif, endorsing Scott Whitaker's viewpoint by criticising the decision taken by the GMC in the UK to remove Andrew Wakefield from the medical register following his discredited and potentially harmful research alleging a link between autism and the MMR vaccination (see footnote 4). In this regard, Arshad Sharif said:

*"[Vaccinating children] is a very controversial thing because there was a doctor [Andrew Wakefield] here – the name has gone from my memory but it will come back to me – he's actually in Texas now. He was struck off here for he found a link that kids who were taking these shots they had all kinds of gut problems and if he treated them to try and...remove some of the heavy metals they started getting better. And just for that simple observation, they really came down on him, you know, like a ton of bricks and he was struck off under some spurious charges. He's actually taking the authorities to court from America"*.

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<sup>10</sup> For example, NHS advice states the following: "It may be tempting to say 'no' to vaccination and 'leave it to nature' instead. However, deciding not to vaccinate your child puts them at risk of catching a range of potentially serious, even fatal, diseases. In reality, having a vaccination is much safer than not having one. They're not 100% effective in every child, but they're the best defence against the epidemics that used to kill or permanently disable millions of children and adults". (See: <http://www.nhs.uk/Conditions/vaccinations/Pages/benefits-and-risks.aspx>).

Given the well-publicised repudiation by the relevant authorities of Andrew Wakefield's theories about the affects of vaccinations on children, and the fact that there has been a marked decrease in the numbers of children receiving the MMR vaccine as a result of the original publication of Andrew Wakefield's research, we considered it potentially harmful for Arshad Sharif to put forward this viewpoint now without being appropriately challenged. The potential for harm of these comments was compounded by Arshad Sharif being a community leader in Southampton's Muslim community, and therefore his remarks were likely to carry greater weight amongst listeners.

In summary, Ofcom considered that listeners would have reasonably understood from what was said by Scott Whitaker and Arshad Sharif that they should not have their children vaccinated. Ofcom considered therefore that this material had the potential to cause harm.

Ofcom next examined whether the Licensee took steps to provide adequate protection for listeners from this potentially harmful material, for example by supplying appropriate information to listeners advising them to consult a qualified doctor before acting on the advice being given in the programme about diabetes and child vaccinations. Having carefully assessed the programme in this case, we noted that CME did not take any appropriate steps to ensure that listeners were adequately protected from harm. We concluded that it was likely that some members of the audience – especially more vulnerable ones – could have been left with the false impression that all forms of diabetes could be treated solely by modifications to a person's diet, and children should not be vaccinated.

In reaching our Decision in this case, we took into account, the Licensee's various representations. Firstly, CME said that Scott Whitaker "is a board certified naturopathic" and naturopathic and homeopathic medicine is "recognised in the UK as a professional career choice". In response, Ofcom underlines that there is no prohibition on broadcasters discussing forms of alternative medicine such as homeopathy in programming, as long as the Code is complied with. We note however that some forms of alternative treatment have been heavily criticised by authoritative bodies and individuals<sup>11</sup>; and that as acknowledged by the Licensee, naturopathic and homeopathic medicine "is not generally endorsed by the NHS in the UK"<sup>12</sup>. Due to the controversies surrounding the efficacy of some alternative medicines, Ofcom considers it prudent that broadcasters, when providing a platform for advice based on alternative medicine, ensure as appropriate that audiences are reminded of the need to seek qualified medical advice.

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<sup>11</sup> For example in 2010, the House of Commons Science and Technology Committee concluded in its report on homeopathy: "To maintain patient trust, choice and safety, the Government should not endorse the use of placebo treatments, including homeopathy. Homeopathy should not be funded on the NHS..." (see: <http://www.publications.parliament.uk/pa/cm200910/cmselect/cmsctech/45/4502.htm>). This position is also shared by the Government's Chief Medical Officer (See: <http://www.nhs.uk/conditions/homeopathy/Pages/Introduction.aspx>).

<sup>12</sup> The NHS states that: "The Department of Health does not maintain a position on any particular complementary or alternative therapy, including homeopathy. It is the responsibility of local NHS organisations to make decisions on the commissioning and funding of any healthcare treatments for NHS patients, such as homeopathy, taking account of issues to do with safety, clinical efficacy and cost-effectiveness and the availability of suitably qualified practitioners" (See: <http://www.nhs.uk/conditions/homeopathy/Pages/Introduction.aspx>).

Second, CME said that “As a community radio station, we often inform listeners of forthcoming community events, guest speakers, festivals etc that are taking place in Southampton and, due to our diverse audience, we are aware that not all events or guests will appeal to all our listeners”. We recognise that community radio stations want to alert their listeners to particular events, such as public lectures, taking place in their localities. However, in this case, our concerns lay not with whether the views being expressed by Scott Whitaker might “appeal” to Unity 101’s listeners. Rather, our concerns lay with whether the Licensee had provided adequate protection to its listeners from potential harm.

Third, we noted the Licensee’s comment that one of the co-presenters in this case, Arshad Sharif: “is not a trained Unity 101 presenter and, as such, is not familiar with the station’s extensive Code of Practice”. The fact that one of the presenters in this case was not “trained” and not familiar with CME’s code of practice did not, in our view, excuse in any way the Licensee’s failure to ensure that its listeners were adequately protected. All licensees must have in place adequate procedures to ensure that all presenters are familiar with the requirements of the Code.

Finally, we noted that CME said it intended to broadcast a “clarification message relating specifically to the elements of the programme which may have caused concern and to highlight that those views were those of Dr Whitaker’s and also the views of the guest interviewer and not those of Unity 101”. While we welcomed this subsequent step, to broadcast a statement sometime later that the views expressed in the programme were not those of the Licensee, would not be sufficient to ensure that listeners were adequately protected from harm in this case. This is because at the time of broadcast, listeners were not advised for example to seek qualified medical advice, as appropriate, if they intended to act on the advice being given in the programme. Similarly, we noted that CME intended to broadcast audio disclaimers<sup>13</sup>, as appropriate in specific programmes. We considered that these disclaimers, on their own would not be sufficient to ensure that listeners were adequately protected from this type of harm in future. This is because listeners would not be advised for example to seek qualified medical advice<sup>14</sup>, as necessary. Further, the Licensee remains editorially responsible for all its programming content, and must ensure that its content complies with the Code at all times. This is irrespective of whoever makes particular statements in programming.

We noted that CME: expressed its “deep regret that the comments of Dr Whitaker and those of our guest interviewer [Arshad Sharif] may have caused concern”; stated that “we could have spoken further with Dr Whitaker to ascertain each topic he would discuss prior to beginning the interview”; and, produced a “refresher course” on the Code to be taken by all volunteer presenters and guest presenters. Ofcom underlines that broadcasters are free to discuss controversial medical issues as long as they are contextualised and appropriate protections are provided for the audience. However, as explained above, in view of the fact that the Licensee did not take steps to provide

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<sup>13</sup> CME provided Ofcom with a recording of the English version of the audio disclaimer. We noted this said: “The opinions, points of views and statements related to the comments expressed on this programme, by the hosts, its guests, phone contributors or via social media are solely the opinions of the original source who expressed them. They do not represent the opinions of Unity 101 Community Radio”.

<sup>14</sup> We did note however that the Licensee said that, when medical topics are included in future programming, listeners would be advised to: “seek qualified and professional medical advice”.

listeners with adequate protection from the advice given, Ofcom concluded that CME did not apply generally accepted standards.

This was therefore a clear breach of Rule 2.1.

While we welcomed the steps taken by the Licensee to improve compliance and training related to the Code, we noted that this case followed relatively soon after a previous breach<sup>15</sup> of the Code. In that earlier case, Ofcom found the Licensee in breach for allowing a contributor to express unchallenged a view on a matter of political controversy. In this current case, the Licensee allowed Scott Whitaker to express unchallenged a viewpoint with the potential to cause harm. The protection of listeners from harm is a fundamental requirement of the Code. Ofcom is therefore putting the Licensee on notice that any future similar breach will be considered for the imposition of a statutory sanction.

### **Breach of Rule 2.1**

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<sup>15</sup> A breach of Rule 5.13 was recorded against the Licensee on 18 March 2013 in issue 226 of Ofcom's Broadcast Bulletin (see <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb226/obb226.pdf>).

## In Breach

### News

*RT (Russia Today), 5 August 2013, 20:27*

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#### Introduction

Russia Today is a global news and current affairs channel produced in Russia. In the UK, the channel broadcasts on satellite and digital terrestrial platforms. The licence for Russia Today is held by Autonomous Non-profit Organisation TV Novosti ("TV Novosti" or "the Licensee").

A complainant alerted Ofcom to footage of people being deliberately burnt alive which the complainant considered unsuitable for this time of day.

Ofcom noted, as part of a "World Update", a brief news story was broadcast around 20:27 concerning unverified reports of the killing of Kurdish civilians. A strap across the bottom of the screen stated: *"Reports: Islamists massacre 450 Kurds near Turkey-Syria border"*. Footage was then shown of three men (who were blindfolded and tied up, sitting on the ground) being doused with flammable liquid, pushed over and then set alight. Before the men were set alight, two of their heads were shown pixellated. The footage was of poor quality, consistent with it having been filmed on a mobile phone, and it was not clear whether the three men were dead, alive or conscious. The sequence showing the three men having flammable liquid poured over them was around 17 seconds in length, and the images of the men in flames lasted for around 11 seconds.

As the video was broadcast, the presenter stated:

*"We have some graphic footage now accompanying unverified reports that in Syria militants from the Islamist Al Nusra front have massacred 450 Kurdish civilians near the border with Turkey..."*

Ofcom considered that the material warranted investigation under the following rules of the Code:

Rule 1.3: "Children must...be protected by appropriate scheduling from material that is unsuitable for them."

Rule 1.11: "Violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed...and must also be justified by context."

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context..."

We therefore requested comments from the Licensee as to how this material complied with these rules.

## Response

The Licensee said its internal procedures state that particularly graphic material should not be broadcast at all unless absolutely necessary, and only then once specifically approved by senior management. In addition, unverified reports must first be verified before they are broadcast. On this occasion the Duty Editor failed to follow this procedure on both points, and the material should not have been broadcast.

TV Novosti regretted the broadcast of the footage, and said it had picked up the error before it received the complaint from Ofcom. The Licensee said that a few days after the broadcast, all editorial staff were reminded that its procedures must be followed regardless of the pressures reporting breaking news.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, which include ensuring that persons under the age of eighteen are protected from material that is unsuitable for them, and providing adequate protection for members of the public from harmful and/or offensive material. These objectives are reflected in Sections One and Two of the Code.

Article 10 of the European Convention on Human Rights, as incorporated in the Human Rights Act 1998, provides for the right of freedom of expression, including the right to receive and impart information and ideas without interference by public authority. Ofcom must balance this with its duties to ensure that under-eighteens are protected from material that is unsuitable for them, and to provide adequate protection for members of the public from potentially offensive material.

The Code contains no prohibition on images depicting execution, point of death, or extreme violence because there may be occasions when such images are editorially justified. Ofcom believes in particular that, in line with the right to freedom of expression, it is important for news programmes to be able to choose how to report on events which they consider in the public interest. However, when showing distressing material, broadcasters as appropriate must always comply with Rules 1.3 and 1.11 (to protect under-eighteens) and Rule 2.3 (to apply generally accepted standards).

### Rule 1.3

Rule 1.3 states that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is assessed by reference to factors such as the time of broadcast, the nature of the channel, and the availability of children to view, taking into account school time, weekends and holidays.

Ofcom first considered whether the material was unsuitable for children. Ofcom noted that the footage was of poor quality and the heads of two of the men were pixellated. It was unclear from the footage whether the three men were alive or dead. In Ofcom's view however, many viewers (possibly including children) would be likely to conclude that they were alive because, for example, the three men were sitting upright on the ground when the flammable liquid was poured over them before they were pushed over, and the commentary talked of a "massacre" of Kurds. As a result those viewers would reasonably have assumed that the men were being burnt alive. The potential unsuitability of the subject matter was underlined by the considerable

length of the moving footage showing the three men being first doused in flammable liquid (about 17 seconds) and then in flames (around 11 seconds).

Broadcasting images showing the moment of death obviously has the potential to be very disturbing for viewers. This is true especially with regard to under-eighteens, whose exposure to death (and their ability to understand it and place it in context) is generally more limited than that of adults. Images – as here – of people who appeared to be burnt alive clearly had potential to cause distress to children. The material was therefore not suitable for children.

We next considered whether children were protected by appropriate scheduling. This content was broadcast before the watershed during the school summer holidays at 20:30 in the UK. While Russia Today, as a rolling news channel, is unlikely to attract many child viewers, Ofcom noted that children were nevertheless available to view. The broadcast of this material at this time was clearly not in line with the likely expectations of the audience for this channel, and in particular those of parents. For these reasons, this content was not appropriately scheduled so as to protect children and Rule 1.3 was breached.

#### Rule 1.11

Rule 1.11 states that violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed, and must also be justified by context.

As described above this sequence contained graphic images, of three men being set on fire while they appeared to be alive. The poor quality of the footage meant that some of the detail was obscured and the heads of two of the men were pixellated. Nonetheless there was sufficient detail to show exactly what the nature of this act of violence was, and no other measures were taken by the Licensee to limit the impact of the footage itself other than the presenter referring in commentary to “*graphic footage*”. For these reasons the violence in this sequence was not appropriately limited.

Further Ofcom considered that the broadcast of this violent material was not justified by the context. The sequence lasted almost 30 seconds in total and was capable of causing considerable distress to viewers. Although it is important that television news broadcasters can report and illustrate the news fully, Ofcom’s opinion was that to achieve this aim Russia Today did not need to show this material in this form and at this length. To do so was not in keeping with audience expectations for this channel at this time.

The material therefore breached Rule 1.11.

#### Rule 2.3

Rule 2.3 states that in applying generally accepted standards broadcasters must ensure that potentially offensive material is justified by the context. Context is assessed by reference to factors such as the editorial content, the degree of offence, and likely audience expectations.

Ofcom first considered whether the material was potentially offensive. As pointed out in relation to Rule 1.3, broadcasting images showing the moment of death obviously has the potential to be very disturbing for viewers. Images – as here – of people who appeared to be burnt alive clearly had the potential to cause considerable offence.

We next considered whether the material was justified by the context. Ofcom noted that this programme features breaking news and live coverage, with a perspective appropriate to the media culture in Russia. The audience for this channel is likely to be small and self-selecting in the UK. Nonetheless, as already pointed out, the broadcast of images of people who appeared to be burnt alive was clearly capable of causing a high level of offence, and so would have exceeded the expectations of the audience for this channel. We also considered it had the potential to be very distressing to viewers who came across it unawares at this time. In addition, while the presenter referred to "*graphic footage*", this was not, in Ofcom's view, an adequate or explicit warning sufficient to reflect the very strong nature of the material. The broadcast of this material was not therefore justified by the context and Rule 2.3 was also breached.

We noted the Licensee's regret that the footage was transmitted and this had happened contrary to its internal procedures, and that since the incident all editorial staff had been reminded that those procedures must be followed regardless of the pressures reporting breaking news. Nonetheless there were clear breaches of Rules 1.3, 1.11 and 2.3.

### **Breaches of Rules 1.3, 1.11 and 2.3**

## In Breach

### Programming

*Desi Radio, 29 July 2013, 14:23*

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#### Introduction

Desi Radio is a community radio station providing a service for the Punjabi community in the west London area. The licence for the service is held by The Panjabi Centre Limited (“the Licensee”).

A complainant alerted Ofcom to the broadcast of offensive language during a particular version of the song “Baki Tan Bchaa Ho Gya”. This featured a short segment of the song “Chronic Break” by Snoop Dogg. This segment contained the following phrase in English:

*“can we have a motherfucking moment of silence?”*

Ofcom considered the material raised issues warranting investigation under Rule 1.14 of the Code, which states:

“The most offensive language must not be broadcast...when children are particularly likely to be listening...”.

We therefore asked the Licensee how the material complied with this rule.

#### Response

The Licensee said that most of the station’s presenters use music from its database which has been checked for compliance. However, on this occasion the song in question was played from a CD owned by a new presenter. The Licensee confirmed that the presenter did not listen to the song in full before playing it on air.

The Licensee believed this was a genuine mistake on the part of the presenter who would not have deliberately broadcast a song that contained offensive language. It added that since the incident it has reminded all presenters that music from their own collection should be fully checked before going to air.

#### Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Ofcom research on offensive language<sup>1</sup> notes that the word “fuck” and words derived from it like “motherfucker” are considered by audiences to be amongst the most offensive language. Rule 1.14 of the Code states that “the most offensive language must not be broadcast when children are particularly likely to be listening”. Ofcom’s

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<sup>1</sup> Audience attitudes towards offensive language on television and radio, August 2010  
<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

Guidance on Offensive language on radio<sup>2</sup> advises radio broadcasters when interpreting the phrase “when children are particularly likely to be listening” to “have particular regard to broadcasting content...between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays.”

Ofcom noted that one of the Licensee’s key commitments<sup>3</sup> for Desi Radio is to cater for “all ages” and that the material was broadcast in the afternoon during school holidays. Taking account of its published guidance, Ofcom considered it was particularly likely that children were listening at this time. Although we noted the action taken by the Licensee to remind presenters that material should be thoroughly checked before going to air, the broadcast of the word “motherfucker” during this song was therefore a clear breach of Rule 1.14.

### **Breach of Rule 1.14**

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<sup>2</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>

<sup>3</sup> Key commitments form part of each community radio station’s licence with Ofcom. They set out how the service will serve its target community.

## Not in Breach

### **Big Fat Gypsy Weddings, Series 2**

Channel 4 and More4, 14 February 2012 to 26 July 2012, various times

### **Big Fat Gypsy Weddings: Born to be Wed, Series 1, Episode 1**

More4, 7 June 2012, 23:05

### **Thelma's Gypsy Girls**

Channel 4 and Channel 4seven, 8 July 2012 to 21 August 2012, various times

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## Summary

Ofcom's Decision is that none of the episodes of *Big Fat Gypsy Weddings* ("BFGW")<sup>1</sup> or *Thelma's Gypsy Girls* ("TGG") listed above contained material which breached Rules 1.28, 1.29, 2.1, 2.2 or 2.3 of the Code.

*BFGW* was an observational documentary series which followed individuals and families from the Irish Traveller, English Traveller, Gypsy and Romany ("ITG&R") communities of Great Britain as they prepared for, celebrated and reflected upon key events in their lives (notably weddings). *TGG* was an observational documentary series which followed ten young women from the ITG&R communities as they undertook a six-month apprenticeship with dressmaker, Thelma Madine, who specialised in designing and making elaborate dresses for women and girls from these communities.

Ofcom was alerted to potential issues under the Code raised by these broadcasts by a complaint from the Irish Traveller Movement in Britain ("ITMB") and four co-complainants. The main complaint was that the broadcasts presented negative, racist or damaging stereotypes or endorsed prejudice against the ITG&R communities. Ofcom therefore investigated these broadcasts.

After careful consideration Ofcom was satisfied that the programmes did not breach the Code because in summary:

- The steps taken by Channel 4 were sufficient to ensure that due care was taken of the emotional welfare of under-eighteens featured in the programmes, including the young women contributors featured involved in 'grabbing'<sup>2</sup>.
- The programmes did not contain material that could be reasonably considered harmful or likely to cause harm in terms of presenting negative, racist or damaging stereotypes or endorsing prejudice against ITG&R communities.
- While Ofcom recognised that some of the portrayals of ITG&R contributors (e.g. showing them engaged in behaviour that some viewers might regard as inappropriate) had the potential to cause some offence, we considered that there

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<sup>1</sup> In this Decision, references to "BFGW" refer to all episodes of *Big Fat Gypsy Weddings* complained about i.e. episode 1 of the first series, and all seven programmes of the second series.

<sup>2</sup> As discussed in this Decision, 'grabbing' was alleged in *BFGW* to be a 'courtship' practice engaged in by some people in the ITG&R communities, whereby ITG&R boys will physically 'grab' an ITG&R girl in order to kiss her. This was reported in the series to take place at significant community events such as weddings.

was sufficient context to justify any potential offence which might have been caused by this material.

- The portrayals of ITG&R communities in the programmes were not materially misleading. *BFGW* and *TGG* were observational documentary series highlighting aspects of the life of particular ITG&R people and did not depict negative stereotypes applicable to ITG&R communities as a whole.

## Introduction

### Background

#### *Big Fat Gypsy Weddings: Series 2*

The second series of *BFGW* was broadcast between February 2012 and July 2012. This series, which is a spin-off from the *Cutting Edge* documentary strand, followed individuals and families from the ITG&R communities of the UK as they prepared for, celebrated and considered key events in their lives (most notably weddings). In particular, the series looked at: the pursuit of beauty amongst girls and young women from these communities; legal difficulties experienced by some individuals from these communities; the experience of some ITG&R girls of the state education system; cultural differences between ITG&R and non-ITG&R communities; the importance of personal reputation within the ITG&R communities; the threat and experience of eviction; the importance of cultural events and ties; and, the importance of the extended family unit.

The second series of *BFGW*, which consisted of seven episodes, was shown on Channel 4 on a weekly basis between 14 February 2012 and 13 March 2013. The series was repeated on a weekly basis on More4 between 14 June 2012 and 26 July 2012, preceded on 7 June 2012 by a retransmission of episode one, *Born to be Wed*, of the first series of *BFGW*.

#### *Big Fat Gypsy Weddings: Born to be Wed*

The programme *Born to be Wed* (which was initially broadcast as part of the first series of *Big Fat Gypsy Weddings* in early 2011 but was subsequently repeated a number of times, including in June 2012) highlighted what were described as the key milestones in the lives of girls from these communities, namely: the first Holy Communion; courtship; 'hen nights' and their wedding days.

#### *Thelma's Gypsy Girls*

Between July and August 2012, Channel 4 broadcast *TGG*. This was a series in which Thelma Madine, a dressmaker who specialised in designing and making elaborate dresses for women and girls from the ITG&R communities (and who had featured prominently in both series of *BFGW*), recruited ten young women from these communities for a six-month apprenticeship. Thelma Madine was shown selecting ten ITG&R girls and giving them paid apprenticeships in dressmaking. The series followed the ITG&R trainees during their apprenticeships, focusing on the girls' relationships with each other and Thelma Madine's permanent staff. At the end of the series, some of the girls were offered permanent positions working for Ms Madine.

*TGG* consisted of six episodes which were shown on Channel 4, on a weekly basis, between 8 July 2012 and 14 August 2012. The series was repeated on Channel 4seven between 8 July 2012 and 21 August 2012.

Ofcom was alerted to potential issues in the above broadcasts of *BFGW* and *TGG* by a complaint from a firm of solicitors representing the ITMB<sup>3</sup> and four co-complainants<sup>4</sup>.

### **The ITMB complaint**

The complaint from the ITMB was wide-ranging and incorporated extensive appendices, which included testimonials, expert reports and copies of newspaper clippings. In summary the ITMB complaint argued that “Channel 4 intended to create programmes that would be racist, harmful, offensive, harmful to children and in breach of the Code and/or were reckless to this obvious and foreseeable outcome”. Ofcom identified various potential issues under the Code raised by the complainant that warranted investigation, as outlined below.

- a) **Due care of under-eighteens**: We considered there were three potential points in relation to the due care of under-eighteens:
- i) whether Channel 4 had taken due care of the various under-eighteens included in the programmes, for example by obtaining informed consent relating to the large numbers of under-eighteens included in both *BFGW* and *TGG*;
  - ii) in particular, whether the broadcaster had taken due care or obtained the informed consent of the under-eighteens featured in three examples of ‘grabbing’<sup>5</sup>, featured in *BFGW*; and
  - iii) whether Channel 4 had adequately vetted the ITG&R girls who had taken part in *TGG*, and in particular, one of the girls, Shannon, who was 15 years old and therefore in the complainant’s view, “not entitled to be in full time paid employment”.

Ofcom considered that the above issues (a)(i) to (iii) warranted investigation under the following rules of the Code:

Rule 1.28: “Due care must be taken over the physical and emotional welfare and the dignity of people under eighteen who take part or are otherwise involved in programmes. This is irrespective of any consent given by the participant or by a parent, guardian or other person over the age of eighteen in loco parentis”.

Rule 1.29: “People under eighteen must not be caused unnecessary distress or anxiety by their involvement in programmes or by the broadcast of those programmes”.

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<sup>3</sup> The ITMB (The Irish Traveller Movement in Britain) is a national charity working on behalf of the ITG&R communities in Britain (<http://irishtraveller.org.uk/about-us/>).

<sup>4</sup> In this Decision, the ITMB and the co-complainants are collectively referred to as the “ITMB complaint”.

<sup>5</sup> As discussed below, ‘grabbing’ was alleged in *BFGW* to be a ‘courtship’ practice engaged in by some people in the ITG&R communities, whereby ITG&R boys will physically ‘grab’ an ITG&R girl in order to kiss her. This was reported in the series to take place at significant community events such as weddings.

- b) Negative stereotyping: Having assessed the points raised in the ITMB complaint, we considered there were five potential issues concerning negative stereotyping of the different inter-related groups of the ITG&R communities:
- i) Normalisation of and condoning of violent sexual assault of ITG&R female children ('grabbing'): We considered whether *BFGW* condoned the practice of 'grabbing', during which, as shown in the series, the complainant alleged that ITG&R girls were "violently sexually assaulted" such as to be materially misleading and likely to cause harm and offence. Similarly, we considered whether production staff, as argued by the complainant "made no apparent attempt to intervene to protect the children being sexually assaulted" but rather described such "sexual assaults" as "romance" and "the seeds are being sown for future gypsy weddings". We also considered the ITMB's argument that the programmes were misleading in describing 'grabbing' as an "accepted, standard and condoned practice in the ITG&R communities".
  - ii) Reinforcing negative stereotypes, with regard to ITG&R women and girls: We assessed whether the programmes denigrated and portrayed ITG&R women and girls in a negatively stereotypical way, and endorsed prejudice against them. For example, we considered whether in relation to *TGG*, as argued by the complainant, ITG&R women were portrayed as: chaotic; incapable of punctuality; obsessed with beauty; violent; foul-mouthed; uneducated and illiterate; boorish; threatening; having criminal records; leading "restricted lives" and incapable of working with or dealing with non-Travellers in an acceptable manner. We also analysed, in relation to *TGG*, whether there were potential issues concerning the use of subtitles shown when some ITG&R girls were speaking in *TGG*, which the ITMB said: "strongly suggests to the viewer that ITG&R do not speak a form of English, which is intelligible to the general British public".
  - iii) Voyeurism and sexualisation of ITG&R children and women: We considered whether the portrayal of ITG&R children and women was voyeuristic or portrayed them as highly sexualised in a manner which was materially misleading or likely to cause harm and offence. In this regard, the complainant objected to both series: portraying ITG&R girls and young women as "routinely being exceptionally and scantily dressed"; and showing "lengthy, lingering scenes of ITG&R girls and very young women dancing in a manner which is plainly sexualised". The ITMB also considered that Channel 4's "apparent fixation upon the bodies and dancing of ITG&R girls and young women" was harmful and offensive.
  - iv) Reinforcing negative stereotypes of violent and criminal activity by ITG&R men and boys: We assessed whether the portrayal of ITG&R men and boys reinforced negative stereotypes relating to participation in violent and criminal activity and endorsed prejudice against them. The complainant said that ITG&R men and boys were shown to be "feckless" and "almost exclusively portrayed as being either violent, criminal or both". The ITMB said that on the few occasions in which men are shown in the two series, the men were shown "fighting...committing crime, in prison, violently sexually assaulting children and girls and awaiting court hearings and/or sentencing". Further, the complainant said that where the few ITG&R men shown in the programmes were not demonstrating "racist stereotypes", these men were also shown in a negative way. For example, one ITG&R man (George) was shown: "being

very angry towards the settled community, ‘Gorja’<sup>6</sup> Judges, ‘Gorja’ lawyers, his ‘settled’ (i.e. non-ITG&R) wife and also as being incapable of complying with the terms of the court orders in relation to contact with his children”.

- v) Reinforcing negative stereotypes of ITG&R children and young people: In addition, we considered whether the programmes denigrated and portrayed ITG&R children and young people in a negatively stereotypical way, and endorsed prejudice against them. We noted the ITMB said that, throughout the programmes, and in particular in *TGG*, ITG&R children were portrayed as “wild, uncontrollable, foul mouthed, illiterate, uneducated, violent and dangerous”. The complainant said the programmes did not make clear that there are various reasons for ITG&R children leaving school at 11 such as “bullying, discrimination and threats”. The complainant also submitted two reports compiled by individuals it described as “experts” as evidence that harm had been caused to ITG&R children as a result of the two series being broadcast. In particular, the complainant alleged the programmes had “significantly contributed to racist bullying and abuse of [ITG&R] children in schools”.

Ofcom considered that the above issues (b)(i) to (v) warranted investigation under the following rules of the Code:

- Rule 2.1: “Generally accepted standards must be applied to the contents of television and radio 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 2.2: “Factual programmes or items or portrayals of factual matters must not materially mislead the audience”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context”.

- c) Miscellaneous other issues raised by the complaint: We also considered the following issues:

- i) Channel 4’s editorial approach: We assessed whether, as argued by the complainant, both series were ‘engineered’ to portray and reinforce negative stereotypes of the ITG&R communities. In this regard, the ITMB:
- provided copies of two newspaper articles<sup>7</sup>, which in the complainant’s view, indicated that Channel 4 “deliberately sought to advance negative racial stereotypes of [ITG&R] people”; and
  - provided email correspondence relating to the commissioning of photographs for display advertisements for *BFGW*, which in the complainant’s view “provide compelling evidence that Channel 4 intended, when developing these two interlinked documentary series, to produce programmes that deliberately played upon, developed and enhanced

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<sup>6</sup> ‘Gorja’ is used in *BFGW* by some members of the ITG&R communities as a term for individuals outside of the ITG&R communities.

<sup>7</sup> Article in *The Daily Mirror* dated 20 June 2012 and article in *The Sun* dated 20 July 2012.

racist, harmful, offensive negative stereotypes of [ITG&R] people and endorsed prejudice against them”.

- ii) Misuse of the terms ‘Gypsy’ and ‘Irish Traveller’: We reviewed whether, as argued by the complainant, both series misleadingly treated Gypsies and Irish Travellers as “indistinguishable and interchangeable” and did not make clear that most of those depicted in the two series are Irish Travellers and not Gypsies.

We considered that the above issues (c)(i) and (ii) warranted investigation under Rule 2.2 of the Code (see above).

Finally, we considered one other issue:

- iii) Use of negative and pejorative language to describe ITG&R people: The complainant objected to various terms used in the programmes to describe members of the ITG&R communities, including:
- references to ITG&R communities as “*secretive communities*”;
  - statements that ITG&R girls “*usually go out in large packs*” and “*look like prostitutes*”;
  - the following statement in *TGG*: “*I’m going to take on another ten girls. Right. That’s the good part. The bad part is they’re all going to be Travellers*”; and
  - the statement that “*to the average business a Traveller girl is unemployable*”.

We considered the above terms warranted investigation under Rule 2.3 of the Code (see above).

We therefore asked Channel 4 for its comments on how the programmes complied with the relevant rules of the Code in respect of each of the issues set out above<sup>8</sup>.

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<sup>8</sup> Ofcom noted that the ITMB submitted a similar complaint to the Advertising Standards Authority (“ASA”) about an outdoor advertising campaign for the second series of *BFGW*. On 3 October 2012 the ASA published its finding regarding four posters for this series. In summary, the ASA found that the posters breached various provisions of the CAP Code, and directed that two of the posters should not appear again. Ofcom noted the complainant’s assertion that the ASA’s decision in relation to Channel 4’s outdoor display advertising campaign “must be read as having the most significant bearing on” this case. Further, a significant proportion of the evidence submitted to Ofcom clearly related to the ASA’s investigation and not specifically the broadcast of the series to which this Decision relates. It is important to note that non-broadcast advertising and television programming are subject to separate and different regulatory regimes. Therefore, while Ofcom considered all the material submitted by the complainant and the broadcaster, we have made an assessment and reached a decision based only on the material that was broadcast.

## Response

### General comments

Channel 4 strongly refuted that there had been any breach of the Code through broadcasting the programmes, which it considered had “provided a greater understanding and awareness of [ITG&R] traditions and practices”. In addition, Channel 4 maintained that *BFGW* showed “the challenges including the prejudice and hostility the [ITG&R] community faces” and so helped to educate viewers.

Channel 4 said that the programmes in this case had followed a number of other programmes on the same theme, starting in February 2010 with a single *Cutting Edge* documentary called *My Big Fat Gypsy Wedding*<sup>9</sup>. Channel 4 said the *BFGW* strand of programming has “sparked much debate around certain aspects of ITG&R life that was included in the series and which played out in the national print and broadcast media. Much of the debate was prompted by the fact that previously very little was known about these communities and what was known was often based on inaccurate pre-conceptions and stereotypes...which the series attempted to correct by giving an intimate insight into the community and giving members of the community a voice”.

In relation to *TGG*, Channel 4 said that Thelma Madine devised the project of taking on young ITG&R girls as trainee dressmakers “to give something back to the community who have established her as the wedding dress maker of choice for many in the ITG&R” communities. Having built up many years experience dealing with “hundreds” of members of the ITG&R communities, Channel 4 said that Thelma Madine had “learnt a lot about the [ITG&R] culture and acquired a deep understanding of the community”.

Due to the sensitivities around filming with groups such as the ITG&R communities, Channel 4 said that “great care was taken in terms of the research that was undertaken prior to and during filming to ensure that the production team was in the best position possible to portray the community fairly and accurately”. This included several months of research speaking to members of the ITG&R communities and spending time on Traveller sites, in houses, businesses, at fairs, religious occasions and other cultural events. Channel 4 said the production team had “tried to work with most of the ITG&R representative organisations and community leaders<sup>10</sup> as part of their research” and “some individuals and organisations had been very helpful” (although Channel 4 acknowledged some did not wish to cooperate or be involved with the series). The broadcaster explained that during the production process, all statistics were carefully checked from a number of different sources, including Gypsy and Traveller organisations, the Office for National Statistics and various Governmental or academic studies.

In its general comments, Channel 4 referred to its right to freedom of expression and that it is required by its public service remit<sup>11</sup> to provide a “broad range of high quality

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<sup>9</sup> This first programme had subsequently been followed by: the five programme first series of *BFGW*, broadcast in early 2011; a one-off programme entitled *My Big Fat Royal Gypsy Wedding*, broadcast in April 2011; and a one-off programme entitled *My Big Fat Gypsy Christmas*, broadcast in December 2011.

<sup>10</sup> Channel 4 supplied to Ofcom a list of various people or organisations who were contacted.

<sup>11</sup> See the Digital Economy Act 2010.

and diverse programming”. In its view, Channel 4 said that both *BFGW* and *TGG* are “high profile examples of Channel 4 fulfilling its public service remit”.

#### **a) Due care of under-eighteens**

With regard to Rules 1.28 and 1.29, Channel 4 maintained that production staff had complied with its relevant guidelines<sup>12</sup>, and that in both series, the sequences of ITG&R children and young people were “filmed openly and with the consent of all those featured and/or their parents/carers”. Channel 4 added that “[t]hroughout filming and the production process, care was taken to ensure that the welfare and dignity of all young people was considered at all times. This included ensuring appropriate consents were obtained [and] assessing the appropriateness of young people participating”. The broadcaster provided more background to its approach in relation to under-eighteens in each series.

#### **BFGW**

In accordance with the Filming Protocol agreed prior to the production starting, “the production team met or spoke to potential contributors to ensure they were able and happy to participate in the filming, and that in terms of our duty of care, to satisfy themselves the contributors were able to cope with both the filming” and the impact of the series on broadcast. Channel 4 added that: “If there were any potential contributors who the team felt may be vulnerable or not otherwise able to cope with filming”, then these individuals were not used.

Channel 4 said that with regard to the three examples of ‘grabbing’ featured in *BFGW*, it had “struck the correct balance in terms of the safety and wellbeing of the team, duties of care towards contributors, and their role as film-makers”. Prior to the start of each *BFGW* series, an extensive Filming Protocol was drawn up which included guidance about filming potentially contentious scenes. Specifically, a protocol was agreed with production staff to the effect that if ‘grabbing’ happened in full view of “witnesses from the [ITG&R] community, including family members...it was less likely that intervention by the production team would be necessary”. However, Channel 4 added that: “If ‘grabbing’ was not in full view of a number of adults, a decision was made that the production team would actively check on the welfare of the young woman involved”. In the broadcaster’s view: “this approach struck the right balance in terms of the various obligations and responsibilities owed to all concerned, and the need to maintain authenticity”.

In particular, Channel 4 referred to its role in relation to an instance of ‘grabbing’ shown in Series 1, Episode 1 of *BFGW*. This involved an English Gypsy, Cheyenne, and an Irish Traveller, John, at a wedding reception. According to Channel 4, the programme director had noticed Cheyenne and John were no longer at the wedding reception and the production team discovered they were in the car park. Although “Cheyenne had [John’s] arms either side of Cheyenne making it difficult for her to ‘escape’...the [production] team, noted they were both giggling”. Channel 4 said “in the view of the production team, it felt like a playful situation and the Director states that she never felt Cheyenne was in danger of any physical or sexual harm. This was based not only on what was being observed but also in the context of what the production team had been told about ‘grabbing’ previously (i.e. the purpose was to get a ‘kiss’ and as sign of showing you like someone - nothing more)”. Channel 4

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<sup>12</sup> “*Working and Filming with Under 18s Guidelines*” (see: <http://www.channel4.com/producers-handbook/c4-guidelines/working-and-filming-with-under-18s-guidelines>).

noted that the Director asked Montana, a friend of Cheyenne, if she was worried about Cheyenne to which Montana replied that she was not and Cheyenne “could fight for herself”. The broadcaster said that after this sequence, the programme showed the following exchange between Cheyenne and the programme director:

Cheyenne: *“Well I was standing out here like and he like, got hold of me and then he pushed me up the road. He was like trying to get a kiss of me. And that’s called ‘grabbing’ really.”*

Director: *“So was it a violent grab?”*

Cheyenne: *“No, it wasn’t a violent grab. No...I’ve had much worse. It’s like very...I dunno, it’s not nice at all but you just have to live with it and you keep trying to get him off you, and that’s about it, it’s all you can do”.*

Channel 4 went on to say that the production team observed Cheyenne and John “laughing about the incident and then arguing in a playful way about whether or not he had managed to get a ‘kiss’ – he said he had, and she said he had not”. The broadcaster added that: “While the [production] team spoke with the couple, they never felt anything untoward was happening and in their view it seemed playful, teenage flirting”. Channel 4 claimed that not only was the “post-grab interview with Cheyenne a way for the production team to ensure she was okay, we believe that including it in the episode also ensured viewers were adequately informed she was unharmed”.

Channel 4 said that “no complaint was made by Cheyenne or anyone on her behalf about the way she was treated during filming or her inclusion in the series”. In relation to the issue of ‘grabbing’, Channel 4 said that the ITMB had not provided any evidence that any of the contributors featured in the instances of ‘grabbing’ were caused unnecessary distress or anxiety by their involvement in programmes or the broadcast of those programmes or that due care was not taken over their welfare.

### TGG

Channel 4 said that once the production company knew who the potential trainees in the *TGG* series were going to be, they explained to the trainees “what the release forms meant, including reading them aloud to all potential contributors. In addition, where necessary, the parents/carers of trainees were contacted to obtain their informed consent”. The broadcaster added that while Thelma Madine had responsibility for the trainees as her employees, the production company and Channel 4 had “a duty of care to them as contributors, which was taken seriously and managed carefully throughout production, transmission and beyond. The production company are still in touch with most of the trainees”. In its comments, Channel 4 outlined various steps the production team took concerning the *TGG* trainees to help fulfil their and the broadcaster’s duty of care towards them. These included: liaison with the trainees and their families to obtain appropriate consents; organising transport for the girls to and from work; and, Channel 4 agreeing with the production company various protocols to ensure the trainees’ welfare (further details are set out in the Decision section below).

By way of example, Channel 4 explained its role in relation to certain incidents that occurred in *TGG*. For example, two of the trainees (Victoria and Lilyann) exhibited behaviour which “evidenced a degree of ongoing conflict”. In this situation, the broadcaster said that “the starting point for the production team was to observe what

was happening, rather than immediately intervene, but only if they were satisfied that the matter was being dealt with by Thelma (as their employer) and/or members of her staff". Channel 4 added that: "As is very evident in the series, Thelma and her staff spend a lot of time dealing with such issues and not only is this included in the series, but the outcome/resolution is as well. This ensured that viewers were fully apprised of the situation".

Channel 4 said it had obtained informed consent for the ITG&R girls' participation in *TGG*. Specifically, with regard to the participation of Shannon, a girl who was discovered to be 15 years old during filming, Channel 4 confirmed that informed consent from Shannon's mother was obtained. The broadcaster added that: "Although filming observationally, care was taken to ensure that notwithstanding the consent obtained, due care was taken over all contributors, particularly those under 18". For example, in addition to advice and guidance given to the production team prior to filming: "the executives, commissioning editor and programme lawyer were always available to discuss any particular matters as they arose during filming".

Channel 4 said that the "the discovery of Shannon's age" was one example of an occasion "when sensitive matters relating to contributors' personal lives arose and careful consideration was given about how to deal with that from an ethical point of view, as much as a legal and editorial point of view". The broadcaster said that the production team "kept across the developments to ensure that we could still be satisfied that continuing to film was not detrimental to Shannon's welfare". Channel 4 pointed out that Shannon was offered a permanent job with Thelma Madine at the end of the course. The broadcaster therefore stated its belief that "not only did the experience have a positive outcome for Shannon, but it also demonstrates that she was not adversely affected by the filming". In addition, Channel 4 added that "Shannon is still working with Thelma, further demonstrating the positive effect the involvement in the course and series has had on her life".

## **b) Negative stereotyping**

### Rule 2.2

Channel 4 provided its comments under Rule 2.2 of the Code in relation to the various issues (b)(i) to (v):

#### **i) Normalisation of and condoning of violent sexual assault of ITG&R female children ('grabbing'):**

Channel 4 said the contributors to the *BFGW* series referred to a practice known as 'grabbing'. It did not believe that the sequences featuring 'grabbing' materially misled the audience. The broadcaster provided its comments in relation to this issue under various headings:

#### *Whether 'grabbing' is a negative racial stereotype*

The broadcaster argued that the evidence obtained during its research and filming confirmed that 'grabbing' "does exist within the ITG&R community" and that "the *BFGW* series does not portray the practice as a stereotype". Channel 4 claimed that "all instances of 'grabbing' as they appear in the *BFGW* series are a fair and accurate portrayal of the practice as observed during filming". It added that: "as is the case with many observational documentaries, the task of the programme makers was not to be judgemental, but to portray a fair and accurate account of the community as

observed and presented in context”. Channel 4 said it recognised its obligations not to materially mislead viewers and also its duty of care towards contributors: “the intention was to reflect in context the practice which many contributors had spoken about during research [conducted] by the programme makers and which had been observed on a number of occasions during filming. Importantly, examples of ‘grabbing’ were observed on a number of different locations throughout the UK”.

Channel 4 explained why in its opinion one prominent example of ‘grabbing’ featured in *BFGW* (and referred to under Rules 1.28 and 1.29 above) did not materially mislead the audience. Towards the end of Series 1, Episode 1 of *BFGW*, there was an instance of ‘grabbing’ at a wedding reception that involved an English Gypsy, Cheyenne, and an Irish Traveller, John. The broadcaster said that after this sequence, the programme showed an exchange between Cheyenne and the programme director (as set out above). In addition, as noted above the production team observed Cheyenne and John “laughing about the incident and then arguing in a playful way about whether or not he had managed to get a ‘kiss’ – he said he had, and she said he had not”. The broadcaster added that: “While the [production] team spoke with the couple, they never felt anything untoward was happening and in their view it seemed playful, teenage flirting”. Channel 4 claimed that not only was the “post-grab interview with Cheyenne a way for the production team to ensure she was okay, we believe that including in the episode also ensured viewers were adequately informed she was unharmed”.

Series 2, Episode 7 of *BFGW* showed that Cheyenne and John had subsequently become a couple, despite her resisting his attempts to ‘grab’ her in Series 1, Episode 1 of *BFGW*. Channel 4 said that Series 2, Episode 7 of *BFGW* featured: the couple getting married, and Cheyenne positively reflecting on the fact that John had attempted to ‘grab’ her in Series 1, Episode 1, and welcoming the fact that they were now a couple.

The broadcaster noted that towards the end of Series 2, Episode 7, there was another brief instance of ‘grabbing’ shown taking place outside Cheyenne and John’s wedding reception. At this point of that particular programme, some boys were seen ‘grabbing’ some ITG&R girls, with the programme commentary stating the following:

*“...the seeds are being sown for future Gypsy weddings”.*

In Channel 4’s view, the above commentary did not materially mislead the audience, given that Cheyenne and John’s relationship had started through an instance of ‘grabbing’. In addition, the broadcaster considered that taken overall the instances of ‘grabbing’ were not presented in a way as to promote negative stereotypes about the ITG&R communities.

Channel 4 accepted that not all members of ITG&R communities: “engage in ‘grabbing’ and this was reflected clearly in the commentary and by contributors in the series so that viewers were not given the mistaken impression that all Gypsies and Travellers engaged in the practice”. The broadcaster strongly refuted that in describing or portraying the practice of ‘grabbing’ within some ITG&R communities that the *BFGW* programmes “either endorsed existing stereotypes or created a new stereotype”. The broadcaster said that: “in addition to the effort made in commentary to make clear that not all ITG&R people engaged in or accepted ‘grabbing’” various contributors stated that “they did not engage in ‘grabbing’ or that they did not believe in it”. Channel 4 said that taking the *BFGW* series as whole the relationships in which ‘grabbing’ may have played a part (the main example being Cheyenne and John) were “clearly distinguished from the many other relationships where ‘grabbing’ did

not play a part (the majority of relationships featured in the *BFGW* Series)". Channel 4 argued that "this would have clarified for viewers that 'grabbing' is not necessarily a normal part of courtship, but is, nevertheless, practised by some members of the community...and we add, not simply one small group".

*Whether the scenes of 'grabbing' normalised and condoned a violent sexual assault*

Channel 4 said that "great care was taken in the edit of the *BFGW* series to present instances of 'grabbing' in a responsible way to viewers, including talking to those 'grabbed' afterwards". The broadcaster's view was that the issue of whether 'grabbing' as seen in the *BFGW* series was a 'violent sexual assault' is "subjective but rather than force our own judgement on that to viewers explicitly...we ensured that the examples used were portrayed fairly and accurately and how viewers chose to interpret what they were seeing was left up to them". The broadcaster said comments from contributors were included expressing their views that they did not like the practice and Channel 4 considered it was clear to viewers that many did not find it acceptable. Therefore, the broadcaster denied that the *BFGW* series "condoned the practice" and argued that the practice of 'grabbing' "was presented in a fair and balanced way which did not materially mislead the audience".

*Whether by not intervening during the instances of 'grabbing' shown in the BFGW series, Channel 4 condoned an alleged assault*

As mentioned in its representations under Rules 1.28 and 1.29, Channel 4 said it had in place an "extensive Filming Protocol which included guidance about filming potentially contentious scenes". Specifically, a protocol was agreed with production staff that: if 'grabbing' happened in full view of "witnesses from the [ITG&R] community, including family members...it was less likely that intervention by the production team would be necessary". However, Channel 4 added that: "If 'grabbing' was not in full view of a number of adults, a decision was made that the production team would actively check on the welfare of the young woman involved". In the broadcaster's view: "this approach struck the right balance in terms of the various obligations and responsibilities owed to all concerned and the need to maintain authenticity".

In conclusion, Channel 4 said that "although on a subjective level, some viewers may not have liked the scenes of 'grabbing'...we do not believe that viewers generally would have been materially misled that 'grabbing' is a custom practised by all ITG&R. Further all scenes were fully justified by their context and we also ensured viewers were made aware that contributors were not harmed, and that they were able to give their views on the incidents".

ii) Reinforcing negative stereotypes with regard to ITG&R women and girls:

Channel 4 set out a brief summary of the backdrop to *TGG*. This referred to reports published by the Equality and Human Rights Commission<sup>13</sup>, and the Department for Education<sup>14</sup>. According to the broadcaster, the research literature demonstrated that "many ITG&R women are not in paid employment, and face other barriers in the

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<sup>13</sup> See "*Inequalities experienced by Gypsy and Traveller communities: A Review*", EHRC Research Report 12, Winter 2009.

<sup>14</sup> See "*Gypsy, Roma and Traveller achievement*", <http://www.education.gov.uk/schools/pupilsupport/inclusionandlearnersupport/mea/improvingachievement/a0012528/gypsy-roma-and-traveller-achievement>

workforce such as low levels of education". Further, "over four years of on the ground research in different communities conducted by the production company who produced both series, the overwhelming majority of women met do not work and have been taken out of school at a young age". Channel 4 said that it was against this backdrop that *TGG* was made.

Channel 4 stated its belief *TGG* was a: "fair and accurate representation of the Gypsy and Traveller trainees' journeys while participating in the course, including both highs and lows, challenges and things to celebrate". The broadcaster added: "To present an entirely positive spin on these journeys would not only, in our view, 'materially mislead' the audience, but would also be unfair to all the trainees and other contributors". Channel 4 accepted there were moments in the series where contributors were shown "to act in ways that may be perceived negatively", but considered that "this was not presented stereotypically of the ITG&R community". The broadcaster said that all those occasions were contextualised, "such as contributors reacting to the pressures of the job and trying to adjust to a new environment, both of which clearly caused tensions and strong language – not *just* from the trainees, but also on many occasions from the non-ITG&R staff". The broadcaster added that the series featured a number of positive attributes shown by ITG&R people including: "eagerness, willingness to learn, desire to do something positive, recognising when they may not have acted appropriately and showing remorse for their behaviour". Channel 4 said that in the series "members of the ITG&R community (the trainees and their families) are portrayed articulating themselves clearly and intelligently".

Channel 4 also commented on the use of subtitles when some of the ITG&R girls featured in *TGG* spoke in the programmes. It said that "on one occasion this was due to the fact that one of the contributors was whispering and so was barely audible to viewers, and at other times, it was simply because an editorial decision was made to do so as it was felt it would be clearer for viewers". The broadcaster added that subtitling is "common practice with all television programmes regardless of ethnicity, and was certainly not intended to emphasise that contributors were 'illiterate'".

iii) Voyeurism and sexualisation of ITG&R children and women:

Channel 4 strongly denied the allegation that images included in both series portrayed either a damaging racial stereotype or young women and children as "highly sexualised and sexually available". The broadcaster said that the sequences of children and young women had been filmed: "openly and with the consent of all those featured, and/or their parents/carers".

Channel 4 argued it is: "important to reiterate the observational nature of these series. The images of children dancing and/or wearing outfits which the complainants perceive as 'highly irresponsible and plainly harmful' are an accurate reflection of the outfits worn by various members of the ITG&R community at certain events. While we accept that some viewers may not like the outfits, or feel they are inappropriate for children and young women to be wearing, we do not believe that they have been presented as clothing stereotypical or 'highly representative' of all ITG&R children and young women...[M]any who wear the outfits complained about do not believe there is a problem. This is what some members of the ITG&R community choose to wear – and they are proud of their appearance and have self-respect".

Channel 4 highlighted a number of examples which they argued provided balance and context and clearly showed that: "ITG&R children and young women are not portrayed in the series wearing or being prepared to wear such outfits all the time".

Channel 4 said that there were scenes throughout both series: “showing the very same people dressed comparatively modestly in clothing any child or young woman would wear no matter what their ethnicity”.

The broadcaster considered that the sequences of ITG&R girls and young women dancing at events such as wedding parties were not materially misleading. During the programmes various participants stated their belief that they were not being “provocative” or “sexual”. From an editorial point of view, Channel 4 said such scenes were included to show “the enjoyment that those attending the events are having, which is often more apparent in what is happening on the dance floor, than listening to what people are talking about at the tables” of the events featured.

iv) Reinforcing negative stereotypes of violent and criminal activity by ITG&R men and boys:

Channel 4 stated that ITG&R men and boys were not portrayed in *BFGW* and *TGG* in a “negatively stereotypical manner...Just because something is perceived as negative, does not automatically mean that creates a stereotype”. Channel 4 expressed the view that both series applied generally accepted standards and that “although some viewers may have been offended by the material we feel that responsible measures were taken to provide adequate protection for viewers”. While accepting that there were “aspects about ITG&R males included in the series which may be perceived negatively”, Channel 4 said that there were also “more positive aspects” featured. For example, one of the ITG&R men identified by the complainant, George, was shown as a “caring and loving father only wanting the best for his children”. In summary, Channel 4 considered that the portrayals of ITG&R men and boys had not materially misled the audience, but rather the portrayals had been “factually accurate, fair and balanced”.

v) ITG&R children and young people:

The broadcaster considered that the depictions of ITG&R children and young people in both series were not materially misleading. Sequences featuring ITG&R children and young people did not “portray a damaging racial stereotype, when considered in context”. For example, Channel 4 pointed to various examples throughout the programmes where ITG&R children featured in the programmes were “portrayed positively so not to give the materially misleading impression to viewers that all ITG&R children and young people behave in...[a] solely negative manner”. In summary, Channel 4 considered that the portrayals had been “factually accurate, fair and balanced”.

Rule 2.1

In relation to Rule 2.1 the broadcaster said that “through the context applied around specific examples, adequate protection was provided from the inclusion of what may be perceived as harmful and/or offensive material”. Channel 4 added that: “While we do not deny that prejudice exists against the ITG&R communities (indeed, this was part of the *raison d’être* of the entire *BFGW* series) we note it has done so for hundreds of years. Accordingly, one must be cautious when considering the examples presented by the ITMB as to harm and offence and the exact link between the harm/offence and the series”. In the broadcaster’s view, the evidence cited by the ITMB was not sufficient to support the claim that members of the public had not adequately been protected from the inclusion of harmful or offensive material in the context of the Code.

Channel 4 cited a number of positive commentaries and reviews, published in the UK press, concerning the original *Cutting Edge* documentary entitled *My Big Fat Gypsy Wedding* and the first series of *BFGW*. These published articles, in the broadcaster's view "support this contention that the series did not portray the ITG&R community in damaging negative racial stereotypes, and that this is not what viewers took from their portrayal".

### Rule 2.3

In relation to Rule 2.3, Channel 4 stated its strong belief that "all material complained about as offensive was justified by the context and that the material was not 'discriminatory on the grounds of race'". Rather, the programmes were a "fair and accurate portrayal of their subject matter and did not claim to be representative of all the ITG&R" communities. The broadcaster accepted that "some of the material in the series was challenging and dealt at times with sensitive issues regarding the way members of the ITG&R community have been treated". Therefore: "Recognising the potential for offence to be caused, care was taken to ensure that such material was editorially justified and justified by its context".

Channel 4 set out what it considered to be relevant factors which helped justify any offence caused:

- the programmes were broadcast after the watershed, when children would not be viewing. Channel 4 considered this important, given that the two expert reports submitted by the complainant had "mainly" focused on children. The broadcaster did note that there were some repeat transmissions of the second series of *BFGW* at 20:00, when originally broadcast on Channel 4 in February and March 2012. However, Channel 4 said "where necessary" these programmes were edited to ensure that they were suitable for the earlier time-slot; and
- the filming of *BFGW* was not based on a single ITG&R community, but took place at locations across the UK with Irish Travellers, English Gypsies and Travellers and Romany Gypsies. Viewers were informed about this, for example, in the programme commentary or in on-screen graphics. According to Channel 4, *BFGW* made clear that the events featured in the programmes "were not 'one off' or 'isolated' or particular only to one small community". With regard to *TGG*, Channel 4 said that: "it was made clear to viewers that the ITG&R trainees had to come from 'within 40 miles from Liverpool', although they were all from a range of backgrounds".

### **c) Miscellaneous issues:**

Channel 4 also provided comments on miscellaneous issues (c)(i) and (ii) with regard to Rule 2.2.

#### i) Channel 4's editorial approach:

Channel 4 strongly refuted the claim made by the ITMB that, in its editorial approach, Channel 4 had 'engineered' the programmes to portray and reinforce negative stereotypes of the ITG&R communities. Rather, the broadcaster said its intention with both series was to produce programmes "that first and foremost fulfilled Channel 4's unique public service remit...[and] do so in accordance with regulatory considerations in mind". The broadcaster provided more background to its editorial approach in relation to each series.

## *BFGW*

Channel 4 said this series was “an observational documentary series and was promoted as such. It is a fair and accurate representation of events as they were observed and filmed. The structure and format of *BFGW* grouped material filmed into broad episodic themes, but those themes did not become apparent until material was gathered”. The broadcaster added that contributors were not “‘chosen’ or ‘cast’ through any kind of application or audition process”, but were found through “the standard methods used in any observational documentary such as word of mouth contact”.

## *TGG*

According to the broadcaster, the *TGG* series was “a documentary series following the progress of the trainees on Thelma’s course”. However, it was not “promoted as an ‘observational documentary’ series in the way that *BFGW* was, and nor did it profess to be in the body of the series”. Channel 4 said that *TGG* “did not follow a set format or contain any ‘formatted’ elements...There were no format ‘rules’ such as elimination or other similar competitive devices and the series was filmed and edited in a totally documentary style”.

Channel 4 said that it and the production company were involved “to a degree in the initial set up” of the *TGG* from a practical and financial point of view. Viewers would not have been materially misled in any way, as “it is quite usual and acceptable in any production of this nature for the production team to be involved behind the scenes with some of the practical aspects, especially where the filming is likely to be intrude to a degree on the day to day running of the course”. The broadcaster gave various examples of elements of *TGG* which were “arranged with some assistance from the production company”. For example:

- the idea of employing ITG&R girls in the *TGG* project “came from” Thelma Madine. Due to the production company’s relationship with Thelma Madine from the *BFGW* series, Channel 4 said that “once it became known that she was considering offering apprenticeships, the production company, together with Channel 4, commenced discussions with Thelma about filming the idea for television”;
- the production company and Channel 4 did work with Thelma Madine to assist getting the course started. However, the broadcaster said that “at all times it remained Thelma’s initiative and she alone decided whether any suggestions would be followed or not”. Channel 4 gave examples of the ways that the production company had helped Thelma Madine in the *TGG* project, such as “assisting to find and fund a suitable sewing tutor to assist Thelma’s staff who felt under pressure having to teach the trainees skills in addition to their own work...[but the] ultimate decision on which tutor was chosen was Thelma’s”. In addition, the production company assisted Thelma Madine to find a workshop premises “large enough to accommodate Thelma’s existing staff and the new trainees” for the *TGG* project. In this regard, Channel 4 said that: “Thelma had been considering moving to larger premises in any event, so although she received some financial assistance from the production company with the move prior to filming, the move was genuine and long term. It is where Thelma’s business will remain and was not a studio or set designed just for the period of filming”. Thelma Madine was also “ultimately responsible for selecting the premises, commissioning and managing the fit out”;

- in addition to Thelma Madine's own efforts to "spread the word" that she wanted to take on trainees, "the production team assisted by going out into the local ITG&R communities to get the word out about the course and see if there were other girls who might be interested";
- while the "Recruitment Day" in *TGG* was Thelma Madine's idea: "the production team did assist to find a suitable location and also helped to organise transport for some of the potential trainees to give parents some assurances that the girls would be safe as many of them were not allowed to travel unaccompanied";
- the broadcaster said the "day to day running of the workshop fell to Thelma and her staff [and] Thelma was responsible for all the disciplinary decisions regarding her trainees/employees". In addition, she directly paid the salaries for all the ITG&R trainees that appeared in *TGG*, and she decided "which trainees she kept on and which ones she did not"; and
- Channel 4 stated that "in terms of the behaviour and actions highlighted by the complainant, in no way were any of the matters 'constructed' or 'staged'...The behaviour of the trainees was a fair and accurate reflection of what occurred on the course, and no situations were contrived so as to elicit an adverse or negative (or any particular) reaction or scene".

Channel 4 stressed that the "ultimate decision about who was selected" to participate in the *TGG* project was Thelma Madine's, although the production team assisted in the process by ensuring that the girls Thelma was considering were willing to be filmed and that "appropriate consents were obtained" (see below). In summary, Channel 4 said that the trainees were not chosen on the basis they would present "watchable" stereotypes". Rather, according to the broadcaster: "All trainees were chosen for their desire to want to train with Thelma, gain new skills and, as with any job, that they were considered suitable for the role".

ii) Misuse of the terms 'Gypsy' and 'Irish Traveller':

Channel 4 commented on how it had used references to 'Gypsies' and 'Irish Travellers'. In particular, it provided background on titles of both series in this case. The broadcaster said the series title for *BFGW* was an adaptation of the title of the original *Cutting Edge* documentary, on which the series was based, and which was intended to be a play on the words of the title of the globally successful feature film, *My Big Fat Greek Wedding*. Channel 4 added that the film title had been: "embraced in many forms in popular culture with restaurants, series and stage shows being named with the 'My Big Fat...' prefix". The broadcaster continued that the phrase 'Big Fat...' was originally intended as "a light-hearted and affectionate reference to the wedding dress phenomena among some ITG&R brides who tried to out-do each other with extravagant and jaw-dropping wedding dresses and wedding receptions". Channel 4 said that: "After the *Cutting Edge* documentary was so warmly received, a decision was made to retain the spirit of the initial title for the first series, which has continued to date". The broadcaster said all the contributors to *BFGW* were made aware of the title when approached to take part in filming and the title had "generally been embraced positively by many in the Gypsy and Traveller community".

Channel 4 referred to the use of the word 'Gypsy' in both *BFGW* and *TGG*, stating that the definition of the term 'Gypsy' is not "clear cut and we would maintain is neither pejorative or offensive per se". Although accepting that "the distinction between different ethnic groups is...important where one must show that they are

members of a distinct ethnic group, such as Irish Travellers”, Channel 4 said it was entirely legitimate for the term ‘Gypsy’ to be used as an “umbrella term to apply to many distinct ethnicities and non-ethnic groups”. On this point, the broadcaster pointed to a 1994 Court of Appeal case<sup>15</sup> which defined<sup>16</sup> ‘Gypsies’ in a way which Channel 4 considered demonstrated “the point that who are considered ‘Gypsies’ is not always clear”. The broadcaster said that within the ITG&R communities, The Gypsy Council, which “describes itself as ‘promoting ‘Gypsies’ and Travellers’ human rights’ uses ‘Gypsy’ as an umbrella term”, while the ITMB described itself in its complaint as an “organisation representing Travellers and Gypsies”.

Channel 4 added that within both series itself some contributors also used the terms ‘Gypsy’ and ‘Traveller’ interchangeably to describe themselves, and “it is incorrect to claim that Channel 4 does not distinguish between different ethnic groups in the programmes...We emphasise the narration makes clear distinctions between the different ethnicities and groups”. In conclusion, Channel 4 argued that: “just because the title contained the word ‘Gypsy’ does not mean that viewers would understand the programmes were meant to be representative of all ITG&R communities”.

The broadcaster also provided comments on miscellaneous issue (c)(iii) with regard to Rule 2.3.

iii) Use of negative and pejorative language:

Channel 4 argued that the examples of alleged negative and pejorative language identified by the complainant had to be considered in context, “including the surrounding words and pictures and cannot be assessed in isolation”. The broadcaster added that: “generally great care was taken during the production process in terms of ensuring any potentially inflammatory or offensive language...was fully contextualised” so as to protect members of the audience. Channel 4 made the following comments in relation to the five specific examples raised by the ITMB:

- ITG&R communities being referred to as “secretive communities”: Channel 4 said that the purpose of this line in *BFGW* was “to emphasise that never before has a television series gained such intimate access to the ITG&R community, about which we would argue, the general public know very little”. Channel 4 cited various examples obtained through filming to back up its argument. For example, many members of the ITG&R communities “have chosen to live outside the conventions of mainstream society as demonstrated by their views on secondary education, marriage and employment”, and “continue to live on sites which are separated from the settled community”. The broadcaster also pointed to research it had undertaken after Series 1 of *BFGW* was broadcast that confirmed that many viewers had “learned something new” about the ITG&R communities.
- The statement that ITG&R girls “look like prostitutes”: The broadcaster said that this phrase, used by Thelma Madine in *TGG*, was a “personal opinion about how she viewed some of the outfits worn by female members of the [ITG&R] community”. Thelma Madine made clear that she expressed this view in order to “make the point not to judge a book by its cover” and once one gets to know ITG&R people “they have high morals and are obviously not ‘sexually available’”.

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<sup>15</sup> R v South Hams DC ex parte Gibb et al. (1994) 4 All ER 1012 (1995) QB 158.

<sup>16</sup> The Court of Appeal defined ‘Gypsies’ as “Persons who wander or travel for the purpose of making or seeking their livelihood (not persons who move from place to place without any connection between their movements and their means of livelihood)”.

as the term 'prostitute' would imply". In summary, Channel 4 said that Thelma Madine was not "suggesting that 'ITG&R girls are prostitutes' and nor do we believe viewers generally would be left with that impression".

- The following statement in TGG: "I'm going to take on another ten girls. Right. That's the good part. The bad part is they're all going to be Travellers": Channel 4 said, regarding this statement made by Thelma Madine in TGG, that: "It is plainly obvious from Thelma's light hearted tone that she does not view the ITG&R as 'bad news'. Rather, Thelma Madine made clear in undertaking the TGG project that her overarching desire was to give something back to the community and give ten girls the opportunity to prove the naysayers wrong, gain more skills and then, for some offer full time paid employment". Thelma Madine was: "quite free to express her opinion about her experiences with ITG&R girls and we believe that that is how reasonable viewers would have understood what she was saying – not that 'it is a bad thing to employ Travellers' per se". The broadcaster said she was "acknowledging perceptions in order to dispel them", and in any case, one of Thelma Madine's employees reprimands Thelma for suggesting it is "bad news" and "another is seen rolling her eyes at one point to suggest disagreement".
- The statement that ITG&R girls "usually go out in large packs": Channel 4 said the use of the term "pack" in BFGW in this context was used "simply to describe 'a group of people or things'" and was a "completely innocuous" equivalent to the phrase "a pack of Boy Scouts". This edition of BFGW made clear that "reputational damage...can be caused to a girl if she is seen going out on her own" and footage used at this point in the programme shows a ITG&R girl (Josie) "and her friends walking down the street and talking (as opposed to anything sinister)".
- The statement that "to the average business a Traveller girl is unemployable": Channel 4 said that the purpose of this phrase, in TGG, was "not to state as a matter of fact that Traveller girls are unemployable". Rather, the programme commentary made clear that "due to the fact some members of the [ITG&R] young women finish school early and do not enter paid employment, and also due to the fact that some members of the community do actually travel...average businesses may not appreciate that many ITG&R young women still have skills they can offer, and for this reason, businesses may not view Gypsy and Traveller women as potential employees". The broadcaster said that the statement was "not intended to suggest that the reason businesses may not see a Traveller girl as 'employable' was because they are 'wild, foul mouthed and violent' as suggested by the complaint". Rather "as becomes evident in the series, it is clear that many ITG&R girls are employable, despite whatever prejudices some employers may have about them".

In conclusion, Channel 4 stated its view that the above examples had to be viewed in context and seen "through the eyes of a reasonable viewer" would not be perceived in a "negative manner". Therefore, it said, none of the examples reinforced stereotypes about members of the ITG&R communities, and did not materially mislead the audience.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that "persons under the age of eighteen are protected" and "generally

accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material". These duties are reflected in Section One (Protecting the Under-Eighteens) and Section Two (Harm and Offence) of the Code.

In reaching this decision Ofcom has taken account of the audience's and the broadcaster's right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights. Article 10 provides for the right of freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. Ofcom must therefore seek an appropriate balance between ensuring members of the public are protected from material which may be considered harmful or offensive on one hand and the broadcaster's and audience's right to freedom of expression on the other. We have also taken account of the fact that Channel 4 has a unique public service remit to provide programming that is challenging, diverse and likely to provoke debate.

A factual, investigative programme which explores the lives of ITG&R communities in the UK is a legitimate subject for broadcasters to explore. However, matters of this nature must be presented so that the Code is complied with.

#### **a) Protection of Under-Eighteens**

Rule 1.28 of the Code states that:

"Due care must be taken over the physical and emotional welfare and the dignity of people under eighteen who take part or are otherwise involved in programmes. This is irrespective of any consent given by the participant or by a parent, guardian or other person over the age of eighteen in loco parentis".

Rule 1.29 of the Code states that:

"People under eighteen must not be caused unnecessary distress or anxiety by their involvement in programmes or by the broadcast of those programmes".

Ofcom does not prohibit the involvement of children in observational documentaries, providing they comply with Rules 1.28 and 1.29 of the Code. Ofcom has published detailed Code Guidance on these rules drafted with the assistance of child experts and child welfare groups. The purpose of the Guidance is to help broadcasters achieve the appropriate level of protection for under-eighteens in programmes to ensure compliance with Rules 1.28 and 1.29 of the Code ("the Code Guidance")<sup>17</sup>.

As is made clear in the Code Guidance, the vulnerability of participants varies depending on age, maturity and individual circumstances. In Rule 1.28, the phrase "physical and emotional welfare and the dignity of people under eighteen" indicates the broad potential impact that participating in a programme might have on this age group. In short, broadcasters need to take care when involving under-eighteens in programmes. The need for care will be especially acute in the case of certain types of programmes where it is reasonably foreseeable that there is some risk to the physical and emotional welfare, or dignity, of the children involved.

The Code Guidance makes clear that an important consideration for broadcasters is the development of documented guidelines for working with under-eighteens, and

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<sup>17</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section1.pdf>

that production staff are made fully aware of these so that they have clear information on the key considerations the broadcaster must take account of in this area. Ofcom noted that Channel 4 production staff made reference to Channel 4's guidelines<sup>18</sup> in this area.

We considered the various steps that Channel 4 and production staff implemented during pre-production, production and post-production to take due care of the welfare and dignity of the under-eighteens who appeared in both *BFGW* and *TGG*, as required by Rule 1.28. Channel 4 informed us that:

- appropriate consents were obtained from parents/carers for the participation of all under-eighteens included in the programmes; and
- the broadcaster assessed the appropriateness of young people appearing in the programmes, even though parental consent had been obtained. We noted Channel 4's representation that: "If there were any potential contributors who the team felt may be vulnerable or not otherwise able to cope with filming, then responsibly, they were not used".

In relation specifically to *BFGW*, we considered the three examples of 'grabbing' featured in *BFGW*. 'Grabbing' was presented through commentary, various descriptions and examples in *BFGW* as an ITG&R courtship technique or ritual. It consisted of young ITG&R men approaching young ITG&R women they found attractive at community or other events like weddings and seeking a kiss or their contact details. If the girl refused the young man might for example push her or twist her arm to try to persuade her to change her mind.

- 1) In Series 1, Episode 1: We noted that this was the most prominent example of 'grabbing', lasting 45 seconds. It took place in a car park outside the wedding of two ITG&R people, Josie and Swanley, and involved English Gypsy, Cheyenne, and an Irish Traveller, John. This clip was introduced in the programme commentary as follows: "*As the evening comes to a close, a young man makes his intentions clear to 15 year old Cheyenne through the Irish Traveller custom of grabbing*".
- 2) In Series 2, Episode 3; We noted that a brief instance of 'grabbing' was featured outside the 'Sweet Sixteen' party of an ITG&R girl, Santana. This four second clip showed an ITG&R girl being carried, shrieking, into the front seat of a van, by an ITG&R boy, whilst the programme commentary said: "*For some boys, the grabbing has already started*".
- 3) In Series 2, Episode 7: We noted that outside the wedding of Cheyenne and John (who were the participants in the first instance of 'grabbing'), there was a seven second clip of an ITG&R girl being carried, shrieking behind a car in a car park, whilst the programme commentary said: "*...the seeds are being sown for future Gypsy weddings*".

We noted Channel 4's representation that if 'grabbing' happened in full view: "witnesses from the [ITG&R] community, including family members...it was less likely that intervention by the production team would be necessary". However: "If 'grabbing' was not in full view of a number of adults, a decision was made that the production

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<sup>18</sup> "*Working and Filming with Under 18s Guidelines*" (see: <http://www.channel4.com/producers-handbook/c4-guidelines/working-and-filming-with-under-18s-guidelines>).

team would actively check on the welfare of the young woman involved". In the broadcaster's view "this approach struck the right balance in terms of the various obligations and responsibilities owed to all concerned and the need to maintain authenticity".

In relation to example (1), we noted the steps taken by production staff to ascertain Cheyenne's welfare. The Director had noticed Cheyenne and John were no longer at the wedding reception and so went searching for them and the production team discovered Cheyenne and John in the car park. We noted the broadcaster's statements that although "Cheyenne had [John's] arms either side of Cheyenne making it difficult for her to 'escape'...the [production] team, noted they were both giggling", and "in the view of the production team it felt like a playful situation". The Director's view was that "she never felt Cheyenne was in danger of any physical or sexual harm", based on the facts that Cheyenne and John were both laughing during the episode of 'grabbing' and the Director's understanding that the purpose of 'grabbing' was "to get a 'kiss' and as a sign of showing you like someone". After this instance of 'grabbing' was featured, the following exchange took place between the Director and Cheyenne's friend Montana:

Montana: *"She [Cheyenne]'s getting grabbed, but...she ain't gonna kiss him anyway so..."*

Director: *"Are you worried about her?"*

Montana: *"Not really, she can fight for herself".*

This was immediately followed by this exchange between Cheyenne and the Director:

Cheyenne: *"Well, I was standing out here like and he like, got hold of me and then he pushed me up the road. He, like, was trying to get a kiss off me. And that's called 'grabbing' really."*

Director: *"So was it a violent grab?"*

Cheyenne: *"No, it wasn't a violent grab. No...I've had much worsen. It's like very...I dunno, it's not nice at all but you just have to live with it and you keep trying to get him off you, and that's about it, it's all you can do".*

Based on the evidence available to it, Ofcom considered that Channel 4 took due care of the welfare of Cheyenne. We noted in particular that the couple were laughing during the incident and Cheyenne did not appear distressed either during or after the event, as verified by the Director checking on her welfare after the 'grabbing' incident took place.

Similarly, with incidents (2) and (3), on the basis of available evidence, Ofcom concluded that Channel 4 took due care of the two ITG&R girls featured briefly in these two sequences. In reaching this view, we noted that in both instances the two girls appeared to be excited, rather than distressed, while being carried by different ITG&R boys. We also took into account Channel 4's statement that production staff stood by ready to check on the welfare of the young woman involved, if circumstances dictated.

In relation to *TGG*, we noted the various steps that Channel 4 took to ensure due care was taken of the trainees on Thelma Madine's course. These included:

- the organisation of transport for the girls to and from work, through a "reputable private cab company, chosen partly because it had female drivers (some of the girls would not have been allowed to travel alone with a male driver)";
- the provision of briefings to all contributors and their parents (where necessary) about "the possible implications of being involved in the course from a television perspective, including the possibility of negative comments being published about them in the press, including online social networks";
- the implementation of "Protocols" to ensure that "if any of the trainees were unhappy with anything during filming, they were able to approach a member of the production team to discuss". We also had regard to Channel 4's statement that: "On many occasions, agreements were reached with trainees not to include material due to certain sensitivities";
- the recording of grievances or issues in a duty of care log, which also included details of things that might affect the trainees, such as home life or issues they may be having personally. "...[T]he purpose of the log was also to assist during the edit so the team were aware of any particularly sensitive issue"; and
- the establishment of relationship with the trainees' parents and, to an extent families, to ensure personal issues were addressed. Including production staff contacting programme participants "at home after any significant tensions at work".

We took account of the broadcaster's representations concerning its role in relation to specific incidents in *TGG*. For example, when two of the trainees (Victoria and Lilyann) exhibited behaviour which "evidenced a degree of ongoing conflict", we noted that production staff did not intervene because they were satisfied that that dispute was being dealt with by Thelma Madine and/or her staff.

In addition, we assessed the complainant's allegation that the broadcaster did not seek and obtain informed consent from Shannon, and/or her parents, in relation to her participation in *TGG*. During this series, it emerged that Shannon was 15 years old. However, we noted that consent had been obtained from Shannon's mother for Shannon's participation, and given the potential legal ramifications of Shannon continuing to be 'employed' by Thelma Madine, Channel 4 said that production staff made sure they were satisfied that continuing to film was not detrimental to Shannon's welfare. While she remained under 16 years old, Shannon's status in Thelma Madine's company was changed from being an employee to being on a work experience placement<sup>19</sup>. We noted that Shannon was ultimately offered a permanent job working with Thelma Madine.

In summary, given all the factors above, we considered that the steps taken by Channel 4 were sufficient to ensure that due care was taken of the emotional welfare of under-eighteens featured in both series. The programmes were therefore not in breach of Rule 1.28 of the Code.

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<sup>19</sup> In Episode 4 of *TGG* it was stated in the programme commentary that: "*It's finally decided that Shannon can stay on as a work experience placement, provided she enrolls in a school*".

On the basis of the information available to Ofcom on this issue, we were not aware of any evidence that any under-eighteen featured in the programmes had been caused unnecessary distress or anxiety as a result of their involvement in, or broadcast of, the programmes in this case. Therefore Rule 1.29 of the Code was not breached.

**b) Negative stereotyping**

Due to the connected and overlapping nature of the five issues (b)(i) to (v) outlined in the Introduction in relation to Rules 2.1, 2.2 and 2.3 of the Code, Ofcom assessed each of the five issues (b)(i) to (v) under these three rules together. This was because, in large part, the contextual factors applicable for each of the nine issues were the same for each of the three rules.

**Rule 2.1: Introductory points**

Rule 2.1 of the Code states that:

“Generally accepted standards must be applied to the contents of television and radio 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 2.1 is specifically concerned with the protection of the audience from harm. Under this rule, broadcasters need to ensure that they take sufficient steps to provide adequate protection to viewers.

In relation to Rule 2.1, we assessed two reports submitted to us by the complainant, and which had been compiled by individuals described by the ITMB as experts. Both reports dealt in part with the potential effects of the outdoor advertising campaign (promotional posters) for the second series of *BFGW*, which had been the subject of the ITMB's complaint to the ASA. As noted in footnote 8, while Ofcom has considered all the material submitted by the complainant and the broadcaster, we have made an assessment and reached a decision based only on the material that was broadcast.

Both experts pointed to what they said was negative stereotyping of various aspects of ITG&R behaviour featured in the broadcast of both *BFGW* and *TGG*, which had led to adverse effects on ITG&R schoolchildren.

The first report was compiled by Arthur R Ivatts, described as an expert in the education of the ITG&R communities. The report argued that *BFGW* and *TGG* had “damaged relationships in schools” and that since the broadcast of the programmes, various Traveller Education Support Services (“TESS”)<sup>20</sup> had: “seen an increase in the level of racist bullying in schools”. The report's author stated his opinion that the programmes had: “seriously damaged and harmed” ITG&R communities and “caused harm (physical, mental and emotional) to very many [ITG&R] children”. The report said the programmes had exploited “race hatred” towards the ITG&R communities: “by confirming racist stereotypes without any historical or contemporary contextual analysis”.

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<sup>20</sup> Ofcom understands that most Local Education Authorities provide specialist Traveller Education Support Services to help ITG&R pupils and their parents access education and schools.

The second report was compiled by Brian Foster, Chair of the Advisory Council for the Education of Romanies and other Travellers. This repeated the suggestion made by the first report that the *BFGW* series had “significantly contributed to racist bullying and abuse” of ITG&R children. In particular, Brian Foster’s report pointed to comments from various TESSs reporting several incidents, such as:

- “A year 6 girl arriving onto one of our sites who had been called ‘fat’ by other children, not on the basis of size but as a nickname from the programme. Until this [event] mum had been considering secondary school”;
- “There have been reports of sexual harassment of [ITG&R] girls in schools, by non-Traveller children who mimic the ‘grabbing’ behaviour portrayed in the documentaries, leading to scuffles as well as verbal taunting and inappropriate questioning”; and
- a primary school reported: “There had never previously been any problems re: prejudice/discrimination in that school/village – all comments towards the [ITG&R communities] were based entirely on the [*BFGW*] programme.”

In summary, the second report said that: “The work of schools and TESSs over several years, to create inclusive schools, based on understanding and mutual respect, in which all children can reach their full potential has been undermined”.

In addition, we noted the ITMB included testimony from one of the ITG&R individual co-complainants, a 15 year old ITG&R girl who said that *BFGW* had “seriously damaged”<sup>21</sup> her life.

In assessing the alleged negative stereotyping against Rule 2.1, we noted that Rule 2.1 is concerned with whether broadcasters have provided ‘adequate’ protection to members of the public from the inclusion of harmful or offensive material. Therefore, this rule is concerned with the reasonable likelihood of members of the public being, for example, caused harm by what has appeared on a broadcast service. How such adequate protection might be achieved is an editorial matter for the individual broadcaster.

In reaching a decision under Rule 2.1, Ofcom must assess the nature of the potentially harmful material and either its potential effect or what actual harm has occurred. Ofcom has for example previously recorded breaches<sup>22</sup> of Rule 2.1 against

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<sup>21</sup> We noted that this co-complainant’s testimony largely focused on what this individual termed as the adverse effects she had suffered as a result of Channel 4’s outdoor advertising campaign (promotional posters) for the second series of *BFGW*, which had been the subject of the ITMB’s complaint to the ASA. Although the co-complainant did not specifically point to issues arising from the second series of *BFGW*, she did say that the first series of *BFGW* had, for example, caused other children to “make jokes” about her.

<sup>22</sup> For example, see previous Ofcom’s published decisions:

- *Cancer: Forbidden Cures*, Showcase 2, issue 228 of Ofcom’s Broadcast Bulletin, published 22 April 2013 (see: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb228/obb228.pdf>).
- *Various programmes*, Believe TV, issue 188 of Ofcom’s Broadcast Bulletin, published 22 August 2011 (see: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb188/obb188.pdf>). This case resulted in the imposition of a statutory sanction on The Light Academy Limited in respect of the service Believe TV on 6 February 2012

programmes presenting treatments for particular diseases and illnesses (such as cancer) in a way that had the potential to cause harm i.e. where as a result of what has been broadcast direct harm may be caused because conventional medical treatment might not be tried at all or may be abandoned. We considered that it can be a relatively straightforward exercise in cases like these to assess the potential *direct* causal link between material in a programme and either actual harm or the reasonable likelihood of harm.

Such judgements are much more complex in cases where programming is alleged to have caused harm indirectly by changing particular attitudes and opinions so as to cause harm, e.g. in assessing whether broadcast content might lead to a change in public attitudes to a particular ethnic or social group that may encourage prejudice or discriminatory conduct towards them or prevent them from participating fully in society. Programmes that portray particular communities or groups of people will have the potential to elicit a range of responses, both positive and negative, amongst the audience, which will in turn depend on a wide variety of factors, including viewers' existing beliefs, attitudes and prejudices.

What is crucial in relation to Rule 2.1 is whether broadcasters have provided sufficient context in the editorial content so that harm and/or offence is unlikely to be caused as a result. Accordingly, if it is to find a programme in breach of Rule 2.1, Ofcom must satisfy itself that there is a sufficient causal link between the editorial content in question and instances of actual or potential harm. Ofcom must also take proper account of the broadcaster's right to freedom of expression.

We took into account the two reports submitted to us by the ITMB. In our view the instances of harm caused to ITG&R children and young people referred to in these reports were not detailed, substantiated or verifiable. The weight that we put on these was therefore limited. In our view, there was no easily definable link between the reported instances of harm, and the effect that the content included in the *BFGW* and *TGG* series may have had on public attitudes towards ITG&R communities. In other words, it was not clear the extent to which any actual or potential instances of harm may have arisen as a result of pre-existing prejudice against members of the ITG&R communities, rather than as a direct effect of the content included in the programmes. It may be the case that there were some incidents of negative behaviour towards members of the ITG&R communities at the time or after the programmes in question were broadcast. However, we were not presented with sufficient evidence that indicated that such negative behaviour was widespread, or that this behaviour was directly caused by material included within *BFGW* or *TGG*.

In summary, we considered that overall the portrayal in the programmes of different groups of the ITG&R communities was balanced and made clear that the ITG&R communities are not a homogenous group, i.e. overall the programmes were not seeking to stereotype or present them as representative of the ITG&R communities as a whole. Furthermore, we considered that at no point did the programmes condone or encourage any harmful or negative behaviour to the ITG&R communities. In particular, as we discuss in more detail below, there were several examples of the programmes tackling prejudice directly and exploring the negative effects that it had on people from the ITG&R communities. We considered these would have been likely to help dispel certain stereotypes and encourage sympathy towards members of the ITG&R community.

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see; <http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/light-academy-limited.pdf> ).

Taken overall, we concluded that the programmes did not contain material that could be reasonably considered harmful or likely to cause harm in terms of presenting negative, racist or damaging stereotypes or endorsing prejudice against the ITG&R communities. In any event, our view was that the broadcaster had applied generally accepted standards so as to ensure that adequate protection was provided to members of the public, including members of the ITG&R communities (and ITG&R children and young people in particular), from any potentially harmful or offensive material. We therefore considered that there was no breach of Rule 2.1. We discuss the application of Rule 2.1 in more detail in relation to each of the five issues (b)(i) to (v) below.

### Rule 2.2: Introductory points

Rule 2.2 of the Code states that:

“Factual programmes or items or portrayals of factual matters must not materially mislead the audience”.

Guidance<sup>23</sup> to Rule 2.2 underlines that it is “designed to deal with content that **materially misleads the audience so as to cause harm or offence** [emphasis in original]”. Whether a programme “materially” misleads an audience so as to cause harm or offence is a high test. The guidance states that: “[w]hether a programme or item is “*materially*” misleading depends on a number of factors such as the context, the editorial approach taken in the programme, the nature of the misleading material and, above all, either what the potential effect could be or what actual harm or offence has occurred”.

### Rule 2.3: Introductory points

Rule 2.3 of the Code states that:

“In applying generally accepted standards broadcaster must ensure that material which may cause offence is justified by the context...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, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

In considering content under Rule 2.3, Ofcom has to first consider whether content would be potentially offensive, and if so, whether the potential offence could be justified by the context.

Guidance<sup>24</sup> to Rule 2.3 states that:

“There is a relationship between *representation* – the presence and inclusion of a diverse range of people on screen - and *portrayal* - the roles involved and the way that minority groups are presented in programmes. In standards regulation, the latter is assessed by *context* (as defined in the Code).

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<sup>23</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>.

<sup>24</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>.

Research suggests that viewers and listeners appreciate programmes that are representative of the diverse society in which they live. If there is an under-representation, the use of stereotypes and caricatures or the discussion of difficult or controversial issues involving that community may be seen as offensive in that it is viewed as creating a false impression of that minority”.

For each of the five issues (b)(i) to (v) listed in the Introduction, Ofcom went on to consider:

- whether generally accepted standards were applied to the content of both series to provide adequate protection to members of the public, in particular children and young people within the ITG&R communities, from harmful material (Rule 2.1);
  - whether the programme material materially misled viewers so as to cause harm (Rule 2.2); and
  - whether any of the programmes’ content would be potentially offensive and, if so, whether such content in both series could be justified by the context (Rule 2.3).
- i) Normalisation of and condoning of violent sexual assault of ITG&R female children (‘grabbing’)

#### Rule 2.2

We assessed under Rule 2.2 the same three instances of ‘grabbing’ that featured in *BFGW*, and we analysed above under Rules 1.28 and 1.29 of the Code (examples (1), (2) and (3) described above). We noted that throughout *BFGW* there were various statements referring to the practice of ‘grabbing’. For example:

Commentary: *“Girls aren’t allowed to approach boys. They must wait to be chosen, sometimes through a ritual known as grabbing”*<sup>25</sup>.

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Director: *“Are you able to explain what grabbing is?”*

Cheyenne: *“Well like, they take a girl off and they say, “Will you give us a kiss?” And you say, the girl says, no or yes but, like I would say no. They’ll say no and then they will do something like, where it hurts. You know. Push like, I dunno, twist your arms to hurt you. And then they like keep doing it until you give them a kiss but they like, fail, they’ll fail, they don’t...but that means they like a girl. Means that they like a girl and want to get to know them and get their number”*<sup>26</sup>.

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Cheyenne: *“Well I was standing out here like and he like, got hold of me and then he pushed me up the road. He was like trying to get a kiss off me. And that’s called ‘grabbing’ really.”*

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<sup>25</sup> *BFGW*, Series 1, Episode 1.

<sup>26</sup> *Ibid.*

Director: *“So was it a violent grab?”*

Cheyenne: *“No it wasn’t a violent grab. No...I’ve had much worser. It’s like very...I dunno, it’s not nice at all but you just have to live with it and you keep trying to get him off you, and that’s about it, it’s all you can do”<sup>27</sup>.*

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Santana: *“It’s a big grabbing spot. Not for me, for everyone else. You can see out the window there’s two car parks. There’s one there and there’s one here. You could be dragged out the door, there’s a fire exit, and brought down to the car park”<sup>28</sup>.*

We also took into account the broadcaster’s representation that the evidence obtained during its extensive research and filming confirmed that ‘grabbing’ “does exist in the ITG&R” communities, and that, in the making of the *BFGW* series, it had observed examples of ‘grabbing’ in a number of different locations throughout the UK”.

From the various statements and content featured in the programme, and the broadcaster’s representations, in our view, ‘grabbing’ is a practice that does exist in some ITG&R communities. While the programmes did appear to suggest that ‘grabbing’ was an activity widely practised amongst ITG&R communities, we considered that the programmes not claim that it was a practice undertaken by, or endorsed, by all members of the ITG&R communities. Sufficient context, in our view, was provided, to make clear that, although some in the ITG&R communities engage in this behaviour, it was far from universal. For example, various relationships were featured in the series, which had not involved ‘grabbing’. Similarly, various statements included in the programmes, as outlined above, made clear that: some in the ITG&R did not endorse ‘grabbing’; or that ‘grabbing’ was not practiced universally across the ITG&R communities. For example, we noted the following:

Director: *“Are you married yourself?”*

Mercedes: *“I’m 21.”*

Carlie: *“No, we wish!”*

Mercedes: *“We’re both 21, and we’re both single, so — But we don’t believe in grabs. No grabs!”<sup>29</sup>*

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Commentary: *“The young couple [i.e. Cheyenne and John]’s romance first started when John made his intentions clear in the car park at his sister Josie’s wedding.”*

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<sup>27</sup> Ibid.

<sup>28</sup> *BFGW*, Series 2, Episode 3.

<sup>29</sup> *BFGW*, Series 2, Episode 7.

- Josie: *“He grabbed her, she kissed him, he kissed her and they got married.”*
- Director: *“Is that what always happens then, a grab a kiss and a marriage?”*
- Josie: *“Not all the time, no.”*
- Swanley: *“No.”*
- Josie: *“Very, very rarely, if you ask me”<sup>30</sup>.*

In addition, we noted that the ITG&R couple (Cheyenne and John), who were featured in ‘grabbing’ incident (1) above, in Series 1, Episode 1 of *BFGW*, were later shown qualifying their views on ‘grabbing’, in Series 2, Episode 7:

- Commentary: *“The controversial courtship technique practiced by some Irish Travellers may not have been to Cheyenne’s liking, but she’s since changed her tune.”*
- Cheyenne: *“I don’t know, it all got took all wrong, it really, like, it was got, it got all took out of proportion than what it was.”*
- Director: *“Do you think some boys might take it too far?”*
- Cheyenne: *“Yeah, some boys obviously, if like their friends is round the corner or something, then obviously they’re gonna. Obviously cos they don’t wanna be called a failure like if they don’t get anything, like a number or a kiss then obviously they’re gonna try and take it a bit far, because what boy wants to go back and say to his friends, Like, ‘Ahh I didn’t get anything I’m a bit of a failure now’. But now all I can say is that is the best thing that ever did happen.”*
- Commentary: *“Cheyenne is now set to marry the boy who grabbed her”.*

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- John: *“If I never grabbed her that night, if she never came to my sister’s wedding that night, we probably wouldn’t be here today, but then again we probably would because I’d find her somehow you know what I mean, I’d sense her down but grabbing at the end of the day it looks bad but it ain’t! The boy looks like he’s hurting the girl the girl wants that and its all good. Were you happy I grabbed you?”*
- Cheyenne: *“Yeah I was”.*

We therefore did not consider the audience was materially misled in, for example, ‘grabbing’ being depicted as a negative stereotype applicable to the ITG&R communities as a whole. On the basis of views expressed in the programmes about the practice of ‘grabbing’, there was no reasonable evidence to suggest, as stated by the ITMB, that ‘grabbing’ was presented in the programmes as an “accepted, standard and condoned practice in the ITG&R communities”.

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<sup>30</sup> Ibid.

On a number of occasions throughout the programmes there were instances where the commentary tended to make rather sweeping and generalised statements which had the potential to be interpreted as intended to be representative of ITG&R communities generally. However, in our view, it was clear from the footage of contributors featured that the reality was more nuanced and that the attitudes and behaviour commented on were not necessarily representative (or intended to be representative) of the community as a whole. With regards, in particular, to the practice of 'grabbing', given the examples outlined above, Ofcom considered that the programmes made it sufficiently clear to viewers that not all contributors to the programmes engaged in 'grabbing', or condoned the practice. The programmes clearly presented the fact that not all members of the ITG&R communities believed 'grabbing' to be appropriate or an accepted part of their culture.

We also considered that Channel 4 did not materially mislead the audience by normalising and condoning an activity, which the complainant classed as young ITG&R children being "violently sexually assaulted". The instances of 'grabbing' broadcast might have jarred with some viewers, who might have considered such behaviour to be inappropriate and offensive. Ofcom's role in reaching decisions under Section Two of the Code however is not to determine whether specific behaviour depicted in programmes is in itself appropriate or inappropriate, right or wrong, criminal or otherwise. Rather, Ofcom must determine whether the broadcast material featuring or referring to 'grabbing' in *BFGW* complied with the Code. The Code does not prohibit showing potentially anti-social activities in programming, as long as sufficient context is provided.

From what it had observed of the footage as broadcast, Ofcom considered that the incidents of grabbing featured were not likely to be perceived by viewers as examples of "violent sexual assault". Further, we noted that this behaviour, whilst acceptable to some in the ITG&R communities, was clearly shown to be distasteful to others.

In considering Rule 2.2 on this issue, we considered the complaint that 'grabbing' was misleadingly described as "the seeds...being sown for future gypsy weddings". We noted that the complainant was referring to the following phrase, included in the commentary when example (3) of 'grabbing' listed above was shown on screen:

*"...the seeds are being sown for future Gypsy weddings."*

We considered that this phrase (broadcast in *BFGW*, Series 2, Episode 7) was contextualised by this incident of 'grabbing' occurring at the wedding of Cheyenne and John, who had been shown in a previous episode of *BFGW* (Series 1, Episode 1) as the participants in 'grabbing' example (1). Given that Cheyenne and John subsequently got married, we considered that it was not materially misleading for a subsequent instance of 'grabbing' outside their wedding to be referred to as possibly leading to a future wedding.

Given the factors set out above, and in particular that *BFGW* was an observational documentary series highlighting aspects of the life of certain ITG&R people, as well as the fact that the programmes provided various statements questioning or otherwise criticising the practice of 'grabbing', Ofcom considered the broadcaster presented the practice of a 'grabbing' in a balanced way and in a context that would not have materially misled the audience.

### Rules 2.1 and 2.3

In our view, the instances of ‘grabbing’ featured in *BFGW* had the potential to cause some offence. This was because on three occasions ITG&R girls were shown, apparently involuntarily, being approached and touched by ITG&R boys outside certain ITG&R celebrations. However, we considered the context in which these instances of ‘grabbing’ were placed. Specifically, we noted that:

- these scenes were included as part of an observational documentary series, looking at different aspects of ITG&R behaviour, and so would have been expected by its likely audience to tackle issues or show behaviour that were controversial or challenging for some viewers; and
- there were various statements in the programmes that made clear that not all in the ITG&R communities practised or condoned this behaviour.

Given these contextual factors, we concluded that the treatment of ‘grabbing’ within *BFGW* insofar as it was capable of causing offence was justified by the context. There was therefore no breach of Rule 2.3 of the Code.

Further in our view this material about ‘grabbing’ could not be reasonably considered harmful or likely to cause harm in terms of normalising or condoning sexual assaults against ITG&R girls and women. In any event, our opinion was that the broadcaster applied generally accepted standards to ensure that adequate protection was provided to members of the public from any potentially harmful or offensive material in terms of presenting negative or racist stereotypes with regard to ITG&R communities, and in particular ITG&R women and girls. There was therefore no breach of Rule 2.1 of the Code.

#### ii) Reinforcing negative stereotypes with regard to ITG&R women and girls

### Rule 2.2

We considered next whether the programmes, and in particular the *TGG* series, portrayed ITG&R women and girls in a negatively stereotypical way and/or endorsed prejudice against them. We noted that in both series, there were occasions when some female members of the ITG&R communities were featured in a way that viewers may have perceived negatively. However, taking account of the right to freedom of expression, the Code does not require that when factual programming features particular communities it must only show only positive behaviour by individuals within those communities. Rather the Code requires that factual programmes must not materially mislead the audience so as to cause harm and offence.

The editorial approach of *TGG* was to focus on a small group of ITG&R girls who had been selected to take part in a training programme. The programme commentary at the beginning of the first episode made clear that the series would centre on ten ITG&R girls specifically chosen to take part in this training:

*“Numerous Travellers have asked Thelma to train them over the years. Now the time is right to pass on her skills – to ten Gypsy Girls”.*

The series therefore was clearly not claiming to be representative of all ITG&R girls and women. The title of the series, “*Thelma’s Gypsy Girls*”, would also have underlined for viewers that the programmes were dealing with a particular and small

set of ITG&R girls, and not ITG&R girls generally. Although there were some instances when Thelma Madine or the programme commentary made statements that could be construed as having general application to ITG&R women and girls, we considered that overall the context made clear that such statements were meant only to be understood in relation to the experience of the ITG&R girls featured in the series. We considered that, while the girls participating in the TGG project were sometimes described in a negative way, it is not likely these comments would have been interpreted by the audience as representative of all ITG&R women and girls. For example, we noted the following statements (with emphasis added):

Commentary: *“But it soon becomes clear that for the Gypsy girls, half of whom dropped out of school by the age of 11, even the most basic workplace jobs are challenging”<sup>31</sup>.*

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Commentary: *“The trainees haven’t progressed anywhere near as quickly as expected, but even if discipline issues are overcome, Thelma feels that a lack of education will always prevent them from reaching the required standard”<sup>32</sup>.*

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Commentary: *“The argument dissipates as quickly as it started, and after six weeks, Thelma’s getting used to the way her Gypsies resolve disagreements”<sup>33</sup>.*

We considered that where ITG&R girls were shown behaving in a negative way, these examples were presented in context, and were typical of the range of conduct that would be shown in a documentary such as this series. Further, we noted the TGG series included numerous examples of the various ITG&R girls being shown behaving – or their conduct being commented on – in a positive light, such as the following (with emphasis added):

Zoe (a non-ITG&R client of Thelma Madine): *“I think people’s, like, thoughts on Travellers is really loud, not really got many manners probably. But, to be honest, I’ve just met them, they’re all just lovely girls. Loads of enthusiasm. I just think it’s amazing what she’s doing, giving them the opportunity to like spread their wings and see how like everyone else lives, give their input on outfits”<sup>34</sup>.*

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Grace (an ITG&R girl): *“Some people have a stereotype that we, you know, that we’re thick and we don’t know how to do anything...the only thing we’re about is cleaning. Well, it just goes to show that we’re not. Yeah, we like to clean, because we like our home to be clean, but we like*

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<sup>31</sup> TGG, Episode 2.

<sup>32</sup> TGG, Episode 3.

<sup>33</sup> TGG, Episode 4.

<sup>34</sup> TGG, Episode 2.

*to learn new things. We're independent girls, we like our independence*<sup>35</sup>.

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Kathleen (an ITG&R girl): *"I would like to get the job. Obviously, it's a great job. It's something for me to do every day. Than just stay at home, cleaning, babysitting and looking after the kids. All I want in life is just a little bit of freedom. Not much, I'm not asking for much"*<sup>36</sup>.

At the end of the *TGG* series, Thelma Madine expressed her satisfaction with the outcome of the training scheme featured in the series, and made clear she intended to employ several of the ITG&R trainees on a permanent basis.

We therefore considered that overall the portrayal of the trainees, and ITG&R women and girls in general, was balanced and the audience would not have been likely to have been materially misled concerning the behaviour and attitudes of ITG&R women and girls.

We also assessed whether the use of subtitles in *TGG* for some ITG&R girls was materially misleading by perhaps suggesting that members of ITG&R communities do not speak a form of English intelligible to the general British public. Our view was that the programmes were not materially misleading in this regard. In reaching this view, we noted that subtitles were used very sparingly and certainly not for all ITG&R participants in *TGG*. When subtitles were employed, Ofcom considered they were used reasonably and with justification, for example when a participant was inaudible or when the words or meaning may not have been clear to viewers (some of whom might be hard of hearing). There was therefore no breach of Rule 2.2 in relation to this issue.

### Rules 2.1 and 2.3

Examples of negative behaviour by some ITG&R women and girls may have had the potential to cause some offence. However, consistent with the right to freedom of expression of both broadcaster and audience, documentaries series such as *BFGW* and *TGG* are at liberty to explore all aspects of human life and behaviour, as long as the Code is complied with.

In this case, we had regard to the context of the portrayal of ITG&R women and girls in the programmes, including: the observational nature of the programmes; Channel 4's public service remit to produce diverse and challenging programming; and, the likely audience expectations for this content. We considered that overall the portrayal of ITG&R women and girls was presented in a balanced way and justified by the context, and included numerous examples in the programmes of ITG&R women and girls exhibiting positive behaviour.

We therefore concluded that the way ITG&R women and girls were presented within the programmes, could not be reasonably considered harmful or likely to cause harm in terms of reinforcing negative or racist stereotypes with regard to ITG&R women and girls. We further concluded that the broadcaster applied generally accepted standards so as to ensure that adequate protection was provided to members of the

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<sup>35</sup> *TGG*, Episode 4.

<sup>36</sup> *TGG*, Episode 5.

public from potentially offensive or harmful material. There was therefore no breach of Rule 2.1 of the Code. We also considered that there was sufficient context to justify any potential offence which might be caused by the material. There was therefore also no breach of Rule 2.3 in relation to the portrayal of ITG&R women and girls.

iii) Voyeurism and sexualisation of ITG&R children and women

Rule 2.2

Ofcom went on to consider the images of young ITG&R women and girls shown in what the complainant considered to be provocative clothing and dancing in a sexually suggestive manner. We noted that young women and girls were featured in both series wearing clothing that might be perceived by the audience as inappropriately revealing, notably on special occasions (for example weddings and Holy Communion celebrations), but were also often shown dressed comparatively modestly outside special events. Further we noted that in both series the subject of revealing clothing was explored as a topic of discussion with contributors. Taking account of the right to freedom of expression, the Code does not require that factual programming features particular communities, or segments of communities, in a particular way. In the case of observational factual content, it is an editorial matter for broadcasters to decide what footage to include and in what manner, provided it does not breach the Code.

The *BFGW* series included images of children and young women dancing, often in groups, in a dark room or at dusk, whilst attending various parties and celebrations. Ofcom took into account that when the children and young women were featured, the camera did not focus or linger on any particular child or young person or part of any of their bodies and that given the context, these images were not, in our view, presented in a sexualised or voyeuristic manner. For these reasons, to the extent that the programmes did show images of children and young women wearing what some might regard as inappropriately revealing clothing and/or dancing, in Ofcom's view these images were appropriately limited.

With regard to their dancing, Ofcom took into account that the children and young women all appeared comfortable being filmed in this manner and answering the questions put to them by the programme makers. There was no evidence that the children were encouraged or manipulated into dancing as they did. For example, on one occasion the producer was heard questioning a couple of girls about the nature of the dancing and posing by asking them "*where did you learn to pose like that?*", to which a girl responded: "*I learnt to pose myself. We're just kids trying to do different things*".

Ofcom was provided with no evidence to suggest that the images of children and young women dancing and/or wearing outfits that some might regard as inappropriately revealing, were not a reasonably accurate reflection of the outfits worn by the contributors featured from the ITG&R communities at the various events that were filmed, including a number of special occasions, such as weddings, Holy Communion, hen parties, as well as everyday life. We noted that both series featured examples of: ITG&R women and girls who wore such outfits, stating their pride in their appearance and what they wore; and also women and girls not wearing revealing clothing. In addition, the programmes included examples of ITG&R women: not condoning inappropriately revealing clothing and/or dressing simply or modestly; or stating their belief that what they are wearing was not inappropriately revealing. For example, we noted the following:

In one of the programmes in *BFGW*, a beauty contest featuring only ITG&R girls was shown being won by a Romany Gypsy called Montana, whilst wearing a relatively simple and modest outfit. We noted that the programme featured one of the losing contestants, Sammy Jo, saying the following approvingly about Montana's simple outfit:

Sammy Jo: *"She looks the loveliest girl yeah, but she just come in plain and simple. Her dress was just all squashy lines, all hair, she only had studs in her ears, a bit of makeup didn't she? just a bit of foundation. That's – that's all she had"*<sup>37</sup>.

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One of the programmes in *BFGW* included a conversation between the programme's director and a young ITG&R woman (Bridget), being fitted for her Holy Communion dress (which had a short skirt) and her aunt (Annie). Both Bridget and Annie made clear their view that wearing a short skirt was not necessarily inappropriately revealing:

Director: *"...It's quite a short skirt. Would you be allowed to wear that in church?"*

Bridget: *"Yeah. I always wear shorts underneath them skirts, like this. Shorts underneath..."*

Director: *"So you'd never wear a skirt this short without a pair of shorts underneath?"*

Bridget: *"No."*

Director: *"Why's that?"*

Bridget: *"Because we have respect for ourselves."*

Annie: *"...Travellers can wear short skirts, I mean but as long as we have respect for ourselves, we have very, very high standards, high morals. Do you know what I mean?...she always wears shorts that go underneath there. I mean you're only showing leg, that's all she's showing in church, you know what I mean?...It's not like she's going in half naked, I mean it's only a short skirt, like short at the front and long at the back."*

Director: *"So you don't see [what you wear] as provocative. What do you see it as?"*

Bridget: *"...as nice"*<sup>38</sup>.

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One of the programmes in *TGG* featured an exchange regarding dresses which two English Travellers had created as part of their training, in which they express

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<sup>37</sup> *BFGW*, Series 2, Episode 1.

<sup>38</sup> *Ibid.*

reluctance to model their creations, as well as acknowledging a diversity of attitudes towards clothing within the ITG&R communities:

Commentary: *“After eight days, they are ready to show their creations to Thelma. But there’s a problem. The trainees are a mix of English Travellers, Irish Travellers and Romany Gypsies. Each group have their own unique tastes, and despite their pride at having made the dresses, the two English Travellers, Grace and Bridget, are reluctant to model such provocative costumes.”*

Paula: *“Okay, so Grace, tell me why you don’t want to wear your dress?”*

Grace: *“It’s not something that my husband would approve me wearing. Lycra is meant for two things only gym wear and Pretty Woman wears it, and she stands on a street corner. To me that what kind of material that is.”*

Paula: *“Right, so you think prostitutes just wear Lycra?”*

Bridget: *“Yeah. I’ve not been brought up to wear something that tight and revealing and that cheap looking. I’ve been brought up respectable; to not show everything to the world and to basically keep myself looking respectable and clean.”*

Paula: *“So do you feel like because the other girls want to wear their dresses, do you think that is disrespectful to the Traveller community?”*

Bridget: *“No. That’s their beliefs, not ours.”*

Grace: *“No, because...they’re completely different to us. You have to understand Irish and English Travellers are completely different”<sup>39</sup>.*

Taken overall, we considered the programmes did not portray a damaging racial stereotype of ITG&R women and girls. Neither did we consider that the programmes implied all young girls and women in the ITG&R communities would dress or behave in a ‘sexualised’ or ‘inappropriate’ manner. Further and importantly, it was clear from the broadcasts that: those members of the ITG&R communities who took part in both series did not consider their dress and behaviour to be ‘inappropriate’ or ‘sexualised’; moral values and modesty were important to the ITG&R women and girls featured; and, the programmes did not suggest that the young women featured necessarily would behave in a sexualised manner.

We therefore considered that in respect of the issue of sexualised images of ITG&R children and women the audience were not materially misled and that Rule 2.2 of the Code was not breached.

### Rules 2.1 and 2.3

We noted that some of the sequences showing ITG&R children and women dancing may have had the potential to cause some offence. This was because it was likely that some viewers might have objected to, for example, sequences of ITG&R children and women dressing and dancing in what might be construed as being in an

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<sup>39</sup> TGG, Episode 1.

inappropriate manner, or might have perceived that such sequences were portraying a negative stereotype of ITG&R women and girls. However, these sequences were included in some episodes of the two series, broadcast on a channel known on occasions for its challenging content. The various sequences featuring ITG&R children and women dancing, predominantly featured dancing by groups of individuals, and did not focus or linger on any particular individual or parts of their bodies. Many of the scenes of dancing were filmed in a dark room or at dusk whilst attending an evening party or celebration, and were not in our view, presented in a sexualised or voyeuristic manner. We therefore considered these sequences were not voyeuristic or sexualised, but appropriately limited and in keeping with the observational nature of the programmes. Furthermore, all the individuals appeared comfortable being filmed, and as mentioned above in relation to Rules 1.28 and 1.29, the broadcaster had obtained any necessary consents for those children that were featured.

Given all these factors, we concluded that the inclusion of footage of ITG&R women and children dancing or wearing revealing clothing within the programmes could not be reasonably considered harmful or likely to cause harm in terms of reinforcing negative or racist stereotypes with regard to ITG&R women and girls. In any event, we further concluded that the broadcaster applied generally accepted standards to ensure that adequate protection was provided to members of the public from potentially offensive or harmful material. There was therefore no breach of Rule 2.1 of the Code. We also considered that there was sufficient context to justify any potential offence which might be caused by the material. There was therefore also no breach of Rule 2.3 of the Code.

iv) Negative stereotypes of violent and criminal activity by ITG&R men and boys

Rule 2.2

Ofcom again noted that the Code does not oblige broadcasters to provide sanitised or only positive portrayals of particular communities or segments of those communities when making programmes about them.

We noted that in the *BFGW* series, there were various examples of ITG&R men and young boys: who were featured in various situations which some viewers may have perceived as being 'negative' or were featured acting in a way which viewers may have interpreted as being violent, feckless and/or criminal (for example: fighting; preparing for fights; talking about fighting; awaiting court hearings and/or sentencing); and, appearing to have engaged in illegal conduct (such as racing horses on public highways). In particular, Ofcom noted that one episode<sup>40</sup> of *BFGW*, *I Fought the Law*, focussed specifically on the difficulties some ITG&R men (and women) experience with the criminal justice system, including how certain ITG&R traditions or practices clashed with the law in the modern world.

Ofcom considered that it was important to note the context in which these issues were explored in the programmes. For example, context was provided at the beginning of the episode *I Fought the Law*, when the programme commentary stated:

*"For hundreds of years Traveller families have battled to keep their ancient traditions alive. But it's a way of life that can put them in defiance of the law"*<sup>41</sup>.

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<sup>40</sup> Series 2, Episode 2.

<sup>41</sup> *BFGW*, Series 2, Episode 2.

Examples presented of where this clash sometimes occurred were the racing of horses on public roads and parking mobile homes on land without permission. It should be noted that while only male contributors were shown in this episode racing horses in the street, both female and male contributors were shown parking mobile homes on land without the required authority. The programmes therefore did not imply that it was only some ITG&R men who sometimes came into conflict with the law but also some women.

Another example of the context in which the issues were explored in the programme, was that the programme commentary pointed to what it said was a disproportionate number of Irish Travellers serving jail sentences:

*“It’s estimated there are up to 850 Irish Travellers in prison. A hugely disproportionate amount compared to the number of Irish Travellers in Britain.”<sup>42</sup>*

Although some male contributors were shown in some scenes behaving in a manner which may be perceived as violent or irresponsible there were a significant number of portrayals of ITG&R men and boys in the programmes which, in our view, featured male ITG&R individuals showing behaviour and attitudes viewers were likely to consider positively or questioning some aspects of more traditional male ITG&R behaviour. We noted the following examples.

In Series 2, Episode 1 of *BFGW*, an ITG&R man, Ronnie, was shown organising a beauty contest as an opportunity for ITG&R girls. However on the evening of the competition he explained why he thought it would not be appropriate for him to watch the contestants compete:

Commentary: *“While the girls attempt to impress the judges [of the beauty contest], downstairs Ronnie has opted not to watch his vision unfold.”*

Ronnie: *“It’s just out of respect towards the girls to be honest with you. I’m a married person; um, I’ve got a wife and two kids. My wife’s up there, she’s organising all that type of thing. Although I want to make somebody into something it’s against my beliefs to sit there and watch, you know”.*

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In Series 2, Episode 4 of *BFGW*, an ITG&R man, Tony, who was described in the programme as the “*current British and World cage fighting champion*” was shown helping to look after his newly-born son:

Commentary: *“During a difficult birth, Tony returned to Danielle [Tony’s partner]’s side in the hospital. Their son, Rudy, is now six weeks old. Child care is considered to be woman’s work in the Gypsy community, but Tony has conceded to a more hands on approach.”*

Tony: *“Listen, I’m not just a cage fighter, I’m not just a pretty face, look, I’m a fully trained dad. Four kids now and this was the first kid that I was there for the birth with and I wish I would have been there with the other ones really, because just how much emotion and*

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<sup>42</sup> *BFGW*, Series 2, Episode 2.

*everything is put into it. Look, he's gonna be a little cage fighter. I can tell".*

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In Series 2, Episode 4 of *BFGW*, an ITG&R man, George, who had recently separated from his non-ITG&R wife, reflected on the decisions he had made in life and how he interacted with his children (aged nine and six), and made clear his wish to look after his children more:

George: *"Travellers want better things for their children. The love I've got for my children, it will never stop, no matter what happens."*

*"...I can't see why I can't have my children longer. I just said to the judge, I said look, I love my children, I think the world of my children; I said I'm a very, very good dad".*

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In Series 2, Episode 7 of *BFGW*, John, an ITG&R man, had brought forward his engagement to Cheyenne, so that Cheyenne's seriously ill mother could witness this event:

Commentary: *"John brought forward his proposal so that Cheyenne's mother could witness the engagement. She died two days later."*

Cheyenne: *"I could not thank John any more for what he done for when that happened because John was there. He really didn't leave my side because he was the bestest rock you could fall on. He really was".*

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Later in the same episode, John was shown empathising with the fact that his fiancée, Cheyenne, had lost her mother:

John: *"She's only 16 and she ain't got her Mummy really, you know what I mean? And that's when you need her most? So I can't even imagine how bad it is for her, but the best thing we can do is visit the graveyard after we're married and leave her bouquet there, so it's sad".*

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Also in Series 2, Episode 7 of *BFGW*, John described the positive aspects of being married to Cheyenne:

John: *"Sound stupid, but just being together every day, you know what I mean, just like, stupid things like when I get back from working that day and she's gonna, knowing that I'm going back to her, you know what I mean, it sounds really bad but I'm just excited for that, it sound's honestly, it's like another month or so when I know every day I'm going back to her and I've got the same bed and the same..."*

Cheyenne: *"...routine".*

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In Series 2, Episode 5 of *BFGW*, Mikey, a gay ITG&R man, was featured differentiating his conduct and attitudes from more traditional forms of ITG&R male behaviour, showing that not all ITG&R men were identical and have undergone the same set of experiences:

Commentary: *“In Traveller culture, blood and honour often go hand in hand. But there is one Irish Traveller who struggles to fit in with the macho ideal.”*

Mikey: *“[Talking about his childhood] You had to be dead macho: bare-knuckle fighting and stuff like that. It’s what they’ve been brought up, it’s how they’ve been brought up to be men, innit? I would, like, try and be one of the lads but then it obviously didn’t work out: I came out queer”.*

When asked why more gay people from ITG&R communities did not reveal their gay sexuality, Mikey responded:

*“A fear that they’ll lose their family, they’ll lose everything. They’ll just get battered basically, battered and probably end up in hospital. That’s what it is, just it’s scared, more scared of losing everyone”<sup>43</sup>.*

However, we noted that the programme stressed Mikey’s continuing links to the ITG&R community from which he came. The programme commentary explained that since coming out as gay, Mikey had managed to rebuild his relationship with his family. In addition, Mikey was shown in the programme enjoying time with his two sisters Lizzie and Ann Marie. The three were shown shopping together and later in the programme, Mikey was shown attending a Manchester Gay Pride event.

In Ofcom’s view, the *BFGW* series provided balance by featuring contributions from various male ITG&R individuals which would be seen in a positive light, for example, showing that ITG&R men and boys can be caring, loving fathers and husbands, and that there is a diversity of attitudes and behaviour amongst men in ITG&R communities, as demonstrated by the various examples above. In addition, we considered that, where appropriate, the programmes provided relevant information to contextualise the subject matter, for example in the way the programme commentary referred to the relatively large number of Irish Travellers in the UK prison population. We therefore did not consider that the *BFGW* series was materially misleading in the way it portrayed ITG&R men so as to cause harm or offence.

With regard to *TGG*, the series focussed on a small number of young women from the ITG&R communities, working as trainees in the dressmaking business. We took into account this series followed a group of young women and the role and involvement of men and boys was significantly limited. Therefore, it is not surprising that few ITG&R men featured in that series and the relatively few instances in which males featured could not in our view be representative of all ITG&R men and boys. In any case, we noted that in *TGG* there were examples of ITG&R men and boys being shown in a way which could not be said to be putting forward a negative stereotype of this group, e.g. a father of one of the ITG&R trainees was supportive of his daughter going to work.

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<sup>43</sup> *BFGW*, Series 2, Episode 5.

In summary, having carefully watched the two series, including the episode *I Fought the Law*, Ofcom considered that the programmes dealt with issues affecting men and boys from ITG&R communities in a sensitive manner. The programmes provided ITG&R contributors with a means of putting their point of view forward on particular concerns, for instance the prejudice they faced from non-ITG&R people and how this made them feel. For example, one young man featured in *BFGW*, Johnson, was shown being distressed by the fact that he and his friends were openly discriminated against by a restaurant because they were identified as being from ITG&R communities. After being forcibly removed from the restaurant, Johnson said:

*"We just went for some food and security are calling us through their phone for the restaurant. So I stopped and they just went, 'can youse leave now please?' I said 'yeah in a minute like - just two seconds'. And like, he just pushed me straight out the door. Like I'm not a grown up but I'm definitely not a child. You can't treat me like that. It's very, very offensive and very disrespectful"*<sup>44</sup>.

He later commented that it was unfair to judge all people from ITG&R communities on the behaviour of a couple of people:

*"All of us aren't bad. Most of us aren't – 99% of us are good, honest decent people, but obviously we – there is some bad 'uns and when we go places, all of us go, so the good 'uns and the bad 'uns do and people remember the bad 'uns, they don't remember the good 'uns, do they?"*<sup>45</sup>

Given all the above, we considered that the portrayals of males in both series were not materially misleading, and, taking into account the balance offered by the context and the examples of positive conduct and diversity of experience featured, we do not consider the series presented a damaging racial stereotype. There was therefore no breach of Rule 2.2.

### Rules 2.1 and 2.3

Ofcom considered there was some potential for offence caused in the way the *BFGW* series portrayed men and boys in the ITG&R communities, for instance through sequences showing ITG&R men and boys fighting, or appearing to have engaged in illegal conduct (such as racing horses on public highways). This was because it was likely that some viewers might have objected to, for example, sequences of ITG&R men and boys being shown engaged in particular violent and/or unlawful activities, or considered that these sequences portrayed a negative stereotype of ITG&R men and boys and girls.

In Ofcom's opinion, these sequences were not gratuitous and were in keeping with the editorial approach and observational nature of the *BFGW* series. More generally, we considered that throughout the programmes a range of examples was shown, giving a balanced reflection of the behaviour by ITG&R men and boys as outlined above, and therefore did not create a damaging or racist stereotype. In our view, these varied examples would have mitigated significantly any potential offence in this area. We also considered that the programmes could be interpreted as helping to tackle prejudices against ITG&R people, and exploring the negative effects prejudicial attitudes had on people from the ITG&R communities, such as with the example of Johnson referred to above. We also noted, for example, that *BFGW*

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<sup>44</sup> *BFGW*, Series 2, Episode 6.

<sup>45</sup> *BFGW*, Series 2, Episode 6.

featured Tony, a “*cage fighting champion*” helping to look after his newly-born son. We considered that this sequence would have been likely to help challenge any existing prejudice that ITG&R men are not interested or inclined to participate in the rearing of children.

Given all these factors, we concluded that the treatment of ITG&R men and boys within the programmes could not be reasonably considered harmful or likely to cause harm in terms of reinforcing negative or racist stereotypes with regard to ITG&R men and boys. In any event, we further concluded that the broadcaster applied generally accepted standards to ensure that adequate protection was provided to members of the public from potentially offensive or harmful material. There was therefore no breach of Rule 2.1 of the Code. We also considered that there was sufficient context, such as the likely expectations of the vast majority of the audience for programmes of this type on this channel, to justify any potential offence which might be caused by the material. There was therefore also no breach of Rule 2.3 in relation to the portrayal of ITG&R men and boys.

v) ITG&R children and young people:

#### Rule 2.2

We next considered the issue of how both series depicted ITG&R children and young people, and in particular whether they were portrayed as “wild foul mouthed, illiterate, uncontrollable and uneducated”, as suggested by the ITMB, and whether the portrayal of ITG&R children and young people was materially misleading.

All the available evidence suggested that the children had all been filmed openly and with the consent of all those featured, and/or their parents or carers. Both series were documentaries and in our view the images of children and young people were not engineered or contrived to present or confirm a particular stereotype.

Ofcom firstly considered the *BFGW* series and noted that children of various ages were routinely shown in each episode. While some of the scenes which included children portrayed them as excitable, capable of over-exaggeration and boisterous in nature, we considered these were traits common amongst children generally of this age. Both series featured various examples of ITG&R children and young people portrayed in a positive light, behaving in a calm, and polite manner, as well as featuring children who had stayed in secondary education and achieved their educational goals. For example, we noted the following content.

In Series 2, Episode 3 of *BFGW*, a 13 year-old ITG&R girl Angel was shown staying at school, despite her best friend choosing not to do so:

Angel: *“Well I want to stay at school. I don’t want to be like all the others that get married, have to sit at home, look after the children. I want to do something with my life. I don’t want to be one of those people that, you know, rest of their life do what everyone else does”.*

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Also in Series 2, Episode 3, an ITG&R girl, Santana, was shown being a responsible carer of her younger siblings:

Commentary: *“At 15 [Santana] helps care for the younger children in her family.”*

Santana: *"I make sure the girls is girlie and the boys ain't wild. And the boys don't hit girls and the girls don't hit the boys."*

Director: *"So what's going to change when you turn 16?"*

Santana: *"No, nothing will change. It's just that I get a bit more freedom."*

Young boy: *"You can drive me to the shops and everywhere."*

Santana: *"I can't because I'm not 17".*

\*\*\*\*

In the same episode, an ITG&R girl, Casa, in contrast with many other ITG&R girls, was featured finishing school after completing her GCSEs:

Commentary: *"At Casa's prom, the night is drawing to an end. Casa will soon find out that she's achieved six GCSEs and a further two vocational qualifications. With the majority of Irish Travellers leaving school before 16, this achievement is a rare one in the community".*

In addition, as discussed under (b)(ii) above, we considered that in *TGG* there were numerous examples of the various ITG&R girls being shown behaving – or their conduct being commented on – in a positive light.

Overall we considered both series included a number of positive portrayals of the behaviour of ITG&R children and young people. The programmes would not therefore have materially misled the audience so as to think the majority of ITG&R children and young people behave in a negative manner, or are "illiterate", "uncontrollable" and "uneducated". We noted both series were documentaries and did not, in our view, present a materially inaccurate or partial portrayal of children and young people from the ITG&R communities. There was therefore no breach of Rule 2.2.

### Rules 2.1 and 2.3

We considered the programmes' portrayal of ITG&R children and young people had some potential to cause offence to some viewers. This was because some viewers might have objected to, for example, sequences of ITG&R children and young people behaving in what could be construed as an antisocial or negative manner, or might have perceived that such sequences were portraying a negative stereotype of ITG&R children and young people. However, as set out above in the discussion in relation to Rule 2.2, both series included several positive portrayals of the behaviour of ITG&R children and young people such as to counter or balance potentially negative portrayals.

We concluded that the treatment of ITG&R children and young people within the programmes could not be reasonably considered harmful or likely to cause harm in terms of reinforcing negative or racist stereotypes with regard to ITG&R children. In any event, we further concluded that the broadcaster applied generally accepted standards to ensure that adequate protection was provided to members of the public from potentially offensive or harmful material. There was therefore no breach of Rule 2.1 of the Code. We also considered that there was sufficient context (such as the observational nature of these programmes, and the likely expectations of the vast

majority of the audience for programmes of this type on this channel) to justify any potential offence which might be caused by the material. There was therefore also no breach of Rule 2.3 in relation to the portrayal of ITG&R children.

**c) Miscellaneous issues**

We next considered issues (c)(i) and (ii) outlined in the Introduction, in relation to Rule 2.2 of the Code.

i) Channel 4's editorial approach:

In relation to Rule 2.2, we considered whether, as argued by the complainant, Channel 4 'engineered' the programmes to portray and reinforce negative stereotypes of ITG&R people, and was materially misleading such as to cause harm or offence.

*BFGW*

We took into account the editorial purpose of the series, which was to be a character-led observational documentary series about the lives of ITG&R communities in Britain today. The series included interviews with Gypsies and Travellers, as well as people who live and work closely with such communities. The series also explored the attitudes of the Gypsy and Traveller contributors toward gender roles, education and people outside their communities. Each episode followed particular Traveller or Gypsy families and many of the episodes focused on both the build up to a special event (for example a wedding or Holy Communion) and the relevant big event itself. Ofcom noted the editorial focus of the series, which was to provide "*unprecedented access*" to Gypsy and Traveller communities and to "*take you to the very heart of gypsy life through the biggest celebrations in the Traveller calendar*", such as weddings, communions and christenings.

The programmes were originally transmitted on Channel 4 (and repeated on More4 and Channel 4seven), which is well known to viewers as a channel that often broadcasts more challenging material, especially after the watershed, and has a public service remit to create programming which appeals to the tastes and interests of a culturally diverse society. Ofcom considered this type of observational series to be in keeping with Channel 4's usual style and format of programming. We also took account of Channel 4's representations that no contributors were "chosen" or "cast" through any kind of application or audition process, but were found through "the standard methods used in any observational documentary such as word of mouth, contacts".

We assessed whether the documentation supplied by the ITMB provided evidence that Channel 4 deliberately set out, for example, to "advance negative racial stereotypes" of ITG&R people. Our view was that it did not. We noted that the two newspaper articles<sup>46</sup> provided by the complainant, reported that one participant in *TGG* (Shannon) had been discovered to be 15, and that one other participant in *TGG* criticised aspects of the *TGG* series. Although one of the articles showed that one of the contributors in the *TGG* series made negative comments about participating in the programmes, we considered that these articles, on a reasonable basis, could not be interpreted as showing that Channel 4 set out to materially mislead viewers by 'engineering' *TGG* (or *BFGW*).

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<sup>46</sup> Article in The Daily Mirror dated 20 June 2012 and article in The Sun dated 20 July 2012.

Similarly, we considered that email correspondence provided to us by the complainant, relating to the commissioning of photographs for display advertisements for *BFGW* did not, on a reasonable basis, constitute evidence that Channel 4 deliberately set out to manufacture television programmes that “deliberately played upon” racist stereotypes. This correspondence between Channel 4’s Creative Director and a freelance photographer related solely to the commissioning of photographs for a display advertising campaign for *BFGW*, and did not relate to either the *BFGW* series or the *TGG* series as broadcast.

We concluded that there was no evidence to suggest that Channel 4 deliberately sought to ‘engineer’ the *BFGW* programmes to portray and reinforce negative stereotypes of ITG&R people. We therefore considered that the *BFGW* series was not materially misleading in this regard, and Rule 2.2 was not breached.

### *TGG*

*TGG* was a documentary series following the progress of ten ITG&R girls as trainees on a course run by the dressmaker, Thelma Madine. The editorial premise of the series was to fulfil Thelma Madine’s “desire to give something back” to the ITG&R communities. Although the ITMB complained that the series was “‘Big Brother’ style entertainment where ‘contestants’ would be ‘engineered’”, we considered that the series exhibited none of the key features of a ‘reality’ contestant format, where contestants are eliminated or compete in tasks and competitions. In reaching our decision, we took into account the various ways in which production staff assisted Thelma Madine, such as assisting to find a new factory and a suitable sewing tutor for the ITG&R trainees, and obtaining the “appropriate consents” for participation of the ITG&R trainees in the series.

On the evidence available to us, we considered that: the steps taken by production staff, in general, remained at the level of providing practical assistance to Thelma Madine for the purposes of producing the *TGG* series; and Thelma Madine remained responsible for all the major decisions involved in the *TGG* project (e.g. selection of which ITG&R girls participated in the project; what disciplinary action, if any, was to be taken against particular ITG&R girls involved in the programme; and, selection of which ITG&R girls were kept on in permanent employment at the end of the scheme). Our view was that the *TGG* series was not “staged and edited by Channel 4 to present a contrived and negative image of ITG&R children and communities”, as claimed by the complainant. We therefore considered that the audience was not materially misled in this regard, and Rule 2.2 was not breached.

#### ii) Misuse of the terms ‘Gypsy’ and ‘Irish Traveller’:

We considered whether the terms ‘Gypsy’ and ‘Irish Traveller’ were used interchangeably in the programmes and this was materially misleading such as to cause harm and offence. Both series included numerous interviews with different members of the ITG&R communities. We noted that, as appropriate, the programme commentary would signal to viewers whether a programme contributor was from a particular part of the ITG&R communities, such as ‘Irish Traveller’, ‘English Traveller’ or ‘Gypsy’. At times programme contributors would refer to themselves as belonging to a certain group within the ITG&R communities. We therefore considered that the programming content did in fact distinguish adequately between members of different ethnic groups.

We assessed the use of the term 'Gypsy' in the programme titles for both series. It is an editorial matter for the broadcaster what title it gives to particular programmes, as long as the Code is complied with.

The title *Big Fat Gypsy Weddings* was a repeated use of the title of the original *Cutting Edge* documentary, which had featured various ITG&R brides hosting lavish weddings, and included striking wedding dresses and wedding receptions. We took into account Channel 4's representation that: "After the *Cutting Edge* documentary was so warmly received, a decision was made to retain the spirit of the initial title for the first series, which has continued to date". We also noted all the contributors to *BFGW* were made aware of the title when approached to take part in filming and the title had "generally been positively embraced by many in the ITG&R" communities.

Ofcom was also aware that the issue of defining the membership of the 'Gypsy' and 'Traveller' communities is not clear-cut. For example, as Channel 4 argued, The Gypsy Council, which "describes itself as promoting 'Gypsies' and Travellers' human rights" used 'Gypsy' as an umbrella term"; whilst the ITMB described itself, in its complaint to Ofcom, as an "organisation representing Travellers and Gypsies". We therefore noted that these two organisations representing the interests of both 'Gypsies' and 'Travellers' each use only one of these terms in the title of their organisation. However, each of these organisations have made clear that they also represent the interest of the other community not referred to in the title.

Given the above, we did not consider it materially misleading for the programme title of *BFGW* not to contain references to other ethnic groupings within the ITG&R communities. Rather we considered that the audience would have been likely to recognise the title to be an affectionate reference to a well-known romantic comedy film, *My Big Fat Greek Wedding*, and also acknowledge the issue of ITG&R weddings was a prominent part of the *BFGW* series. Given the fact that the *BFGW* programmes clearly distinguished between different ethnic groups, we considered that the audience would not have been materially misled into thinking *BFGW* was only about members of the Gypsy community.

Similarly, with *TGG*, as a programme strand presented as a 'spin-off' of the *BFGW* series, we considered it likely that viewers would have recognised that the fact that the title (*Thelma's Gypsy Girls*) only referred to Gypsies did not mean that other parts of the ITG&R communities would not be referred to in the *TGG* series.

We therefore considered there was no breach of Rule 2.2 in relation to the use of the terms 'Gypsy' and 'Irish Traveller' within both series.

### iii) Use of negative and pejorative language

Finally, we considered the use of negative and pejorative language in relation to Rule 2.3 of the Code.

The complainant highlighted several examples of what they considered to be "negative" and "pejorative language" used to describe ITG&R people, which the ITMB considered would be potentially harmful and discriminatory and could create and reinforce negative stereotypes.

Ofcom examined the programmes in both series and considered each of the examples highlighted by the complainant. We firstly considered the following two examples of "pejorative language":

- ITG&R communities being referred to as 'secretive communities': This phrase appeared in commentary introducing Series 1, Episode 1 of *BFGW* as follows:

*"With unprecedented access to the UK's most secretive community".*

- The statement that ITG&R girls "usually go out in large packs": We noted that this phrase was included in the commentary in Series 1, Episode 1 of *BFGW*:

*"Girls growing up in Traveller families must never be seen in public alone. They usually go out in large packs".*

We considered that both these examples would be likely to be seen as relatively innocuous descriptive references which did not present potential issues in relation to the preservation of generally accepted standards.

However, we did consider that the other three examples highlighted by the complainant were potentially offensive. We therefore went on to determine whether there was sufficient context, in each case to justify any potential offence caused.

- The statement that ITG&R girls "look like prostitutes": This phrase was said by Thelma Madine in Series 1, Episode 1 of *BFGW*:

Commentary: *"Thelma has been making increasingly spectacular outfits for Gypsy and Traveller girls for over 15 years...But their exotic dress sense took some getting used to."*

Thelma: *"When I first seen them I was like, my god, they did look like prostitutes. That's how you would describe them. They would dress with short skirts, low tops. You know, just, you wouldn't walk around like that; you wouldn't let your daughter walk around like that. But when you get to know them, their morals are so high, you'd say they were definitely stuck in a time warp. They're not allowed to go out on their own and there's definitely, definitely, definitely no sex before marriage".*

Ofcom acknowledged the potential offence of some young ITG&R women being compared to prostitutes. However, we assessed Thelma Madine's comment in context. She clearly was recounting her first perception of meeting ITG&R girls, and she implicitly criticised the fact that she had judged them too quickly on the way they looked. She then went on to stress that on further acquaintance, these same ITG&R girls were highly moral individuals, rather than being sexually available or promiscuous, as the term 'prostitute' would imply. We therefore considered that any potential offence caused by Thelma Madine's comments could be justified when seen in the context of her whole statement. The statement was therefore compliant with Rule 2.3 of the Code.

- The following statement in *TGG*: "I'm going to take on another ten girls. Right. That's the good part. The bad part is they're all going to be Travellers": This phrase was said by Thelma Madine in Episode 1 of *TGG*, when she was shown announcing to her existing workforce that she would be taking ten ITG&R women on as trainees. The full exchange was as follows:

Commentary: *“For the new trainees life in the factory will be a huge culture shock, but Thelma now needs to break the news to her current staff, whose working lives will also be turned upside down.”*

Thelma Madine (“TM”) *“I’m just going to all let you know what’s going on. We’re going to be moving premises, right, so it’s going to be a load of disruption, right, it’s going to be a lot bigger, because I’m going to take on another ten girls. Right. That’s the good part. The bad part is they’re all going to be Travellers.”*

TM’s employee: *“That’s not bad. Don’t say that.”*

TM: *“Well, you know, you come back to me and say that in three months when they’ve been here. [Shot of employee rolling her eyes at what TM is saying, suggesting that it is not true]. They’re going to be there on a six month scheme, at the end of it so they can go and get a job. So does anyone see any problems with that?”*

TM’s employee: *“Why Travellers?”*

TM: *“Why Travellers?”*

TM’s employee: *“Why not other people?”*

TM: *“Because no one ever gives them a chance to do anything. As soon as they see the Travellers then they don’t get an opportunity to do anything”.*

We considered that read in isolation, this statement would have had the potential to cause offence, because it implied that it was bad news that ten ITG&R women would be joining Thelma Madine’s workforce. However, in our view, Thelma Madine was speaking in a deliberately light-hearted tone, expressing a viewpoint which she clearly did not share, given that a few seconds later she immediately stressed her rationale for offering the ten ITG&R women a training opportunity in her workforce (*“Because no one ever gives them a chance to do anything”*). Also Thelma Madine signalled the fact that many businesses are reluctant to engage members of the ITG&R communities when she said: *“As soon as [other people] see the Travellers then they don’t get an opportunity to do anything”*. In addition, we noted that not only did none of her workforce voice concerns about ITG&R women joining the workforce, one employee reprimanded Thelma Madine for voicing a possible problem about the ITG&R women. Given the above, we therefore considered the statement was sufficiently contextualised so as to comply with Rule 2.3 of the Code.

- The statement that “to the average business a Traveller girl is unemployable”. This remark was made in the programme commentary in Episode 1 of *TGG*, as follows:

Commentary: *“To the average business, a Traveller girl is unemployable. By the age of 11, the vast majority of girls drop out of school, and the idea of a career women is an alien concept...Life consists of domestic chores and child-care. The feminist revolution happened to other people”.*

This statement was followed by the following:

- Commentary: *“But after years of working with the community, Thelma has come to realise that not every Traveller girl wants to be married at 16.”*
- ITG&R girl: *“Marriage is nothing to rush in to. I’m still only young. I’ve still got my full life ahead of me to get married yet.”*
- Commentary: *“Some girls want to work, but with opportunities few and far between, Thelma has decided to start a course that will give such women a chance. The challenge now is to find them.”*
- Thelma Madine: *“Yesterday I put a message on to Facebook to just see if there’s any girls out there that want to do a training course, and the response has been absolutely amazing. You know, there’s loads of replies and everything. I got like a little chill in my stomach, I thought this is brilliant, you know. For these kids who’ve left school, you know 14/15, there’s no way in for them, is there? You know, they’re never ever going to be offered a job by anybody, are they, you know, because they’re not educated enough, you know, they are noted for being unreliable. Obviously, they travel, so they think they’re not going to come in. So hopefully, with this, you know, we could educate other people about them say well, if they’ve been good here and turned up every day and they’ve done the whole course and they get a certificate at the end of it, well it shows they’re reliable, doesn’t it?”*

We acknowledged the possible offence of referring to ITG&R girls as being “*unemployable*”. However, context was provided by various statements that followed. In our view, taken overall, the various statements were not pejorative, and were not seeking to suggest categorically that ITG&R girls were ‘unemployable’. Rather, this segment of *TGG* sought to allude to possible factors that mean relatively few ITG&R girls and women enter the workplace. For example, Thelma Madine pointed out that many ITG&R girls finish full-time education before the age of 16, and will often not enter paid employment, and many businesses might not want to employ girls who travel round with their families. In addition, we considered that one of the key premises of the *TGG* project was to demonstrate that ITG&R girls are employable, a goal that was fulfilled given that Thelma Madine gave several of her ITG&R trainees paid jobs at the end of the course. We therefore considered this statement also was sufficiently justified by the context for Rule 2.3 of the Code to be complied with.

## **Conclusion**

Broadcasters have the editorial freedom to produce challenging and innovative factual programming that portrays particular communities and groups. Provided the Code is complied with, and acknowledging the importance of the right to freedom of expression, there is no requirement at all that such portrayals should be ‘sanitised’ versions of reality. A key premise of observational documentary-making, of which both series in this case were examples, is that in principle programme makers must be able to select, edit and show on screen what they have seen while filming particular individuals or communities.

In this case, in relation to both *BFGW* and *TGG*, Channel 4 did not breach Rules 1.28, 1.29, 2.1, 2.2 or 2.3 of the Code.

**Not in Breach of Rules 1.28, 1.29, 2.1, 2.2 or 2.3**

## Fairness and Privacy cases

### Not Upheld

#### Complaint by the Irish Traveller Movement in Britain (“the ITMB”)<sup>1</sup>

*Big Fat Gypsy Weddings: Series 2, Channel 4 and More4, 14 February 2012 to 26 July 2012;*

*Big Fat Gypsy Weddings: Born to be Wed (Series 1, Episode 1), More4, 7 June 2012; and*

*Thelma’s Gypsy Girls, Channel 4 and Channel 4seven, 8 July 2012 to 21 August 2012*

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#### Summary

Ofcom has not upheld this complaint of unjust or unfair treatment made by the ITMB.

*Big Fat Gypsy Weddings* (“*BFGW*”)<sup>2</sup> was an observational documentary series which followed individuals and families from the Irish Traveller, English Traveller, Gypsy and Romany communities (“*ITG&R*”)<sup>3</sup> of Great Britain as they prepared for, celebrated and reflected upon key events in their lives (most notably weddings).

*Thelma’s Gypsy Girls* (“*TGG*”) was an observational documentary series which followed ten young women from the *ITG&R* communities as they undertook a six-month apprenticeship with dressmaker, Ms Thelma Madine, who specialised in designing and making elaborate dresses for women and girls from these communities.

Both series considered distinct aspects of the lives of some of the people from the *ITG&R* communities and in particular the difficulties they can face in their relationships with people from outside these communities.

Taking the complaint of unjust or unfair treatment in the programmes as broadcast overall, Ofcom’s decision is that the broadcaster had taken reasonable care to satisfy itself that the facts (as detailed in the heads of complaint below) were not presented, disregarded or omitted in a way that portrayed the *ITG&R* communities (whose interests the *ITMB* represents) unfairly in the programmes as broadcast.

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<sup>1</sup> Since making its complaint to Ofcom the Irish Traveller Movement in Britain (“the *ITMB*”) has changed its name to The Traveller Movement.

<sup>2</sup> Unless otherwise stated, references to *BFGW* relate to the seven episodes of the programme about which this complaint has been made, namely, Episode 1 of Series 1 and the entirety of Series 2.

<sup>3</sup> Individuals and families from the Irish Traveller, English Traveller, Gypsy and Romany communities were referred to in Ofcom’s Entertainment Decision as “the Traveller/Gypsy Communities”. Here, in order to be consistent with the language used in the complaint, Ofcom has mirrored the *ITMB*’s terminology and has therefore collectively referred to individuals and families from the Irish Traveller, English Traveller, Gypsy and Romany communities as “*ITG&R* communities”.

## Introduction

### *Big Fat Gypsy Weddings: Series 2*

The second series of *BFGW* was broadcast between February 2012 and July 2012. This series, which was a spin-off from the *Cutting Edge* documentary strand, followed individuals and families from the ITG&R communities of the UK as they prepared for, celebrated and considered key events in their lives (most notably weddings). In particular, the series looked at: the pursuit of beauty amongst girls and young women from these communities; legal difficulties experienced by some individuals from these communities; the experience of some ITG&R girls of the state education system; cultural differences between ITG&R and non-ITG&R communities; the importance of personal reputation within the ITG&R communities; the threat and experience of eviction; the importance of cultural events and ties; and, the importance of the extended family unit.

The second series of *BFGW*, which consisted of seven episodes, was shown on Channel 4, on a weekly basis, between 14 February 2012 and 13 March 2013. The series was repeated, on a weekly basis, on More4 between 14 June 2012 and 26 July 2012, preceded on 7 June 2012 by a retransmission of Episode 1, *Born to be Wed*, of the first series of *BFGW*.

### *Big Fat Gypsy Weddings: Born to be Wed*

The programme *Born to be Wed* (which was initially broadcast as part of the first series of *BFGW* early in 2011, but was subsequently repeated a number of times, including in June 2012) highlighted what were described as the key milestones in the lives of girls from these communities, namely: the first Holy Communion; courtship; 'hen nights' and their wedding days.

### *Thelma's Gypsy Girls*

Between July and August 2012, Channel 4 broadcast *TGG*. This was a series in which Ms Madine, a dressmaker who specialised in designing and making elaborate dresses for women and girls from the ITG&R communities (and who had featured prominently in both series of *BFGW*), recruited ten young women from these communities for a six-month apprenticeship. Ms Madine was shown selecting ten ITG&R girls and giving them paid traineeships in dressmaking. The series followed the ITG&R trainees during their traineeship, focusing on the girls' relationships with each other and Ms Madine's permanent staff. At the end of the series, some of the girls were offered permanent positions working for Ms Madine.

*TGG* consisted of six episodes which were shown on Channel 4, on a weekly basis, between 8 July 2012 and 14 August 2012. The series was repeated on Channel 4seven between 8 July 2012 and 21 August 2012.

Following the broadcast of the programmes, Howe & Co Solicitors complained on behalf of the Irish Traveller Movement in Britain ("the ITMB") that the ITG&R communities of Great Britain were treated unjustly or unfairly in the programmes as broadcast.

## Summary of the complaint and the broadcaster's response

The ITMB complained that the ITG&R communities were treated unjustly or unfairly in the programmes as broadcast in that people from these communities were unfairly

portrayed in an untrue and damaging racially stereotypical manner. It said that the programmes presented an unfair negative image of these communities, especially of ITG&R children, and that several damaging stereotypes were repeatedly shown and developed in the programmes. The complainant provided a number of specific examples drawn from *BFGW* and *TGG* and these are set out under the various sub-headings below.

Prior to responding to the particular examples of unfair portrayal as set out below, Channel 4 said that *BFGW*, was a character-led observational documentary based both on research and extensive communication with members of the ITG&R communities and that it gave people from these communities an opportunity to share their own experiences. Channel 4 said that, given Ms Madine's long experience of working with women from these communities, she was a credible commentator upon these communities. Channel 4 added that it had undertaken research prior to filming, including contacting a number of organisations that represented the ITG&R communities and community leaders throughout the making of these programmes and it said that the ITMB's views on the programmes were not shared by all members of these communities.

The ITMB provided Ofcom with the following alleged examples of types of unfair portrayal:

- a) ITG&R people were shown to engage in and endorse the violent sexual assault of female children (i.e. "grabbing") and to regard such behaviour as part of the cultural norm for their communities.

This aspect of the complaint related to a practice referred to by contributors to *BFGW* as "grabbing" and which was referred to several times during the series. Grabbing was presented through commentary, various descriptions and examples in *BFGW* as an ITG&R courtship technique or ritual. It consisted of young ITG&R men approaching young ITG&R women they found attractive at community or other events and seeking a kiss or their contact details. If the girl refused the young man might for example push her or twist her arm to try to persuade her to change her mind. The most prominent instance of grabbing was included in the episode *Born to be Wed*, part of the first series of *BFGW* involving a 15 year old girl called Cheyenne.

The ITMB suggested grabbing was a form of "violent sexual assault" and considered that the programmes implied that "this violent and criminal act" against young girls was a "normal accepted cultural practice" among ITG&R communities.

In response and in summary, Channel 4 did not accept that *BFGW* implied that grabbing was a "normal accepted cultural practice" amongst all the ITG&R communities. However, it said that the evidence obtained during filming of members of the community clearly demonstrated that some members of the community do engage in grabbing, and/or accept that the practice exists as a way for a male to show he likes a female.

Channel 4 denied the inference within the complaint that, by describing or portraying the practice of grabbing within some parts of the community, the programmes either endorsed existing stereotypes or created a new stereotype. It said that all the instances of grabbing shown in *BFGW* were a fair and accurate portrayal of the practice as observed during filming. Channel 4 added that it was a practice which many contributors had spoken about and it had been observed

by the programme makers on a number of occasions in a number of different locations throughout the UK. It accepted that not all members of the ITG&R communities engaged in grabbing and it said that this was reflected clearly in *BFGW*, through both commentary and contributions to the relevant programmes, to ensure that viewers were not given a mistaken impression about the extent of the practice. Channel 4 provided several quotations from *BFGW* in its response to support its position on this matter including two in which female contributors indicated that they either did not engage in grabbing or did not condone it.

In addition, Channel 4 said that, taking the *BFGW* series as a whole, the relationships in which grabbing may have played a part (an example of which was a couple called Cheyenne and John) were clearly distinguished from the many other relationships where grabbing did not play a part (i.e. the majority of relationships featured in the *BFGW* series). It also said that commentary indicating that it was rare for grabbing to result in marriage would have indicated to viewers that the practice was not necessarily a “normal part of courtship” throughout the entire community, but was, nevertheless, practised by some of its members.

With regard to the complaint that the portrayal of grabbing in the programmes constituted an endorsement of the violent sexual assault of female children, Channel 4 said that great care was taken when editing *BFGW* to present instances of grabbing in a responsible way to viewers. This included the programme makers talking afterwards to those who had been grabbed. Channel 4 added that the issue of whether grabbing as shown in *BFGW* constituted a “violent sexual assault” (as argued in the ITMB’s complaint) was a matter of opinion (although Channel 4 said the production team who witnessed these incidents first-hand did not regard them in this light), but, rather than force its own judgement on viewers explicitly, Channel 4 ensured that the examples used were portrayed fairly and accurately so that viewers would be able to interpret the events for themselves. In this context, Channel 4 observed that some of the contributors to the programmes made it clear that they did not like the practice. Footage was included which showed girls who had been grabbed and who verbally objected to the experience; and one of the programme makers was also shown questioning a male contributor about the practice and his impression was that some girls did not like it. Channel 4 pointed out that it was clearly indicated to viewers that there were people in ITG&R communities that did not find the practice acceptable. Channel 4 therefore said that it considered that viewers were unlikely to consider that *BFGW* condoned the practice, but rather it considered it presented the existence of the practice to viewers in a fair and balanced way, which did not unjustly or unfairly portray the ITG&R communities.

- b) ITG&R girls (both teenagers and the very young) were shown behaving in a highly sexualised manner, notably through multiple, lingering images of girls wearing provocative clothing, standing in provocative poses, or dancing in a provocative style.

The ITMB pointed to what it believed were a number of examples of this type of footage throughout the *BFGW* programmes. For example, it said that the *Born to be Wed* programme included a scene with two very young girls who were “exceptionally scantily dressed” and dancing in an “overtly sexualised manner” as well as another scene in which three young girls walked in the street scantily clothed and speaking loudly. The ITMB also said that in many sequences in the series, the camera focused in a voyeuristic fashion upon the genitals, posterior and midriff of girls from these communities while they danced.

In response, Channel 4 said that it did not accept that the images referred to in the complaint portrayed young women and children as “highly sexualised” or that, when taken in context, they constituted a damaging racial stereotype. It accepted that it was possible that some viewers might perceive some of the outfits to be inappropriate. However, it said that this issue was addressed in the series and added that the footage included was an accurate reflection of the outfits worn by and dancing of some members of the ITG&R communities at certain events. Channel 4 also said that these outfits were not presented as clothing that was stereotypical or highly representative of all ITG&R children and young women. It added that children and young women from these communities were not shown wearing this type of outfit or dancing in this manner all the time (i.e. “routinely” as suggested by the complainant) but rather on special occasions, and that some were not shown wearing this type of outfit or dancing at all. Channel 4 also pointed out that there were scenes throughout both series which showed the very same people dressed comparatively modestly in clothing any child or young woman might wear, no matter whether they were from an ITG&R community or not (for example, when not at special occasions).

Channel 4 highlighted an example included in *BFGW* which demonstrated that not all girls from Gypsy/Traveller communities felt comfortable wearing revealing clothing. A young girl called Annelise explained that:

*“She’s [her sister] older than me. Like she’d wear shorts, really short shorts, but I wouldn’t wear that. I’d rather cover myself up in track suits, things like that. And I can’t show the top here ‘cause I’d die of shame. People would be looking at me. But she would. Like she can talk to boys, I can’t. It’s too shameful. I’d probably shiver and shake and everything”.*<sup>4</sup>

Channel 4 also said that many of the young women and children who wore the revealing outfits complained of did not believe there was a problem with what they wore. Rather, they were proud of their appearance and had self-respect. It added that, in order to illustrate this and to provide balance and context, one of the programmes included a conversation between the programme’s director and a young woman being fitted for her Holy Communion dress (which had a short skirt) and her aunt about whether or not it would be regarded as provocative:

Director: *“Yeah, it’s quite a short skirt. Would you be allowed to wear that in church?”*

Bridget: *Yeah. I always wear shorts underneath them skirts, like this. Shorts underneath.*

Director: *Do you?*

Bridget: *Yeah.*

Director: *So you’d never wear a skirt this short without a pair of shorts underneath?*

Bridget: *No.*

Director: *Why is that?*

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<sup>4</sup> *BFGW*, Series 2, Episode 1

Bridget: *Because we have respect for ourselves.*

Annie: *She is 12 year old, yeah. But she got to understand us Travellers can wear short skirts, I mean but as long as we have respect for ourselves, we have very, very high standards, high morals, do you know what I mean?*<sup>5</sup>

In addition, Channel 4 said that the *Born to be Wed* programme included footage of Ms Madine reflecting on when she first saw girls from the ITG&R communities wearing this type of outfit and that she was shocked and thought “*they...look like prostitutes*”. However, she said that as she got to know them she realised that they had very high moral standards. The broadcaster also included several other examples of this issue being placed in context in both *BFGW* and *TGG*.

Channel 4 rejected the claim that the programmes were obsessed by the bodies of children and young women as they danced or that the way that footage of children and young women dancing was portrayed was offensive, unhealthy and voyeuristic. With regard to the style of dancing complained about, Channel 4 said that this was included to illustrate that the effort that goes into many celebrations goes beyond the dress and includes the decoration, the cake and the entertainment. It said that the scenes featuring young women dancing were also included to show the participants’ enjoyment of the celebrations they attended, which was often more apparent in the dancing than the conversation.

Channel 4 noted that the complaint highlighted a scene in *BFGW*<sup>6</sup> in which a young girl was allegedly shown “almost naked” and another scene which “focussed” on a young girl’s underwear. The broadcaster said that these scenes, which showed the girls at a tanning salon, were filmed with the informed consent of the girls and their parents/carers and that the footage was very carefully edited to ensure that no gratuitous shots were used and any shots of bare skin were as fleeting as possible. It also said that, on reviewing the broadcast footage, it noted that the girl’s shoulders, back, arm and legs were visible for only very brief moments in order to see her facial expression as the fake-tan spray was applied. It also gave viewers a fair sense of the lengths the girl was prepared to go through in preparation for her Holy Communion. Channel 4 added that, in its view, this scene was appropriately and responsibly edited and it stated that it had received no complaints from the girls or their parents about how they were portrayed.

- c) ITG&R boys and men were almost exclusively shown as being feckless, violent, and/or criminal.

The complainant said that:

“...there is not one example of an ITG&R man being shown in a positive light” and “Where they [ITG&R men] are shown they are almost always shown fighting, preparing for fights, talking about fighting, committing crime, in prison, violently sexually assaulting children and girls and awaiting court hearings and/or sentencing”.

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<sup>5</sup> *BFGW*, Series 2, Episode 1

<sup>6</sup> *BFGW*, Series 2, Episode 1

In response, Channel 4 said that the programmes included a fair and accurate portrayal of the contributors featured. It again drew the distinction between showing examples of the behaviour of some individuals from the ITG&R communities in certain circumstances and the complainant's position that the programmes suggested that all people from these communities behaved in the manner similar to that which has been complained about.

Channel 4 accepted that there were aspects of male ITG&R behaviour included in the series which might be perceived negatively. However, it said that the programmes also included many illustrations of positive behaviour amongst males from these communities. In particular, Channel 4 rejected the complainant's contention that there were only three examples of males who did not overtly demonstrate a negative racist stereotype in these programmes. Rather, it said that the programmes included rounded portrayals of several male contributors and provided a number of examples. One such example given was that of John, who demonstrated a caring and loving devotion to his bride Cheyenne; when asked what he was most looking forward to about married life he answered:

*"Sounds stupid, but just being together every day, you know what I mean just like, stupid things like when I get back from working that day and she's gonna, knowing that I'm going back to her, you know what I mean, it sounds really bad but I'm just excited for that, it sounds honestly, it's like another month or so when I know everyday I'm going back to her..."*<sup>7</sup>

With regard to the *TGG* series, Channel 4 said that men and boys did not feature heavily, but it suggested that there was a very strong editorial reason for this, namely that the series focussed on the progress being made by female trainees, working in a dressmaking business which was entirely staffed by females. Channel 4 noted that the complaint identified only one example in *TGG* of men or boys from ITG&R communities behaving in a way which it perceived to have reinforced the negative stereotype that all such men "are violent and to be feared and avoided". Channel 4 said that it disagreed with the complainant's interpretation of the scene in question, saying that it simply showed some boisterous sibling fun which might be seen in any household of teenagers. It added that there were other examples in the series of men and boys from these communities behaving in a positive way. For example, there were brief shots throughout the series of boys playing happily and at one point the father of one of the trainees was shown expressing his support of his daughter's efforts to join the workforce. When asked whether he thought it was a good thing for a woman to work, he responded:

*"Yeah, why ain't it? If her husband doesn't mind his lady working, what's the point? What's the point in stopping her from working? If she wants to go to work, she's entitled to go to work..."*<sup>8</sup>

Channel 4 said that the programmes presented numerous positive stories and scenes featuring men and boys and provided various examples. The broadcaster stated that the series as a whole were factually accurate, fair and balanced and that people from ITG&R communities were not treated unjustly or unfairly.

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<sup>7</sup> *BFGW*, Series 2, Episode 1

<sup>8</sup> *TGG*, Series 1, Episode 5

- d) ITG&R children and young people of both sexes were shown as being wildly behaved, uncontrollable, foul-mouthed, illiterate, uneducated, violent and dangerous.

The ITMB stated that:

“The very many scenes involving ITG&R children in the two series focus exclusively on negative portrayals of the children. This leads viewers to develop a strong and abiding belief that ITG&R children are stereotypically possessed of the above exceptionally damaging racial stereotypes”.

The complainant provided examples of scenes where it considered children to be behaving in a “wild and uncontrollable” manner. The ITMB said that in the *BFGW* episode *School of Hard Knocks*<sup>9</sup> for example Romany children were shown:

“...acting in an extremely wild manner with a small horse and cart on the road. Again reinforcing the image of ITG&R children being wild and uncontrollable”.

In response, Channel 4 said that the sequences of children and young people were filmed openly and with the consent of all those featured, and/or that of their parents/carers. It added that the images of children and young people were all contextualised and were not presented as being highly representative of all ITG&R children and young people, and therefore did not portray a stereotype.

Channel 4 noted that there were numerous examples of positive actions and behaviour by young people featured in both the *BFGW* and *TGG* programmes. It provided various illustrations from the programmes in which it said that the children were shown as confident, articulate, calm and polite. It noted that several young contributors were shown to be hard working and able to talk intelligently about the topic at hand (e.g. education, prejudice, marriage, caring for children and work). Channel 4 added that, notwithstanding the issue of low educational attainment amongst many young people from these communities (a problem which it said was recognised by the Department of Education), and the fact that most females from these communities leave school at a young age, the programmes included a number of girls/young women from these communities who had stayed in secondary education and, despite experiencing prejudice from non-Gypsy/Traveller pupils, had achieved their educational goals, and, in some cases, gone on to find paid employment. One example highlighted by Channel 4 from *BFGW* which it felt demonstrated that not all people from ITG&R communities end their schooling at a young age was that of Casa who was shown preparing for her “prom” after finishing school with six GCSEs and a further two vocational qualifications.<sup>10</sup>

With regards to *TGG*, Channel 4 said that it did not agree that the programmes presented an unfair impression of young people from ITG&R communities and it provided further examples in support of this. To put the complaint in context, Channel 4 explained that the series had been guided by research, conversations and footage obtained by the production company and Channel 4. Channel 4 said that it found that many women in ITG&R communities were not in paid employment and faced barriers in the workforce such as low levels of education.

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<sup>9</sup> *BFGW*, Series 2, Episode 3

<sup>10</sup> *BFGW*, Series 2, Episode 3

It provided evidence from reports from the Equality and Human Rights Commission and the Department of Education in support of this. It said that it was against this backdrop that the premise of the series and Ms Madine's motivation was explained:

*"Yesterday, I put a message on to Facebook to just see if there's any girls out there that want to do a training course, and the response has been absolutely amazing. You know, there's loads of replies and everything. I got like a little chill in my stomach, I thought this is brilliant, you know. For these kids who've left school, you know, 14/15, there's no way in for them, is there? You know, they're never ever going to be offered a job by anybody, are they, you know, because they're not educated enough, you know, they are noted for being unreliable. Obviously, they travel, so they think they're not going to come in. So hopefully, with this, you know, we could educate other people about them and say well, if they've been good here and they've turned up every day and they've done the whole course and they get a certificate at the end of it, well, it shows they're reliable, doesn't it?"<sup>11</sup>*

Channel 4 also said that care was taken to ensure that viewers would understand that the series was not representative of all ITG&R girls, and that what they were presented with was a clearly established select group of individuals. By way of example, Channel 4 said that the girls were repeatedly referred to throughout the series as "Thelma's trainees", which was intended to help distinguish the girls featured in the series from all ITG&R girls. Channel 4 stated that this was also made clear from the title of the series, *Thelma's Gypsy Girls*. Channel 4 said that it did not agree that the behaviour of some of the contributors included in the series was representative of all ITG&R girls and, therefore, it did not agree that they were stereotypes, damaging or otherwise.

Channel 4 said that the *TGG* series was a fair and accurate representation of the ITG&R trainees whilst they participated in the course, including their highs and lows, challenges and achievements. Channel 4 pointed out that it would in fact have been misleading to have presented a wholly positive presentation of the trainees' time spent on the course and would have been unfair to the trainees and other contributors. It gave examples which it felt provided strong evidence of balance throughout the series. Channel 4 highlighted the example of one trainee, Grace, whose thoughts on the course showed a determination to make the most of the opportunity to learn a skill:

*"If I can just achieve how to sew by the time I leave it'll be something that I would never have done otherwise, so for that I'll be grateful to Thelma forever. I know like some of my brothers they wouldn't let their wives work, but I like working and I'm not going to let no one say to me that I can't do it. It is very hard, it is very tiring, and I take my hat off to people that do it and have no choice to do it, do you know what I mean? I have a choice, if I didn't want to do it I wouldn't have to do it, but I enjoy it".<sup>12</sup>*

Channel 4 said that while it accepted that there were moments in the series where contributors were shown to act in ways which could be perceived as negative, it stated that the behaviour was not presented as stereotypical of people from ITG&R communities. It explained that any perceived instances of

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<sup>11</sup> *TGG*, Series 1, Episode 1

<sup>12</sup> *TGG*, Series 1, Episode 4

bad behaviour were contextualised, such as contributors reacting to the pressures of the job and trying to adjust to an unfamiliar environment, both of which Channel 4 pointed out clearly caused tensions and strong language – not just from the trainees but also on many occasions from the existing non-ITG&R staff.

Channel 4 considered that, throughout the series of *TGG*, the trainees were shown to have a number of positive attributes, including eagerness, willingness to learn, desire to do something positive, recognising when they may not have acted appropriately on some occasions, and showing remorse for that behaviour. It pointed out that members of ITG&R communities (i.e. the trainees and their families) were portrayed speaking for themselves clearly and intelligently.

Given the above, Channel 4 did not agree that people from ITG&R communities had been treated unjustly or unfairly and felt that the portrayal of children of both sexes was fair. It considered that both series of *BFGW* and *TGG* were factually accurate, fair and balanced.

- e) The views of young people and children from ITG&R communities on important issues were shown as statements which could be relied upon as descriptions of the morals, customs and conduct of entire ITG&R communities, including communities of which the child in question was not a member, for example, making statements which viewers would have understood to have been applicable to both English Traveller and Romany Gypsy communities.

The complainant stated that it was unacceptable that the views of children could be presented in programming as comprehensive, representative, informed and authoritative on matters of general importance to entire communities.

Channel 4 said that it did not agree that the programmes presented the views of children and young people on important issues as being statements that could be relied upon in order to describe the morals and conduct of entire ITG&R communities. Channel 4 said that no complaints had been made to it by any of the contributors to *BFGW* or *TGG* and confirmed that appropriate consents were obtained and that children were not asked to comment on matters likely to be beyond their capacity to answer. Channel 4 stated that, where children did comment on any matter, it did not consider that reasonable viewers would interpret their views as being comprehensive or authoritative about the relevant community – given that the views were those of a child – nor did it feel that views were presented in this way.

Channel 4 considered that so long as it was complying with Ofcom's Broadcasting Code as well as other legal and ethical obligations, it was entitled to ask children for their views on various matters and broadcast these opinions.

- f) One ITG&R contributor to *TGG*, Shannon, was routinely shown with subtitles, suggesting that she did not speak an intelligible form of English.

The complainant stated that the use of subtitling of the girls was unnecessary and gave viewers the impression that people from ITG&R communities did not speak an intelligible form of English. The complainant felt that Channel 4 had used subtitling in this manner to advance a racist negative stereotype.

Channel 4 said that it did not agree that subtitles were used for the purpose of advancing a racist, negative stereotype. It explained that subtitles were used

sparingly and only when necessary due to the quality of audio or synchronisation between the audio and the visual image and where an editorial decision was made to do so in cases where it was felt it would be clearer for viewers.

In addition to addressing the specific points of complaint responded to above, Channel 4 also stated that it had received positive feedback from members of ITG&R communities about the programmes. It said that this, in turn, had helped the production company build trusting relationships with ITG&R communities which aided subsequent access to those communities. It said that general viewer feedback had also been positive. Channel 4 recognised that there was an element of subjectivity when considering individual responses and reactions to television programmes. However, it considered that the UK press reaction across a variety of publications was relevant as a useful indicator of the general audience's comprehension of what they had seen. It highlighted some examples of comments which it said supported the contention that the programmes did not portray people from ITG&R communities as damaging racial stereotypes, and that this was not what viewers took from their portrayal in the programmes.

Channel 4 emphasised that the programmes were not based on one single ITG&R community, but that filming had taken place at localities across the UK with Irish Travellers, English Gypsies and Travellers and Romany Gypsies. It said that this meant that the lifestyles, cultures and experiences observed were from a wide range of ITG&R people. Channel 4 considered that this helped ensure that the ITG&R communities were fairly portrayed.

In conclusion, Channel 4 said that, while it accepted that there may have been elements in *BFGW* and *TGG* which the ITMB did not like, it did not agree that those elements portrayed the ITG&R community in an unfair, unjust or negatively stereotypical way in the programmes.

### **Representations on Ofcom's Preliminary View**

Ofcom prepared a Preliminary View in this case that the ITMB's complaint of unjust or unfair treatment should not be upheld. In response, the ITMB stated that Ofcom's decision "...compounds the normalization of the depiction of Travellers and Gypsies as being 'fair game'" and "We now fully understand that the Travelling communities cannot look to Ofcom for protection of any kind". Ofcom did not consider that the comments made by the ITMB raised any issues that materially affected the outcome of the complaint.

Channel 4 did not submit any representations on Ofcom's Preliminary View.

### **Decision**

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programmes as broadcast, transcripts, both parties' written submissions and supporting material. Ofcom also took account of the representations made by the ITMB in response to Ofcom's Preliminary View on this complaint (which was not to uphold). Ofcom concluded that the ITMB had not raised any issues that materially affected the outcome of this complaint.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). Ofcom had regard to this Rule when reaching its decision.

Ofcom considered the ITMB's complaint that the ITG&R communities were treated unjustly or unfairly in the programmes as broadcast because people from these communities were unfairly portrayed in an untrue and damaging racially stereotypical manner.

When assessing this complaint and each of the specific elements of the complaint below, Ofcom took into consideration Practice 7.9 of the Code. This states that, before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

The Code recognises the importance of freedom of expression and the need to allow broadcasters the freedom to broadcast matters of a genuine public interest. However, in presenting material that depicts individuals or communities, reasonable care must be taken not to do so in a manner that portrays them in a way that causes unfairness. In this particular case, Ofcom considered that it was clearly in the public interest for the programmes to show events and activities involving members of the ITG&R communities, but in doing so the broadcaster was required to ensure the programmes complied with the Code.

In order to assess whether or not the programmes complained of created unfairness to the ITG&R communities in the portrayal of members of those communities, Ofcom considered in turn each of the particular elements of the complaint as set out in the "Summary of the complaint and the broadcaster's response" section above. For each separate head of complaint, Ofcom has considered, in addition to statements made by the parties, particular examples from the programmes put forward by both the ITMB and Channel 4 in support of their views. In assessing each element of the complaint, Ofcom had regard to all these examples but, in the interest of brevity, only some are specifically referred to in this decision. In order to evaluate whether the portrayals specified in the individual points of complaint were unfair or not, Ofcom examined the footage of both *BFGW* and *TGG* in their entirety and highlighted examples or specific scenes that in Ofcom's view were reasonably representative of the material included in the programmes as a whole. Having analysed each head of complaint separately, Ofcom then reached an overall view of whether the ITG&R communities had been treated unjustly or unfairly treated in the context of the programmes as a whole.

Ofcom first considered head a) of the complaint:

- a) ITG&R people were shown to engage in and endorse the violent sexual assault of female children (i.e. “grabbing”) and to regard such behaviour as part of the cultural norm for their communities.

Ofcom understood that this aspect of the complaint related to a practice referred to by contributors to *BFGW* as “grabbing” and which was referred to several times during the series. Most notably, an instance of grabbing was filmed and footage subsequently included in the episode *Born to be Wed*, part of the first series of *BFGW*. In this episode, Cheyenne, who was 15 years old, was shown socialising with friends in a car park. Ofcom noted that the programme’s narrator explained the fact that ITG&R girls had to follow strict rules of courtship:

*“Girls aren’t allowed to approach boys. They must wait to be chosen, sometimes through a ritual known as grabbing”.*<sup>13</sup>

When asked to explain what grabbing was, Cheyenne said:

*“Well like, they take a girl off and they say, “Will you give us a kiss?” And you say, the girl says, no or yes but, like I would say no. They’ll say no and then they will do something like, where it hurts. You know. Push like, I dunno, twist your arms to hurt you. And then they like keep doing it until you give them a kiss but they like, fail, they’ll fail, they don’t...but that means they like a girl. Means that they like a girl and want to get to know them and get their number”.*<sup>14</sup>

Later in the programme, Cheyenne attended the wedding of her friend, Josie. The programme’s narrator stated:

*“The girls will have to be on their guard for boys looking to stake their claim on a potential wife”.*<sup>15</sup>

Cheyenne was shown talking about the possibility of grabbing happening at the wedding:

*“Well, if you think someone’s gonna grab you just stay out the way and you stay with the girls and try and avoid it really...That’s a definite 100% what is going to be happening tonight at this wedding. There definitely will be grabs there”.*<sup>16</sup>

Ofcom noted that Cheyenne was grabbed at the wedding and footage was shown of Cheyenne being held against a wall by a boy who tried to kiss her. Cheyenne could be seen making an effort to move away from the boy. However, she was laughing during the incident and her friend, Montana, was shown standing close by. Ofcom noted that when Montana started to leave, the programme’s director

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<sup>13</sup> *BFGW*, Series 1, Episode 1

<sup>14</sup> *BFGW*, Series 1, Episode 1

<sup>15</sup> *BFGW*, Series 1, Episode 1

<sup>16</sup> *BFGW*, Series 1, Episode 1

could be heard in the broadcast programme to ask her if she was worried about her friend. Montana replied, *“Not really, she can fight for herself”*.<sup>17</sup>

Cheyenne was then shown reflecting on her experience of being grabbed:

*“Well, I was standing out here and he like, got a hold of me and then pushed me up the road. He, like, was trying to get a kiss off me. And that’s called grabbing really”*.<sup>18</sup>

When asked if it was a violent grab, Cheyenne answered:

*“No, it wasn’t a violent grab. No...I’ve had much worse. It’s like very...I dunno it’s not nice at all but you have to live with it, you keep trying to get him off you and that’s about it, it’s all you can do”*.<sup>19</sup>

Ofcom noted that the last episode of *BFGW* featured Cheyenne’s wedding to the boy who had grabbed her, John. The programme’s narrator commented on Cheyenne’s feelings towards grabbing:

*“The controversial courtship technique practiced by some Irish travellers may not have been to Cheyenne’s liking – but she’s since changed her tune”*.<sup>20</sup>

When asked in retrospect about being grabbed Cheyenne responded:

*“I don’t know, it all got took all wrong...it got all took out of proportion than what it was”*.<sup>21</sup>

When asked whether she thought some boys might take it too far, Cheyenne said:

*“Yeah, some boys obviously if like their friends is round the corner or something, then obviously they’re gonna. Obviously cos they don’t wanna be called a failure like if they don’t get anything, like a number or a kiss then obviously they’re gonna try and take it a bit far, because what boy wants to go back and say to his friends, like, ahh I didn’t get anything I’m a bit of a failure now. But now all I can say is that is the best thing that ever did happen”*.<sup>22</sup>

The episode included John’s thoughts on grabbing and the following exchange between the couple took place:

John: *“If I never grabbed her that night, if she never came to my sister’s wedding that night, we probably wouldn’t be here today, but then again we probably would because I’d find her somehow you know what I mean, I’d sense her down but*

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<sup>17</sup> *BFGW*, Series 1, Episode 1

<sup>18</sup> *BFGW*, Series 1, Episode 1

<sup>19</sup> *BFGW*, Series 1, Episode 1

<sup>20</sup> *BFGW*, Series 1, Episode 1

<sup>21</sup> *BFGW*, Series 1, Episode 1

<sup>22</sup> *BFGW*, Series 2, Episode 7

*grabbing at the end of the day it looks bad but it ain't! The boy looks like he's hurting the girl, the girl wants that, and it's all good! Were you happy I grabbed you?"*

Cheyenne: *"Yeah, I was".*<sup>23</sup>

At the end of this episode, Ofcom noted another girl was shown being pulled away by a boy whilst the programme's narrator stated:

*"Elsewhere, the seeds are being sown for future Gypsy weddings".*<sup>24</sup>

The girl being grabbed was heard saying:

*"No, I really don't wanna be here. Please let go of me".*<sup>25</sup>

Ofcom noted from the complaint that the ITMB regarded grabbing as a form of "violent sexual assault" and that the ITMB considered that the programmes had presented grabbing in such a way to imply that "this violent and criminal act" against young girls was "a normal accepted cultural practice" among ITG&R communities.

It is important to note that it is not Ofcom's role to determine whether specific behaviour depicted in programmes is in itself appropriate or inappropriate, right or wrong, criminal or otherwise. Rather, for the purposes of considering this complaint, it is for Ofcom to determine whether, in featuring certain behaviour in a television programme, an individual or a group of individuals have been treated unjustly or unfairly in that programme as broadcast, contrary to the Code.

Ofcom noted that Channel 4 had stated that the footage included in the broadcast was an accurate reflection of what had occurred and it considered it was up to the audience to decide how they viewed the practice. Channel 4 also stated in its submissions that, with regard to the grabbings shown in the programmes, the programme makers who were present at the time of filming did not feel that they were witnessing criminal behaviour.

As referred to above, it was not for Ofcom to decide whether or not the grabbings shown were instances of "violent sexual assault". However, from what it had observed from the footage as broadcast, Ofcom considered that the incidents of grabbing featured were not likely to be perceived in this way by viewers. In addition it also considered that viewers would understand from various opinions expressed in the programmes that this behaviour was acceptable to some in the ITG&R communities, but distasteful and inappropriate to others.

In the grabbing shown that involved Cheyenne, for example, she was shown and heard to be laughing whilst being grabbed. She did not appear to be afraid or upset at the time and she seemed to have been prepared for the possibility that she might be grabbed that evening, as she had spoken about what might happen at the wedding. Ofcom also noted that Cheyenne's friend Montana had been present at the grabbing and did not appear to be concerned for her friend's

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<sup>23</sup> BFGW, Series 2, Episode 7

<sup>24</sup> BFGW, Series 2, Episode 7

<sup>25</sup> BFGW, Series 2, Episode 7

wellbeing. Whilst Cheyenne did ask John to let her go, she did not ask her friend, Montana, for help nor anyone else.

Further, none of the instances of grabbing featured in the programmes (including the incident featuring Cheyenne and John mentioned above) involved young women in a state of undress, attempts by young males to remove items of clothing from the young women or a male touching or attempting to touch the breasts, buttocks or genital areas of the young women involved. In the circumstances in which the filming took place, none of the young women appeared to show any serious objections to being treated in this way by, for example, asking for assistance from others nearby.

Channel 4 made it clear in the programmes that not all members of the ITG&R communities engaged in grabbing, or condoned the practice. Several contributors to the programmes explained that they did not participate in grabbing. For instance, in the episode *Born to be Wed* one contributor, Santana, stated:

*"It's a big grabbing spot. Not for me, for everyone else".<sup>26</sup>*

Also, in Series 2 of *BFGW*, another contributor, Mercedes, gave her opinion about grabbing when asked about marriage:

*"We're both 21, and we're both single, so – But we don't believe in grabs, no grabs. So we're gonna find a nice, nice fella".<sup>27</sup>*

Ofcom noted that while the wedding of Cheyenne and John was depicted as an example of grabbing leading to a long-term relationship, it was suggested that this did not happen very frequently. At Cheyenne and John's wedding for example, Josie stated:

*"He grabbed her, she kissed him, he kissed her, they got married".<sup>28</sup>*

When the programme's director asked if this was always what happened, "a grab and a kiss and a marriage", Josie answered:

*"Not all the time...it's very, very rarely if you ask me!"<sup>29</sup>*

Ofcom acknowledged that some of the commentary in the programmes might suggest that grabbing was common practice. For example, the opening commentary for the episode *Born to be Wed*, in which the grabbing scene between Cheyenne and John was presented, stated:

*"Over five episodes, this series will explore unique aspects of Gypsy and Traveller life...In a world where a man is a man...A woman knows her place...And courtship blossoms in an unusual way".<sup>30</sup>*

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<sup>26</sup> *BFGW*, Series 1, Episode 1

<sup>27</sup> *BFGW*, Series 2, Episode 7

<sup>28</sup> *BFGW*, Series 2, Episode 7

<sup>29</sup> *BFGW*, Series 2, Episode 7

<sup>30</sup> *BFGW*, Series 1, Episode 1

On a number of occasions throughout the programmes there were instances where the commentary tended to make rather sweeping and generalised statements which had the potential to be interpreted as intending to be representative of ITG&R communities generally. However, in Ofcom's view, it was clear from the footage of contributors featured that the reality was more nuanced and that the attitudes and behaviour commented on were not necessarily representative (or intended to be representative) of the community as a whole. With regards, in particular, to the practice of grabbing, given the examples outlined above, Ofcom considered that the programmes made it sufficiently clear to viewers that not all contributors to the programmes engaged in grabbing, or condoned the practice. The programmes clearly presented the fact that not all members of the ITG&R communities believed grabbing to be appropriate or an accepted part of their culture. Given the context in which the incidences of grabbing were shown in the programmes, it was reasonable to assume that viewers would have understood that the individuals featured in the programmes were not representative of all people in all ITG&R communities and that the programme makers had captured and broadcast only a small part of the lives of a select group of individuals from the communities.

Ofcom therefore considered that, regarding the portrayal of grabbing, the broadcaster had taken reasonable steps to ensure that the programmes did not present the ITG&R communities in a manner that created or depicted negative stereotypes or in a way that was unfair.

- b) ITG&R girls (both teenagers and the very young) were shown behaving in a highly sexualised manner, notably through multiple, lingering images of girls wearing provocative clothing, standing in provocative poses, or dancing in a provocative style.

The ITMB highlighted scenes from *BFGW* which featured young girls dancing and/or behaving in a manner it said was highly sexualised. One example suggested was that of footage included in the opening scenes of the episode *Born to be Wed*. The scene showed two young ITG&R women dancing in what appeared to be an event in a bar, wearing evening wear consisting of elaborately decorated bikini-style outfits. The complainant said the following about the scene:

“A scene with two very young Traveller girls who are exceptionally scantily dressed and are presented as dancing in an overtly sexualised manner. This theme, of focusing repeatedly and lingering upon girls and very young children, scantily dressed and dancing in a manner which could be viewed as sexualised is a strong theme and is continued at length throughout the series. In many sequences throughout the series Channel 4 focus in a voyeuristic way upon the posterior, groin, upper thighs and stomachs of ITG&R girls and women dancing”.

As already referred to above, it is not Ofcom's role to determine whether specific behaviours depicted in programmes are right or wrong, appropriate or inappropriate. Rather, it is for Ofcom to consider whether, in showing certain behaviour, an individual or a group of individuals has been treated unjustly or unfairly in the programme as broadcast, contrary to the Code.

Ofcom acknowledged that it was possible that some viewers might perceive some of the outfits worn by young girls in the programmes as being “inappropriate”. However, the programmes included material that had been filmed at special events, such as weddings, hen parties, Holy Communion and

christenings and that such footage featured heavily throughout. With this in mind, Ofcom considered that the outfits potentially perceived as inappropriate were not presented as clothing that was stereotypical or highly representative of all ITG&R children and young women, but rather the footage included appeared to be an accurate reflection of what some ITG&R girls chose to wear at specific events.

To put this in context, for example, Episode 1 of Series 2 of *BFGW* focussed expressly on the “pursuit of beauty”. The programme’s narrator introduced the episode:

*“Tonight we reveal the extreme lengths a Traveller will go to, to perfect the gypsy look...And how the pursuit of beauty dominates not only weddings, but every stage of a Gypsy girl’s life”.*<sup>31</sup>

This particular episode explored the various preparations that are made by some girls and young women from ITG&R communities with regards to their appearance, in particular at special events, including focussing on the various outfits they chose to have specially made by dressmakers such as Ms Madine.

Ofcom acknowledged the somewhat generalised and sweeping nature of some of the statements made in the commentary, as in the example above. This commentary could be understood to suggest that the programme was to an extent exploring a perceived stereotype of how ITG&R girls approach their appearance. However, again, as previously discussed, Ofcom took the view that the actual footage shown presented a more nuanced view and provided balance to these types of comments.

Ofcom considered that the programmes had made it clear that not all ITG&R contributors in the programmes either felt comfortable wearing revealing clothing or approved of it. Notably, one contributor, the grandmother of a young girl featured in the programme, Sammy Jo, indicated her disapproval of, as put in the programme’s commentary, the “*glamorous Traveller style [which] is a relatively modern development*” and said that:

*“They show too much of their body. I don’t like it at all. What can you do? It’s the young generation, isn’t it? Nothing you can do about it. Year ago if you go out and danced like that with them clothes on you, pooh, you’d be booed to death”.*<sup>32</sup>

When asked by the programme’s director why she thought girls dressed like that, Sammy Jo’s grandmother responded:

*“Get their self noticed. Well what can you do? It’s their fashions, their world, isn’t it? Not ours”.*<sup>33</sup>

In *TGG*, two of the girls (who were English Travellers) refused to model the outfits they had made because they felt that they were too revealing. The programme’s narrator explained:

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<sup>31</sup> *BFGW*, Series 2, Episode 2

<sup>32</sup> *BFGW*, Series 2, Episode 1

<sup>33</sup> *BFGW*, Series 2, Episode 1

*“After eight days, they’re ready to show their creations to Thelma. But there’s a problem. The trainees are a mix of English Travellers, Irish Travellers and Romany Gypsies. Each group have their own unique tastes, and despite their pride at having made the dresses, the two English Travellers, Grace and Bridget, are reluctant to model such provocative costumes”.*<sup>34</sup>

Ofcom considered that this demonstrated that not all ITG&R individuals and communities shared the same values, and also that differences were respected.

When Grace was asked why she did not want to wear her dress, she explained that:

*“It’s not something that my husband would approve me wearing. Lycra’s meant for two things only, gym wear and Pretty Woman wears it, and she stands on a street corner. To me that’s what kind of material that is”.*<sup>35</sup>

Bridget said that she refused to wear her revealing outfit because:

*“I’ve not been brought up to wear something that tight and revealing and that cheap looking. I’ve been brought up respectable, to not show everything to the world and to basically keep myself looking respectable and clean”.*<sup>36</sup>

References were made throughout both series of *BFGW* and in *TGG* to the moral values held by many people from ITG&R communities (for example, the programmes made clear that the girls featured were expected not to consume alcohol or have sex before marriage). It appeared that many of the young women who wore the more revealing outfits were proud of their appearance, had self respect and did not see their choice of clothing as inappropriate. As highlighted in Channel 4’s representations, to illustrate this and to provide balance and context, *BFGW* included a conversation between the programme’s director and a young woman (Bridget) being fitted for her Holy Communion dress (which had a short skirt) and her aunt about whether or not it would be regarded as provocative:

Director: *“Yeah, it’s quite a short skirt. Would you be allowed to wear that in church?”*

Bridget: *Yeah. I always wear shorts underneath them skirts, like this. Shorts underneath.*

Director: *Do you?*

Bridget: *Yeah.*

Director: *So you’d never wear a skirt this short without a pair of shorts underneath?*

Bridget: *No.*

Director: *Why is that?*

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<sup>34</sup> *TGG*, Series 1, Episode 4

<sup>35</sup> *TGG*, Series 1, Episode 4

<sup>36</sup> *TGG*, Series 1, Episode 4

Bridget: *Because we have respect for ourselves.*

Annie: *She is 12 year old, yeah. But she got to understand us Travellers can wear short skirts, I mean but as long as we have respect for ourselves, we have very, very high standards, high morals, do you know what I mean?*<sup>37</sup>

Given the examples outlined above, Ofcom considered that the programmes had made it sufficiently clear to viewers that not all of the female contributors in the programmes who were from the ITG&R community dressed in, or approved of, the outfits described as provocative in the complaint. Those who did choose to dress in the more revealing outfits did so because of a personal choice in fashion and appeared confident and happy in their appearance. The footage included in *BFGW* and *TGG* appeared to be an accurate reflection of the clothing worn by some members of the ITG&R communities, and, in Ofcom's view, the programmes reflected a balanced portrayal of how some ITG&R women and girls chose to dress, especially in the context of special events.

Ofcom also assessed the complaint that young women and girls were portrayed behaving in an overtly sexual manner, in the way they posed for the cameras and danced. Ofcom took the view that while there were scenes included in the programmes of young women and girls posing and dancing, sometimes in a manner that could be perceived as being sexual, the inclusion of the footage was justified by the context in which it was shown in the programmes, namely the depiction of special events such as weddings, hen parties, Holy Communions, christenings and birthday celebrations. The young women and girls appeared confident and self assured in the way in which they posed for the cameras and danced at various special events, and Ofcom had no reason to believe that Channel 4 had not captured a reasonably accurate depiction of how some of the young women and girls chose to behave at those events.

There were various scenes throughout the programmes which showed young girls posing for the cameras in a manner that could be perceived by some to be provocative. One such scene included in Episode 3 of Series 2 of *BFGW* showed two children of approximate ages seven and ten posing for the programme makers. Both girls were dressed up to go to a family member's Holy Communion. The two girls wore matching elaborate outfits which were tight fitting and had short skirts. They both posed and pouted for the camera. When asked where they had learnt to pose in this way, the older girl stated:

*"I learnt to pose myself. We're just kids trying to do different things".*<sup>38</sup>

Although some viewers may find scenes such as the above, which featured young children posing and wearing outfits which might be perceived as being inappropriate, concerning, in Ofcom's view this footage appeared to be an accurate reflection of the way some ITG&R children dressed and behaved. Children in any culture will frequently copy the behaviour of older siblings, family members and friends, and Ofcom considered that viewers would appreciate that this was likely to be the case here. Ofcom did not consider that the programmes implied that all ITG&R children dressed and behaved in this way.

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<sup>37</sup> *BFGW*, Series 2, Episode 1

<sup>38</sup> *BFGW*, Series 2, Episode 3

Such images were balanced by examples provided by other contributors in the programmes who did not appear to dress in an extravagant or provocative manner. For example, one young woman, Annelise, explained that she did not enjoy wearing revealing clothing and did not have the confidence her sister had to talk to boys. Annelise appeared to be shy and stated:

*“She’s [her sister] older than me. Like she’d wear shorts, really short shorts, but I wouldn’t wear that. I’d rather cover myself up in track suits, things like that. And I can’t show the top here ‘cause I’d die of shame. People would be looking at me. But she would. Like she can talk to boys, I can’t. It’s too shameful. I’d probably shiver and shake and everything”.*<sup>39</sup>

Annelise illustrated the fact that not all young ITG&R female contributors in the programmes exhibited the same high levels of confidence and self assurance, as reflected in other ITG&R contributors’ behaviour and in the way they dressed.

Ofcom considered that the programmes made it sufficiently clear to viewers that not all of the female contributors to the programmes from the ITG&R community dressed in, or approved of, the outfits described as provocative in the complaint or behaved in a highly sexualised manner. Given the context in which the footage of the young women and girls was shown, it was reasonable to assume that viewers would have understood that the individuals featured in the programmes were not representative of all people in all ITG&R communities and that the programme makers had captured and broadcast only a glimpse of the lives of a select group of individuals. Ofcom was satisfied that the programmes had reflected a reasonably accurate and balanced portrayal of how some ITG&R women and girls chose to dress and behave, particularly at special events. Ofcom therefore considered that, in respect of the complaint that the girls were shown wearing provocative clothing and behaving in a provocative manner, the broadcaster had taken reasonable steps to ensure that the programmes did not present the ITG&R communities in a way that was unfair and that the young ITG&R women and girls were not portrayed in an untrue and damaging racially stereotypical manner.

c) ITG&R boys and men were almost exclusively shown as being feckless, violent, and/or criminal.

The ITMB highlighted numerous scenes which it said supported its complaint that:

“...there is not one example of an ITG&R man being shown in a positive light” and “where they [ITG&R men] are shown they are almost always shown fighting, preparing for fights, talking about fighting, committing crime, in prison, violently sexually assaulting children and girls and awaiting court hearings and/or sentencing”.

One example it provided was that of footage included in the opening scenes of the episode *Born to be Wed*. The scene showed a group of ITG&R men standing in a circle watching a bare knuckle fight between two men. One man was shown hitting the other in the face and then, when he was down on the ground, kicking him twice, before the fight was stopped by the other men. During the scene, the programme’s narrator stated:

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<sup>39</sup> BFGW, Series 2, Episode 1

*“Over five episodes, this series will explore unique aspects of Gypsy and Traveller life. In a world where a man is a man...A woman knows her place...”*<sup>40</sup>

The complainant made the following comments about this scene:

“A sequence showing a group of Traveller men bare knuckle fighting with one man on the floor being repeatedly kicked in the stomach and back by another man. The sequence and many other sequences like it in the series, give the viewing public the untrue and negatively stereotypical view that ITG&R men are depicted as violent, criminal or both. Thus, the Channel 4 perpetuates the untrue stereotype that ITG&R men are dangerous, criminal and to be feared...”

Channel 4 acknowledged in its response to the complaint that there were aspects of male ITG&R behaviour included in the programmes which might be perceived negatively. However, Channel 4 said that the programmes included many illustrations of positive behaviour amongst males from these communities.

While programme makers and broadcasters have editorial discretion over what material to include or omit from a programme, there is an obligation on them to ensure that the programme as broadcast does not result in unfairness to an individual, group of individuals or organisation.

Ofcom considered it was important to note that both series tended to focus more heavily on female contributors. An important theme for *BFGW*, for example, was weddings and other special occasions and the preparation that went into them, which tended to centre on the women of the communities involved. With regard to *TGG*, Ofcom noted there was a strong editorial reason for the fact that men and boys did not feature heavily, because the series focussed on the progress being made by female trainees, working in a dressmaking business staffed entirely by women. Channel 4 clearly made an editorial decision in the two series of *BFGW* and *TGG* to focus predominantly on the lives of women in ITG&R communities. As a matter of editorial discretion this was not of concern to Ofcom.

Both series did nonetheless feature some male contributors from ITG&R communities. One episode in particular which explored some of the issues facing some ITG&R men was the *BFGW* episode, *I Fought the Law*. This episode focussed specifically on the difficulties some ITG&R men experience with the criminal justice system and was introduced with the following commentary:

*“Tonight we find out what happens when Gypsies and Travellers come up against the law”*.<sup>41</sup>

Having noted this background, Ofcom assessed the complaint that ITG&R men were largely portrayed in the programmes as violent and/or criminals. Ofcom acknowledged that there were several contributors included in the series who appeared to have engaged in illegal conduct (such as racing horses on public highways), had been in prison, or were potentially facing a prison sentence, or engaged in fighting. However, Ofcom considered it was important to note the context in which these issues were explored in the programmes. For example,

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<sup>40</sup> *BFGW*, Series 1, Episode 1

<sup>41</sup> *BFGW*, Series 2, Episode 2

context was provided at the beginning of the episode *I Fought the Law*, when the commentary stated:

*“For hundreds of years Traveller families have battled to keep their ancient traditions alive. But it’s a way of life that can put them in defiance of the law”.*<sup>42</sup>

Examples presented of where this clash occasionally occurred were the racing of horses on public roads and parking mobile homes on land without permission. It should be noted that while only male contributors were shown in this episode racing horses in the street, both female and male contributors were shown parking mobile homes on land without the required authority. The programmes therefore did not imply that it was only some ITG&R men who sometimes came into conflict with the law but also some women.

Another example of the context in which the issues were explored in *I Fought the Law* was that the commentary pointed to what it said was the disproportionate number of Irish Travellers serving jail sentences:

*“It’s estimated there are up to 850 Irish Travellers in prison. A hugely disproportionate amount compared to the number of Irish Travellers in Britain”.*<sup>43</sup>

In the same episode, the female contributor, Mary, talked about the difficulties she and her husband faced because they were always moving, and her constant fear of being evicted. The following exchange took place between Mary and the programme’s director:

Director: *“Do you think people just automatically think Travellers, that means criminals?”*

Mary: *Yeah. Painted with it. That brush, yeah you could say.*

Director: *What’s the worst thing anyone’s ever said to you, do you think?*

Mary: *We’re scum”.*<sup>44</sup>

Having carefully assessed the two series, including the episode *I Fought the Law*, Ofcom considered that overall the programmes dealt with issues affecting people from ITG&R communities in a sensitive manner. The programmes provided ITG&R contributors with a means of putting their point of view forward on particular issues: for instance contributors spoke of the prejudice they faced from non-ITG&R people and how this made them feel, as the example set out above demonstrates.

Although some male contributors were shown in some scenes behaving in a manner which may be perceived as violent or irresponsible, there were scenes also included in which ITG&R men were shown displaying more positive aspects of behaviour. The 17 year old, Johnson, who was featured in Episode 6 of Series

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<sup>42</sup> BFGW, Series 2, Episode 2

<sup>43</sup> BFGW, Series 2, Episode 2

<sup>44</sup> BFGW, Series 2, Episode 2

2 of *BFGW*, provided an example. Johnson was introduced by the programme's narrator as:

*"... seventeen year old, Johnson Welch, left school at an early age to work for the family business and has recently started his own venture. But as the son of a gypsy spokesman, the young entrepreneur is ever mindful of prejudice".<sup>45</sup>*

Johnson appeared driven and motivated to succeed in business, but also mindful of negative stereotypes that exist in relation to ITG&R people, which he sought to dispel. When asked what his job was, Johnson replied:

*"Um, well I wouldn't like to say in case it like jeopardises my like business. It's not like the stereotypical like – like Pikey like, like job, like oh can I do your driveway? Can I do all this? And all that like. It's not like a labourer's job. I mean I'm not saying they're like Pikey's jobs, but like I don't know, most people won't have heard of it. But there're lots of things that Travellers do that most people haven't heard of. They just like stereotype us".<sup>46</sup>*

Johnson and his friend Robert were shown travelling to the Ebor Festival at York Racecourse. Footage of the boys preparing for the day was included, including showing the young men taking great care with their own personal grooming. As the young men prepared, dressing in suits and arranging their hair, the narrator commented on the fact that some ITG&R men were now more modern and displayed sensitivity about their appearance:

*"Although Gypsy men have always prided themselves on their macho credentials, the latest generation of Travellers is also adopting more modern habits".<sup>47</sup>*

Johnson appeared to Ofcom to be a sensible young man who, while having made the trip to York to the Ebor Festival (a "*spring break for Travellers*") to have some fun with his friends, did not seem to have any intention at all of engaging in violent or anti-social behaviour. He was shown distressed by the fact that he and his friends were openly discriminated against by a local restaurant because they were identified as being from ITG&R communities. After being forcibly removed from the restaurant, Johnson said:

*"We just went for some food and security are phoning us for the restaurant. So I stopped and they just went, 'can youse leave now please?' I said 'yeah in a minute like – just two seconds'. And like, he just pushed me straight out the door. Like I'm not a grown up but I'm definitely not a child. You can't treat me like that. It's very, very offensive and very disrespectful".<sup>48</sup>*

The programme's narrator explained that trouble was automatically expected because of the large number of people from ITG&R communities visiting the town:

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<sup>45</sup> *BFGW*, Series 2, Episode 6

<sup>46</sup> *BFGW*, Series 2, Episode 6

<sup>47</sup> *BFGW*, Series 2, Episode 6

<sup>48</sup> *BFGW*, Series 2, Episode 6

*“The town centre is flooded with Travellers and the locals – anticipating trouble – are keeping the visitors on an unusually tight leash”.*<sup>49</sup>

Ofcom considered the programme makers were sympathetic to the discrimination sometimes faced by people from ITG&R communities and that viewers were likely to consider the treatment of Johnson and his friends depicted to have been unfair and unwarranted based on the information given in the programme. The above was just one example of this type of situation shown in the series.

Later in the programme, violence did occur, and scenes of police intervening were shown. The programme’s narrator explained:

*“As the evening progresses the majority of Gypsies gravitate towards one nightclub in the centre of town. Transforming a small corner of York into a Traveller only zone”.*<sup>50</sup>

And:

*“At one o’clock in the morning the violence erupts”.*<sup>51</sup>

The episode endeavoured to explore negative stereotypes and the prejudices that some ITG&R men sometimes faced. When asked what had happened, Johnson explained that not all people from ITG&R communities were violent and intent on causing trouble. He explained that, as in any group of people, there were sometimes a few people who might do the wrong thing, whilst everyone else was behaving appropriately. He stated that it was unfair to judge all people from ITG&R communities on the behaviour of a couple of people. He said:

*“It all happened at once really. Like I just looked up there, some people are up there and they were running across the floor and it was like ‘Oh no what’s gonna happen now? It’s going to be shut down isn’t it?’ And it is. When you get a couple of us somewhere you don’t just get a couple of us, you get all of us. So you’re going to have trouble ‘cause Travellers don’t go anywhere on their own. All of us aren’t bad. Most of us aren’t – 99% of us are good, honest decent people, but obviously we – there is some bad ‘uns and when we go places, all of us go, so the good ‘uns and the bad ‘uns do and people remember the bad ‘uns, they don’t remember the good ‘uns, do they?”*<sup>52</sup>

In another example, in *I Fought the Law*, an engaged couple, Danielle and Brendan, were introduced by the programme’s narrator as follows:

*“Danielle’s dream is to get married on her 16<sup>th</sup> Birthday. But whether she achieves that dream depends on her fiancé, 20 year old Brendan, staying out of jail. Over the past few years he’s been in and out of prison...Since getting*

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<sup>49</sup> BFGW, Series 2, Episode 6

<sup>50</sup> BFGW, Series 2, Episode 6

<sup>51</sup> BFGW, Series 2, Episode 6

<sup>52</sup> BFGW, Series 2, Episode 6

*engaged to Danielle, Brendan has been trying to stay on the straight and narrow*".<sup>53</sup>

In Ofcom's view, Brendan talked in a caring way about the love he felt for his fiancée Danielle:

*"I said no, I'm not getting her and obviously I just got to know her a bit more and I asked for her and I'm so happy that I'm loving her. She's the love of my life"*.<sup>54</sup>

He also talked about the injustice and discrimination he felt existed within the criminal justice system:

*"I had a scrap, me and an English person. I get locked up and he gets off with it...I got jailed four times over – over fagging [i.e. fighting]. I got jailed four times and four people got let off of it. Of being a Traveller. That's what it is"*.<sup>55</sup>

The episode also highlighted the potential discrimination faced by people from ITG&R communities when looking for employment. In particular, the programme's narrator commented that:

*"Brendan believes that it's the lack of employment opportunities that pushes some Irish Travellers into crime"*.<sup>56</sup>

Brendan explained that he felt frustration at trying to find work when:

*"If I knock on the door and ask for a job...once they hear my voice...That's it. Just close the door",* and that this was: *"...upsetting. We're all the same people. We're all the same. English and Irish are the same people"*.<sup>57</sup>

Another example that helped present viewers with a more balanced portrayal of ITG&R men appeared in Episode 4 of *BFGW* in which George, a Romany Gypsy, had recently separated from his non-ITG&R wife. The complainant highlighted that George was depicted as:

*"...shown in the aftermath of a failed marriage to a Gorja [non-ITG&R person]. Again his marriage is shown as failing. He is shown as angry with the Gorja judge and Gorja lawyers; he is also shown as living a somewhat chaotic life and being incapable of applying [sic] with the terms of the court order in relation to contact"*.

Ofcom considered that the programme focussed on the caring and loving relationship George had with his two children and the sadness he felt at being separated from them. George was shown in the programme taking his children to

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<sup>53</sup> *BFGW*, Series 2, Episode 2

<sup>54</sup> *BFGW*, Series 2, Episode 2

<sup>55</sup> *BFGW*, Series 2, Episode 2

<sup>56</sup> *BFGW*, Series 2, Episode 2

<sup>57</sup> *BFGW*, Series 2, Episode 2

Dartford Fair, a traditional Gypsy gathering, and expressing concerns he felt that his children might lose their Gypsy identity:

*“It’s very important for me children to come to a place like this. The thing is, they’re stuck in the school with all the Gorjas [non-ITG&R people] on a whole estate with the Gorjas seeing all the Gorja things. And Gorjas find things acceptable what travelling and Gypsy people don’t find acceptable. In the school, out the school, bedtime, sausage, beans, mash. All that routine thing my children ain’t used to that”.*<sup>58</sup>

George went on: “Travellers want better things for their children. The love I’ve got for my children it’ll never stop, no matter what happens”.<sup>59</sup> The programme then showed George dropping his children back at their mother’s house, about which he said:

*“Terrible, feel terrible, feel like driving myself through that house there...Another lonely night”.*<sup>60</sup>

The programmes presented ITG&R men from a range of backgrounds with a diversity of experience. A further example of an ITG&R man who did not conform to traditional “*macho*” male behaviour was Mikey, who was gay. Mikey discussed how difficult it was for him to come out to his family and the rest of the community as gay. He stated:

*“A double life. I had to be dead macho. Bare knuckle fighting and stuff like that. It’s what they’ve been brought up to be – men ain’t it? So. I would try and be like one of the lads, but it didn’t – obviously – it didn’t work. I come out as queer. I told me mummy like, but she said make sure that it’s not a phase that you’re going through. And then I heard my daddy in the background saying, ‘if he’s a fucking faggot tell him don’t come near this house,’ and blah blah and that hurt, ‘cos I actually cried then”.*<sup>61</sup>

When asked why more gay people from ITG&R communities did not reveal their gay sexuality, Mikey responded:

*“A fear that they’ll lose their family, they’ll lose everything. They’ll just get battered basically, battered and probably end up in hospital. That’s what it is, just it’s scared, more scared of losing everyone”.*<sup>62</sup>

The importance of family to those from ITG&R communities was a theme shown throughout the two series. Mikey provided one example of this. The programme’s narrator explained that, since coming out as gay, Mikey had managed to rebuild his relationship with his family. Mikey was shown in the programme enjoying time with his two sisters Lizzie and Ann Marie. The three were shown shopping

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<sup>58</sup> BFGW, Series 2, Episode 4

<sup>59</sup> BFGW, Series 2, Episode 4

<sup>60</sup> BFGW, Series 2, Episode 4

<sup>61</sup> BFGW, Series 2, Episode 5

<sup>62</sup> BFGW, Series 2, Episode 5

together and, later in the programme, Mikey was shown attending Manchester's Gay Pride.

Overall, Ofcom considered that the programmes had made it sufficiently clear to viewers that not all boys and men from the ITG&R communities behaved in the manner complained about (i.e. were feckless, violent, and/or criminal). Rather, the broadcasts included a number of balanced portrayals of ITG&R men who exhibited positive aspects of behaviour and attitude, as demonstrated in the examples set out above. In context, it was reasonable to assume that viewers would have understood that the individuals featured in the programmes were not representative of all people in ITG&R communities and that the programme makers had captured and broadcast only a small part of the lives of a select group of individuals. While in some cases some ITG&R men featured acted in a way which viewers may have interpreted as violent, feckless and/or criminal, the way in which this behaviour was depicted was overall balanced and justified by the context.

Ofcom was satisfied that the programmes presented numerous stories and scenes featuring ITG&R men and boys which were likely to be perceived in a positive way and that the programmes had reflected a reasonably accurate portrayal of how some ITG&R men and boys behaved and did not in themselves serve to advance a negative stereotype concerning the ITG&R communities. Therefore, in respect of the complaint that ITG&R boys and men were shown as a whole as being feckless, violent, and/or criminal, Ofcom considered that the broadcaster had taken reasonable steps to ensure that the programmes did not present the ITG&R communities in a way that was unfair.

- d) ITG&R children and young people of both sexes were shown as being wildly behaved, uncontrollable, foul-mouthed, illiterate, uneducated, violent and dangerous.

The ITMB complained that:

"The very many scenes involving ITG&R children in the two series focus exclusively on negative portrayals of the children. This leads viewers to develop a strong and abiding belief that ITG&R children are stereotypically possessed of the above exceptionally damaging racial stereotypes."

The complainant provided examples of scenes where it considered children to be behaving in a "wild and uncontrollable" manner. The ITMB said that in the *BFGW* episode *School of Hard Knocks*, for example, Romany children were shown:

"...acting in an extremely wild manner with a small horse and cart on the road. Again reinforcing the image of ITG&R children being wild and uncontrollable".

This scene showed three Romany Gypsy children on the back of a small cart being pulled by a small pony. The three girls were shown travelling at a fast speed along a footpath and then the road. One of the girls fell off the cart but was not hurt, and continued to run after the other two girls still in the cart. The two girls in the cart crossed the road in front of oncoming traffic, and the girl chasing behind was also shown running across the road in front of traffic, without first checking to see if it was safe to do so. One of the girls, Angel, commented after the incident:

*“Alice fell off the horse. Or jumped off the horse. We got him to stop but it was out of control”.*<sup>63</sup>

The ITMB also considered that the teenagers and young women contributors in TGG were depicted negatively:

“The entire premise of the show is that ITG&R girls are, generally, illiterate, uneducated, unintelligent, boorish, fowl [sic] mouthed, violent, unreliable, and dressing outlandishly and in scanty clothing, wild and threatening. This overall racist negative stereotyping of ITG&R girls is developed and compounded throughout the first episode and thereafter in each and every episode”.

One example the ITMB highlighted was an argument shown between two of Ms Madine’s trainees, Victoria and Lilyann. The complainant gave this as an illustration of the violent behaviour exhibited by ITG&R young people featured in the series:

“... a lengthy confrontation is shown in the street where one Traveller young woman is shown to repeatedly threaten another girl with severe violence. The girl is shown chewing her fingernails in fear and her hands are shown to shake with fear”.

The programme’s narrator introduced the scene:

*“Outside, the feud between Victoria and Lilyann has finally erupted, sparked by a disagreement over who will sit in the front of the taxi”.*<sup>64</sup>

Victoria was shown shouting aggressively at Lilyann and heard threatening her several times:

*“On my mother’s life, when I get you back to the site you’re dead” and “...I’ll get Daddy to drive me down to the site and I will hop your brains off that concrete”.*<sup>65</sup>

Later, when interviewed, Lilyann explained:

*“When me and Vicky fall out it’s always something like stupid. Like we’ve always been on and off arguing and things like this, but I didn’t think it would come to this, ‘cos I’ve never really had a fight before, and tell you the truth, I’m not a fighting person. I’m trying my best to follow God, and I’m trying my hardest to work with God. But she’s been saying that she was going to fight me for the last few months. So anyway, so if we’re going to fight, fight now. And then if she started screaming in my face, I started screaming in her face, she tried to make a punch at me, I went to slap her. Anyway, Grace jumped in like and stopped it all, and Kathleen and all them stopped it all. And then that was it. She still wants to fight me. She said she wants to fight me tonight when I get home. And, at the end of the day, if she said she wants a fight then I’m not going to say no”.*<sup>66</sup>

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<sup>63</sup> BFGW, Series 2, Episode 3

<sup>64</sup> TGG, Series 1, Episode 3

<sup>65</sup> TGG, Series 1, Episode 3

<sup>66</sup> TGG, Series 1, Episode 3

The ITMB pointed out that footage of Victoria speaking with Ms Madine was later shown, where Victoria again threatened Lilyann with violence. She said:

*"I did try my best to get into the motor. If I'd got hold of her, she'd have no teeth this morning. She tried to make a move like that and they was holding me back...So I couldn't get to her. But look, on my mother's life, when I go down to the site tonight she's dead".<sup>67</sup>*

In response, Channel 4 said that the images of children and young people were not presented as representative of all ITG&R young people and therefore did not portray a stereotype, and there were numerous examples of positive actions and behaviour by young people featured in both the *BFGW* and *TGG* series.

Although there were scenes included of young people exhibiting violent and aggressive behaviour, having examined the series as a whole, Ofcom noted other examples of young people behaving with maturity and sensitivity. For instance, in an episode of *BFGW*, Cheyenne, who was 15 years old, spoke with sadness about her mother's death and the fact that her mother was not there to help plan her wedding. When asked how difficult things had been without her mother, Cheyenne answered:

*"I would do anything to have her here but then, obviously that's life and I really can't so, at the minute it's really hard 'cos your mum's like the main one that actually helps you like plan the wedding and do everything for your wedding, and like on the day she's the one that's there and helps you get dressed, so like obviously it's gonna be, for the day it's gonna be really hard not just as much as a happy day, it's gonna be really hard 'cos my mum's not there but obviously she'll still be with me in spirit so, it's life really...".<sup>68</sup>*

Another example of a young person demonstrating calm and caring behaviour was presented in Episode 4 of *TGG*. Margaret, who had previously displayed aggressive behaviour, was shown reading a bedtime story in an attentive manner to a seven year old child.<sup>69</sup>

Ofcom noted a number of other instances of children behaving well. In Episode 2 of Series 2 of *BFGW*, for example, a young girl, Chloe, was shown preparing for her Holy Communion, all the while knowing that her father would not be able to make the ceremony because he was in prison. Chloe was visibly upset by this, but appeared to make the best of the situation and agreed to make a special visit to her father in prison so that he could see her in her dress for the occasion. Ofcom took the view that Chloe was shown to be an articulate, well-behaved eight year old girl shown on several occasions playing constructively with her younger sister, including to make welcome home cards for their father.

In relation to the issue of low educational attainment and alleged lack of intelligence of young people from ITG&R communities as depicted in the programmes, there were contributors featured in the programmes who had left school at an early age and/or who had limited educational achievement and/or struggled with literacy. However, in Ofcom's view, the situation of the contributors

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<sup>67</sup> *TGG*, Series 1, Episode 3

<sup>68</sup> *BFGW*, Series 2, Episode 7

<sup>69</sup> *TGG*, Series 1, Episode 4

was contextualised and appeared to accurately represent the experiences of the contributors included. In the episode *School of Hard Knocks*, Ms Madine, the dressmaker, explained her observations:

*“What you usually find with Travellers is that they don’t go to school past usually 11, 12 and if you talk to them and they say it’s shameful, it’s shameful to go to school. Traveller girls are primed from a young age to be homemakers. They are taught every way how to make a home and to bring up children”.*<sup>70</sup>

Whilst the programmes included contributors who had left school at an early age for cultural reasons (for example, in the case of some girls, to *“make a home and to bring up children”*), the programmes also explored the circumstances of some ITG&R children leaving school early because of the prejudice and bullying they sometimes face from non-ITG&R children. The young ITG&R girl, Angel, explained what it was like being the only ITG&R pupil in the classroom. When asked the worst thing anyone had ever said to her, she explained:

*“You know Pikey and Gypsy scum, and stuff like that. But, end of the day, calling me a Pikey is just like calling a black person a nigger or an Indian or whoever’s from that background a Paki. It is exactly like that. Obviously you are going to get racism and my mum – my mum and dad always tell me anything – anyone hurts you, hurt them back. So that’s how I’m being brought up. It’s not what anyone else should do, it’s what they’ve been brought up like”.*<sup>71</sup>

Although it was made clear in the programmes that some ITG&R children left school at a young age, it was also made clear that this was not always the case. The series included a number of girls/young women from these communities who had stayed in secondary education and, despite experiencing prejudice from non-ITG&R pupils, had achieved their educational goals. One example of this, included in *BFGW*, was Angel (see above), who unlike many of her friends was still attending school. She spoke ambitiously about her future and said:

*“Well I want to stay at school. I don’t want to be like all the others that get married, have to sit at home, look after children. I want to do something with my life. I don’t want to be one of those people that, you know, rest of their life do what everyone else does”.*<sup>72</sup>

Another example in the same programme was Noreen, a young woman who had achieved her educational goals and had found paid employment. Footage of Noreen working on a wedding cake was included as the programme’s narrator explained that she had: *“stayed at school to improve her job options, but this made her the odd one out amongst her Traveller friends”.*<sup>73</sup> Noreen then said:

*“It was mainly the embarrassment that I didn’t like. Coming home and I’m in school with all the young boys and girls knowing oh she still goes to school,*

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<sup>70</sup> *BFGW*, Series 2, Episode 3

<sup>71</sup> *BFGW*, Series 2, Episode 3

<sup>72</sup> *BFGW*, Series 2, Episode 3

<sup>73</sup> *BFGW*, Series 2, Episode 3

*she's a school girl, you know, but believe it or not all them years of embarrassment actually paid off. Got all me exam results, I got a C in English, Ds in ICT and Maths, but I was all right at them. But science I was no good, so I got an F in science".<sup>74</sup>*

With regards specifically to the TGG series, Ofcom noted various examples of the young ITG&R women demonstrating their keenness to learn and take advantage of opportunities given to them. For instance, one contributor, Victoria, was shown to express her gratitude for the chance to learn through the literacy tutor provided and sewing course. When asked why she felt emotional after receiving the positive results of her recent literacy assessment, Victoria responded by showing a genuine willingness to learn and achieve, and reflected on the behaviour of her and her fellow trainees:

*"...I didn't think that I'd get a chance to do this, but obviously I have and obviously I'm over the moon about it. This six months has been the happiest six months of my life, like I learnt how to make a dress and meet lovely people. Obviously if I don't get this job and I can go and get more jobs 'cos I can read and write. And obviously those ten Traveller girls, we might not look like we appreciate it, we do appreciate every minute of it, we might carry on like and argue and fight and be cheeky and give a bit of mouth, but deep down we don't really mean it, our temper just gets the better of us".<sup>75</sup>*

In the final episode of TGG, Ms Madine thanked the trainees for their individual contributions, recognised the obstacles they had overcome and listed many of their positive attributes:

*"This is Grace. Grace has proved beyond a doubt that you don't have to stop working when you have kids, and she's produced some great work. Well done Grace.*

*When Kathleen came to us she had no confidence whatsoever. And now she's turned into a confident young woman. Now Sam is the only one I don't feel I need to worry about at all, and I've seen Sam's confidence grow and grow.*

*When I first interviewed Roseanne I thought she's exactly the kind of girl that I wanted to help. Roseanne has probably made the most progress in terms of education, learning and the alphabet.*

*And Megan joined us late, and that's hard to do, but she's fitted in so well. She's a hard worker. Out of all of them, she's got the most creative eye.*

*Now what can we say about Shannon? She did tell me in the interview that she was 16, she's not – she's only 15, for which I could have gone to prison for – again. Out of all my girls this is the only one who's done everything from start to finish.*

*Next one, Margaret...I would honestly say Margaret from the beginning has been a challenge and she'll probably tell you that herself. She's had a few issues, usually with temper – right, which she's learnt to curb, and I think her*

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<sup>74</sup> BFGW, Series 2, Episode 3

<sup>75</sup> TGG, Series 1, Episode 6

*claim to fame is she's been suspended more than any of the other girls. But, you know, she comes back fighting fit and, you know, she doesn't make the same mistake again. She makes another, but doesn't make the same one. So, well done Margaret".<sup>76</sup>*

While there were incidents throughout the series where some of the girls were shown misbehaving and acting aggressively, in Ofcom's view any instances of bad behaviour were contextualised: for example, the contributors were shown reacting to the pressures of the job and trying to adjust to an unfamiliar environment. The purpose of the *TGG* series was to focus on the trainees' learning experience in their apprenticeship. They were shown learning to adapt to a working environment and the series showed that they succeeded in this and were employable.

Ofcom also took into account that most of the ITG&R girl contributors in *TGG* were around 16 years old, and therefore still teenagers. Their behaviour therefore reflected their immaturity at times. This was balanced with examples of more adult behaviour which displayed the trainees learning and maturing in a work environment as the series progressed. Ofcom therefore did not consider that the trainees were only shown in a negative light and behaving badly.

*TGG* focussed only on the ten trainees who had been selected to undertake the apprenticeship with Thelma and their personal experiences. They were shown to be a diverse group of young women, each with their own personalities, strengths, skills and weaknesses. Some of the trainees were not shown to be involved in inappropriate behaviour at all and/or took on roles in trying to calm disagreements between other trainees.

Overall, Ofcom concluded that the *TGG* programmes presented a balanced portrayal of the trainees and their behaviour, and did not unfairly represent the trainees' conduct or experiences during their apprenticeship with Ms Madine.

Given the context and the examples above, Ofcom was satisfied that the programmes presented a reasonably accurate portrayal of how some young ITG&R people of both sexes behaved. Viewers of *BFGW* and *TGG* would have seen a number of examples where young ITG&R people were shown in a positive light. Ofcom was not persuaded by the complaint that the programmes had "consistently portrayed young people as badly behaved, uneducated and dangerous".

Ofcom therefore considered that, in respect of the behaviour displayed by young ITG&R people in the programmes, the broadcaster had taken reasonable steps to ensure that the programmes did not present the ITG&R communities in a way that was unfair.

- e) The views of young people and children from ITG&R communities on important issues were shown as statements which could be relied upon as descriptions of the morals, customs and conduct of entire ITG&R communities, including communities of which the child in question was not a member, for example, making statements which viewers would have understood to have been applicable to both English Traveller and Romany Gypsy communities.

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<sup>76</sup> *TGG*, Series 1, Episode 6

To illustrate its point, the complainant highlighted an example of young people being interviewed about their views on grabbing. In the *Born to be Wed* episode, two teenage girls, Cheyenne and Montana, were asked about ITG&R courtship and marriage. The girls were asked when they thought they might get married. Montana answered 17 or 18 years old, and Cheyenne said:

*“About 18, 16, 17 when I’m ready, but I couldn’t say any older than that”.*<sup>77</sup>

The programme’s narrator then explained that ITG&R girls have to:

*“...follow the strict rules of courtship imposed on them by the community”.*<sup>78</sup>

Cheyenne added:

*“It’s more what you can’t do than what you can do. Like, say there’s a bunch of boys and one girl’s there, then your name’s talked about. That’s how it should be: like girls with girls and boys with boys”.*<sup>79</sup>

When asked to explain what grabbing was, Cheyenne said:

*“Well like, they take a girl off and they say, will you give us a kiss? And you say, the girl says, no or yes but, like I would say no. They’ll say no and then they will do something like, where it hurts. You know. Push like, I dunno, twist your arms to hurt you. And then they like keep doing it until you give them a kiss but they like, fail, they’ll fail, they don’t...but that means they like a girl. Means that they like a girl and want to get to know them and get their number”.*<sup>80</sup>

Ofcom’s view is that a broadcaster is entitled to ask children and young people their views on any matters and to broadcast these, provided they comply with the Code.

For example, as illustrated above, the two girls expressed their views on courtship and marriage clearly. In Ofcom’s opinion, however, it was unlikely that viewers would take the contributions by these young people (or indeed the views expressed by adult contributors) as being representative of any larger group of people or community. Viewers were likely to recognise that within any group of people there would exist differing opinions on various issues. It would be clear to the audience that particular views were those held and expressed by children or young people and would therefore consider them appropriately in this context. Viewers were unlikely to take the views and opinions expressed by child contributors to be, as argued in the complaint, “comprehensive, representative informed and authoritative on matters of general importance to entire communities”.

As with other aspects of this complaint already discussed, Ofcom considered it reasonable to assume viewers would have understood that the individuals

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<sup>77</sup> BFGW, Series 1, Episode 1

<sup>78</sup> BFGW, Series 1, Episode 1

<sup>79</sup> BFGW, Series 1, Episode 1

<sup>80</sup> BFGW, Series 1, Episode 1

featured in the programmes were not representative of all people, including children, in all ITG&R communities, and that the programme makers had filmed and broadcast only a small part of the lives of a select group of individuals. In this case, Ofcom did not consider that the inclusion of certain children's and young people's views in *BFGW* and *TGG* amounted to unjust or unfair treatment of ITG&R communities.

Ofcom therefore concluded that in respect of the presentation of children's and young people's views on various issues the broadcaster had taken reasonable steps to ensure that the programmes did not present ITG&R communities in a way that was unfair.

- f) One ITG&R contributor to *TGG*, Shannon, was routinely shown with subtitles, suggesting that she did not speak an intelligible form of English.

The complainant stated that the use of subtitling of certain girls on some occasions was unnecessary and gave viewers the impression that people from ITG&R communities did not speak an intelligible form of English. The complainant suggested that Channel 4 had used subtitling in this manner to advance a racist negative stereotype.

The editing of a programme, including the use of subtitling, is an editorial matter for a broadcaster. However, broadcasters must ensure that the programme as broadcast does not result in unfairness to an individual, group of individuals or organisation. Given this, Ofcom can only consider whether or not the use of subtitles caused unfairness to the ITG&R communities in the programmes as broadcast.

Ofcom noted from watching the programmes in the series that subtitling was not used "routinely". In Ofcom's view, the subtitling was used sparingly and in circumstances where the audience might have benefitted from further clarification of what was being said. There was nothing to suggest, in Ofcom's view, that the use of subtitles in the programmes advanced a "racist negative stereotype" as claimed by the complainant.

In relation specifically to subtitling some of the words spoken by Shannon in some episodes of *TGG*, in Ofcom's opinion Shannon spoke with less clear pronunciation and was more softly spoken than some of the other contributors. Ofcom considered that, in this instance, the subtitling was used to aid viewers' full understanding of what Shannon was saying and it was unlikely that viewers would have been given the impression that she was speaking an "unintelligible form of English".

Ofcom therefore considered that in respect of the use of subtitling the broadcaster had taken reasonable steps to ensure that the programmes did not present ITG&R communities in a way that was unfair.

## Conclusion

Having considered each element of the complaint made by the ITMB, Ofcom considered that the broadcaster had taken reasonable care with each issue to satisfy itself that material facts (as detailed in the separate elements of the complaint particularised above) were not presented, disregarded or omitted in a way that portrayed the ITG&R communities, whose interests the ITMB represented, unfairly in the programmes as broadcast. Ofcom also carefully assessed the programmes

complained about overall, to reach a view as to whether they were unfair, i.e. it assessed whether the various scenes included throughout *BFGW* and *TGG* taken together created a cumulative effect that might present a depiction of people from ITG&R communities in a way that served to advance negative stereotypes or in a way that was unfair to them. After careful consideration, and for all the reasons set out above, Ofcom concluded that this was not the case.

**Accordingly, Ofcom has not upheld the complaint made by the ITMB of unjust or unfair treatment in the programmes as broadcast.**

## Not Upheld

### Complaint by Mr Andrew Cole

*Emergency Bikers, Channel 5, 1 May 2013*

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#### Summary

Ofcom has not upheld Mr Andrew Cole's complaint of unwarranted infringement of privacy in the programme as broadcast.

The programme was part of a series that followed the work of motorcycle police and paramedic units around the country. This edition included footage of the complainant, Mr Cole, being questioned at the roadside by the police following his involvement in a traffic incident in which his vehicle had collided with a motorcyclist.

Ofcom found that Mr Cole had a legitimate expectation of privacy, albeit limited. However, the public interest in filming and subsequently broadcasting footage showing the work of the police outweighed Mr Cole's expectation of privacy. Therefore, our decision is that Mr Cole's privacy was not unwarrantably infringed in the programme as broadcast.

#### Introduction and programme summary

On 1 May 2013, Channel 5 broadcast an edition of *Emergency Bikers*, a series of programmes following the work of motorcycle paramedics and motorcycle police officers in different parts of the UK.

In this edition, a motorcycle police officer was shown investigating a road traffic accident in which a car and a motorcycle had collided. The driver of the car, the complainant Mr Cole, was shown discussing the incident with a police officer. During this footage, Mr Cole's face was shown unobscured several times for a total duration of approximately 10 seconds. At the end of the footage, the programme's narrator informed viewers that the motorcyclist had been kept in hospital for two days before being released and that the car driver (i.e. Mr Cole) had pleaded guilty to driving without due care and attention and was fined £150, and had his driving licence endorsed with three penalty points. Mr Cole was not named or otherwise referred to in the programme, but his face was shown and his voice heard.

#### Summary of the complaint and the broadcaster's response

Mr Cole complained that his privacy was unwarrantably infringed in the programme as broadcast because footage of him was included in the programme without his consent.

Mr Cole said that he had explicitly refused to give his consent to being featured in the programme and was told by the programme makers that if he was featured then his face would be blurred. However, Mr Cole said that his face was shown in the programme unobscured by blurring and that he was therefore recognised by several people to whom he was known. Mr Cole said that the broadcast of the programme caused him a great deal of embarrassment and that he was concerned that it might cause harm to his professional life.

In response, Channel 5 said that this was the fifth series of *Emergency Bikers* and, as a result, the programme makers were very experienced in this type of production. It said that, before any filming took place, all the programme makers' filming teams were fully briefed on the compliance procedures in place, which included details about what could and could not be said to members of the public who were filmed for inclusion in the programme. Channel 5 stated that the filming teams were aware that in certain circumstances consent was not required from individuals in order to broadcast unobscured footage and therefore such individuals should not be given assurances that they would be blurred.

Channel 5 accepted that Mr Cole did not provide the programme makers with consent to broadcast footage of him, however it maintained that no assurances were made to Mr Cole by the programme makers that his face would be blurred in any broadcast of the footage. Further, Channel 5 said the Producer/Director who attended the incident was very experienced and it was the second series of *Emergency Bikers* which he had worked on. Channel 5 stated that neither the Producer/Director nor the Location Assistant informed Mr Cole that his face would be blurred. The conversation with Mr Cole regarding blurring was not recorded or filmed by the filming team. However, Channel 5 said that the filming teams were told never to promise anything to contributors. Channel 5 said that if Mr Cole received any assurances that he would be blurred then it must have been provided by someone else at the scene without the knowledge or consent of the programme maker or Channel 5.

Further to this, Channel 5 said that the Producer/Director did not recall having much of a discussion with Mr Cole because he realised he was upset and did not wish to engage with him in these circumstances. The Producer/Director therefore filmed Mr Cole's interaction with police officers and his transfer to the police van from a short distance away. Channel 5 went on to say that, in accordance with the programme makers' compliance procedures, whenever filming an individual likely to be prosecuted, it is explained to that individual that when a prosecution leads to conviction there is a possibility that footage of the person may be shown on television without their consent. The Producer/Director said that he explained briefly to Mr Cole that they were filming everything the police officer did and it was fine if he did not want to be filmed, however he may still be shown as the filming team were following the police officer's work in full regardless.

Channel 5 said that it did not think that Mr Cole had a legitimate expectation of privacy in relation to the footage broadcast. It argued that Mr Cole was in a public place and he was filmed openly. Channel 5 said that Mr Cole was not shown in the programme giving a statement to the police and none of the information disclosed was private. Channel 5 went on to say that, while Mr Cole may have been embarrassed and would have preferred not to have been identified, "the public place in which the accident occurred, the public involvement of the police and the successful prosecution of Mr Cole meant that the information was in the public domain and it was not and could not legitimately be considered to be information that was private to Mr Cole".

Channel 5 also said that there was a clear public interest in the programme in that it followed the activities of the emergency services and, in this case, demonstrated the work carried out by the police and the difficulties they can encounter. It went on to say that the footage of Mr Cole was necessary and an effective part of the story of the police officer in this case.

## Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a transcript of it and both parties' written submissions. Ofcom provided the parties with the opportunity to make representations on Ofcom's Preliminary View (which was not to uphold the complaint). Neither party made any representations on the Preliminary View.

The individual's right to privacy has to be balanced against the competing rights of broadcasters to freedom of expression. Neither right as such has precedence over the other and, where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate. This is reflected in how Ofcom applies Rule 8.1 of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

Ofcom considered Mr Cole's complaint that his privacy was unwarrantably infringed in the programme as broadcast because the programme included footage of him without his consent.

In assessing the complaint, Ofcom had regard to Practice 8.6 of the Code which states that, if the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

In considering whether or not Mr Cole's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first assessed the extent to which he had a legitimate expectation of privacy in relation to the footage of him broadcast.

Ofcom examined the footage of Mr Cole broadcast in the programme, which lasted for approximately ten seconds. Mr Cole was first shown talking to a police officer, although nothing that was being said was audible. Another police officer was then shown approaching Mr Cole to find out what had been the cause of the accident. Mr Cole, who could now be heard in the footage, revealed that: he was the car driver; he was on his own; and he came out of the road pointed out by the police officer. Both police officers recognised that Mr Cole was "*a bit shaken*" as a result of the accident and they invited him to sit in the police van where he was told that one of the police officers would take his statement. Mr Cole was not filmed giving his statement to the police and so this was not broadcast. The programme revealed in commentary that

Mr Cole later pleaded guilty to driving without due care and attention and was fined £150, and three penalty points were endorsed on his driving licence.

Whether or not someone who has been filmed, while being questioned by the police in relation to an incident, has a legitimate expectation of privacy in the broadcast of that footage depends, in Ofcom's view, on all the relevant circumstances: for example (depending on their relevance to any particular case) whether the filming took place in a public place; whether the individual was vulnerable in any way (e.g. through the consumption of alcohol or drugs or because of an illness or disability); whether the person concerned was a minor; whether the footage depicted the individual doing something, or disclosed information about that individual, which was confidential, sensitive or personal; the time that had elapsed between the events depicted in the footage and its broadcast (or re-broadcast); and any change in factual circumstances between the events depicted and its broadcast which may affect the extent to which the material could be considered to be private or confidential (for example, whether since the incident was filmed the individual concerned was charged and/or found guilty of any offences).

Ofcom noted from the footage broadcast in the programme that Mr Cole appeared to have been filmed openly and in a public place, i.e. the side of a public highway. However, Mr Cole was shown talking to the police following a traffic accident in which he was involved and it was acknowledged by the police officers that Mr Cole was "*a bit shaken*" (i.e. suffering from shock). This, in Ofcom's view, could be reasonably regarded as a sensitive situation. Ofcom also took account of the fact that, by the time of broadcast, Mr Cole had pleaded guilty to careless driving for which he was convicted and sentenced, and that this outcome was a matter of public record. Taking these factors into consideration, Ofcom found that, on balance, Mr Cole had a legitimate expectation in relation to the broadcast of the footage of him in the programme. However, Mr Cole's expectation was limited because the filming had been conducted in a public place and, by the date of the programme's broadcast, Mr Cole had been convicted of a criminal offence in relation to the events depicted in the programme.

Having reached the decision that Mr Cole had a legitimate expectation of privacy (albeit limited) in the footage included in the programme, Ofcom then considered whether or not Mr Cole was identifiable in the programme as broadcast. Although Mr Cole was not referred to by name in the programme, Ofcom noted that his face was shown unobscured and his voice was heard. In these circumstances, Ofcom considered that Mr Cole was clearly identifiable from the footage included in the programme.

Ofcom then assessed whether his consent had been secured before the footage was broadcast in accordance with Practice 8.6. Ofcom noted that there was a difference in the recollections of Mr Cole and the programme makers about whether or not any assurances were given to Mr Cole that he would not be shown in the programme. However, both Channel 5 and the complainant confirmed that Mr Cole's consent for footage of him to be included in the programme had not been obtained prior to its broadcast.

Given that Mr Cole had a limited expectation of privacy in relation to the footage of him broadcast in the programme, Ofcom next assessed the broadcaster's competing right to freedom of expression and the audiences' right to receive information and ideas without unnecessary interference. In particular, Ofcom considered whether there was sufficient public interest to justify the intrusion of Mr Cole's privacy in broadcasting the footage of him. Ofcom considered that there is a genuine public

interest in broadcasting programmes of this nature, specifically those which examine the work of the police and other emergency services in responding to varied and often difficult incidents. In Ofcom's view, showing such material in programmes helps develop the public's understanding of the work of the police and the emergency services and, in this particular case, the vulnerability of motorcyclists and the dangers created by and consequences of careless driving.

Therefore, Ofcom's decision was that, in the circumstances of this case, the broadcaster's right to freedom of expression and the public interest outweighed Mr Cole's limited expectation of privacy in relation to the broadcast of footage of him. As a result, Ofcom found that there was no unwarranted infringement of Mr Cole's privacy in the programme as broadcast.

**Accordingly, Ofcom has not upheld Mr Cole's complaint of unwarranted infringement of privacy in the programme as broadcast.**

## Other Programmes Not in Breach

Up to 21 October 2013

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>
ITV News Granada Reports	ITV (Granada)	10/09/2013	Due impartiality/bias
Sex Hospital (trailer)	Investigation Discovery	01/09/2013	Scheduling
Swinger Wives (trailer)	TLC	13/09/2013	Scheduling
The Free Opinion	Al Hiwar	22/05/2013	Crime
Y Byd Ar Bedwar	S4C Digital	02/07/2013	Under 18s in programmes

## Complaints Assessed, not Investigated

Between 8 and 21 October 2013

This is a list of complaints that, after careful assessment, Ofcom has decided not to pursue because they did not raise issues warranting investigation.

Programme	Broadcaster	Transmission Date	Categories	No. of complaints
5 News at 5	Channel 5	07/10/2013	Generally accepted standards	2
999: What's Your Emergency?	Channel 4	07/10/2013	Suicide and self harm	1
999: What's Your Emergency?	Channel 4	14/10/2013	Suicide and self harm	13
999: What's Your Emergency?	Channel 4	17/10/2013	Suicide and self harm	2
A League of Their Own	Sky2	15/10/2013	Race discrimination/offence	1
Absolute 70s promotion	Absolute 80s	09/10/2013	Materially misleading	1
Advertisement for Lloyds Bank	Dave	13/10/2013	Political advertising	1
Al Massaa	Sky News Arabia	10/10/2013	Sponsorship	1
Alkhair Qurbani Appeal	Iqra TV	15/10/2013	Charity appeals	1
Anadin's sponsorship of Deal or No Deal	Channel 4 +1	11/10/2013	Gender discrimination/offence	1
Animal Welfare	Various	Various	Animal welfare	1
Anthony Davis	LBC 97.3 FM	09/10/2013	Due impartiality/bias	1
Azan E Magrib	CHSTV	04/09/2013	Sponsorship credits	1
Battle of Devon competition	Heart FM (Devon)	08/10/2013	Competitions	1
BBC News	BBC 1	19/10/2013	Generally accepted standards	1
BBC News	BBC 1	19/10/2013	Outside of remit / other	2
BBC News	BBC Radio 4	15/10/2013	Scheduling	1
BBC News at Ten	BBC 1	08/10/2013	Outside of remit / other	2
BBC News online	BBC	n/a	Outside of remit / other	2
BBC website	BBC	29/08/2013	Outside of remit / other	1
Bear Grylls: Escape From Hell (trailer)	Discovery Shed	Various	Scheduling	1
Benefits Britain 1949 (trailer)	Channel 4	12/08/2013	Offensive language	1
Big School	BBC 1 HD	08/10/2013	Scheduling	1
Big Star's Little Star	ITV	09/10/2013	Due impartiality/bias	1
Bottom Kocker Street	ITV	13/10/2013	Generally accepted standards	1
Breakfast	BBC 1	14/10/2013	Outside of remit / other	1
Breaking news med Filip och Fredrik	Kanal 5	10/09/2013	Generally accepted standards	1
Bridget Christie Minds the Gap	BBC Radio 4	09/10/2013	Offensive language	1
British Superbike Championship Highlights	ITV4	25/09/2013	Surreptitious advertising	1

Celebrity Juice	ITV2	03/10/2013	Generally accepted standards	1
Celebrity Wedding Planner	Channel 5	11/10/2013	Generally accepted standards	1
Channel 4 News	Channel 4	08/10/2013	Violence and dangerous behaviour	1
Channel 4 News	Channel 4	10/10/2013	Due impartiality/bias	1
Channel 4 News	Channel 4	16/10/2013	Generally accepted standards	1
Channel ident	ITV2	20/10/2013	Animal welfare	1
Channel promotion	Comedy Central	25/09/2013	Disability discrimination/offence	1
Charity Appeal	ATN Bangla	01/07/2013	Charity appeals	1
Church Without Walls	Revelation TV	11/10/2013	Outside of remit / other	1
Citizen Khan	BBC 1	04/10/2013	Religious/Beliefs discrimination/offence	6
Citizen Khan	BBC 1	07/10/2013	Religious/Beliefs discrimination/offence	1
Citizen Khan	BBC 1	11/10/2013	Race discrimination/offence	1
Citizen Khan (trailer)	BBC 1	18/10/2013	Generally accepted standards	1
Coronation Street	ITV	15/07/2013	Race discrimination/offence	1
Coronation Street	ITV	04/10/2013	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	13/10/2013	Offensive language	1
Coronation Street	ITV	13/10/2013	Transgender discrimination/offence	2
Coronation Street	ITV	14/10/2013	Offensive language	1
Countdown to Murder (trailer)	Channel 5	12/10/2013	Scheduling	1
Countryfile	BBC 1	13/10/2013	Scheduling	1
Crimewatch	BBC 1	14/10/2013	Outside of remit / other	2
Daybreak	ITV	08/10/2013	Religious/Beliefs discrimination/offence	12
Deal or No Deal	Channel 4	16/10/2013	Generally accepted standards	1
Dive WWII: Our Secret History	BBC 2	20/10/2013	Outside of remit / other	1
Downton Abbey	ITV	22/09/2013	Advertising scheduling	1
Downton Abbey	ITV	06/10/2013	Generally accepted standards	244
Downton Abbey	ITV	06/10/2013	Religious/Beliefs discrimination/offence	1
Downton Abbey	ITV	13/10/2013	Generally accepted standards	1
Downton Abbey	ITV	13/10/2013	Scheduling	3
EastEnders	BBC 1	27/09/2013	Violence and dangerous behaviour	1
EastEnders	BBC 1	07/10/2013	Materially misleading	1
EastEnders	BBC 1	07/10/2013	Race discrimination/offence	3
EastEnders	BBC 1	10/10/2013	Outside of remit / other	1

EastEnders	BBC 1	10/10/2013	Scheduling	1
Emmerdale	ITV	08/10/2013	Scheduling	8
Emmerdale	ITV	09/10/2013	Materially misleading	1
Emmerdale	ITV	09/10/2013	Sexual orientation discrimination/offence	1
Emmerdale	ITV	Various	Scheduling	1
F1: Grand Prix	BBC 1	13/10/2013	Outside of remit / other	1
First Fast Now	Sky Sports News	14/10/2013	Generally accepted standards	1
Fool Britannia	ITV	05/10/2013	Materially misleading	1
Fool Britannia	ITV	05/10/2013	Religious/Beliefs discrimination/offence	3
Fool Britannia	ITV	19/10/2013	Animal welfare	1
Fool Britannia	ITV	19/10/2013	Generally accepted standards	1
Four Lions	Film4	02/10/2013	Race discrimination/offence	1
Foxy Bingo's sponsorship of The Jeremy Kyle Show	ITV	Various	Generally accepted standards	1
Friends with Benefits (trailer)	Channel 4	Various	Sexual material	1
FYI Daily	ITV2	28/09/2013	Scheduling	1
Have I Got News for You	BBC 1	11/10/2013	Outside of remit / other	1
Have I Got News for You	BBC 1	11/10/2013	Race discrimination/offence	1
Hens Behaving Badly (trailer)	Channel 5	11/10/2013	Scheduling	1
Hirsty's Daily Dose	Capital Yorkshire	16/10/2013	Generally accepted standards	1
Hollyoaks	Channel 4	02/10/2013	Scheduling	1
Hollyoaks	Channel 4	07/10/2013	Scheduling	2
Hollyoaks	Channel 4	14/10/2013	Scheduling	1
Hollyoaks	E4	02/10/2013	Sexual orientation discrimination/offence	1
Hollyoaks	E4	04/10/2013	Scheduling	2
Hollyoaks Later	E4	08/10/2013	Animal welfare	1
Hollyoaks Later	E4	08/10/2013	Generally accepted standards	1
Hollyoaks Later	E4	10/10/2013	Generally accepted standards	1
Hollyoaks Later	E4	11/10/2013	Materially misleading	1
Hollyoaks Later	E4	Various	Generally accepted standards	1
Hollyoaks Later (trailer)	Channel 4	10/10/2013	Scheduling	1
Hostel	Channel 5	30/09/2013	Generally accepted standards	1
I Want That Car	ITV4	02/10/2013	Violence and dangerous behaviour	1
Inside Out	BBC 1	14/10/2013	Offensive language	1
Inspire	Muslim World	13/10/2013	Religious/Beliefs discrimination/offence	1
ITV News and Weather	ITV	15/10/2013	Scheduling	2

ITV News and Weather	ITV	17/10/2013	Scheduling	1
ITV News at Ten and Weather	ITV	16/10/2013	Due accuracy	1
ITV News at Ten and Weather	ITV	16/10/2013	Generally accepted standards	1
James O'Brien	LBC 97.3FM	04/10/2013	Offensive language	1
Jamie's Money Saving Meals	Channel 4	30/09/2013	Product placement	1
Jeremy Vine	BBC Radio 2	26/09/2013	Disability discrimination/offence	1
Kiss 100	Kiss 100	Various	Disability discrimination/offence	1
Larry Lamb	LBC 97.3FM	06/10/2013	Due impartiality/bias	1
Lidl's sponsorship of The Daily Mirror Pride of Britain Awards 2013	ITV	08/10/2013	Harm	4
Lizard Lick Towing	Dave	26/09/2013	Violence and dangerous behaviour	1
London Tonight	ITV (London)	15/08/2013	Race discrimination/offence	1
Loose Women	ITV	23/09/2013	Competitions	1
Loose Women	ITV	18/10/2013	Generally accepted standards	1
Made in Chelsea (trailer)	E4	10/10/2013	Offensive language	2
Mandmdirect.com's sponsorship of The Simpsons	Channel 4	11/10/2013	Generally accepted standards	1
Martin Lowes	Signal 1	11/10/2013	Generally accepted standards	1
Masters of Sex	Channel 4	09/10/2013	Scheduling	1
Murnaghan	Sky News	22/09/2013	Due impartiality/bias	1
My Big Fat Gypsy Ladies' Day	Channel 4	24/09/2013	Animal welfare	2
News	BBC Radio Five Live	18/10/2013	Outside of remit / other	1
News	Talksport	05/10/2013	Due impartiality/bias	1
Nissan's sponsorship credit	Sky Living HD	04/10/2013	Generally accepted standards	1
On Benefits and Proud	Channel 5	14/10/2013	Due impartiality/bias	4
Piers Morgan's Life Stories	UTV	04/10/2013	Generally accepted standards	1
Political Programme	Geo Tez	29/09/2013	Drugs, smoking, solvents or alcohol	1
Racing News	At The Races	08/10/2013	Generally accepted standards	1
Rick Stein's India	BBC 2	15/10/2013	Offensive language	1
Rick Stein's India	BBC 2	17/10/2013	Religious/Beliefs discrimination/offence	1
Sangat TV	Sangat TV	01/09/2013	Materially misleading	1
Seven Seas Multivitamins' sponsorship of ITV National Weather	ITV	09/10/2013	Generally accepted standards	1
SNP Conference	BBC Parliament	18/10/2013	Outside of remit / other	1

Spotlight News	BBC 1 (South West)	11/10/2013	Outside of remit / other	1
Stephen Fry: Out There	BBC 2	16/10/2013	Television Access Services	1
Stephen Nolan	BBC Radio Five Live	20/10/2013	Outside of remit / other	1
Storm Evening	Storm	02/10/2013	Participation TV - Offence	1
Storm Warning (trailer)	Movie Mix	18/09/2013	Generally accepted standards	1
Straight Dialogue	Channel i	09/09/2013	Due impartiality/bias	6
Strictly Come Dancing	BBC 1	12/10/2013	Generally accepted standards	1
Strictly Come Dancing	BBC 1	13/10/2013	Outside of remit / other	1
That's My Boy	Sky Movies Comedy	15/10/2013	Generally accepted standards	1
The Alan Titchmarsh Show	ITV	04/10/2013	Due impartiality/bias	1
The Anderson Tapes	Channel 4	10/10/2013	Scheduling	1
The Bedford Incident	Channel 4	11/10/2013	Scheduling	1
The Daily Mirror Pride of Britain Awards 2013	ITV	08/10/2013	Generally accepted standards	1
The Daily Mirror Pride of Britain Awards 2013	STV	08/10/2013	Generally accepted standards	1
The Fried Chicken Shop	Channel 4	03/10/2013	Transgender discrimination/offence	1
The Ginge, the Geordie and the Geek	BBC 2	06/10/2013	Race discrimination/offence	2
The Ginge, the Geordie and the Geek	BBC 2	Various	Generally accepted standards	1
The Graham Norton Show	BBC 1	09/11/2012	Outside of remit / other	1
The Great British Bake Off	BBC 2	08/10/2013	Outside of remit / other	3
The Guilty	ITV	19/09/2013	Religious/Beliefs discrimination/offence	1
The Hairy Bikers' Bake-ation	BBC 2	07/10/2013	Scheduling	1
The Jonathan Ross Show	ITV	19/10/2013	Generally accepted standards	1
The Nolan Show	BBC 1 Northern Ireland	09/10/2013	Outside of remit / other	1
The Simpsons	Channel 4	17/10/2013	Race discrimination/offence	1
The Wright Stuff	Channel 5	01/10/2013	Generally accepted standards	1
The Wright Stuff	Channel 5	07/10/2013	Generally accepted standards	1
The Wright Stuff	Channel 5	Various	Due impartiality/bias	1
The X Factor	ITV	29/09/2013	Offensive language	1
The X Factor	ITV	05/10/2013	Generally accepted standards	1
The X Factor	ITV	05/10/2013	Under 18s in programmes	1
The X Factor	ITV	06/10/2013	Under 18s in programmes	1

The X Factor	ITV	12/10/2013	Scheduling	2
The X Factor	ITV	12/10/2013	Under 18s in programmes	3
The X Factor	ITV	19/10/2013	Generally accepted standards	1
The X Factor	ITV	19/10/2013	Offensive language	2
The X Factor	STV	12/10/2013	Generally accepted standards	1
The X Factor Results Show	ITV	13/10/2013	Scheduling	8
The X Factor Results Show	ITV	13/10/2013	Voting	1
This Morning	ITV	14/10/2013	Generally accepted standards	8
This Morning	ITV	17/10/2013	Generally accepted standards	1
Titanic	Film4	15/09/2013	Scheduling	1
Tonight	ITV	17/10/2013	Drugs, smoking, solvents or alcohol	1
Top Gear	BBC 3	19/10/2013	Religious/Beliefs discrimination/offence	1
Truckers	BBC 1	10/10/2013	Sexual material	1
Unsafe Sex in the City	BBC 3	09/10/2013	Gender discrimination/offence	1
Unsafe Sex in the City (trailer)	BBC 3	30/09/2013	Generally accepted standards	1
Up All Night	Channel 4	17/10/2013	Race discrimination/offence	1
Up All Night (Trailer)	Channel 4	17/10/2013	Scheduling	1
Watchdog	BBC 1	09/10/2013	Outside of remit / other	14
Weekend Debate	NDTV	10/08/2013	Race discrimination/offence	1
World Cup Qualifier	ITV	11/10/2013	Generally accepted standards	10
World of the Dead: The Zombie Diaries 2	Horror Channel	10/10/2013	Generally accepted standards	1
You've Been Framed	ITV2	28/09/2013	Generally accepted standards	1

## Investigations List

If Ofcom considers that a broadcast may have breached its codes, it will start an investigation.

Here is an alphabetical list of new investigations launched between 10 and 23 October 2013.

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>
2013 Biggest Hits of the Year So Far	4Music	7 October 2013
Advertising minutage	Colors TV	8 September 2013
Advertising minutage	ESPN	12 September 2013
Aik Din Geo Kay Saath	Geo News	5 October 2013
Caught on Camera	Channel 5	18 October 2013
Hollyoaks	Channel 4	15 October 2013
Law with N Rahman	Channel Nine UK	7 September 2013
Lycamobile's sponsorship of Sanskaar- Dharohar Apnon Ki	Colors	8 October 2013
Masters of Sex	Channel 4	8 October 2013
Mr Selfridge	ITV3	30 September 2013
Non-stop Music	Starz TV	8 October 2013
Red Light Central	Red Light 2	31 August 2013
Scorned: Crimes of Passion	Investigation Discovery	24 September 2013
Sky News	Sky New Channel	26 and 27 September 2013
The Jeremy Kyle Show	ITV	23 September 2013
Tommy Noon	Halton Community Radio	2 October 2013

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the Codes being recorded.**

For more information about how Ofcom assesses complaints and conducts investigations go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

For fairness and privacy complaints go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.