

Coverage of the Scottish Government's Coronavirus Update, Various programmes

Type of case	Broadcast Standards
Outcome	Not Pursued
Service	BBC 1 Scotland and BBC Scotland
Date & time	11 September 2020 to 18 September 2020; 23 October 2020; and 5 December 2020 to 11 December 2020, various times ¹
Category	Due impartiality
Summary	Four complainants considered that broadcast coverage of the Scottish Government's regular updates about the Coronavirus were not duly impartial. We concluded that the programmes that we assessed adequately reflected alternative viewpoints and provided sufficient context, and therefore did not raise issues which warranted investigation under the Broadcasting Code. As we approach the election period for the May 2021 elections, Ofcom reminds broadcasters to take care

¹ *Politics Scotland Special*, BBC Scotland, 11 September 2020; *Politics Live*, BBC 1 Scotland, 11 September 2020; *Politics Scotland*, BBC Scotland, 14 September 2020; *Politics Live*, BBC 1 Scotland, 14 September 2020; *Politics Live*, BBC 1 Scotland, 15 September 2020; *Politics Live*, BBC Scotland, 15 September 2020; *Politics Scotland Special*, BBC 1 Scotland, 16 September 2020; *Politics Scotland*, BBC Scotland, 16 September 2020; *Politics Scotland Special*, BBC 1 Scotland, 18 September 2020; *Politics Scotland*, BBC Scotland, 18 September 2020; *Coronavirus Update*, BBC 1 Scotland, 23 October 2020; *Coronavirus Update*, BBC 1 Scotland, 7 December 2020; *Extended Coverage of the Coronavirus Update*, BBC Scotland, 7 December 2020; *Coronavirus Update*, BBC Scotland, 9 December 2020; *Coronavirus Update*, BBC 1 Scotland, 9 December 2020; *Politics Scotland with Coronavirus Update*, BBC 1 Scotland, 11 December 2020; *BBC Scotland – Scottish Government briefing*, BBC Scotland, 11 December 2020.

when featuring candidates and other politicians in their programming.

Summary

Ofcom received four complaints about the coverage of the Scottish Government's regular *Coronavirus Update* (or "the Programme") broadcast on BBC 1 Scotland and the BBC Scotland channel. In summary, the complainants alleged that the content breached the due impartiality requirements in Section Five of [Ofcom's Broadcasting Code](#) ("the Code") because it was giving the Scottish National Party ("SNP"), and its leader, First Minister Nicola Sturgeon, a platform to promote their views on ongoing policy matters in Scotland without any opportunity being given to other Scottish political parties to express theirs.

Following an assessment of the programmes, Ofcom has decided that they did not raise issues warranting investigation. Taking into consideration that this assessment involved consideration of issues of general importance and public interest in terms of coverage of public health information relating to the current pandemic, as well as the forthcoming Scottish Parliamentary elections², Ofcom has exceptionally decided to publish its reasons for its decision in order to provide guidance to broadcasters.

As we approach the election period for the Scottish Parliamentary elections and other elections being contested across the UK on 6 May 2021, Ofcom has today published a [Note to Broadcasters on election programming](#). Amongst other things, in that Note we remind all broadcasters of the care that needs to be taken when featuring in their programming candidates and other politicians providing public health information and information relating to Coronavirus restrictions across the different nations of the UK.

Introduction

Complaints about content broadcast on the BBC, as set out in the [BBC Charter and Agreement](#), are dealt with through a ['BBC First' complaints process](#). This means that Ofcom would normally only consider complaints about BBC content after the broadcaster has had the opportunity to address it first. If complainants are not satisfied with the final decision of the BBC on their complaints, they can then make a complaint to Ofcom.

Ofcom received four complaints that the coverage of the regular Scottish Government *Coronavirus Update* (or "the update") broadcast on BBC1 Scotland and BBC Scotland was not duly impartial. All four complaints had completed the ['BBC First' complaints process](#). The BBC had treated three of these complaints on a general basis in line with the [BBC's Complaints framework](#), because they did not refer to specific broadcasts. The fourth complaint was specifically about the coverage of the Scottish Government *Coronavirus Update* broadcast on BBC1 Scotland channel on 23 October 2020. The BBC rejected all four complaints on the grounds that the content did not breach their editorial guidelines

² The elections for the Scottish Parliament are due to take place on 6 May 2021. For the reasons we set out in our Note to Broadcasters on election programming published on 8 March 2021, Ofcom has determined that for the purposes of the Code, the election period for the Scottish Parliamentary elections will commence on 25 March 2021.

on due impartiality. In summary, according to the final response provided by the BBC Executive Complaints Unit in all these cases, the BBC considered: there was editorial merit in continuing to broadcast the Scottish Government's Coronavirus update in light of the prevalence of Coronavirus cases in Scotland; and that they had ensured that the format and structure of the coverage of the Updates on both BBC 1 Scotland and the BBC Scotland channel evolved to reflect the range of political opinions on the management of the pandemic in the Updates themselves, but also in the context of the news coverage³.

The complainants were dissatisfied with the final response they received from the BBC and subsequently submitted their complaints to Ofcom. Considering the similar nature of the complaints, we have assessed all four complaints together.

Ofcom has now assessed the complaints and the extensive amount of content associated with them. We concluded that they do not raise potentially substantive issues under the Code which warrant investigation. Ofcom will not therefore be pursuing the complaints any further.

The complaints

The complaints related to a number of programmes relating to the coverage of the daily Scottish Government *Coronavirus Updates* on the BBC Scotland channel and BBC 1 Scotland. The complainants were concerned about the continuing broadcast of the *Coronavirus Updates* by the First Minister which featured in the programmes. In summary, the complainants were concerned that: the *Coronavirus Updates* provided a platform to the SNP and the First Minister to promote their policies; and the programmes had failed to sufficiently represent the viewpoints of opposition parties in response to the First Minister's statements during the updates.

Ofcom's due impartiality rules

Reflecting our duties under the Communications Act 2003 ("the Act"), Section Five of the Code requires that the impartiality requirements of sections 319 and 320 of the Act are met.

Section 319 of the Act requires that news in television and radio services is presented with due impartiality⁴. Section 320 of the Act sets out special impartiality requirements, which include the preservation, in the case of every television and, in the case of the BBC, radio service, of due impartiality on matters of political or industrial controversy and matters relating to current public policy⁵. This section requires Ofcom, for the purposes of setting the due impartiality rules in the Code,

³ The BBC [announced a change of approach](https://www.bbc.co.uk/contact/complaint/coronavirusupdatescotland), which had taken effect from 21 September 2020, to the coverage of the Scottish Government updates on its website on 25 September 2020: See <https://www.bbc.co.uk/contact/complaint/coronavirusupdatescotland>.

⁴ This is reflected, for example, in Rule 5.1 of the Code which states that news, in whatever form, must be reported with due accuracy and presented with due impartiality.

⁵ This is reflected, for example, in Rule 5.5 of the Code, which provides that due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service. This may be achieved within a programme or over a series of programmes taken as a whole.

to take account, in particular, of the need to ensure the preservation of impartiality on matters of major political or industrial controversy and major matters relating to current public policy⁶.

Section Five of the Code makes clear that “due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side or another. “Due” means adequate or appropriate to the subject and nature of the programme. It does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. In addition, context, as defined in Section Two of the Code, is important in preserving due impartiality. Context includes a number of factors, such as the editorial content of the programme, the service on which the material is broadcast, and audience expectations.

Ofcom has published [Guidance](#) to assist broadcasters in complying with Section Five of the Code. Among other things, Ofcom’s Guidance makes clear that:

- the concept of due impartiality is central to the application of Section Five and in reaching a decision on whether due impartiality needs to be preserved in a particular case, broadcasters should have regard to the likely expectation of the audience as to the content, and all other relevant contextual factors⁷; and
- it is an editorial matter for the broadcaster how due impartiality is preserved, as long as the Code is complied with, and there are various editorial techniques which can help to ensure this⁸.

Our Guidance also states that the broadcasting of comments either supporting or criticising the policies and actions of any political organisation or elected politician is not, in itself, a breach of the due impartiality rules⁹. Any broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints or provide context in an appropriate way to ensure that Section Five of the Code is complied with.

⁶ This is reflected in Rules 5.11 and 5.12 of the Code. Rule 5.11 requires that due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service in each programme or in clearly linked and timely programmes. Rule 5.12 provides that, in dealing with matters of major political and industrial controversy and major matters relating to current public policy, an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

⁷ [Ofcom’s Section Five Guidance](#), paragraph 1.4. See also paragraph 1.34, which explains that other relevant factors may include the nature of the programme, the programme’s presentation of its argument and the transparency of its agenda.

⁸ [Ofcom’s Section Five Guidance](#), paragraph 1.6. See also paragraph 1.37 which makes clear that there are a range of editorial techniques which may be employed.

⁹ [Ofcom’s Section Five Guidance](#), paragraph 1.34.

Ofcom's Code and Guidance Notes are drafted, and are given effect to, in accordance with the broadcaster's right to freedom of expression as set out in Article 10 of the European Convention of Human Rights. Freedom of expression is one of the essential foundations of a democratic society. It encompasses the broadcaster's right to freedom of expression as well as the audience's right to receive information and ideas without interference. It applies not only to the content of information but also to the means of transmission or reception. Any interference must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society (i.e. proportionate to the legitimate aim pursued and corresponding to a pressing social need). Each time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights. In order to reach a decision on whether due impartiality was maintained in these programmes, Ofcom has had careful regard to the Article 10 rights and relevant contextual factors.

The programmes assessed

It was necessary for Ofcom to adopt a proportionate approach when assessing these complaints to determine whether there were potentially substantive issues warranting investigation. While one of the complaints was about specific broadcast of the Scottish Government *Coronavirus Update* on BBC1 Scotland on 23 October 2020, the other three complaints did not specify any particular broadcast and complained generally about the coverage of the Scottish Government *Coronavirus Updates*. In order to ensure that we had a representative sample over the time period covered by the three non-specific complaints, we decided to assess programmes relating to the coverage of the Scottish Government *Coronavirus Updates* covering the following periods¹⁰:

- the *Coronavirus Updates* broadcast on BBC 1 Scotland and the BBC Scotland channel between 11 September 2020 and 18 September 2020 ("the September 2020 period"); and
- the *Coronavirus Updates* broadcast on BBC 1 Scotland and the BBC Scotland channel between the period 5 to 11 December 2020, which included the period after the BBC announced the change in format to the daily briefings shown on BBC 1 Scotland¹¹ ("the December 2020 period").

In addition, we assessed one edition of the *Coronavirus Update* broadcast on BBC1 Scotland on 23 October 2020 which the complainant specifically referred to in their complaint.

In total, Ofcom assessed 17 programmes¹² consisting of approximately 16 hours of content.

General context during the period the programmes were broadcast

Ofcom was mindful that, at the start of the September 2020 period, [the global number of confirmed cases of Coronavirus had reached more than 30 million](#) and [more than 40,000 people had been reported to have died from Coronavirus in the UK](#). Governments, including the UK Government and

¹⁰ We requested the BBC to provide us with a week of recordings during the September and the December 2020 periods. They provided an additional day in September (18 September 2020) that we also included in this assessment. During the period we assessed, there were some days (17 September, 8 and 10 December 2020) when there were no Scottish Government *Coronavirus Updates* broadcast. There was no *Coronavirus Update* broadcast on weekends during these periods (i.e. 12 and 13 September 2020 and 5 and 6 December 2020).

¹¹ See footnote 3.

¹² See footnote 1.

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Scottish Government, had introduced unprecedented “restrictions” policies curtailing individual freedoms in order to prevent the further transmission of the virus. On 10 September 2020, [the Scottish Government announced that it had had to put in place additional restrictions in a number of local authorities](#) in light of the rise of positive cases of Coronavirus in Scotland, covering around a fifth of the population. On the day that the *Coronavirus Update* was broadcast on 23 October 2020, the First Minister announced the [introduction of a 5 tier system of restrictions in response to different local incidence levels of Coronavirus cases in Scotland](#). During the December 2020 period, the situation had worsened in the lead up to the Christmas period with the discovery of a new variant in the UK, and the Scottish Government put [tighter restrictions in place to stop the virus from spreading](#).

In addition to the ongoing Coronavirus pandemic, the UK Government was also entering the final phase of the negotiations with the EU before the end of the Brexit transition period on 31 December 2020. On 7 September 2020, [Prime Minister Boris Johnson made a statement](#) in which he evoked the possibility of a no-deal Brexit if an agreement could not be struck with the EU by the time of the European Council meeting on 15 October 2020.

Format of the programmes

On the BBC Scotland channel

On the days that the Scottish Government *Coronavirus Updates* were taking place¹³, they were shown in full on the BBC Scotland channel during the September 2020 period and during the December 2020 period. The live coverage was preceded by a short introduction in the BBC studio by the presenter (for example, this typically included comments explaining the First Minister’s update briefing would be starting shortly) and some comments from BBC political reporters which typically recapped some of the key pandemic-related issues which were likely to be discussed in the briefing. The broadcast then turned to the live coverage of the First Minister’s update, which typically consisted of two segments: first, the First Minister giving that day’s update on the Coronavirus figures and statistics; and second, the First Minister answering questions put to her by journalists via video link. The broadcast ended when the First Minister finished answering questions¹⁴.

On BBC 1 Scotland

The programmes broadcast on BBC 1 Scotland during the September 2020 period, on 23 October 2020 and during the December 2020 period were a simulcast of the Updates broadcast on the BBC Scotland channel for approximately the first 30 to 40 minutes of the briefing, which included the First Minister’s factual update. The programmes also included the first few answers to questions posed by journalists via video link, before returning to the BBC studio where additional analysis was then supplied by BBC political reporters and experts for the remainder of the programme. All of the programmes broadcast in the September 2020 period, on 23 October 2020, and in the December 2020 period which were

¹³ During the period we assessed, there were some days (17 September, 8 and 10 December 2020) when there were no Scottish Government Coronavirus Updates broadcast. There was no Coronavirus Update broadcast on weekends during these periods.

¹⁴ We are aware that, since January 2021, the BBC has added a *Coronavirus Briefing Reaction* report at 4.30 pm on the BBC Scotland channel, which includes interviews with politicians from other parties than the SNP. This consists of the material taken from the earlier programme on BBC 1 Scotland which, as noted in footnote 3, had since 21 September 2020 contained a studio segment, following the coverage of each daily update, featuring representatives of political parties other than the SNP other public figures and experts.

assessed by Ofcom were also preceded by a voiceover to inform the audience that the coverage of the live *Coronavirus Update* continued after the 1 O'clock news on the BBC Scotland channel.

At the end of the coverage of the First Minister's update, the presenter reminded the audience that the rest of the coverage of the First Minister's update was continuing on the BBC Scotland channel, and informed the audience that there would be more news and analysis broadcast later on BBC1 Scotland.

In the programmes broadcast on BBC 1 Scotland on 23 October 2020 and in the December 2020 period (i.e. following the change in the BBC's approach to broadcasting the updates on 21 September 2020¹⁵), as part of the studio segments following the coverage of each daily update, the BBC invited politicians from political parties other than the SNP, or other public figures and experts, to comment on some aspects of the update briefing on that day, which we refer to in our assessment below.

Common features of the coverage of the updates provided by the First Minister that were included in the programmes

During her live updates broadcast on both the BBC Scotland channel and BBC 1 Scotland, the First Minister, Nicola Sturgeon, gave a primarily factual account of the latest Coronavirus daily statistics for Scotland, including for example: the total number of positive cases on that day; the breakdown of positive cases by region; the number of people with Coronavirus being treated in Scottish hospitals; and the number of Coronavirus-related deaths in Scotland. The First Minister was sometimes accompanied by an official or another Scottish Government Minister whose expertise she would call upon to provide further factual information on specific update she was giving. For example:

- on the BBC Scotland channel during the *Coronavirus Update* broadcast on 11 September 2020, Nicola Steedman, Interim Deputy Chief Medical Officer was invited to provide the latest information on the Protect Scotland App;
- on 16 September 2020, Fiona Hyslop, MSP and Cabinet Secretary for Economy, Fair Work and Culture discussed the latest unemployment figures released and the impact of the pandemic on these figures and the furlough scheme;
- on 18 September 2020, Professor Jason Leitch, Scotland Clinical Director, gave an update on an incident involving two Scottish rugby players breaking restrictions at a house party, encouraging the need to follow public health advice;
- on 7 December 2020, Jean Freeman MSP, Cabinet Secretary for Health and Sport gave an update on policies around care home visiting;
- on 9 December 2020, Scotland's National Clinical Director, Professor Jason Leitch, gave more details on the genomic history of the Coronavirus virus; and
- on 11 December 2020, Chief Constable Iain Livingstone of the Police of Scotland provided more information on the enforcement of the restriction rules.

The length of the First Minister's initial update during each programme varied slightly depending on the amount of information that she shared on that day, but lasted on average between 15 and 30 minutes. The rest of the update then consisted of the First Minister, and sometimes other officials or Scottish Ministers, answering questions via video link from journalists from a wide range of broadcast

¹⁵ See footnote 3.

and print titles. These question and answer sessions typically lasted between 30 and 55 minutes and were broadcast in full in the BBC Scotland channel programmes and in part in the BBC 1 Scotland programmes – in the latter, as outlined above, the end of the question and answer sessions were replaced in part by the other additional studio analysis.

Our assessment

As set out above, central to the concept of due impartiality is the importance of context. Therefore, the approach to due impartiality may vary according to various factors such as the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Ofcom took into account a number of relevant contextual factors in relation to these programmes, in particular: the service on which the material was broadcast; the nature and content of the programmes assessed; the way in which the content was signalled to the audience; and how this would have influenced the audience's expectations of the treatment of the issues discussed in the programmes. We also took into account the general context during the period when the programmes were broadcast, as outlined above.

The Code defines matters of *major* political controversy and *major* matters relating to current public policy as “matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance, or are of similar significance within a smaller broadcast area”. Ofcom’s Guidance on Section Five¹⁶ states that “a matter of major political and industrial controversy or major matter relating to current public policy is of a significant level of importance and is likely to be of the moment”. To the extent that the Scottish Government *Coronavirus Updates* dealt with the policies and actions of the Scottish Government – and referred to actions by the UK Government – in relation to the ongoing coronavirus pandemic, Ofcom considered that the programmes dealt with matters of major political controversy and major matters relating to current public policy. Therefore, the requirements in Rules 5.11 and 5.12 applied, in addition to the other due impartiality requirements in Rules 5.4 to 5.10. As our Guidance¹⁷ makes clear, there are various editorial techniques which a broadcaster can use to help ensure alternative viewpoints are sufficiently represented and due impartiality is preserved.

Ofcom considered whether the programmes raised potentially substantive issues under Section Five of the Code which warranted investigation. We first considered how the policies and actions of the Scottish and UK Governments in relation to the ongoing coronavirus pandemic were discussed in the programmes.

We considered that the first segment of the First Minister’s update briefings primarily focused on factual and statistical information on public health, including information about the handling of the Coronavirus crisis in Scotland and the legal restrictions and measures that were being put in place to tackle it. We took into account that all the programmes considered in this assessment were broadcast during a time when positive Coronavirus cases were on the rise, including in Scotland. We also took into account that the Scottish Government *Coronavirus Updates* combined public health information with statements about the measures the Scottish Government had taken in response to the pandemic,

¹⁶ Ofcom’s Section Five Guidance, paragraph 1.55.

¹⁷ See Ofcom’s [Section Five Guidance](#), paragraph 1.17 (for news) and paragraph 1.37.

in terms of managing health and education services, and supporting the economy and businesses. In so far as the discussions related to the measures taken by the Scottish Government to tackle the pandemic, these discussions inherently reflected the Scottish Government policy decisions in this area.

We considered that in these circumstances, broadcasters were likely to want to broadcast content about the pandemic and there was a clear public interest in the communication of accurate and up-to-date information to audiences about the Coronavirus, including official public health advice and governmental policy and legal measures being taken to try to stop the virus from spreading. It was clearly signalled to the audience by the way that the programmes introduced the updates given by the First Minister (as outlined above) that these would include discussion of pandemic-related issues. In light of this signalling and the general context in which the briefings took place, it was our view that the audience of the programmes assessed would have expected the programmes to include discussion of pandemic-related issues, including the measures adopted by the Scottish Government to protect others and stop transmission of the virus.

In these particular circumstances, given the initial part of the First Minister's updates focused on providing factual and statistical information and public health advice and statements about the measures the Scottish Government had taken in response to the pandemic, we did not consider that alternative viewpoints to the one presented by the First Minister, or other Scottish Minister or officials (where relevant), were required to be included for due impartiality to be preserved in relation to these matters, which were appropriately contextualised.

We acknowledged, however, that during the initial part of her update in the programme broadcast on 23 October 2020, and during the question and answer sessions that followed her initial factual updates in the other programmes that we assessed, certain aspects of the First Minister's and other Scottish Government Ministers' statements touched on matters of major political controversy and major matters relating to current public policy. For example:

- In the first part of the update broadcast on 16 September 2020, the First Minister, discussing the Furlough Scheme, said that the *"Scottish Government's very firm belief is that it should be extended in some form or another well into next year"* as *"ending it at the end of October would lead to a very sharp increase in unemployment and could also harm our longer-term prospects"*. Fiona Hyslop (MSP and Cabinet Secretary for Economy, Fair Work and Culture), who was accompanying her that day, reiterated the Scottish Government's position saying that *"the ending of the scheme will lead to a sharp rise in unemployment"*. The Cabinet Secretary said that she would *"be writing once again to the Chancellor asking him to urgently reconsider the premature ending of this support, and to implement an extension to continue to support the sectors that are most heavily affected"*. During the question and answer session with the journalists that followed, a journalist asked the First Minister if she thought there was a *"realistic prospect of the scheme being extended by the UK Government?"* and if the UK Government decided to end it, *"what kind of action would you [First Minister] look to take when it does come to an end, what's available to you?"* to protect the thousands of jobs at risk in Scotland. The First Minister clarified that the Scottish Government had a *"finite access to resources"* and *"did not have the borrowing powers to extend the scheme for Scotland"*. She stated: *"if the UK Government decide that extending the scheme... is not something they want*

to do, then we've also said 'extend the borrowing powers of the Scottish Government so that is an option for us'.

- In her initial comments in the update broadcast on 23 October 2020, while describing the packages of financial support available to businesses in Scotland, Nicola Sturgeon said that the Chancellor was able to support English businesses for as long as necessary because *"he can borrow the money to pay for it"* whereas *"the Scottish Government can't do that, so we have to rely on the Chancellor to provide the same funding guarantees to Scottish businesses"*. In supporting Scottish businesses, she said *"the money the Scottish Government has to pay for these grants will eventually run out ... it is not possible to fund indefinitely, demand led commitments, out of a finite budget with no powers to borrow. That is why we need a resolution"*.
- In the update broadcast on 7 December 2020, in response to a journalist's question regarding the implications of Brexit, and the possibility of a 'No Deal' on the NHS, the First Minister stated that she was *"increasingly concerned about the prospect of the transition period ending ... with no trade deal agreed"*. She also said that it was *"in everybody's interest for a deal to be struck"*.
- In the update broadcast on 9 December 2020, a journalist asked to be updated on *"what discussions the Scottish Government has had with the UK Government to stop disruptions to vaccines and medicines which could be brought about by a No Deal Brexit on January 1st"*, to which the First Minister replied: *"there are contingency plans around vaccine supplies and medicine supplies...but there's no doubt at all, that these things would be much more difficult... if there is not a deal agreed before the end of the year"*.
- In the briefing broadcast on 11 December 2020, the First Minister was asked *"as the UK Government through HMRC and DWP are applying tax and cutting benefits on the £500 bonus¹⁸... is there anything the Scottish Government can do to protect the value of that payment?"*; the First Minister replied that *"the way to protect the full value is for the UK Government to exempt it from tax"*, and that she was urging them to do so.

Some of these statements were the expression of the First Minister's and her party's position on controversial policy matters or had the potential to be understood as criticisms of the UK Government's policies and actions in relation to the handling of the pandemic crisis and Brexit. In this case, however, we took into account that the First Minister's statements were relatively brief and, apart from the 23 October 2020 programme, were given in response to questions from journalists, which were themselves challenging her and the Scottish Government's policies on the handling of the crisis.

In our view, given the brevity of the statements in the updates by the First Minister and other Scottish Ministers which touched on matters of major political controversy and major matters relating to current public policy, the journalists' questions throughout the question and answer sessions provided sufficient challenge and contextualisation to the First Minister's statements ensuring that due impartiality was preserved, taking into account the subject matter and nature of the programme overall.

¹⁸ The First Minister announced on 30 November 2020 a [one-off payment of £500 for social care workers](#).
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We also took into account that, in the programmes which Ofcom assessed, the First Minister regularly acknowledged the collaborative working relationship and constructive discussions between the Scottish Government, the UK Government and the administrations in Wales and Northern Ireland, and reflected that all four administrations were trying to achieve the same objective of stopping the virus from spreading further and trying to save lives and support the economy. We considered that this tended to reinforce the unique background against which the updates were provided, namely, that the pandemic has required the administrations of the four nations of the UK, although drawn from a range of political parties, to work closely together to tackle the pandemic. In our view therefore, these statements added further context to comments made by the First Minister on the matters of major political controversy and major matters relating to current public policy which were being discussed. By way of example:

- in the update broadcast on 15 September 2020, the First Minister responded to a question accusing her of “*playing politics*” with the reports that a surge in positive Coronavirus cases in England was causing a backlog in Scottish testing capacity, by stating that the various administrations across the UK were working constructively to tackle the pandemic and that she had had a “*productive*” conversation with Matt Hancock the previous evening, and that she was working closely with the UK Government to resolve delays; and
- in the update broadcast on 18 September 2020, a journalist asked whether Scotland’s Coronavirus testing capacity would be hampered by the problems in the UK system. The First Minister responded by asserting that her administration was working closely with the UK Government on testing.

In all of the *Coronavirus Update* programmes on BBC 1 Scotland that we assessed, when the live coverage cut back to the studio, BBC reporters and correspondents provided further analysis of the content of what had been discussed in the First Minister’s update briefing that day, providing further contextualisation. For example:

- while discussing the problems faced by the testing system after the First Minister’s briefing on 14 September 2020, David Lockhart referred to the Scottish Conservative party’s position on the Test and Protect system referred to in the First Minister’s update;
- on 23 October 2020, Andrew Kerr offered context by highlighting the difference between Scotland and England’s tier systems; and
- on 7 December 2020, David Lockhart explained the vaccination rollout programme, clarifying the roles of the Scottish and UK Governments.

We further took into consideration that in the programmes broadcast in the December 2020 period, the BBC sought to expand the range of views and political responses included in its coverage¹⁹. Whilst the format of the *Coronavirus Update* on the BBC Scotland channel remained unchanged in December 2020, when the live coverage of the First Minister’s updates on BBC 1 Scotland cut back to the studio, the programmes included viewpoints from a range of politicians from parties other than the SNP, and from industry experts, who commented on some aspects of the update on that day. For example:

¹⁹ See footnote 3.

- On 7 December 2020, Dr Christine Tait Burkard, University of Edinburgh, and Richard Leonard, Scottish Labour MSP, were invited to give their views on some aspects of the First Minister’s update;
- On 9 December 2020, Professor Linda Bauld, University of Edinburgh, discussed some of the health aspects mentioned in the Update, and Scottish Greens Co-Leaders, Patrick Harvie MSP, gave his views on some aspects of the First Minister’s update, including calling on the Scottish Government to close the financial gap for teachers and students; and
- On 11 December 2020, Donald Cameron, Spokesperson for Health for the Scottish Conservatives, gave his views on some of aspects of the update, including on Scottish Government decisions on further restrictions.

Having taken into account the broadcaster’s and audience’s rights to freedom of expression, and all relevant contextual factors and editorial techniques as set out above, Ofcom considered that, in the programmes that we assessed, where statements were made by the First Minister or other Scottish Ministers in the updates which could have been construed as critical of the UK Government’s policies and actions or as promoting the SNP policies in relation to the handling of the crisis, these were appropriately contextualised, and alternative viewpoints on the issues relating to the policies and actions of the Scottish Government, and to the extent they were discussed, the UK Government’s policies and actions, were sufficiently represented, to ensure that due impartiality was preserved.

Ofcom therefore did not consider that the programmes raised any issues warranting investigation under the Code. Consequently, Ofcom has decided to not pursue these complaints further.

As we approach the election period for the Scottish Parliamentary elections and other elections being contested across the UK on 6 May 2021, Ofcom has today published a [Note to Broadcasters on election programming](#). Amongst other things, in that Note we remind all broadcasters of the care that needs to be taken when featuring in their programming candidates and other politicians providing public health information and information relating to Coronavirus restrictions across the different nations of the UK.

Assessment outcome: Not pursued