

# **Ofcom Broadcast and On Demand 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 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>. Ofcom must include these standards in a code, codes or rules. These are listed below.

The Broadcast and On Demand Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes and rules 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 the ASA on the basis of their rules and guidance for advertising content on ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”) for content broadcast on television and radio services.
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in television 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 for on television and radio services. 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) Ofcom’s [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS. Ofcom considers sanctions in relation to advertising content on ODPS on referral by the Advertising Standards Authority (“ASA”), the co-regulator of ODPS for advertising or may do so as a concurrent regulator.

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

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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.

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 and On Demand Bulletin may therefore cause offence.**

## Note to Broadcasters

### Decision of Ofcom's Election Committee – Vote Leave Complaint

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Ofcom's Election Committee has delegated authority from the Ofcom Board, amongst other things<sup>1</sup>, to make decisions on complaints received in relation to Section Five (due impartiality) and Section Six (elections and referendums) during an election or referendum period. Ofcom convenes the Committee where a substantive issue is raised under Sections Five and Six of the Code, and the complaint, if upheld, might require redress before the election or referendum.

Ofcom recently convened the Election Committee in advance of the UK's referendum for remaining in or leaving the EU, which took place on 23 June 2016. On 10 June 2016, the Committee published<sup>2</sup> its Decision on Vote Leave's complaint about ITV's coverage of Vote Leave and those campaigning to leave the EU in the EU referendum in the period 15 April 2016 to 29 May 2016.

For the reasons set out in the Decision, the Committee considered that ITV had complied with the following rules of the Code:

- Rule 5.1: "News, in whatever form, must be reported with due accuracy and presented with due impartiality".
- Rule 5.11: "In addition to the rules above, 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 (listed above) in each programme or in clearly linked and timely programmes.
- Rule 5.12: "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".
- Rule 6.3: "Due weight must be given to designated organisations in coverage during the referendum period. Broadcasters must also consider giving appropriate coverage to other permitted participants with significant views and perspectives".

However, the Committee did not agree with ITV's suggestion that its coverage of the EU Referendum across all of its outlets could properly be considered to be clearly linked and timely for the purposes of Rules 5.11 and 5.12 of the Code. The Committee therefore expected ITV's flagship news and current affairs programmes, on their own, to be duly impartial and to give due weight to the designated organisations (subject to the ability for ITV to comply with the due impartiality and

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<sup>1</sup> For the Committee's full Terms of Reference, see: <http://www.ofcom.org.uk/about/how-ofcom-is-run/committees/election-committee/terms-of-reference/>

<sup>2</sup> See: <http://stakeholders.ofcom.org.uk/binaries/enforcement/election-committee/decision-election-eu-referendum.pdf>

due weight rules across a number of bulletins or programmes where they are clearly linked and timely).

**Not in Breach of Rules 5.1, 5.11, 5.12 and 6.3**

## Broadcast Standards cases

### In Breach

#### Heartless Hotline competition

Key 103, 27 and 29 April 2016, 08:10

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##### Introduction

Key 103 is a commercial local radio station broadcasting to the Greater Manchester area. The licence for the station is held by Bauer Radio (“Bauer” or “the Licensee”).

*Heartless Hotline* was a competition that took place on the station between 18 and 29 April 2016. It was broadcast live as part of the station’s weekday breakfast show. The competition featured a member of the public making their case as to why they should receive a particular prize of their own choosing. The telephone lines were then opened for 30 seconds, and any listener who wished could phone in and claim the prize for themselves.

Ofcom received a complaint from a listener who described the treatment of the competition entrant on 27 April as “disgusting”. Separately we received two complaints about the 29 April competition from listeners who considered the competition had not been conducted fairly. We therefore reviewed the relevant content broadcast on both these days.

##### 27 April 2016

The *Heartless Hotline* competition was introduced by the breakfast show presenters, Mike Toolan (“MT”) and Brooke Vincent (“BV”).

MT: *“Key 103’s Heartless Hotline is only on for another couple of days.*

BV: *I’m nervous.*

MT: *I always am at this point. It’s heavy duty this. It’s the point of the day when dreams can be realised or ruined. You just tell us what you want and the people of Manchester decide if you deserve it or, if they don’t think you deserve it, they will steal it for themselves. [Telephone number given]. Today’s person facing the Heartless Hotline is Sarah from Eccles<sup>1</sup>. Sarah?*

Sarah: *Hello.*

BV: *Hi. You alright?*

Sarah: *I’m alright. A bit nervous.*

MT: *You’ve contacted us to try and win your dream prize. Tell everybody what it is.*

Sarah: *It’s £2,000 to cover divorce costs including a court order.*

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<sup>1</sup> In its representations to Ofcom, the Licensee confirmed that Sarah’s name and location had been changed.

- MT: *... Tell us the story. You were married – when did it all go wrong?*
- Sarah: *It was just over two years ago and I discovered my husband was cheating on me with somebody he worked with. A couple of weeks after that literally, my dad died unexpectedly. It has been an awful – I can't tell you what it's been like the last two years [voice breaks]...sorry I'm a bit upset.*
- BV: *Oh, don't be upset.*
- Sarah: *[voice wavering] I don't have any luxuries. I have enough to cover the bills but really if I could get divorced I could also get a court order that would mean that my children's father would have to help with the housing costs 'cos I just don't think, of moving house right now, they could cope with it. It's just been heart-breaking.*
- MT: *So your ex-husband, well I guess he's still your husband at the minute until you can get divorced. He's not helping you pay the bills?*
- Sarah: *He's given me a little bit of basic maintenance but it's not enough to be able to keep us in the house where we live.*
- BV: *Is that for the kids as well? It's for everything?*
- Sarah: *Yeah. [voice wavering] You know, for me to lose my support network and for them to lose their friends and possibly have to move schools. I just don't think they could cope with it.*
- MT: *So you want a sort of court order that will allow you stay in the house you are in.*
- Sarah: *Yeah, you can obtain a court order which means that he would have to help with housing costs – he would have to contribute a little bit more in order to keep a roof over our heads.*
- MT: *He should be doing it anyway.*
- BV: *He's in our 'Bad Dads' Club'.*
- MT: *[...] So you're paying all the bills. You want to stay in the family home. You need £2,000.*
- Sarah: *I do work, I work in healthcare. I help look after children and adults with additional needs. It's not that I don't work but I just need a little bit more help in order to cover the mortgage...and that would do it really. I have been to see a couple of solicitors so I know what's involved and I know the exact cost and that [the £2,000 prize] would cover the paperwork for the divorce and the solicitor's fees.*
- MT: *So you need £2,000?*
- Sarah: *Yes.*
- MT: *We've got it for you.*

Sarah: *Right [nervous laughter].*

MT: *I've been through a divorce myself, I know exactly what you're going through and it's just horrible.*

Sarah: *It's awful.*

MT: *Okay. 30 seconds. We're going to open up the Heartless Hotline on Key 103. Really good luck Sarah in Eccles. Let's hope no one calls. Let's hope people allow you to take this £2,000.*

Sarah: *Please Manchester. I need this more than anything.*

MT: *How old are your children?*

Sarah: *Nine and seven now.*

MT: *Nine and seven. Aww. Are they okay?*

Sarah: *They're okay. They've took it hard but they're okay.*

MT: *Okay. 30 seconds. [Telephone number given]. It's up to you if you want to call and steal this cash. It's on your conscience. The Key 103 Heartless Hotline is now open.*

[A ticking clock was heard, followed two seconds later by the sound of a phone ringing.]

MT: *We've got a call in already.*

Sarah: *Oh no.*

MT: *Hello? Key 103's Heartless Hotline. Who's this?*

Caller: *Hiya. It's Leigh.*

MT: *Leigh? Why are you calling us?*

Leigh: *I want to steal the money.*

BV: *[gasp] Do you Leigh?*

Sarah: *Oh no.*

Leigh: *[laughing]*

BV: *What you want to steal it for, what do you want?*

Leigh: *Well I would like a holiday.*

BV: *But Leigh!*

Sarah: *This is my children's future!*

- Leigh: *I know but I've got children of my own and I could do with a holiday for us.*
- Sarah: *You could do with a holiday? I could do with keeping a roof over my children's heads. How could you?*
- Leigh: *Sorry?*
- Sarah: *[Sounding close to tears] I want to keep a roof over my children's heads and you just want a holiday? Are you serious?*
- Leigh: *I am serious. I'm sorry about this, but yes.*
- Sarah: *You're not sorry. How could you?*
- Leigh: *Well that's the name of the game!*
- BV: *I don't know what to say.*
- MT: *[...] Leigh, do you not think this is a bit out of order? Do you not think she's been through enough and she deserves a chance to fight for the right to keep her kids in the same house?*
- Leigh: *Well...yes, we've all got a story to tell and I just need the money myself so I just thought I would ring up.*
- MT: *Okay.*
- Leigh: *Sorry, I didn't know her situation.*
- Sarah: *Just for a holiday.*
- Leigh: *I just want a holiday. Long overdue.*
- MT: *Alright. Leigh, you've won your holiday.*
- Leigh: *Oh thank you! [laughing].*
- MT: *Okay. Bye.*
- Leigh: *Thanks a lot. Bye bye!*
- MT: *Sarah. I don't know what to say.*
- Sarah: *Okay well, she won it fair enough I suppose.*
- MT: *Stay on the line, we'll have a chat in a minute".*

After a music track was played the presenters discussed what had happened and read out messages from listeners. These included:

- MT: *"Sarah Elliot has texted... 'Words fail me. What a cow!'*
- BV: *I've got some on Twitter...we've got Jamie who's put "nearly in tears at Key 103 Heartless Hotline". I've got Tracy Elliot who's put "what a*

*vindictive, disgusting woman. Sickening". Nicholas put "to be fair with this Heartless Hotline, you can't blame people who are stealing. It's the name of the game" and that's true but – it's just hard as these are people's lives that we are trying to also help but other people are stealing from, so it's not good.*

MT: *Someone's put "you need to stop this evil game now. I'm at the point where I'm going to be switching stations".*

BV: *I think the thing is, it also depends what the person is asking for because someone could ask for a car and it'd not be that bad. It's just like, you know, they've stole a car, but when it's that raw and personal, as a divorce, and someone comes on and tells a story, and someone just goes "yeah". That's a bit harsh".*

The presenters also spoke to a number of callers over the course of the subsequent 30 minutes. The majority expressed their anger with Leigh for stealing the money, although some defended her actions. By way of example, callers' comments included:

*"I am absolutely disgusted with that woman from Wythenshawe that's just stolen that prize...words fail me".*

*"That was bang out of order...".*

*"...we've all been through issues and we don't know what's gone on in this girl's [Leigh's] life to make her want a holiday. She could have been through anything and there's nothing like a holiday to make you feel better and I think we're all judging here without knowing what she's been through...".*

One listener also offered to donate £100 towards Sarah's cause which one of the presenters agreed to match.

We considered that this broadcast material raised issues under Rule 2.3 of the Code. This states:

*"In applying generally accepted standards broadcasters 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".*

#### 29 April 2016

This broadcast of the *Heartless Hotline* competition featured Carly from Oldham. The cremated ashes of her late mother were being held by the funeral directors until an outstanding debt was paid. Carly wanted to win £1,000 to pay the debt so she could receive her mother's ashes.

When the phone lines were opened, no calls were received from listeners wanting to claim the prize. The following exchange was then broadcast:

Carly: *"Oh, thank you so much. Thank you, Manchester. Thank you.*

- MT: *You've got £1,000 to bring your mum's ashes home.*
- Carly: *Oh thank you so much. This means so much to me and my family as well. Everyone's listening to it this morning so they'll all be happy now. I can finally bring my mother's ashes home, where they belong.*
- MT: *Am I going to get in trouble for doing that?*
- Producer: *No.*
- MT: *Carly, I er, I'm sorry. I've completely kind of changed the rules of the competition. We just blocked the switchboard so nobody could call.*
- Carly: *Oh thank you!*
- MT: *Listen. God. If anyone deserves £1,000 you do. Congratulations".*

We considered this matter raised issues warranting investigation under Rule 2.13 of the Code. This states:

"Broadcast competitions and voting must be conducted fairly".

We therefore requested comments from the Licensee regarding:

- how the material broadcast on 27 April 2016 complied with Rule 2.3 of the Code; and,
- how the competition, as conducted on 29 April 2016, complied with Rule 2.13 of the Code.

## **Response**

### 27 April 2016

The Licensee said that the *Heartless Hotline* competition had "2 weeks of pre-promotion starting on 1<sup>st</sup> April, during which time [it] asked listeners to register to enter online on the station website". According to Bauer, the website "provided clear details of the nature of the competition and by asking entrants to pre-register allowed them time to decide whether they wanted to participate".

Prior to Sarah taking part in the competition, the Licensee said that its "programmes team had three phone calls with her, during which the nature of the competition was re-iterated and her entry was discussed in depth". As a result of this, Bauer stated that it was "reassured that the entrant was aware of what she was entering and confirmed that she wanted to enter to win her divorce costs being paid". The Licensee said it took the decision that "as this was an emotional topic and that there were children involved, we therefore wanted the entrant to have complete anonymity". It therefore advised the entrant that "her full name and location would be changed on air so as to prevent anyone from identifying any of the parties involved". The Licensee explained that this information was not revealed to the audience because it considered this may "encourage people to try to work out the identity of the entrant and her family" and "could also make the entrant seem less genuine".

The Licensee said Sarah “confirmed she was happy to proceed with her entry on this basis”.

Bauer told Ofcom that following the broadcast of the competition on 27 April 2016, the station “was in immediate phone contact again with the entrant to ensure she was not distressed by the competition”. The Licensee added that as a result of “her emotional appeal” the station “was contacted by an independent legal firm who offered to help with her divorce costs”. The Licensee said “the entrant was advised of the offer” and appeared on air the next day when she was offered this legal contact “should she wish to pursue it”.

In the Licensee’s opinion, “while it was an emotional appeal on air, the entrant went through a thorough pre-show process and during and after the station also remained in close contact with her”. Bauer also pointed out that the entrant had “confirmed that whilst upset on air, at no point did she feel distressed or any pressure to participate”.

### 29 April 2016

The Licensee accepted that “by taking the decision to intentionally block the phone lines when the competition took place, this meant the competition was not conducted in a fair manner”.

Bauer said that “the programming team is aware that on this occasion they made a poor judgement when the decision was taken to block the phone lines during one round of the competition”. This decision was taken, according to the Licensee, “as the appeal by the entrant [Carly] was very emotional and at the same time there was an overwhelming response by the audience on social media to the entrant’s appeal and her reasons behind wanting to win the prize”. The programme team therefore “felt compelled to block the phone[line] (as a listener may have done) to ensure the contestant won the prize”.

The Licensee said the “level of feeling towards this contestant was overwhelming” and it hoped that “the subsequent feedback<sup>2</sup> - whilst not excusing their decision – ... goes some way to explain why the station felt they were doing the right thing despite non-compliance with the competition rules”.

Bauer added that “the team and presenters have been reminded of the importance of running all competitions fairly and will ensure this does not happen again in the future”.

### **Response to Preliminary View**

The Licensee also made representations in response to Ofcom’s Preliminary View (which was to find breaches of Rule 2.3 and Rule 2.16).

### 27 April 2016

The Licensee said it believed “the nature of the competition and the way in which entrants would participate to attempt to win their chosen prize was made abundantly clear to both the entrant and the audience”. It described the “very nature of the competition as emotive” and said that it was in close contact with the contestant

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<sup>2</sup> The Licensee provided copies of seven Facebook messages sent to Key 103 supporting the decision to block the telephone lines.

“before, during and after the competition, fully ensuring the contestant was at no time distressed or upset by the competition”.

Bauer said that by 27 April 2016, “the competition had been in play for several days...so the entrant and the audience would be aware of the potential for an entrant to win or lose the prize they had asked for”. The Licensee told Ofcom that over “the 9 days the competition ran, 3 entrants had their prize ‘stolen’”. In the Licensee’s view, while it accepted “the topic was emotive, it was justified by the context”. The Licensee did not believe “the competition caused offence or distress to [its] listeners”. Bauer highlighted that it “received only one complaint to either the station or to Ofcom” which it considered “underlines the fact that the average listener did not find this material offensive and understood the nature of the competition”. The Licensee described the reaction on social media by listeners as “emotive and engaged and their angst was targeted at the caller who ‘stole the prize’ and not the content of the competition itself”.

The Licensee considered “it is vitally important that commercial radio creates interesting, emotive content, including competitions, that engages listeners with not only [this] station but with radio as a medium, so long as due care is taken”.

#### 29 April 2016

While the Licensee accepted that a “technical breach” of Rule 2.13 had occurred, it said listeners “understood the intent behind it, especially given the circumstances of the earlier incident”. The Licensee therefore considered the breach was “to an extent justified by the context of the competition, with the presenters acting as participants in the competition and not as hosts”.

#### **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 providing adequate protection for members of the public from harmful and/or offensive material. This objective is reflected in Section Two of the Code.

In reaching a Decision in this case, Ofcom acknowledged the importance of freedom of expression in the broadcasting environment, as set out in Article 10 of the European Convention of Human Rights.

There is significant room for innovation and creativity within entertainment programming. In principle a broadcast competition can be based on any theme and be of any nature, but clearly it must comply with the Code. The Code does not prevent the broadcast of a competition of the type in this case. However, such programming does not have *unlimited* licence in terms of offensive material. Broadcasters must ensure that any potentially offensive content in a competition is justified by context. Also it is essential that all broadcast competitions are conducted fairly.

#### Rule 2.3 – 27 April 2016

Rule 2.3 of the Code requires that:

“In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Appropriate information should also be broadcast where it could assist in avoiding or minimising offence”.

Context is assessed taking account of factors such as: the editorial content of the programme; the time of broadcast; the degree of offence likely to be caused by the material; and, the likely expectations of the audience.

Ofcom began by examining whether the material in question was capable of causing offence.

The format of the *Heartless Hotline* competition was that the entrant pleaded their case for why they should receive a particular prize of their choosing. The telephone lines were then opened for a period of 30 seconds, during which any listener who wished could phone in and claim the prize for themselves.

The competition entrant on this particular day, Sarah, was hoping to win £2,000. Sarah told listeners she required the money to cover “*divorce costs including a court order*”. Sarah said this court order would allow her and her young children to stay in the house where they were currently living. When describing her situation Sarah said:

*“...for me to lose my support network and for them [Sarah’s children] to lose their friends and possibly have to move schools, I just don’t think they could cope with it”.*

*“I need this [the £2,000 prize] more than anything”.*

*“They’ve [Sarah’s children] took it hard but they’re okay”.*

*“Please Manchester. I need this more than anything”.*

Listeners would therefore have understood that Sarah was in a domestic situation that was having a significant and negative effect on the both her and her children’s welfare. She made clear her desperation to receive the prize money as well as the positive impact it would have in helping resolve the issues she was facing.

We noted that in its response to Ofcom’s Preliminary View, the Licensee said that it had ensured that Sarah “was at no time distressed or upset by the competition”. However, in its original representations, the Licensee told Ofcom that Sarah had “confirmed” she was “upset on air”. We also noted that Sarah’s voice broke on a number of occasions as she was speaking and that she even described herself on air as “*a bit upset*”. We therefore considered that the majority of listeners would have concluded that Sarah was distressed while she was on air.

After another listener, Leigh, claimed the prize, Sarah’s comments indicated she was deeply disappointed and distressed that she would not be receiving the prize. She said to Leigh:

*“This is my children’s future!”*

*“I want to keep a roof over my children’s heads...”*

*“You’re not sorry. How could you?”*

Leigh’s attitude towards Sarah was largely indifferent. For example, in response to Sarah’s question “*How could you?*”, Leigh responded “*Well that’s the name of the game!*” Leigh also laughed on several occasions as she spoke with Sarah and the programme presenters.

Sarah and Leigh were also allowed to confront one another on air and argue about the extent to which each deserved the prize. At one point, this confrontation continued for over 30 seconds without any form of intervention from the presenters. We considered that it was likely that this would have increased the level of offence caused to listeners, because the station allowed this confrontation to occur in the first place and then let it continue uninterrupted.

We noted that the Licensee said that it did not believe that the average listener felt this content would “cause offence”, a view which it considered was supported by the fact that only one person complained to either the station or Ofcom. The Licensee also said the reaction of listeners on social media “was emotive and engaged and their angst was targeted at the caller who ‘stole the prize’ and not the content of the competition itself”. However, in Ofcom’s view, this material had clear potential to cause considerable offence to listeners. The format of the competition and the way it was conducted allowed the prize, which it had been made clear to listeners would have a significant and positive effect in helping resolve the sensitive issues facing Sarah and her children, to be “stolen” from her by another caller. In Ofcom’s view, listeners were likely to have concluded this competition had caused unnecessary distress or anxiety to Sarah.

Having concluded that the material had potential to cause offence, we examined whether it was justified by the context.

Ofcom took into account that the station did broadcast a number of responses from listeners in the 30 minutes after the competition had finished. The majority of these listeners were highly critical of Leigh’s behaviour. We also noted that the presenters took a call from a listener offering to donate £100 to Sarah and one of the presenters agreed to match this donation<sup>3</sup>. However, we noted this offer of a donation was broadcast approximately 20 minutes after the competition had concluded. It might therefore have mitigated to some extent the potential offence caused to listeners to the competition itself who remained tuned in to the station. However, we took into account that this was a breakfast radio show where many listeners frequently listen only for short periods and with varying degrees of attention. We did not therefore consider that this material would have provided sufficient mitigation for the potential offence caused overall to listeners who had heard the competition.

We also noted the material broadcast on Key 103 the following day. Sarah was invited back on to the programme and described the previous 24 hours as “*like a whirlwind*”. A representative from a firm of solicitors was also featured. He said that Sarah’s story had “*struck a chord*” and offered “*to help her out...and to basically give her some security*”. Sarah responded by saying “*oh my God, thank you. Thank you*”.

In our opinion, this may have allayed the concern for Sarah’s welfare felt by any listeners who had heard the original competition and also tuned in the next day. However, given the significant degree of potential offence that did result from the original broadcast, we did not consider this material broadcast on 28 April provided sufficient context in this case.

Ofcom took account of the fact that this material was broadcast at about 08:10 during a radio breakfast show aimed at a broad family audience, including children. It is likely that many in the audience would have been listening to this output while having breakfast or on the school run. In our view the majority of the audience listening to

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<sup>3</sup> The Licensee explained “the entrant opted to take up neither offer of £100 as her legal costs were fully covered in the subsequent offer made to her that she chose to accept”.

this channel at this time would not have expected content of this potentially offensive nature.

The Licensee's representations in this case provided details of the various measures it took before and after the broadcast to protect Sarah and her children's welfare. In particular, the Licensee, having identified "that this was an emotional topic and that there were children involved" elected to change Sarah's real name and location to help maintain her anonymity. We noted however that listeners did not know of these changes, and that taking steps to protect Sarah and her children's welfare could only impact on listeners' responses to the programme if they were informed about them by the Licensee.

Similarly, Bauer said it had "remained in close contact" with Sarah after the broadcast and that Sarah had confirmed "whilst upset on air, at no point did she feel distressed or any pressure to participate". We took into account however that Sarah clearly did sound distressed while on air, with her voice breaking and wavering several times while she spoke to the presenters. Further, information on the steps taken by the Licensee to talk to Sarah before the programme and keep in contact with her afterwards was not relayed to listeners. These steps therefore did not have a material impact on, or provide justification for, the potential offence caused by the broadcast of this competition.

We took account of the fact that the *Heartless Hotline* was first broadcast on 18 April 2016 and therefore many listeners would be aware of the competition format. The Licensee said that over the course of the nine occasions the competition was run, three entrants, including Sarah, had their prize "stolen". However, we noted that on the other occasions the prize was "stolen", the prizes in question were tickets to see a Manchester City football match and money to pay for breast augmentation. Given what listeners were told about Sarah's reasons for needing the prize, we considered that the potentially offensive nature of the content broadcast on 27 April 2016 far exceeded that of the previous broadcasts.

We also had regard to the Licensee's comments regarding the importance of commercial radio stations being free to create "interesting, emotive content, including competitions...so long as due care is taken". Ofcom underlines that all broadcasters should be free to create unique and engaging content. As noted above, the Code does not prohibit the broadcast of any particular competition format and Ofcom considered that in principle it was possible to broadcast the *Heartless Hotline* in compliance with Code. However, in Ofcom's view, further consideration should have been given to the selection of Sarah as a contestant given: her reasons for wanting to win the prize; the likelihood that listeners may have perceived her as vulnerable; and, the risk of offence being caused in the event her prize was "stolen".

For all these reasons, our Decision was that the broadcast of this content was not justified by the context, the Licensee did not apply generally accepted standards and there was a breach of Rule 2.3.

#### Rule 2.13 – 29 April 2016

Rule 2.13 of the Code requires that broadcasters conduct competitions fairly. Ofcom's Guidance to Section Two of the Code<sup>4</sup> makes clear that: "Ofcom expects all competitions to be run fairly and honestly. Broadcasters who run them are inviting

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<sup>4</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>

viewers to take part in schemes on terms that would be assumed to be equitable and free of deception. All aspects of a competition should therefore be clear and fair”.

As admitted both on air during the programme, and in the Licensee’s representations to Ofcom, the decision was taken by the programming team to block the telephone lines. This prevented listeners from claiming the prize and ensured it was won by Carly, the original entrant. This was in contravention to the published terms and conditions of the competition, and as accepted by the Licensee, resulted in the competition being conducted unfairly. The Licensee therefore breached Rule 2.13.

We took into account the Licensee’s comments that this incident occurred as a result of a “spur of the moment decision taken by the team in response to the overwhelming online and social media reaction to the contestant”. This reaction in turn had been caused by the contestant’s emotional on air plea that she should receive £1,000 so that she could retrieve her mother’s ashes from the funeral directors. In Ofcom’s view, the fact the Licensee considered it necessary to conduct the competition unfairly, further underlined the potential for this competition format to result in offensive content, particularly when the contestant selected to play had particularly sensitive reasons for wanting to win their chosen prize.

### Conclusion

For the reasons set out above, Ofcom’s Decision is that there were breaches of Rules 2.3 and 2.13.

In our opinion, the Licensee should have been more aware before transmission of the potential for offence arising from including Sarah as a contestant in this competition on 27 April 2016. We were concerned that after the events of 27 April 2016, it appears the Licensee took no action to review its compliance process to help ensure that future broadcasts of the *Heartless Hotline* competition were conducted in compliance with the Code. The inclusion of a second contestant with similarly sensitive personal circumstances on 29 April 2016 resulted in another breach of the Code. We were concerned that the Licensee described this second breach as: “technical”; “in the spirit of the competition”; and “to an extent justified”.

In light of these concerns, we are requesting a meeting with the Licensee to discuss how it approaches the compliance of competitions in its live radio content.

**27 April 2016: Breach of Rule 2.3**

**29 April 2016: Breach of Rule 2.13**

## Resolved

### Loose Women

ITV, 17 May 2016, 13:16

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#### Introduction

*Loose Women* is a female panel-led discussion programme, broadcast live on ITV on weekday lunchtimes. It is known for its light-hearted topical discussion and celebrity guests and is targeted at a predominantly female audience. The programme is compiled by ITV Broadcasting Limited (“ITV” or “the Licensee”) on behalf of the ITV Network.

This episode featured regular panel member and guest Katie Price, with her disabled, 13 year-old son, Harvey, to highlight the issue of cyber-bullying or “trolling” to which Harvey had been directly subjected.

The lead presenter, Andrea McLean, introduced the item by referring to Katie Price’s previous interview on *Loose Women* two months earlier when she spoke about the abuse her son, Harvey, had received from online trolls and had invited the “trolls” to appear on the programme to explain their actions. Andrea McLean then asked Katie Price, who was sitting next to Harvey, why she had been “*really passionate*” that Harvey should appear in the studio live rather than pre-record the interview without the studio audience in a quieter environment. In response Katie Price explained:

*“I thought it’s important to bring Harvey on live because I want people to see what he’s like – not manufacture and edit what he’s like. I’ll ask him a few questions in a minute because I want people to see how vulnerable he is...”*

As Katie talked about Harvey’s experience, a selection of the “trolling” images or memes about Harvey which had been posted on the internet were shown to the audience on a screen behind the various contributors, including Harvey.

During the interview, there was the following exchange between Katie and Harvey:

Katie: *“If someone says something horrible to you, what do you think?”*

Harvey: *“Say hello”.*

Katie: *“If someone says something horrible to Harvey, what does Harvey say?”*

Harvey: *“Hello, you cunts”.*

Andrea McLean immediately said:

*“We apologise, we apologise for that but this is one of the reasons why we wanted to do this live”.*

We considered the material raised issues warranting investigation under the following rule of the Code:

Rule 1.14: “The most offensive language must not be broadcast before the watershed”

We therefore asked the Licensee how the programme complied with this rule<sup>1</sup>.

## Response

ITV explained that as *Loose Women* is scheduled pre-watershed and the programme is broadcast live, established protocols were in place regarding language on the programme. It said that all panel members and guests are briefed before the programme on the use of offensive language and the lead presenter also has “a standing instruction” to apologise to viewers immediately should any panel member or guest use offensive language. As Katie Price had appeared both as a guest and as a panel member on *Loose Women*, since January 2016, the Licensee said she has been fully briefed about the use of strong language on the programme. She therefore told Harvey “not to swear before the programme went on air” and the editor had sought assurance from Katie that Harvey would not swear on the programme.

ITV explained that the producers considered the appearance of Katie and Harvey on the show and the decision to conduct the item live “very carefully”. Consideration was given to pre-recording the interview, which was “relatively unusual for this programme”, given that they had not met Harvey beforehand and “did not know whether he might be overawed by the noise of the live studio audience”. ITV added that “whilst Katie was keen for the interview to be live...the decision whether he should appear live rested with the editorial team and was taken at a senior level”. The Licensee said that it had carefully considered its duty of care to Harvey and his “demeanour and emotional state on the day, the approval of his local education authority, [and] the support of [Harvey’s] school”. It added that with “the agreement of [Harvey’s] chaperone and his mother, the production team decided that he could be interviewed live during the programme”.

The Licensee said that on the morning of the programme there was an opportunity to speak to Harvey “for several hours prior to broadcast” and production staff considered he appeared “very at ease in the loud and busy studio environment”. The Licensee added that before the broadcast the deputy editor and Katie rehearsed with Harvey the questions that he would be asked. ITV said that during this rehearsal, in response to the question: “How does Harvey feel when people say bad things?” Harvey had said: “Harvey sad”. The Licensee said that production staff were “therefore satisfied that Harvey would deal with the interview well and did not anticipate the use of offensive language”.

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<sup>1</sup> Ofcom also asked ITV for information relating to 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”). Ofcom asked for information because (i) Harvey was identified by his mother during the interview as “vulnerable”; and, (ii) the presenters suggested it was Katie Price’s decision not to pre-record Harvey because she wanted viewers to “see what he was like as an individual”. For these reasons Ofcom wished to satisfy itself that due care had been applied by the Licensee with regard to Harvey’s appearance on the programme. The information provided by ITV reassured Ofcom that due care had been applied and we did not pursue this case further in relation to Rule 1.28.

ITV said that immediately after Harvey had said the word “*cunts*”, the lead presenter Andrea McLean apologised to viewers for any offence and a further apology was made at the end of the programme. Steps were also taken to prevent the repeat of the offensive language on the ITV+1 channel and the programme was edited before making it available on ITV’s on demand service.

The Licensee accepted that the most offensive language should not be broadcast before the watershed. However, it stated that “given all of the steps that the programme took before the programme, the two apologies broadcast in the programme after the unexpected use of this language and the steps taken after broadcast to avoid further offence to viewers” ITV asked for Ofcom to consider the issue “appropriately resolved”.

## 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 includes ensuring that persons under the age of eighteen are protected from material that is unsuitable for them. This objective is reflected in Section One of the Code.

Rule 1.14 of the Code states that “the most offensive language must not be broadcast before the watershed...”.

Ofcom’s research on offensive language<sup>2</sup> notes that the word “cunt” is considered by audiences to be among the most offensive language and unacceptable for broadcast before the watershed.

The broadcast of the word “*cunts*” in this programme before the watershed was therefore a breach of Rule 1.14.

However, Ofcom took into account that this incident took place during a live broadcast where the production team had followed its compliance guidelines for avoiding the use of offensive language. In considering the steps ITV had taken to prevent the use of offensive language in these particular circumstances, we also noted that the production team had carefully considered its duty of care to Harvey, given his vulnerabilities, before taking the decision for him to be interviewed live. In particular, we noted that ITV’s production team worked closely with Katie Price and Harvey before transmission and noted that he was comfortable in the studio environment and had not sworn before transmission, including during the rehearsal for the interview.

In addition, Ofcom also took into account that: *Loose Women* is aimed at an adult audience; this episode was broadcast during term time when the majority of children are at school; apologies were broadcast on air immediately after the incident and again at the end of the interview; and, action was taken immediately to edit the offensive language out of repeat broadcasts and on ITV’s on demand services.

In light of all of these factors, Ofcom considered the matter resolved.

## Resolved

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<sup>2</sup> <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

## Resolved

### Wembley Gold

*BT Sport Europe, 20 May 2016, 18:30*

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#### Introduction

BT Sport Europe is a sports channel owned and operated by British Telecommunications Plc (“BT” or “the Licensee”). *Wembley Gold* was a programme featuring highlights from past football matches played at Wembley Stadium. This particular episode included archive footage from the 1981 F.A. Cup Final (and its replay) between Manchester City and Tottenham Hotspur, and featured the original commentary by Brian Moore and Jack Charlton.

A complainant alerted Ofcom to one of the commentators referring to a player as “*coloured*”, which they found offensive.

The word in question featured in the following description of a passage of play by Jack Charlton:

*“Paul Power did terrific; he sold two lovely dummies there. But when the ball came in to the little coloured boy<sup>1</sup> there he turned on it the wrong way I felt...”.*

We considered the material raised issues warranting investigation under Rule 2.3 of the Code, which states:

“In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context... Such material may include, but is not limited to, offensive language,...discriminatory treatment or language...”.

We therefore asked BT for its comments as to how this content complied with this rule.

#### Response

BT acknowledged that “this description should not have been included within this archive programme” and “sincerely apologise[d] for the offence caused”. It added that “despite being reviewed for compliance before transmission, this phrase was not removed...due to human error by the editor”. The Licensee said it had “spoken to the editor concerned who understands that this description is not acceptable to air”.

BT said it had removed all episodes of this series from its schedules until it had conducted a full compliance review. It added that no other issues were identified in this review. The Licensee also explained it was holding “further training sessions with this individual and the wider editing team concerning the importance of removing inappropriate language which can appear in library content”.

In summary, while BT said it did not seek to defend the inclusion of the term in this programme, it said it had “acted swiftly to correct the human error and reviewed the remaining archive to ensure full compliance” with the Code.

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<sup>1</sup> Jack Charlton was referring to Manchester City player Dave Bennett.

## 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 to the content 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”. This objective is reflected in Section Two of the Code.

Rule 2.3 of the Code requires that the broadcast of potentially offensive material is justified by the context.

In this case, we considered firstly whether the use of the word “coloured” was offensive.

Oxford Dictionaries gives one of the definitions of the word “coloured” as follows:

“*dated or offensive wholly or partially of non-white descent*”<sup>2</sup>.

While the word “coloured” has a variety of meanings, Ofcom considers that it is likely to be viewed by many as derogatory and therefore potentially offensive, when used to describe individuals from the BME<sup>3</sup> community. We therefore considered that the description of a BME player in this sporting commentary as “*the little coloured boy*” was potentially offensive.

We went on to consider whether the potential offence caused was justified by the context. We took into account factors such as the degree of offence caused, the likely expectations of the audience and the nature of the offensive content.

Ofcom noted that the word was included as part of archive footage from 1981 when the use of this term was likely to have been considered more acceptable than today. In our view it was not the commentator’s intention to be discriminatory towards an individual from an ethnic minority or to cause offence. However, we considered that the use of the terms “*little*” and “*boy*” in conjunction with the potentially offensive term “*coloured*” would have been likely to have been seen by viewers of this programme as the commentator adopting a patronising tone to describe the player in question. This, in our view, would have been likely to have increased the potential level of offence. We also noted that this archive material was specifically selected for inclusion in this pre-recorded, recently produced and complied programme. It was therefore Ofcom’s opinion that the reference to “*the little coloured boy*” in this particular context would have exceeded the expectations of the audience for this programme.

We therefore did not consider that the Licensee had applied generally accepted standards so as to ensure that this potentially offensive material was justified by the context.

However, we noted that BT recognised that the description should not have been broadcast and was only included in the programme as a result of human error. We also noted that the Licensee had conducted a “full compliance review” of this series and that it was conducting “further training sessions” with its editing team.

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<sup>2</sup> <http://www.oxforddictionaries.com/definition/english/coloured>

<sup>3</sup> Black and Minority Ethnic.

In light of the steps taken by BT, Ofcom considered the matter resolved.

**Resolved**

## Broadcast Fairness and Privacy cases

### Not Upheld

#### Complaint by Mr Mark Hutchinson

*A New Life in the Sun, Channel 4, 1 March 2016*

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#### Summary

Ofcom has not upheld Mr Mark Hutchinson's complaint of unwarranted infringement of privacy.

The programme, part of a series which followed a number of British people as they moved to either Spain or France and set up new businesses, included footage of Mr Hutchinson talking to a couple who were about to open a new bar in a village in southern Spain. Mr Hutchinson was heard telling them that he had heard a rumour that there would be "*bother*" at the opening night of the bar. Mr Hutchinson's face was blurred in the footage, but his undisguised voice could be heard.

Ofcom found that, in the particular circumstances of this case, Mr Hutchinson did not have a legitimate expectation of privacy with regard to either the recording of the footage of him or the subsequent broadcast of part of this footage in the programme as broadcast. Therefore, his privacy was not unwarrantably infringed in these respects.

#### Programme summary

On 1 March 2016, Channel 4 broadcast an edition of *A New Life in the Sun*, a series which follows British people as they move to either Spain or France and set up new businesses. This edition of the programme included a couple, Amanda and Stuart Brignall, who were about to open a new bar, El Teatro, in a village in southern Spain. The programme looked at some of the difficulties Mr and Mrs Brignall faced in setting up their new business, such as securing a licence to trade from the local mayor in time for the planned opening night. In addition, the narrator noted that, "*...before it's even opened its doors, ten people have complained that El Teatro might spoil the tranquillity of the village*", as footage was shown of Mrs Brignall scrolling through what appeared to be Facebook (or a similar social networking site).

The programme also included footage of Mr and Mrs Brignall driving back home after a meeting with the mayor two days before El Teatro was due to open. The programme showed Mr Hutchinson (the complainant), standing by the side of the road, flagging Mr and Mrs Brignall down to stop so he could speak to them. As this footage was shown the programme's narrator said: "*Then, on their way home Amanda and Stuart discover that the village is really not looking forward to their new business opening*".

Mr Hutchinson was then heard talking to Mr and Mrs Brignall, through the window of their car, as they were shown sitting in their car. The following conversation took place:

Mr Hutchinson: *"I'll pop round and have a chat with you later. There's some rumours going round.*

Mrs Brignall: *What?*

Mr Brignall: *Go on, tell me now*”.

The narrator then said: *“Their ex-pat neighbour has some words of warning”* before the conversation continued:

Mr Hutchinson: *“There’s going to be a bit of bother on your opening night.*

Mr Brignall: *From who?*

Mr Hutchinson: *She don’t know. It’s just a rumour.*

Mrs Brignall: *What do you mean ‘bother’?*

Mr Hutchinson: *That’s all it was.*

Mrs Brignall: *Who’s heard it?*

Mr Hutchinson: *Could be Chinese whispers. Alright, so we’re going to be switched on and looking out for everything.*

Mr Brignall: *Don’t panic man.*

Mr Hutchinson: *No, no, no. What it is, is just rumours. So what they want to do is try and...”.*

At this point, Mrs Brignall interjected to say *“scare you”* after which Mr Hutchinson completed his sentence by also saying *“scare you”*.

The narrator then said: *“It looks like some of the residents have stepped up their campaign against the opening of El Teatro”*.

Two brief clips (each approximately, two to three seconds long) from the above exchange were also shown during the introduction to the programme. No further footage of, or references to, Mr Hutchinson were included in the programme

Mr Hutchinson was not named in the programme and when his face was visible it was blurred out. However, his voice was undisguised.

### **Summary of the complaint and the broadcaster’s response**

- a) Mr Hutchinson complained that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because a “private conversation” he had had with Mr and Mrs Brignall was filmed without his knowledge or consent. Mr Hutchinson said that Mr and Mrs Brignall’s car had blacked out rear windows and therefore he was unaware that he was being filmed while speaking to them.

In response, Channel 4 said that, prior to the recording of the footage of Mr Hutchinson, it was well-known in the local “ex-pat” community that Mr and Mrs Brignall were being filmed for the programme.

With regard to the filming itself, the broadcaster said that the camera operator filmed Mr and Mrs Brignall, from the back seat of their car, as Mr Brignall drove home. While driving, Mr Brignall saw Mr Hutchinson at the side of the road and pulled in to talk to him. The camera operator lowered the camera for few seconds

– during which time the camera was still recording – to ascertain if the conversation between Mr Hutchinson and Mr and Mrs Brignall was relevant to the programme; and, when she realised it was, raised the camera and continued to film.

Channel 4 said that the camera operator’s principal focus during this filming was Mr and Mrs Brignall’s reaction to what they were being told. It also said that “although she could not get a clear shot of Mr Hutchinson”, the camera operator “genuinely believed that Mr Hutchinson could definitely see her and the camera” because: “it was daylight... [Mr and Mrs Brignall] were wearing radio microphones pinned to the front of their clothing, Stuart Brignall had opened the window fully, Mr Hutchinson was leaning into the car at times, and [she] was filming openly with a broadcast-quality camera in the middle of the back seat behind Mr and Mrs Brignall”. Channel 4 said that there was no intention to secretly film and the camera operator “believed in good faith that Mr Hutchinson had seen the camera and was happy to continue talking”. It also said that, during this conversation, Mr Hutchinson “impart[ed] well-known rumours about local resistance to the new bar that were circulating widely in the ex-pat community and [that, by the time this footage was shown in the programme,] Mrs Brignall had already been seen reading about them on Facebook”.

The broadcaster said that, because Mr Brignall drove straight off at the end of the conversation, there was no opportunity for the camera operator “to ask Mr Hutchinson further about appearing in the programme”. Therefore, she asked Mr and Mrs Brignall about the person to whom they had been speaking (i.e. Mr Hutchinson). It also said that, in accordance with the production company’s normal procedures, a log of this incident was completed on the same day the material was recorded; namely, 2 September 2015.

With regard to this log, Channel 4 said that the “Who doesn’t want to be identified” section “was left blank”. It also said that the log included no reference to Mr Hutchinson “not being aware that he was filmed” and argued that this “corroborate[d]” the camera operator’s statement that she believed that Mr Hutchinson knew he was being filmed. It added that, given the camera operator believed that Mr Hutchinson had known he was being filmed, and that he knew about the programme because of the prior filming in the village, “no further approach was made by her, or any other member of the production team, subsequently to get further consent by him”.

Channel 4 said that neither the Commissioning Editor nor the in-house lawyer assigned to the programme were made aware that there were questions about whether or not the complainant knew he was being filmed. It said that “in hindsight this was a mistake, but [it] was due to human error”; and added that, had it been made aware, it would have taken steps to examine the consent status of Mr Hutchinson further. Channel 4 also said that, as a result of this complaint, it had: reminded the production company to ensure that all contributors know that they are being filmed; made its protocols and guidance to staff even more specific; and, reminded the production company to inform both the Commissioning Editor and the programme lawyer of any incidences where there they are unsure about whether someone knew they were being filmed.

- b) Mr Hutchinson also complained that his privacy was unwarrantably infringed in the programme as broadcast because he did not consent to the inclusion in the programme of footage of his “private conversation” with Mr and Mrs Brignall.

In response, Channel 4 said that, after viewing a “first cut” of the programme, the production manager asked about Mr Hutchinson and the conversation that took place at the roadside. The camera operator replied that she believed Mr Hutchinson knew he had been filmed, but no release form had been obtained. The “online edit pro-forma” document, which was completed after this conversation, referred to Mr Hutchinson as follows: “Incognito ex-pat neighbour of Amanda and Stu, not released. He is not identified, and was aware of the filming taking place”. It added that “the reference to Mr Hutchinson not being identified refers to the fact he is not named and no other identifiable information about him is given”.

Subsequently, the Executive Producer of the production company viewed the programme; and, because there was no consent form for Mr Hutchinson, and as a precaution generally, requested that Mr Hutchinson’s face be pixelated. This was duly done.

With regard to the footage as broadcast, Channel 4 said that the focus of the scene was principally Mr and Mrs Brignall and their reactions to being told of a possible threat to their opening night, not Mr Hutchinson. The entire scene was approximately 40 seconds in length. Mr Hutchinson was not named and appeared on screen, with his face obscured, for one to two seconds only – first when he was at the side of the road and next when he was leaning into the car. Channel 4 said that no blurring was applied to the van livery. However, any markings on the van were not identifiable from the programme and, in any case, the complainant was not standing next to his van because there was a car between him and it. It also said that Mr Hutchinson’s voice was “not distinctive, apart from being a Greater London type regional accent [which was] common in the ex-pat community in this area”. Given the above, the programme makers considered that the step of blurring Mr Hutchinson’s face was sufficient to protect his privacy in the programme as broadcast.

The broadcaster said that on the day the programme was broadcast, 1 March 2016, it received an email from Mr Hutchinson in which he complained about the filming of his conversation with Mr and Mrs Brignall and the subsequent inclusion of part of this footage in the programme. It responded to Mr Hutchinson on 8 March 2016. In this email, Channel 4 told Mr Hutchinson that it was “sorry to hear that you feel the show has caused you problems” and explained that, given the specific circumstances (see response to head a) above for details), the camera operator thought Mr Hutchinson was aware that he was being filmed. It also said that despite this, and “given what you [i.e. Mr Hutchinson] were [filmed] saying”, the sequence [as shown in the programme] “was edited to not refer to you as the owner of the van [and] to [not] show your face or give your name in order to protect your identity”. In this email, Channel 4 also said that, although the programme makers considered that, in the specific circumstances, it was legitimate to include the sequence in the programme, “as a gesture of goodwill, we have taken the precaution of disguising your voice for any future repeats and online and archive versions of the programme”. Mr Hutchinson responded to Channel 4 the same day indicating that he was not satisfied with its response. Channel 4 said, that although it edited the programme, as set out above, given that, shortly after receiving Mr Hutchinson’s second email, it also received notice that Mr Hutchinson had complained to Ofcom, it told Mr Hutchinson that any further correspondence would go via Ofcom.

In addition to responding to the specific heads of Mr Hutchinson’s complaint, Channel 4 said that the production company acted in good faith and genuinely believed that

Mr Hutchinson knew he was being filmed, but that it [Channel 4] “accept[ed] that, with the benefit of hindsight and given the nature of [Mr Hutchinson’s] disclosure, True North [the production company] should either have sought his express consent to the contribution, or taken further steps to conceal his identity. It added that “both Channel 4 and True North would like to apologise again to Mr Hutchinson for any upset caused by this matter”.

### **Ofcom’s Preliminary View**

Ofcom prepared a Preliminary View on this case that Mr Hutchinson’s complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, however, only Mr Hutchinson chose to do so.

#### *Mr Hutchinson’s representations*

Mr Hutchinson said that the camera operator was incorrect when she claimed that “I knew she was there” [i.e. in the car] and that “I leaned into the car”. He said that she knew he had not seen her and that was why the camera was lowered to film Mrs Brignall and no-one else. He also said that the camera operator could have asked him about appearing in the programme after she had finished filming and before Mr Brignall drove away. Mr Hutchinson also said that it would have been easy for the camera operator to have contacted him subsequently in order to ask for his “permission” to broadcast the material.

### **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 (and transcript of the relevant section of the programme) as broadcast; the unedited (and not broadcast) footage of Mr Hutchinson’s conversation with Mr and Mrs Brignall, and a transcript of the same; and, both parties’ written submissions including post-broadcast correspondence between the parties. Ofcom also took careful account of the representations made by the complainant in response to being given the opportunity to comment on Ofcom’s Preliminary View on this complaint. However, in finalising this decision, Ofcom concluded that none of the further points raised by Mr Hutchinson materially affected the outcome not to uphold the complaint.

In Ofcom’s view, the individual’s right to privacy has to be balanced against the competing rights of the broadcaster’s 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.

- a) Ofcom first considered Mr Hutchinson's complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because a "private conversation" he had with Mr and Mrs Brignall was filmed without his knowledge or consent.

In assessing this head of the complaint, Ofcom had regard to Practice 8.5 of the Code which states that any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted. Ofcom also had regard to Practice 8.9 which states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

In considering whether or not Mr Hutchinson's privacy was unwarrantably infringed in connection with the obtaining of material of him included in the programme, Ofcom first assessed the extent to which Mr Hutchinson had a legitimate expectation of privacy in the particular circumstances in which the relevant material was obtained. The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be assessed in light of the circumstances in which the individual finds him or herself (and what footage and information is subsequently broadcast). Ofcom therefore approaches each case on its facts. In particular, as stated in Section Eight of the Code, legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question.

We observed that Mr Hutchinson was filmed while standing at the side of a public road after he had had hailed Mr Brignall, who was driving along the road at the time, and indicated that he wished him to stop. The unedited recording showed that the camera operator recorded approximately three to four seconds of footage of Mr Hutchinson standing at the side of the road. This footage of Mr Hutchinson was recorded from a distance, through the front windscreen of the car, as Mr Brignall drove towards him and then stopped. In addition, Mr Hutchinson's conversation with Mr and Mrs Brignall, which was conducted while Mr Hutchinson stood beside the car, next to the driver's side of the vehicle – which had the window fully lowered, was recorded. Mr Hutchinson could not be seen in shot for most of the conversation. However, for approximately two to three seconds a side view and then a partial front view of his face, seen through the gap between the back of Mr Brignall's head and the head rest of the driver's seat, was visible in this footage. Ofcom recognised that there might be circumstances where an individual might have a legitimate expectation of privacy in relation to filming in a public place, when some activities or conditions might be of such a private nature that filming or recording, even in a public place, could infringe the privacy of an individual. Therefore, we carefully assessed the particular circumstances in this case.

In his complaint, Mr Hutchinson said that Mr and Mrs Brignall's car had blacked out rear windows and therefore he was unaware that he was being filmed while speaking to them. However, in its response to the complaint, Channel 4 said that the camera operator "genuinely believed that Mr Hutchinson could definitely see

her and the camera” because it was daylight, Mr and Mrs Brignall were wearing microphones on the front of their clothing, the driver’s window was fully open, Mr Hutchinson was leaning into the car at times, and that she (the camera operator) was filming openly with a broadcast-quality camera in the middle of the rear seats. We recognised the disparity in the parties’ recollections of this incident, where Mr Hutchinson contested the camera operator’s claim that she believed that he knew that she was in the car when she was filming and that he had leaned into the car a number of times. In light of this, we carefully considered the unedited footage of this incident.

Having assessed the footage, we were unable to discern whether or not Mr Hutchinson leaned in to the car at times. However, the footage did show that, having initially lowered the camera, the camera operator then raised it again and filmed the conversation from the middle of the rear seats in Mr and Mrs Brignall’s car. From this footage, it appeared that the camera operator had held the camera slightly forward, between the two front seats, at head rest level. In light of all of the above, we concluded that, although Mr Hutchinson may not have been aware that he was being filmed while having this conversation, there was, in our view, no intent to deceive him on the part of the camera operator and the recording of his conversation took place openly.

We then assessed the nature of the conversation between Mr Hutchinson and Mr and Mrs Brignall when this recording was obtained. During the first part of the conversation, Mr Hutchinson informed Mr and Mrs Brignall that there were “some rumours going round” indicating that “there’s going to be a bit of bother on your opening night”. He subsequently said that “it could just be Chinese whispers” but added “so we’re gonna be switched on looking out for everything”. He also assured Mr and Mrs Brignall that their opening night would not be sabotaged. The conversation then moved on to the fact that Mr and Mrs Brignall had not yet been given their licence by the town mayor, and then to shopping for and the use of brick acid, before Mr Brignall said goodbye to Mr Hutchinson and drove away.

Ofcom considered that, generally, conversations between individuals in which the parties felt that they could talk openly and freely to each other may be regarded as being confidential and therefore potentially attract an expectation of privacy. In the circumstances of this case, Ofcom recognised that, as his complaint makes clear, Mr Hutchinson would have preferred the first part of his conversation with Mr and Mrs Brignall to have remained between them. However, we noted that it concerned matters which were already in the public domain (for example, via Facebook), namely that there may be opposition amongst some members of the local “ex-pat” community to the opening of El Teatro. In addition, while we noted that Mr Hutchinson offered to look out for any trouble on the opening night of the Brignalls’ new business and, if it occurred, to help them deal with it quietly so as not to spoil the opening night, we did not consider that the matters he discussed, either in relation to the opening night of Mr and Mrs Brignall’s business or other topics, could reasonably be considered as being particularly personal or private to Mr Hutchinson.

Taking into account the public location in which the filming took place, our conclusion that, although it appeared that Mr Hutchinson was not aware of that he was being filmed, the filming took place openly and with no intent to deceive Mr Hutchinson; and, that there was nothing inherently private about the activities in which Mr Hutchinson was engaged or the content of what he said, we considered that Mr Hutchinson did not have a legitimate expectation of privacy in connection with the obtaining of footage of him. Given this conclusion, it was not

necessary, for Ofcom to consider whether or not the programme makers had secured Mr Hutchinson's consent to obtain this material, nor, if we considered that it had not, subsequently to assess whether any infringement of his privacy in this respect was warranted.

Ofcom therefore found that Mr Hutchinson's privacy had not been unwarrantably infringed in connection with the obtaining of this footage of him.

- b) Ofcom next considered Mr Hutchinson's complaint that his privacy was unwarrantably infringed in the programme as broadcast because he did not consent to the inclusion in the programme of footage of his "private conversation" with Mr and Mrs Brignall.

In assessing this head of the complaint, Ofcom had regard to Practices 8.4 and 8.6 of the Code. Practice 8.4 states that broadcasters should ensure that actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual concerned, unless broadcasting without their consent is warranted. Practice 8.6 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.

Ofcom first assessed whether Mr Hutchinson had a legitimate expectation of privacy with regard to the broadcast of footage of him included in the programme. As set out in the "Programme summary" section above, footage of Mr Hutchinson having a conversation with Mr and Mrs Brignall was included in the programme.

As set out at head a) above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself. Ofcom therefore approaches each case on its particular facts.

Ofcom carefully examined the footage of Mr Hutchinson which was included in the programme. We observed that Mr Hutchinson's face, which was shown briefly on two occasions for approximately five seconds in total, was blurred. However, his voice was undisguised. We also noted that Mr Hutchinson's voice was heard on several occasions and that, in his complaint, Mr Hutchinson indicated that he had been recognised from his inclusion in the programme by residents in the area in which he lived. Taking account of all of these factors, we concluded that Mr Hutchinson was identifiable from the programme as broadcast. Having reached this conclusion, we then noted the particular circumstances in which the filming of this material took place and the nature of the information disclosed through the inclusion of the relevant material in the programme as broadcast.

As already discussed in head a) above, we observed that the filming took place in a public place, namely a public road. We again noted that Mr Hutchinson said that he was unaware that he was being filmed while talking to Mr and Mrs Brignall. However, as we also noted previously, while this may have been the case, it appeared that the camera operator had filmed the material openly and that there had been no intent to deceive Mr Hutchinson in this regard.

With regard to the broadcast itself, we observed that Mr Hutchinson was shown telling Mr and Mrs Brignall that he had heard a rumour that there might be some trouble on the opening night of their new business and saying that he was "*going to be switched on and looking out for everything*". We understood this last

comment to indicate that Mr Hutchinson would watch for any signs of trouble on the opening night in order to ensure that it would not be spoilt.

As noted above, Ofcom considered that, generally, conversations between individuals in which the parties felt that they could talk openly and freely to each other may be regarded as being confidential and therefore potentially attract an expectation of privacy. However, from the material included in the programme, namely, that Mr Hutchinson told Mr and Mrs Brignall that he had heard rumours about potential trouble on their opening night and that he had offered to watch out for it on the night, we considered that the content of the conversation did not disclose any personal or private information about Mr Hutchinson or his private life.

Given all of these circumstances, Ofcom's Preliminary View is that Mr Hutchinson did not have an expectation of privacy with regard to the inclusion of the footage of him in the programme as broadcast. Consequently, it was not necessary, for Ofcom to consider whether or not the programme makers had secured Mr Hutchinson's consent to include this material, nor, if we considered that it had not, subsequently to assess whether any infringement of his privacy in this respect was warranted.

Ofcom therefore found that Mr Hutchinson's privacy had not been unwarrantably infringed in the programme as broadcast.

**Ofcom has not upheld Mr Hutchinson's complaint of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.**

## Not Upheld

### Complaint by Miss R

*Nightmare Tenants, Slum Landlords, Channel 5, 15 July 2015*

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#### Summary

Ofcom has not upheld this complaint made by Miss R of unwarranted infringement of privacy.

The programme included stories of disputes from both sides of the property rental market (landlord and tenant) and showed footage of Miss R as she was evicted from one property and served with eviction papers in relation to another property. Miss R was named in the programme, her face was clearly visible and her voice was audible.

Ofcom's found that:

- Miss R had a legitimate expectation of privacy in relation to the obtaining of the material included in the programme. However, on balance, the broadcaster's right to freedom of expression and the public interest in obtaining the material of Miss R outweighed her legitimate expectation of privacy.
- Miss R had a legitimate expectation of privacy in relation to the inclusion of her name and footage of her in the programme as broadcast. However, on balance, the broadcaster's right to freedom of expression and the public interest in broadcasting the material in the circumstances outweighed her legitimate expectation of privacy.

#### Programme summary

On 15 July 2015, Channel 5 broadcast an edition of *Nightmare Tenants, Slum Landlords*, a series that featured stories about disputes between tenants and their landlords. One such dispute featured in the programme was between the complainant and her landlords, Mr Terry Sartin and Ms Helen Miller, in relation to two different properties.

During the opening introductory sequence, the programme's narrator introduced the programme:

*"Renting, overall 11 million of us do it but for some, getting the keys opens the door to a nightmare...Landlords, 2 million and counting, yet for a few the buy to let dream leads to financial ruin...In this series we follow the experts whose job it is to evict nightmare tenants [brief footage of the complainant was shown]...And the heroes who take slum landlords down".*

The part of the programme featuring Miss R was introduced as follows:

*"Renting out a second property can seem like an easy way to make a bit of extra cash but amateur landlords beware, there's a new breed of savvy renters who know how to play the system and financially can bring a first time landlord to their knees".*

The first dispute which was discussed in the programme concerning Miss R was with Mr Sartin. The narrator of the programme stated that Mr Sartin had rented out his property in Hemel Hempstead, Hertfordshire, but that *“his tenant [Miss R] has barely paid a penny in rent for over eight months and now with legal fees owes him almost £8000”*.

Mr Sartin was filmed standing outside the property Miss R rented from him and the narrator explained that she was being evicted that day. Also present was a locksmith and a High Court Enforcement Officer (“HCEO”). After the HCEO had knocked on the door and entered the property, he told Mr Sartin that *“there’s nobody in there but there’s still stuff in there”*. The programme’s narrator then stated:

*“Although legally it’s back in his hands, his nightmare isn’t over yet. Terry knows by law he has to allow his tenant, [the complainant], to collect her belongings”*.

Mr Sartin was then shown on the telephone informing Miss R that she had been evicted from the property, but that she would have the opportunity to collect her belongings. Following this, the programme showed Mr Sartin entering and inspecting the property. Footage of the inside of the property was broadcast, including footage of Miss R’s belongings, for example: her clothes, toiletries and furniture. Mr Sartin described how frustrating it was that the property was full of Miss R’s belongings. He added that it was now his responsibility to box up the items and arrange a time and date for Miss R to come and collect them.

The programme’s narrator then said: *“Terry is following the letter of the law, but his tenant [complainant’s name] knows her rights and isn’t going quietly”*. Mr Sartin read out part of a text message he had received from Miss R and the full message was then shown on-screen. In the text message, Miss R told Mr Sartin that she had not been informed of a date in which she was required to move out of the property and that she would be going to the court *“this afternoon”* to pursue her action against Mr Sartin. In response, Mr Sartin said that he expected that she would return to the property later that day and footage of Miss R in her car entering the road was then shown.

The programme’s narrator then explained that Mr Sartin understood that he had to allow Miss R to collect her belongings from the property, but that after what he had been through, he did not want to let her back into the property. Further footage of Miss R in her car was shown in which she was heard saying *“why are you putting a camera in my face?”*

While Miss R was sitting in her car, Mr Sartin informed her that she would not be allowed to enter the property, but that he would come to an arrangement with her so she could collect her belongings. In response, Miss R informed Mr Sartin that she was going to telephone the police and she asked the programme makers *“to take that camera out of my face”*. A removal van then arrived to remove Miss R’s belongings from the property.

Mr Sartin was shown on the telephone to his partner asking for her assistance in the removal of Miss R’s belongings from the property. Mr Sartin then approached Miss R’s car to inform her of this and she agreed to the request. Miss R reiterated that she did not want to be filmed because *“I work in film”*. Mr Sartin, his partner and his partner’s mother were then shown removing Miss R’s items from the property. Once they had removed all the items from the property, Mr Sartin described how pleased he was to have the property back.

In the coming-up-next teaser shown prior to the commercial break, footage of Miss R and an eviction specialist was shown and he said to Miss R: *“you’ve previously been evicted from another property”*. The programme’s narrator then said *“tenant [complainant’s name] is back”*.

Later in the programme, footage of Mr Sartin fixing damage to his property was broadcast. The programme’s narrator then stated that *“his tenant [complainant’s name] has been renting a second property just a few miles away while still living in Terry’s house”*. The narrator said that this property was owned by Ms Miller.

On-screen text was shown which said *“Problem: [complainant’s name]”* and footage of Miss R in her car was shown. The narrator stated that Ms Miller had rented out her flat five months ago, but that except for the first month’s rent, she had *“barely received a penny from her since”*. It was stated that Ms Miller was owed *“almost £2500”*.

Ms Miller, who the programme said was *“desperate to get [complainant’s name] out”*, contacted Mr Paul Shamplina, an eviction specialist, to help her evict Miss R. Mr Shamplina, who was accompanied by a camera crew, described Miss R as a *“serial bad tenant, who is not paying her rent and has previously been evicted from another property. Serial bad tenants are the worst types of tenants to get for a landlord”*. Mr Shamplina was shown pulling into the car park to the flat complex where Miss R was renting the property from Ms Miller. Mr Shamplina stated that he wanted to serve Miss R (personally) with the letter informing her of the possession hearing date to avoid her claiming that she did not know about the court case, as this could prolong the eviction period. Footage was included of Mr Shamplina entering the block of flats and knocking on the door to Miss R’s flat. There was no answer at the door, so Mr Shamplina returned to his car.

Mr Shamplina then spoke to Ms Miller and informed her that there was no answer at the door although Miss R’s car was in the car park. Following this, footage of Miss R walking towards her car was shown and the following conversation between Miss R and Mr Shamplina took place:

Mr Shamplina: *“Hi [complainant’s name], I’ve got to give you this from Helen. It’s a notification of the hearing date. Do you want to take it?”*

Miss R: *“Yeah, just pop it in the post please”*.

Miss R then covered her face with her hands and asked for the camera crew to take the camera *“out of my face”*. Mr Shamplina followed Miss R as she walked back to the property and as he did this, he explained to her the reason he was there. In response, Miss R said that she was going to call the police and that his behaviour amounted to *“harassment”*. Mr Shamplina then tried to serve Miss R the notification letter which she refused to take. Miss R closed the communal door to the block of flats and the eviction specialist placed the letter in the letterbox to Miss R’s rented property. Mr Shamplina then said:

*“She wasn’t happy we served a letter on her. The whole point of this, it’s about pressure so she leaves sooner rather than later”*.

The programme’s narrator confirmed that Ms Miller would now have to win possession of the property back through the courts.

A story about another tenant was shown. Following this, in the coming-up-next teaser, the programme said *“things turn nasty for landlord Helen”*. Ms Miller said: *“to say that I physically abused her”*.

Later on in the programme, Ms Miller was shown on her way to court with her legal representative. The programme’s narrator said that Ms Miller was concerned that if Miss R turned up to the court to make a counter claim then the process could end up taking much longer. Ms Miller and her legal representative were then shown entering the courthouse. The narrator revealed that Miss R did not attend and that Ms Miller had won a possession order for her flat. However, the programme stated that Miss R had sent an email to the court making *“unpleasant accusations that Ms Miller has physically abused her”*. Ms Miller denied the allegations and responded by stating that Miss R was a *“horrible woman”*.

There was next a separate item about an investigation into a run-down property. Then, prior to the commercial break, in the coming-up-next teaser, Ms Miller said: *“I so want her to be gone”* and the programme’s narrator said: *“things get emotional for Helen”*. Footage of Ms Miller which showed her visibly upset was shown as she said *“I didn’t think she’d be gone, I thought she’d still be here”*.

The final part of the story in relation to the dispute between Ms Miller and Miss R showed Ms Miller as she returned to the property in the hope that Miss R *“had complied with the possession order”*. Ms Miller stated that she did not expect for Miss R to have vacated the property. Ms Miller was then shown knocking on the door and entering the property as there was no answer. Miss R had left the property.

No further comments about or footage of Miss R were included in the programme.

### **Summary of the complaint and the broadcaster’s response**

- a) Miss R complained that her privacy was unwarrantably infringed in connection with the obtaining of the material included in the programme because she claimed that the programme makers had followed her “for months”, and that she was filmed without her consent.

In response, Channel 5 said that Miss R first came to the attention of the programme makers via her landlord Ms Miller who was seeking a possession order against Miss R for non-payment of rent. Channel 5 explained that Miss R had rented a property from Ms Miller and, apart from the first month’s rent, had “barely paid Ms Miller a penny for four or five months” and ended up owing her approximately £4000 in rent and legal fees. Channel 5 added that during Ms Miller’s attempts to regain possession of her property from Miss R, Ms Miller discovered that Miss R’s previous landlord, Mr Sartin, was still seeking to evict Miss R for non-payment of rent. Channel 5 said that Miss R had “barely paid any rent to Mr Sartin for over eight months”, it took Mr Sartin over six months to evict Miss R and he ended up being owed approximately £8000 in rent and legal fees by Miss R. Channel 5 said that Miss R had effectively lived rent free at the expense of her two landlords for 12 months.

Channel 5 said that the programme makers sought to follow the stories of the two landlords who had been left significantly “out of pocket” by Miss R for reasons that she had not explained. Channel 5 stated that the programme makers did not follow Miss R for months. To illustrate this, Channel 5 provided Ofcom with the unedited footage of Ms R and set out on each occasion filming took place:

*9 April 2015*

Channel 5 explained that during the evening on the day before HCEOs were due to attend Mr Sartin's property to evict Miss R, the programme makers and Mr Sartin drove to his property to see if Miss R had already vacated the property. Channel 5 said the programme makers filmed Mr Sartin from the end of the road as he went to the front of the house and walked back. Round the corner from the house, the programme makers then filmed an update with Mr Sartin, at which point Mr Sartin saw Miss R and her daughter drive past. Channel 5 said the programme makers did not film Miss R or her daughter. Channel 5 added that while the programme makers were still filming Mr Sartin, Miss R telephoned him on his mobile phone and he asked her if she was leaving his property the following day.

*10 April 2015*

Channel 5 said that the programme makers filmed Mr Sartin and the HCEO at Mr Sartin's property from outside. The broadcaster added that nobody was inside the property and the HCEO gained possession and handed over possession to Mr Sartin. Channel 5 said the programme makers filmed Mr Sartin inside the property as he inspected the state in which the property had been left. Channel 5 said that it was clear from viewing the programme that Miss R then arrived in a car and her exchange with Mr Sartin, which took place in public, was filmed by the programme makers, as was the subsequent removal of Miss R's possessions from the property.

*15 April 2015*

Channel 5 stated that the programme makers filmed Ms Miller as she travelled to her property to try to establish if Miss R or anyone else was living there. The broadcaster said that there was no answer at the property and Miss R was not seen or filmed.

*24 April 2015*

Channel 5 said that the programme makers filmed Ms Miller's representative as he travelled to Ms Miller's property to personally serve court eviction paperwork on Miss R to make sure Miss R would not have an opportunity to delay the proceedings for possession by claiming she did not have notice of the hearing. Channel 5 stated that there was no answer when Ms Miller's representative knocked on the door of the flat. The broadcaster added that the programme makers then waited outside with Ms Miller's representative until Miss R came out of the property and walked towards her car. Channel 5 said it was clear from the programme as broadcast that the programme makers filmed the attempt by Ms Miller's representative to serve court papers on Miss R.

*27 April 2015*

Channel 5 said that the programme makers filmed Ms Miller and her father as they visited the property at the request of Miss R to fix some problems with the flat. Channel 5 said that the visit was pre-arranged and Miss R was not present so was not filmed.

*12 May 2015*

Channel 5 stated that the programme makers followed Ms Miller as she drove to the possession hearing at Watford County Court, met her legal representative outside the court and after she came out having been granted a possession order. Channel 5 added that Miss R was not present and was not filmed.

*27 May 2015*

Channel 5 stated that the programme makers followed Ms Miller as she went to her property to find out if Miss R had vacated in accordance with her possession order or whether she would have to incur further expense by instructing court bailiffs to evict Miss R. The broadcaster said as was apparent from the programme, Miss R had vacated the property, so was not seen or filmed.

Channel 5 said that taking into account the above, the suggestion by Miss R that she was followed around for months “is a complete fabrication”. It said Miss R was filmed on two occasions while the programme makers were filming the landlords, as they tried to regain possession of their properties from Miss R.

On the two occasions Miss R was filmed, Channel 5 said she was filmed openly and in public places in connection with court proceedings for possession and pursuant to a possession order.

Channel 5 said they did not consider Miss R had a legitimate expectation of privacy in the circumstances in which she was filmed or in relation to the landlords telling their stories in relation to her. Channel 5 added that there is nothing private about court proceedings. The broadcaster said there was nothing to prevent either landlord telling their stories and nothing to prevent Miss R from being identified by them and by Channel 5 as a “nightmare tenant”.

Channel 5 referred to criteria which Ofcom has previously set out in other Fairness and Privacy decisions. It said that in this case the filming occurred in a public place, Miss R was aware she was being filmed, the footage did not depict Miss R doing something, or disclose information about her that was, confidential, private and/or sensitive. The broadcaster added that there is nothing private about such court proceedings or evictions and while they recognised that Miss R may have preferred not to have been filmed in such circumstances, she could have had no legitimate expectation of privacy in relation to either court case seeking possession, the possession orders granted against her or her eviction for non-payment of rent.

Channel 5 confirmed that Miss R said that she did not wish to be filmed, but said that no assurance was provided to Miss R that footage of her would not be broadcast. The broadcaster said that, in fact, in pre-broadcast correspondence with Miss R’s solicitor, it was made clear that her identity would not be obscured.

In addition, Channel 5 said Ofcom had stated in previous Fairness and Privacy decisions that “distress alone is not sufficient to engage the complainants’ privacy rights”. Channel 5 said there was no general right in law or pursuant to the Ofcom’s Broadcasting Code (“the Code”) not to be filmed and Miss R’s desire not to be filmed and any distress or embarrassment she claims to have suffered on the two occasions she was filmed does not create a privacy right where none existed.

The broadcaster said that even if Ofcom considered that on the occasions Miss R was filmed she did have some legitimate expectation of privacy then it considered

that the means of obtaining the footage was proportionate in the circumstances and it was warranted in the public interest. Channel 5 said that the two landlords' stories demonstrated the difficulty and expense of regaining possession of properties and the emotional and financial impact "nightmare tenants" can have on landlords. The broadcaster added that it also served as a warning to other potential landlords that possession proceedings can be delayed for many months by tenants and that Miss R "may not be the ideal tenant for anyone currently considering letting a property".

- b) Miss R also complained that her privacy was unwarrantably infringed in the programme as broadcast because her full name and footage of her was broadcast without her consent.

By way of background, Miss R said that she made clear to the programme makers that she did not want any footage of her to be included in the programme. Further, Miss R said that the programme stated that she worked in the film industry and as a consequence of the programme, the company which she worked for had been exposed on social media. Miss R said that given her profession, the broadcast of programme would impact on her ability to rent properties and gain employment in the future.

In response, Channel 5 said that it did not agree that Miss R's privacy was unwarrantably infringed in the programme as broadcast either by the inclusion of her name or footage of her without her consent.

The broadcaster said that in its view, a person does not have any legitimate expectation of privacy in relation to their name or what they look like. In any event, Channel 5 said Miss R has a public profile on LinkedIn where her name, her photograph, her job title, her employment history and other information about her were published and therefore she could not claim to have any legitimate expectation of privacy in relation to such information. The broadcaster added that Miss R had voluntarily placed such information in the public domain and therefore her consent would not be required to broadcast it.

Channel 5 said that if Miss R's complaint was really that she was identified in relation to the two sets of possession proceedings for non-payment of rent, then again Channel 5 did not consider that she had any legitimate expectation of privacy in relation to such circumstances. As set out above, Channel 5 said that there is no privacy in relation to court proceedings or their outcome or in relation to a HCEO publicly executing a warrant for possession. The broadcaster added that there was no obligation upon the landlords to keep such information secret and Miss R could have no legitimate expectation that such matters would be private. Channel 5 said in these circumstances, no consent was required from Miss R to include such information in the broadcast of the programme.

Channel 5 also said that the background information to the complaint appeared to suggest that Miss R was concerned about the reputational impact on her of the programme and the impact it may have upon her ability to rent properties or gain future employment. Channel 5 referred to *Axel Springer AG v Germany*<sup>1</sup> in which the Grand Chamber of the European Court of Human Rights unanimously held that:

"In order for Article 8 to come into play, however, an attack on a person's reputation must attain a certain level of seriousness and in a manner causing prejudice to personal enjoyment of the right to respect for private life... The

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<sup>1</sup> Application no. 39954/08; 7/02/2012.

court has held, moreover, that Article 8 **cannot be relied on in order to complain of a loss of reputation which is the foreseeable consequence of one's own actions** [emphasis added by Channel 5] such as, for example, the commissions of a criminal offence”.

Channel 5 said the possession proceedings, orders and subsequent eviction were a **foreseeable consequence of Miss R's own actions** (emphasis added by Channel 5). Channel 5 added that it was Miss R who failed to pay rent to two private landlords with the consequence that possession proceedings were issued, possession orders made and a HCEO instructed to regain possession of the property that she failed to leave in accordance with the terms of the order for possession. Channel 5 said that any difficulty that Miss R may have in renting further properties or in securing employment is a consequence of her own actions. Channel 5 added that Miss R is not entitled to rely upon Article 8 of the European Convention of Human Rights to complain about such consequences. Channel 5 said it was Miss R herself who stated to the programme makers that she worked in the film industry and Miss R herself who did not pay rent to two landlords for reasons she had yet to explain.

Therefore, Channel 5 said Miss R had no legitimate expectation of privacy in relation to matters included about her in the programme.

However, the broadcaster said that even if Ofcom were to take the view that Miss R did have some legitimate expectation of privacy, it said it was clear that in this case any infringement of privacy was warranted and an appropriate exercise of Channel 5's and the landlords' Article 10 rights to freedom of expression and the viewer's rights to receive information without interference.

### **Ofcom's Preliminary View**

Ofcom issued to the parties a Preliminary View that the complaint of unwarranted infringement of privacy should not be upheld.

Both parties were given the opportunity to make representations on the Preliminary View. Both Miss R and Channel 5 submitted representations on the Preliminary View and the relevant representations are summarised below.

#### *Miss R's representations*

Miss R submitted late representations on Ofcom's Preliminary View. After careful consideration, we considered that the majority of Miss R's representations either did not raise issues which were relevant to the entertained complaint or related to matters which Ofcom had already taken into consideration in reaching its Preliminary View on her complaint. Ofcom therefore did not consider that they were relevant to its decision in this case.

We did take into account Miss R's representation that it was her belief that the unedited footage which Channel 5 provided to Ofcom had been edited. Miss R provided Ofcom with a number of timecodes to help illustrate this belief.

#### *Channel 5's representations*

Channel 5 made representations on Ofcom's Preliminary View, and on Miss R's representations.

In relation to head a) of Ofcom's Preliminary View, Channel 5 said that Ofcom appeared to accept that court proceedings for eviction are a matter of public record and that all filming of Miss R took place in public. In Channel 5's view, this suggested that Miss R would have no legitimate expectation of privacy in relation to the filming of her. Channel 5 noted Ofcom's Preliminary View that Miss R had an expectation of privacy because she was filmed in a "distressing and sensitive situation" and the circumstances "were sufficiently sensitive to cross the threshold of seriousness and give rise to a legitimate expectation of privacy". Channel 5 considered that this was the incorrect application of the law of privacy.

Channel 5 said that in relation to the filming at Mr Sartin's property, Ofcom had recognised that the possession proceedings, the repossession of the property by the bailiff, the changing of the locks and the removal of Miss R's possessions from the property were not private. Channel 5 therefore questioned the information to which Ofcom had concluded that Miss R had a legitimate expectation of privacy.

Channel 5 said it did not agree with, nor knew of any legal authority to support, the proposition that being in a "distressing and sensitive situation" or "crossing the threshold of seriousness" gave rise to a legitimate expectation of privacy. The broadcaster said that Ofcom should first consider if there was some private or sensitive information that was sufficiently serious to engage Article 8 of the European Convention on Human Rights ("Article 8") and specify what that private information is. Then, it said that Ofcom should separately consider whether, in all the circumstances, Miss R had a legitimate expectation of privacy in relation to that information<sup>2</sup>.

Channel 5 said that it did not know what private information Ofcom had found to exist and it was concerned that Ofcom may be interpreting the rights under Article 8 so widely that it gives credibility to complaints that are unreal and unreasonable. The broadcaster also said that regardless of whether there was some private information of sufficient seriousness, it was clear that in all the circumstances, including the public court proceedings and the events and filming that happened in a public place, Miss R could have no legitimate expectation of privacy.

Channel 5 cited the judgment in *R (Catt) v ACPO*<sup>3</sup>, in which Lord Sumption considered the test for what constitutes "private life" and its application to activities

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<sup>2</sup> In support of this, Channel 5 referred to a statement made by Laws LJ in *R (Wood) v Comr of Police of Metropolis* [2009 EWCA Civ 414; [2010] 1 WLR 123: "...this cluster of values, summarised as the person autonomy of every individual and taking concrete form as a presumption against interference with the individual's liberty, is a defining characteristic of a free society. We therefore need to preserve it even in little cases. **At the same time it is important that this core right protected under article 8, however protean, should not be read so widely that its claims become unreal and unreasonable.** For this purpose I think there are three safeguards or qualifications. **First, the alleged threat or assault to the individual's personal autonomy must (if article 8 is to be engaged) attain 'a certain level of seriousness'. Secondly, the touchstone for article 8(1)'s engagement is whether the claimant enjoys on the facts a 'reasonable expectation of privacy'... Absent of such an expectations, there is no relevant interference with personal autonomy.** Thirdly, the breadth of article 8(1) may in many instances be greatly curtailed by the scope of the justifications available to the state pursuant to article 8(2)..." [Emphasis added by Channel 5]

<sup>3</sup> [2015] UKSC 9.

carried out in public spaces<sup>4</sup>. In Channel 5's view, it did not consider Miss R had an expectation of privacy in a public place, but that even if she did, in line with Lord Sumption's judgment, the mere observation (i.e. the filming) of Miss R could not engage Article 8. Accordingly, Channel 5 argued that Miss R could not have had a legitimate expectation of privacy in relation to the filming and that Ofcom need not consider whether the filming was warranted in the public interest.

In relation to head b) of Ofcom's Preliminary View, Channel 5 said that Ofcom had used the wrong tests to determine whether Miss R had a legitimate expectation of privacy in being identified in relation to two sets of possession proceedings for non-payment of rent.

Channel 5 did not agree with what it regarded as Ofcom's suggestion that the impact on Miss R's private life of identification in relation to possession proceedings could have anything to do with deciding whether she had a legitimate expectation of privacy in relation to such information.

Channel 5 argued that the identity of an individual (whether in the media or elsewhere) who has had a possession order made against them for non-payment of rent, which would likely impact upon their relationships with other people, could not be considered to be private information that an individual would expect to be kept secret. The broadcaster said that the fact Miss R had not paid rent for months and had possession orders made against her in relation to two rental properties would more than likely impact upon her ability to rent properties or gain employment in the future. However, the broadcaster said that this would have been regardless of whether or not that information was broadcast. Channel 5 said that Miss R could not blame the programme for the foreseeable consequences of her own actions.

Channel 5 added that it did not agree with the suggestion that identifying Miss R in the broadcast in relation to the possession proceedings gave her exposure which "substantially exceeded anything that someone in Miss R's position could possibly have expected" and that such exposure could give rise to a legitimate expectation of privacy. Channel 5 said that just because individuals like Miss R had not come to the public attention before, does not mean that they have a legitimate expectation of privacy in relation to such matters.

Channel 5 said that this proposition also suggested that there were certain individuals who Ofcom considered the media were and were not entitled to identify in relation to court proceedings. The broadcaster said that this appeared to ignore the public's long-standing right to know about the existence of court proceedings within the community, the presumption of open justice and the very few circumstances in which parties to proceedings are entitled to anonymity. Channel 5 said that in their view, Miss R could have no legitimate expectation that possession orders against her made by the court could or would remain private.

Channel 5 said that if the basis upon which Ofcom had concluded here that Miss R had a legitimate expectation of privacy in relation to the possession proceedings were to remain, it would have a "chilling impact" upon all broadcasters and their ability to report anything on a day to day basis.

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<sup>4</sup> Channel 5 referred to a statement made by Lord Sumption in which he said "***there may be some matters about which there is a reasonable expectation of privacy, notwithstanding that they occur in public and are patent to all the world. In this context mere observation cannot, save perhaps in extreme circumstances, engage article 8, but the systematic retention of information may do***". [Emphasis added by Channel 5]

In response to Miss R's representations Channel 5 said that Miss R's allegation that the unedited footage supplied to Ofcom had been edited was entirely without foundation. The broadcaster said that Miss R was filmed on two occasions and unedited footage of both occasions was supplied to Ofcom. Channel 5 added that the timecodes on the footage was the time of day and where the timecodes appear to jump from one time to another, this was where the camera was turned off and turned on again.

## 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 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 this Decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, the transcript of the programme as broadcast, the unedited footage of Miss R and both parties' written submissions. We also took into account both parties' relevant representations in response to Ofcom's Preliminary View.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing rights of the broadcaster 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 which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

- a) Ofcom considered Miss R's complaint that her privacy was unwarrantably infringed in connection with the obtaining of the material included in the programme because the programme makers followed her for months and she was filmed without her consent.

In assessing this head of Miss R's complaint, Ofcom had particular regard to Practices 8.5, 8.7 and 8.9 of the Code. Practice 8.5 states that any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted. Practice 8.7 states that if an individual or organisation's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the broadcaster should do so, unless it is warranted to continue. Practice 8.9 states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

We reviewed the footage of Miss R which included the material broadcast in the programme and the unedited footage of her. We also noted Channel 5's

response to the complaint in which they itemised each occasion on which Miss R was filmed by the programme makers and when filming took place.

We noted that Miss R was filmed at both of the properties that she had been renting. In particular, in relation to the property belonging to Mr Sartin, we observed from the unedited footage that the day before Miss R's eviction from the property, the programme makers filmed Mr Sartin as he arrived at the property to check whether or not Miss R had already vacated it. Having established that Miss R was still living at the property, Mr Sartin was then filmed around the corner from the property. While the filming took place, Miss R telephoned Mr Sartin during which they discussed, amongst other things: the presence of people outside her property (i.e. Mr Sartin); her intention to leave the property the following Monday; and, whether she had packed her belongings. Miss R's voice could be heard during this conversation. Following the telephone conversation, Mr Sartin discussed with the programme makers the details of the conversation including: that Miss R had contacted him because her daughter had seen Mr Sartin's car headlights outside the property; that she had not packed any of her belongings; and, that Mr Sartin wanted to "*surprise*" Miss R so he had not told her about his intention to evict her from the property the following morning.

Further, we observed from the material broadcast in the programme and the unedited footage that the following morning Mr Sartin was filmed by the programme makers at the property as the HCEO gained possession of it and handed over possession to Mr Sartin. During the footage, Mr Sartin was filmed as he: contacted Miss R about the eviction; entered and looked around the property; discussed what he considered to be damage to the property; and discussed Miss R's living situation. Later, Miss R was filmed as she arrived in her car at the property. A moving van and the people who intended to help her move were also present when Miss R arrived. We noted in particular that the footage showed Miss R as she spoke to Mr Sartin as they made arrangements to move her belongings from the property, during which Miss R was filmed saying "*I work in film*".

In relation to the property belonging to Ms Miller, we observed from the material broadcast in the programme and the unedited footage that Mr Shamplina, an eviction specialist, was filmed being let in by a neighbour through the communal door and knocking on the door to Miss R's rented property. After no answer and repeated attempts, Mr Shamplina was filmed as he returned to his car and as he waited to see if Miss R would arrive at the property. Miss R was then filmed being approached by Mr Shamplina as he attempted to serve her with court eviction paperwork connected with Ms Miller's property. Miss R was filmed informing Mr Shamplina to place the letter in the post box as she entered the outside door to the block of flats where the property in question was located. There were no other occasions when Miss R was filmed.

In considering whether or not Miss R's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme, Ofcom first considered the extent to which Miss R had a legitimate expectation of privacy in the particular circumstances in which the material included in the programme was obtained.

Ofcom considers that the test as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself. Ofcom will consider whether a legitimate expectation of privacy arises in connection with the

obtaining of material included in a programme or the broadcast of a programme, in light of all the relevant circumstances in which the individual concerned is filmed and what footage and information was subsequently broadcast. Ofcom will therefore continue to approach each case on its facts.

In particular, as stated in Section Eight of the Code, legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question. We also noted Section Eight states that “there may be circumstances where people can reasonably expect privacy even in a public place...” Further, the Guidance to Section Eight of the Code (the “Guidance”)<sup>5</sup> states that “privacy is least likely to be infringed in a public place”, but that “there may be circumstances where people can reasonably expect a *degree* of privacy even in a public place” (emphasis in original)<sup>6</sup>. The Guidance says that the degree of privacy a person can reasonably expect in a public place will “always be dependent on the circumstances”.

We first considered whether Miss R had a legitimate expectation of privacy in relation to the filming of her at Mr Sartin’s property. Looking at the circumstances, Ofcom considered the nature of the material obtained of Miss R, in both the programme and the unedited footage. We noted that Miss R was filmed in connection with her eviction from the property in which she had been residing. In the circumstances of this particular case, we noted from the footage that although Mr Sartin had legally repossessed the property, Miss R claimed that she was not aware of the date of eviction and that she arrived at the property unaware that she would be filmed and would be unable to gain access to the property to collect her belongings. We noted Channel 5’s comments that the footage did not depict Miss R doing something, or disclose information about her that was, confidential, private and/or sensitive, and their view that Miss R could have no legitimate expectation of privacy in connection with her eviction for non-payment of rent or the court proceedings that had preceded this.

We also noted that the filming of Miss R as she arrived in a car, her exchange with Mr Sartin and the subsequent removal of her possessions from the property, took place openly and in a public place, namely a public highway outside Mr Sartin’s property. Miss R was also aware of the presence of the cameras.

We do not agree with Channel 5’s view that, in the circumstances Miss R had no legitimate expectation of privacy.

As noted above, we consider that there may be circumstances where someone can have a legitimate expectation of privacy, even in a public place.

Similarly, while court proceedings for eviction on grounds of non-payment of rent may be a matter of public record, we do not consider that this fact, of itself, obviates all rights of privacy that a person subject to those proceedings might reasonably expect in relation to the matter.

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<sup>5</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section8.pdf>.

<sup>6</sup> We note in this context, *PG v United Kingdom* [2006] 46 EHRR 51 (para 56) states: “Article 8 also protects a right to identity and personal development, and the right to establish and develop relationships with other human beings and the outside world... There is therefore a zone of interaction of a person with others, even in a public context, which may fall within the scope of “private life””.

Miss R was filmed without prior warning, whilst being evicted from her home, having been denied access to the property to collect her personal effects. The filming also captured conversations between Miss R and her landlord relating to the eviction. In Ofcom's view, this was a situation, i.e. removing access to a person's home by force, that could reasonably be characterised as distressing and sensitive for the person involved, and sufficient to fall within the scope of "private life", thus engaging Article 8. .

Therefore, in light of these factors, we considered that, on balance, the circumstances in which Miss R was filmed gave rise to a legitimate expectation of privacy.

We then considered whether Miss R had a legitimate expectation of privacy in relation to the filming of her at Ms Miller's property. As above, we do not agree that Miss R could not have had a legitimate expectation of privacy, simply because the events being filmed took place in a public place and were the result of court proceedings that were a matter of public record. We considered that the filming captured conversations concerning the property Miss R was renting from Ms Miller and in particular that she was being personally served with eviction papers, an approach the eviction specialist said was "*about pressure so she leaves sooner rather than later*". We noted Channel 5's comments that the footage did not depict Miss R doing something, or disclose information about her that was, confidential, private and/or sensitive, and their view that Miss R could have no legitimate expectation of privacy in connection with her eviction for non-payment of rent or the court proceedings that had preceded this. However, while court proceedings for eviction on grounds of non-payment of rent may be a matter of public record, we considered that Miss R was filmed, without prior warning, in what could reasonably be regarded as a sensitive or distressing situation and one in which she may have been feeling under pressure.

We also noted from the footage that Miss R was filmed openly as she was approached by Mr Shamplina with the eviction papers and from what appeared to be the residents' car park of the property, an area which appeared to be freely accessible to the public.

Therefore, in light of these factors, we considered that, on balance, the circumstances in which Miss R was filmed gave rise to a legitimate expectation of privacy.

Ofcom then considered whether the programme makers had secured her consent to obtain this material. On both occasions on which Miss R was filmed, it was clear from the footage that she did not consent to the filming of her, particularly in light of her requests for the camera to be taken away.

We then considered whether the infringement into Miss R's privacy was warranted and whether the means of obtaining the material was proportionate in all the circumstances and, in particular, to the subject matter of the programme. In doing so, we assessed the broadcaster's competing right to freedom of expression and the audience's right to receive information and ideas without unnecessary interference.

The Code states that "warranted" has a particular meaning. It means that, where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, then the broadcaster

should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest could include revealing or detecting crime, protecting public health or safety, exposing misleading claims by individuals or organisations or disclosing incompetence that affects the public.

Ofcom considered that there was a genuine public interest in the making of this programme, in that its purpose was to explore the difficulties, emotional impact and expense that non-payment of rent can have on landlords, with the aim of conveying to viewers an understanding of the work involved in regaining possession of a property. In our view, allowing the programme makers to record the footage of the landlords as they took steps to evict Miss R from their respective properties and the involvement of the HCEO in carrying out his duties was important to this end. This is because the filming of Miss R enabled the broadcaster to use an actual example to illustrate the steps landlords have to take in order to regain possession of their properties and the difficulties they may encounter from tenants like Miss R who had failed to pay rent on the properties she had rented.

In assessing whether the means of obtaining the material was proportionate in the circumstances, Ofcom noted the manner in which the material was obtained (as set out in the “Programme summary” section above). We had regard to Miss R’s claim that the programme makers had “followed her for months” and the broadcaster’s view that Miss R had only been filmed on two occasions and at no stage “followed”. Having viewed the unedited footage and the footage which was included in the programme, and taking into consideration Channel 5’s account of each occasion on which filming had taken place in connection with Miss R’s story (seven times over the course of 57 days in which Miss R was only filmed twice), it was our view that there was no evidence to suggest Miss R had been “followed” by the programme makers. We recognised that on one occasion filming took place at night close to the property Miss R was renting from Mr Sartin and we took into account that Miss R expressed concern about this during a telephone conversation she had with Mr Sartin. However, on this occasion, Miss R had not been filmed nor was there any attempt to try to obtain footage of Miss R. Further, from viewing the footage of Miss R, we considered the filming to be relatively unobtrusive – in particular, on the occasions Miss R was filmed, it was from a distance and she did not appear to be obstructed by the programme makers.

We also considered whether the material was relevant to the subject matter of the programme. Ofcom took the view that because this particular section of the programme was about landlords trying to regain possession of their properties from a tenant who had failed to pay rent, the filming of the landlords and as a consequence their tenant, Miss R, in the circumstance, were relevant in demonstrating the processes, planning and difficulties landlords can face in dealing with tenants who have not paid their rent.

Given the above, Ofcom considered that any infringement of Miss R’s legitimate expectation of privacy in the obtaining of the material was warranted in the circumstances and we were satisfied that the means of obtaining the material was appropriate and proportionate and relevant to the subject matter of the programme.

Taking all the factors above into account, Ofcom considered that, on balance, the broadcaster’s right to freedom of expression and the public interest in obtaining the material of Miss R outweighed her limited legitimate expectation of privacy in the circumstances of this case.

Ofcom found that there was no unwarranted infringement of Miss R's privacy in connection with the obtaining of material included in the programme.

- b) Ofcom considered Miss R's complaint that her privacy was unwarrantably infringed in the programme as broadcast because her full name and footage of her was broadcast without her consent.

Miss R said that she made clear to the programme makers that she did not want any footage of her to be included in the programme. Further, Miss R said that the programme stated that she worked in the film industry and as a consequence of the programme, the company which she worked for had been exposed on social media. Miss R said that given her profession, the broadcast of the programme would impact on her ability to rent properties and gain employment in the future.

In assessing this head of Miss R's complaint, Ofcom had particular regard to Practice 8.6 of the Code. This 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 addition, Ofcom took into consideration Practice 8.4 which states that broadcasters should ensure that actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual concerns, unless broadcasting without their consent is warranted.

In considering whether or not Miss R's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first considered the extent to which she had a legitimate expectation of privacy in relation to her full name and footage of her being included in the programme without her consent.

As set out in the "Programme summary" section above, footage of Miss R being evicted from one property and being served with eviction papers in connection with another property was included in the programme. In addition, Miss R's full name and information about her job was also disclosed in the programme. Further, her face was shown unobscured and her voice was audible.

The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself. Therefore, in considering whether or not Miss R had a legitimate expectation of privacy in relation to the inclusion of her full name and footage of her in the programme, we took into consideration the circumstances in which this information was included. In this particular case, Miss R was identified in connection with the two sets of possession proceedings for non-payment of rent.

We then assessed whether Miss R had a legitimate expectation of privacy in relation to the broadcast of her full name and footage of her in the programme. We noted Channel 5's comments in relation to the *Axel Springer* case and its representations in response to Ofcom's Preliminary View, as set out above, and its argument that Miss R did not have any legitimate expectation of privacy in this case because the possession proceedings, orders and subsequent eviction were a foreseeable consequence of Miss R's own actions. As noted above, while Ofcom acknowledges that court possession proceedings for non-payment of rent may be a matter of public record, Ofcom does not consider that it follows that there can no longer be any expectation of privacy in relation to any circumstances connected to those proceedings. As noted above, Ofcom considers that this is

something which is fact-sensitive and must be assessed in light of all the relevant circumstances of the case.<sup>7</sup>

We noted Channel 5's comment that simply identifying Miss R in the broadcast could not give rise to a legitimate expectation of privacy. As noted above, we did not agree that Miss R could not have had a legitimate expectation of privacy with respect to the footage, simply because it took place in a public place and was the result of court proceedings that were a matter of public record. Ofcom considered that the broadcast identified Miss R in relation to the possession proceedings for non-payment of rent and showed her having conversations with her landlord, Mr Sartin and the eviction specialist, Mr Shamplina, in distressing and sensitive situations. As noted above in respect of head a), Ofcom considered that on balance she had a legitimate expectation of privacy in these circumstances.

The footage of Miss R as broadcast clearly identified her; her image was unobscured and her full name was disclosed. We noted Channel 5's comment that the impact on Miss R's private life of identification in relation to possession proceedings could have nothing to do with deciding whether she had a legitimate expectation of privacy in relation to such information. However, it was our view that this could have a significant impact on Miss R's private life and gave rise to a greater intrusion and attendant exposure that substantially exceeded anything which someone in Miss R's position could possibly have expected. Accordingly, with respect to the disclosure of her full name and unobscured footage of her included in the programme, we considered that Miss R did have a legitimate expectation of privacy.

Ofcom then considered whether the broadcaster had secured Miss R's consent to include this material. As noted above, Miss R did not consent to the filming of her and, in the pre-broadcast correspondence provided by the broadcaster to Ofcom, it was clear that Miss R had not subsequently consented to the broadcast of this material. Therefore, we considered that Miss R had not consented to the broadcast of footage of her and inclusion of her name in the programme and so Ofcom went on to consider whether the infringement of Miss R's privacy was warranted.

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<sup>7</sup> In *Hannon v News Group Newspapers Ltd* [2014] EWHC 1580 (Ch), Mann J noted that *Axel Springer*. "does not support an absolute right of the press to have, and to publish, the fact of an arrest, and its circumstances. At most it supports a submission that, if the facts justify it, that right exists and the countervailing privacy rights do not. As with a large number of disputes under Convention rights, that is a question of fact and degree, and is highly fact sensitive" (paragraph 96). See also *McKennit v Ash* [2006] EMLR 10, where Eady J said (para. 81):

"Even where material has been revealed to the public, or to a section of the public, in connection with a sensitive topic (such as bereavement), it is important to recognise that the approach of the courts towards personal information differs somewhat from that adopted in connection with commercial secrets. ...[In the context of privacy] ... there are grounds for supposing that the protection of the law will not be withdrawn unless and until it is clear that a stage has been reached where there is no longer anything left to be protected. For example, it does not necessarily follow that because personal information has been revealed impermissibly to one set of newspapers, or to readers within one jurisdiction, that there can be no further intrusion upon a claimant's privacy by further revelations. Fresh revelations to different groups of people can still cause distress and damage to an individual's emotional or mental well-being".

In determining whether or not the infringement of Miss R's privacy was warranted in the circumstances, we assessed the broadcaster's and landlords' competing right to freedom of expression and viewers' right to receive information against the infringement of Miss R's right to privacy by including her full name and footage of her in the programme without her consent. In particular, we considered whether there was a sufficient public interest or other reason to justify the infringement of Miss R's privacy in broadcasting the footage.

As already noted above in relation to head a), we considered that there was a significant public interest in the programme including the stories of the two landlords who had rented properties to Miss R, a tenant who had failed to pay rent on both properties, as they tried to regain possession of their properties from her. This was because it illustrated the processes, difficulties, emotional impact and expense this process had had on these landlords. Further, we considered there was a public interest in naming and including unobscured footage of Miss R, in that it served to alert other potential landlords of the possible risks associated with letting a property to Miss R.

Taking these factors into consideration, it was our view that the broadcaster's and landlords' right to freedom of expression and the public interest in broadcasting the relevant material in order to illustrate the impact non-payment of rent can have on landlords outweighed Miss R's limited legitimate expectation of privacy in this case.

Ofcom found that there was no unwarranted infringement of Miss R's privacy in the programme as broadcast.

**Ofcom has not upheld Miss R's complaint of unwarranted infringement of privacy in connection with the obtaining of material included in the programme, and in the programme as broadcast.**

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## Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 11 and 24 July 2016 because they did not raise issues warranting investigation.

### Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Aadhe Adhoore	&TV	09/07/2016	Scheduling	1
Benefits Britain: Life on the Dole	5 Star	21/06/2016	Elections/Referendums	1
Cats Make You Laugh Out Loud	5 Star	11/06/2016	Animal welfare	1
"The One to Watch this Summer" promotion	BBC 1	30/06/2016	Violence	1
BBC News	BBC 1	18/06/2016	Animal welfare	1
BBC News at Ten	BBC 1	27/06/2016	Race discrimination/offence	2
BBC News at Ten	BBC 1	07/07/2016	Gender discrimination/offence	1
Breakfast	BBC 1	20/06/2016	Under 18s in programmes	1
Celebrity MasterChef	BBC 1	08/07/2016	Generally accepted standards	1
EastEnders	BBC 1	30/06/2016	Transgender discrimination/offence	1
EastEnders	BBC 1	08/07/2016	Other	1
EastEnders	BBC 1	11/07/2016	Generally accepted standards	1
EastEnders	BBC 1	18/07/2016	Disability discrimination/offence	1
EastEnders	BBC 1	19/07/2016	Other	1
EastEnders	BBC 1	21/07/2016	Information/Warnings	1
Holby City	BBC 1	12/07/2016	Generally accepted standards	1
Sunday Politics	BBC 1	03/07/2016	Other	1
The Daily Politics	BBC 1	11/07/2016	Gender discrimination/offence	1
The National Lottery: In It to Win It	BBC 1	16/07/2016	Materially misleading	1
Euro 2016	BBC 1 / ITV	10/07/2016	Other	1
Euro 2016	BBC 1 / ITV	10/07/2016	Other	3
Midlands Today	BBC 1 Midlands	30/06/2016	Race discrimination/offence	1
Reporting Scotland	BBC 1 Scotland	29/06/2016	Generally accepted standards	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
River City	BBC 1 Scotland	15/06/2016	Sexual orientation discrimination/offence	1
BBC Newsroom Live	BBC 2	06/07/2016	Other	1
Exodus: Our Journey to Europe	BBC 2	13/07/2016	Crime and disorder	1
Gardeners' World	BBC 2	12/07/2016	Other	1
Newsnight	BBC 2	01/07/2016	Race discrimination/offence	1
Rhod Gilbert's Work Experience	BBC 2	11/07/2016	Religious/Beliefs discrimination/offence	1
Top Gear	BBC 2	26/06/2016	Dangerous behaviour	3
Victoria Derbyshire	BBC 2	11/07/2016	Crime and disorder	1
The Great British Sewing Bee	BBC 2	20/06/2016	Materially misleading	1
T in the Park	BBC 4	10/07/2016	Other	1
Newsbeat	BBC Radio 1	21/07/2016	Generally accepted standards	1
Jeremy Vine	BBC Radio 2	28/06/2016	Race discrimination/offence	1
Jeremy Vine	BBC Radio 2	04/07/2016	Crime and disorder	1
The Chris Evans Breakfast Show	BBC Radio 2	08/07/2016	Generally accepted standards	1
BBC News	BBC Radio 4	18/06/2016	Crime and disorder	1
The Andy Warhol Diaries	BBC Radio 4	11/05/2016	Offensive language	1
5 Live Sport	BBC Radio 5 Live	21/05/2016	Sexual orientation discrimination/offence	1
Fighting Talk	BBC Radio 5 Live	09/07/2016	Offensive language	1
Pienaar's Politics	BBC Radio 5 Live	12/07/2016	Gender discrimination/offence	1
Euro 2016	BBC Radio 5Live	22/06/2016	Race discrimination/offence	1
Bloomberg Markets	Bloomberg	01/06/2016	Elections/Referendums	1
News	Bloomberg	29/06/2016	Due impartiality/bias	1
Capital Breakfast with Rob and Katy	Capital Birmingham	21/06/2016	Generally accepted standards	1
Medical Detectives	CBS Reality+1	12/05/2016	Scheduling	1
999: What's Your Emergency?	Channel 4	21/07/2016	Generally accepted standards	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	23/05/2016	Elections/Referendums	3
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	23/05/2016	Race discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	31/05/2016	Elections/Referendums	20
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	09/06/2016	Elections/Referendums	27
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	14/06/2016	Elections/Referendums	2
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 4	19/06/2016	Elections/Referendums	21
Channel 4 News	Channel 4	01/06/2016	Elections/Referendums	1
Channel 4 News	Channel 4	06/06/2016	Elections/Referendums	1
Channel 4 News	Channel 4	09/06/2016	Elections/Referendums	3
Channel 4 News	Channel 4	17/06/2016	Elections/Referendums	1
Channel 4 News	Channel 4	20/06/2016	Elections/Referendums	5
Channel 4 News	Channel 4	21/06/2016	Elections/Referendums	1
Channel 4 News	Channel 4	24/06/2016	Due impartiality/bias	5
Channel 4 News	Channel 4	27/06/2016	Due impartiality/bias	4
Channel 4 News	Channel 4	28/06/2016	Due impartiality/bias	6
Channel 4 News	Channel 4	29/06/2016	Due impartiality/bias	1
Channel 4 News	Channel 4	30/06/2016	Due impartiality/bias	1
Channel 4 News	Channel 4	30/06/2016	Under 18s in programmes	1
Channel 4 News	Channel 4	01/07/2016	Due impartiality/bias	4
Channel 4 News	Channel 4	13/07/2016	Generally accepted standards	1
Dispatches	Channel 4	11/07/2016	Materially misleading	1
Eden	Channel 4	18/07/2016	Animal welfare	19
Eden	Channel 4	20/07/2016	Animal welfare	3
Europe: the Final Debate with Jeremy Paxman	Channel 4	22/06/2016	Elections/Referendums	10
F1: Monaco GP Highlights	Channel 4	29/05/2016	Scheduling	1
Gogglebox	Channel 4	03/06/2016	Race discrimination/offence	1
Gogglebox	Channel 4	10/06/2016	Elections/Referendums	1
Interview with a Murderer (trailer)	Channel 4	12/06/2016	Scheduling	1
Rio 2016 Paralympics (trailer)	Channel 4	15/07/2016	Disability discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Rio 2016 Paralympics (trailer)	Channel 4	16/07/2016	Generally accepted standards	1
Samsung Home Appliance's sponsorship of Better Living on 4	Channel 4	Various	Sponsorship credits	1
SCS Advertisement	Channel 4	23/06/2016	Political advertising	1
The Last Leg	Channel 4	08/07/2016	Generally accepted standards	1
The Last Leg In, The Last Leg Out	Channel 4	24/06/2016	Due impartiality/bias	16
The Last Leg In, The Last Leg Out	Channel 4	24/06/2016	Race discrimination/offence	9
The Simpsons	Channel 4	08/06/2016	Offensive language	1
The Women Who Kill Lions	Channel 4	29/06/2016	Animal welfare	2
The Women Who Kill Lions	Channel 4	30/06/2016	Animal welfare	1
The Women Who Kill Lions (trailer)	Channel 4	22/06/2016	Animal welfare	1
The Women Who Kill Lions (trailer)	Channel 4	23/06/2016	Animal welfare	1
Channel 4 News	Channel 4 +1	07/06/2016	Elections/Referendums	1
5 News at 5	Channel 5	17/06/2016	Elections/Referendums	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 5	09/06/2016	Elections/Referendums	6
A Referendum Campaign Broadcast by the Vote Leave Campaign	Channel 5	19/06/2016	Elections/Referendums	8
Benefits Britain	Channel 5	18/08/2015	Generally accepted standards	1
Benefits Special: 18 Kids and Claiming	Channel 5	02/06/2016	Materially misleading	1
Big Brother	Channel 5	08/06/2016	Offensive language	1
Big Brother	Channel 5	09/06/2016	Offensive language	1
Big Brother	Channel 5	11/06/2016	Offensive language	4
Big Brother	Channel 5	13/06/2016	Gender discrimination/offence	1
Big Brother	Channel 5	13/06/2016	Sexual material	15
Big Brother	Channel 5	14/06/2016	Sexual material	2
Big Brother	Channel 5	16/06/2016	Sexual material	4
Big Brother	Channel 5	18/06/2016	Sexual orientation discrimination/offence	1
Big Brother	Channel 5	22/06/2016	Generally accepted standards	2
Big Brother	Channel 5	22/06/2016	Race discrimination/offence	6
Big Brother	Channel 5	22/06/2016	Violence	4

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Big Brother	Channel 5	23/06/2016	Generally accepted standards	2
Big Brother	Channel 5	23/06/2016	Race discrimination/offence	1
Big Brother	Channel 5	23/06/2016	Violence	2
Big Brother	Channel 5	27/06/2016	Generally accepted standards	1
Big Brother	Channel 5	27/06/2016	Sexual material	29
Big Brother	Channel 5	29/06/2016	Generally accepted standards	1
Big Brother	Channel 5	01/07/2016	Generally accepted standards	1
Big Brother	Channel 5	04/07/2016	Animal welfare	2
Big Brother	Channel 5	05/07/2016	Sexual material	1
Big Brother	Channel 5	06/07/2016	Generally accepted standards	2
Big Brother	Channel 5	06/07/2016	Sexual orientation discrimination/offence	3
Big Brother	Channel 5	07/07/2016	Voting	1
Big Brother	Channel 5	09/07/2016	Generally accepted standards	1
Big Brother	Channel 5	10/07/2016	Generally accepted standards	1
Big Brother	Channel 5	11/07/2016	Generally accepted standards	2
Big Brother	Channel 5	13/07/2016	Fairness	4
Big Brother	Channel 5	13/07/2016	Offensive language	3
Big Brother	Channel 5	13/07/2016	Voting	1
Big Brother	Channel 5	14/07/2016	Generally accepted standards	1
Big Brother	Channel 5	16/07/2016	Generally accepted standards	1
Big Brother Annihilation, Big Brother Massacre Eviction	Channel 5	15/07/2016	Generally accepted standards	1
Big Brother: Live Eviction	Channel 5	10/06/2016	Generally accepted standards	1
Big Brother: Live Eviction	Channel 5	10/06/2016	Race discrimination/offence	2
Big Brother: Live Eviction	Channel 5	17/06/2016	Generally accepted standards	1
Big Brother: Live Eviction	Channel 5	08/07/2016	Race discrimination/offence	1
Big Brother's Bit on the Side	Channel 5	07/07/2016	Generally accepted standards	1
Borderline (trailer)	Channel 5	12/07/2016	Generally accepted standards	1
Football League Tonight	Channel 5	30/05/2016	Promotion of products/services	1
Now That's Funny!	Channel 5	19/06/2016	Animal welfare	2
Police Interceptors: Unleashed	Channel 5	11/07/2016	Transgender discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
The Dog Rescuers with Alan Davies	Channel 5	21/06/2016	Generally accepted standards	1
The Dog Rescuers with Alan Davies (trailer)	Channel 5	22/06/2016	Animal welfare	1
The Hotel Inspector	Channel 5	01/06/2016	Competitions	1
The Wright Stuff	Channel 5	08/06/2016	Elections/Referendums	1
The Wright Stuff	Channel 5	09/06/2016	Disability discrimination/offence	1
The Wright Stuff	Channel 5	15/06/2016	Elections/Referendums	1
The Wright Stuff	Channel 5	16/06/2016	Elections/Referendums	1
The Wright Stuff	Channel 5	17/06/2016	Race discrimination/offence	1
The Wright Stuff	Channel 5	20/06/2016	Elections/Referendums	3
The Wright Stuff	Channel 5	21/06/2016	Elections/Referendums	2
The Wright Stuff	Channel 5	22/06/2016	Elections/Referendums	1
The Wright Stuff	Channel 5	27/06/2016	Due impartiality/bias	1
The Wright Stuff	Channel 5	27/06/2016	Generally accepted standards	1
The Wright Stuff	Channel 5	28/06/2016	Due impartiality/bias	2
The Wright Stuff	Channel 5	30/06/2016	Due impartiality/bias	1
The Wright Stuff	Channel 5	04/07/2016	Due accuracy	1
The Wright Stuff	Channel 5	18/07/2016	Other	1
Mr Bean	Citv	02/06/2016	Race discrimination/offence	1
The Aquabats Super Show	CITV	18/05/2016	Violence	1
The Trap Door	CITV	01/01/1984	Sexual material	1
News	Classic FM	12/06/2016	Elections/Referendums	1
Chakravartin Ashoka Samrat	Colors	10/06/2016	Advertisements	1
Pets that make you LOL	ComedyXtra +1	05/07/2016	Animal welfare	1
Alan Davies: As Yet Untitled	Dave	13/06/2016	Sponsorship credits	1
Betsafe's sponsorship of Primetime on Dave	Dave	14/06/2016	Sponsorship credits	2
Betsafe's sponsorship of primetime on Dave	Dave	16/06/2016	Generally accepted standards	1
Betsafe's sponsorship of Primetime on Dave	Dave	16/06/2016	Sponsorship credits	1
Betsafe's sponsorship of primetime on Dave	Dave	06/07/2016	Sponsorship credits	1
Betsafe's sponsorship of primetime on Dave	Dave	08/07/2016	Sponsorship credits	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Carling's sponsorship of characters on Dave	Dave	30/05/2016	Sponsorship credits	1
Smyths Toys Superstores Advertisement	Disney Junior	18/06/2016	Political advertising	1
Programming	Diverse FM (Luton)	06/06/2016	Scheduling	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	E4	31/05/2016	Elections/Referendums	1
Coach Trip: Road to Ibiza (trailer)	E4	22/07/2016	Generally accepted standards	1
Continuity announcement	E4	20/06/2016	Elections/Referendums	1
Hollyoaks	E4	13/06/2016	Transgender discrimination/offence	1
Hollyoaks	E4	20/07/2016	Generally accepted standards	1
Referendum in Chelsea	E4	21/06/2016	Elections/Referendums	1
Referendum in Chelsea	E4	22/06/2016	Elections/Referendums	1
Community Show	Fast FM Radio Ramadhan (Blackburn)	19/06/2016	Disability discrimination/offence	1
The Alien Chronology (trailer)	Film4	07/07/2016	Scheduling	1
Outnumbered	Fox News	16/06/2016	Due accuracy	1
News	Free Radio (Birmingham)	20/06/2016	Elections/Referendums	1
Noel Vine	Heart (Norwich and Great Yarmouth)	22/06/2016	Commercial communications on radio	1
Drive Time	Iman FM	25/05/2016	Elections/Referendums	1
Drive Time	Iman FM	26/05/2016	Race discrimination/offence	1
100 Year Old Drivers Rebooted	ITV	13/07/2016	Dangerous behaviour	1
100 Year Old Drivers Rebooted	ITV	13/07/2016	Other	1
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	ITV	24/05/2016	Elections/Referendums	1
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	ITV	01/06/2016	Elections/Referendums	3

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	ITV	01/06/2016	Race discrimination/offence	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	ITV	23/05/2016	Elections/Referendums	6
A Referendum Campaign Broadcast by the Vote Leave Campaign	ITV	23/05/2016	Race discrimination/offence	2
A Referendum Campaign Broadcast by the Vote Leave Campaign	ITV	31/05/2016	Elections/Referendums	20
A Referendum Campaign Broadcast by the Vote Leave Campaign	ITV	09/06/2016	Elections/Referendums	20
A Referendum Campaign Broadcast by the Vote Leave Campaign	ITV	19/06/2016	Elections/Referendums	17
Britain's Busiest Airport - Heathrow	ITV	13/06/2016	Due accuracy	1
Britain's Got Talent	ITV	28/05/2016	Elections/Referendums	1
Britain's Got Talent	ITV	28/05/2016	Flashing images/risk to viewers who have PSE	1
Cameron and Farage Live: The EU Referendum	ITV	07/06/2016	Elections/Referendums	661
Carlsberg's sponsorship of Euro 2016	ITV	15/06/2016	Sponsorship	1
Catchphrase	ITV	09/07/2016	Competitions	1
Coronation Street	ITV	06/06/2016	Gender discrimination/offence	1
Coronation Street	ITV	13/06/2016	Dangerous behaviour	1
Coronation Street	ITV	29/06/2016	Materially misleading	1
Coronation Street	ITV	01/07/2016	Materially misleading	3
Coronation Street	ITV	08/07/2016	Generally accepted standards	26
Coronation Street	ITV	11/07/2016	Generally accepted standards	41
Coronation Street	ITV	11/07/2016	Religious/Beliefs discrimination/offence	6
Coronation Street	ITV	18/07/2016	Violence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Emmerdale	ITV	01/07/2016	Generally accepted standards	1
Emmerdale	ITV	11/07/2016	Information/Warnings	1
Emmerdale	ITV	14/07/2016	Generally accepted standards	1
Euro 2016	ITV	15/06/2016	Elections/Referendums	1
Euro 2016	ITV	17/06/2016	Race discrimination/offence	1
Euro 2016	ITV	27/06/2016	Generally accepted standards	5
Euro 2016	ITV	30/06/2016	Generally accepted standards	1
Exposure	ITV	15/06/2016	Generally accepted standards	1
Good Morning Britain	ITV	07/06/2016	Elections/Referendums	1
Good Morning Britain	ITV	09/06/2016	Elections/Referendums	3
Good Morning Britain	ITV	14/06/2016	Religious/Beliefs discrimination/offence	1
Good Morning Britain	ITV	14/06/2016	Transgender discrimination/offence	1
Good Morning Britain	ITV	15/06/2016	Elections/Referendums	1
Good Morning Britain	ITV	15/06/2016	Generally accepted standards	3
Good Morning Britain	ITV	20/06/2016	Elections/Referendums	1
Good Morning Britain	ITV	21/06/2016	Crime and disorder	3
Good Morning Britain	ITV	24/06/2016	Due impartiality/bias	2
Good Morning Britain	ITV	28/06/2016	Due impartiality/bias	2
Good Morning Britain	ITV	29/06/2016	Generally accepted standards	1
Good Morning Britain	ITV	11/07/2016	Generally accepted standards	3
Good Morning Britain	ITV	14/07/2016	Due impartiality/bias	1
Good Morning Britain	ITV	14/07/2016	Generally accepted standards	1
Good Morning Britain	ITV	15/07/2016	Due impartiality/bias	176
Good Morning Britain	ITV	15/07/2016	Generally accepted standards	1
Good Morning Britain	ITV	18/07/2016	Due impartiality/bias	1
Good Morning Britain	ITV	20/07/2016	Generally accepted standards	2
ITV Evening News	ITV	25/05/2016	Due accuracy	1
ITV Evening News	ITV	21/06/2016	Disability discrimination/offence	1
ITV Evening News	ITV	04/07/2016	Due impartiality/bias	1
ITV Evening News	ITV	07/07/2016	Due impartiality/bias	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
ITV Evening News	ITV	07/07/2016	Violence	1
ITV Evening News	ITV	20/07/2016	Due impartiality/bias	1
ITV Lunchtime News	ITV	27/06/2016	Due impartiality/bias	1
ITV Lunchtime News	ITV	27/06/2016	Race discrimination/offence	2
ITV Lunchtime News	ITV	28/06/2016	Due impartiality/bias	1
ITV News	ITV	23/03/2016	Due accuracy	1
ITV News	ITV	10/06/2016	Elections/Referendums	1
ITV News	ITV	21/06/2016	Elections/Referendums	1
ITV News	ITV	25/06/2016	Due impartiality/bias	4
ITV News	ITV	26/06/2016	Due impartiality/bias	1
ITV News	ITV	28/06/2016	Due impartiality/bias	3
ITV News	ITV	17/07/2016	Religious/Beliefs discrimination/offence	1
ITV News and Weather	ITV	11/06/2016	Race discrimination/offence	1
ITV News at Ten	ITV	22/06/2016	Elections/Referendums	1
ITV News at Ten	ITV	04/07/2016	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	07/06/2016	Elections/Referendums	1
ITV News at Ten and Weather	ITV	14/06/2016	Elections/Referendums	1
ITV News at Ten and Weather	ITV	15/06/2016	Generally accepted standards	1
ITV News London	ITV	30/05/2016	Elections/Referendums	1
Judge Rinder	ITV	20/06/2016	Violence	1
Life Inside Jail: Hell on Earth	ITV	28/06/2016	Race discrimination/offence	1
Loose Women	ITV	15/06/2016	Gender discrimination/offence	1
Loose Women	ITV	17/06/2016	Sexual orientation discrimination/offence	1
Loose Women	ITV	20/06/2016	Gender discrimination/offence	1
Loose Women	ITV	21/06/2016	Gender discrimination/offence	1
Lorraine	ITV	27/06/2016	Due impartiality/bias	1
Love Your Garden	ITV	05/07/2016	Generally accepted standards	1
Oscar Pistorius: The Interview	ITV	24/06/2016	Generally accepted standards	3
Peston on Sunday	ITV	19/06/2016	Disability discrimination/offence	1
Peston on Sunday	ITV	19/06/2016	Elections/Referendums	1
Peston on Sunday	ITV	10/07/2016	Due impartiality/bias	2
Referendum Debate (trailer)	ITV	31/05/2016	Elections/Referendums	1
Referendum Debate (trailer)	ITV	03/06/2016	Elections/Referendums	1
Referendum Debate (trailer)	ITV	04/06/2016	Elections/Referendums	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Referendum Debate (trailer)	ITV	Various	Elections/Referendums	1
Referendum Result Live: ITV News Special	ITV	24/06/2016	Due impartiality/bias	1
The Happy Egg Company's sponsorship of Good Morning Britain Local Weather	ITV	Various	Sponsorship credits	1
The ITV Referendum Debate	ITV	09/06/2016	Elections/Referendums	8
The Jeremy Kyle Show	ITV	21/06/2016	Generally accepted standards	1
The Last Boy Scout	ITV	08/07/2016	Violence	1
The X Factor (trailer)	ITV	16/07/2016	Flashing images/risk to viewers who have PSE	1
This Morning	ITV	08/07/2016	Other	1
This Morning	ITV	Various	Competitions	1
Tonight: Brexit – What Does It Mean For You?	ITV	04/07/2016	Due impartiality/bias	1
Toyota's sponsorship of ITV Movies	ITV	09/07/2016	Sponsorship credits	1
Toyota's sponsorship of ITV Movies	ITV	16/07/2016	Sponsorship credits	1
Arla Skyr sponsorship credits	ITV / Channel 4	Various	Sponsorship credits	1
ITV News Meridian	ITV Meridian	22/06/2016	Elections/Referendums	1
ITV News Tyne Tees	ITV Tyne Tees	27/05/2016	Elections/Referendums	1
ITV News West Country	ITV West Country	28/06/2016	Due impartiality/bias	1
Emmerdale	ITV2	14/07/2016	Generally accepted standards	1
The Jeremy Kyle Show	ITV2	10/06/2016	Offensive language	1
The Millionaire Matchmaker	ITVBe	09/07/2016	Offensive language	1
The Only Way Is Mallorca	ITVBe	20/07/2016	Generally accepted standards	1
Mike and Chelsea	Key 103	30/06/2016	Generally accepted standards	1
The High Fructose Adventures of Annoying Orange	Kix	27/06/2016	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	23/06/2016	Elections/Referendums	1
Cristo	LBC 97.3FM	02/07/2016	Crime and disorder	1
Cristo / Steve Allen	LBC 97.3FM	26/06/2016	Generally accepted standards	1
If Katie Hopkins Ruled the World	LBC 97.3FM	03/07/2016	Crime and disorder	1
James O'Brien	LBC 97.3FM	09/06/2016	Elections/Referendums	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
James O'Brien	LBC 97.3FM	17/06/2016	Elections/Referendums	5
Nick Ferrari	LBC 97.3FM	08/06/2016	Elections/Referendums	1
Nick Ferrari	LBC 97.3FM	15/07/2016	Race discrimination/offence	1
Steve Allen	LBC 97.3FM	07/03/2016	Generally accepted standards	1
On The Aire	Made in Leeds	23/06/2016	Undue prominence	1
Harjap Live	MATV	27/06/2016	Fairness	6
Hollywood Heights	Nickelodeon	25/06/2016	Scheduling	1
Panjabian De Masle	Panjab Radio	26/06/2016	Due impartiality/bias	4
Programming	Peace TV	02/07/2016	Crime and disorder	1
The Dog Whisperer	Pick	12/07/2016	Animal welfare	1
The Keiser Report	RT	05/07/2016	Due impartiality/bias	1
Breakfast Show	Signal Radio (Staffordshire and Cheshire)	06/08/2016	Race discrimination/offence	1
Turkish Airlines' sponsorship of Sky News	Sky	11/06/2016	Sponsorship	1
Sky Cinema (trailer)	Sky Channels	Various	Materially misleading	1
A Nation Divided	Sky News	04/07/2016	Due impartiality/bias	1
Adam Boulton	Sky News	30/06/2016	Due impartiality/bias	1
EU: In or Out? David Cameron Live	Sky News	02/06/2016	Elections/Referendums	2
EU: In or Out? Michael Gove	Sky News	23/06/2016	Elections/Referendums	1
EU: In or Out? Michael Gove Live	Sky News	03/06/2016	Elections/Referendums	9
Ian King Live	Sky News	13/06/2016	Elections/Referendums	2
Nation Divided (trailer)	Sky News	03/07/2016	Race discrimination/offence	1
News	Sky News	22/06/2016	Elections/Referendums	1
Press Preview	Sky News	18/06/2016	Elections/Referendums	1
Press Preview	Sky News	27/06/2016	Due impartiality/bias	2
SCS Advertisement	Sky News	23/06/2016	Political advertising	1
Sky News	Sky News	25/05/2016	Elections/Referendums	1
Sky News	Sky News	30/05/2016	Elections/Referendums	1
Sky News	Sky News	06/06/2016	Elections/Referendums	1
Sky News	Sky News	08/06/2016	Elections/Referendums	1
Sky News	Sky News	15/06/2016	Elections/Referendums	1
Sky News	Sky News	17/06/2016	Elections/Referendums	2
Sky News	Sky News	18/06/2016	Elections/Referendums	1
Sky News	Sky News	19/06/2016	Elections/Referendums	2
Sky News	Sky News	22/06/2016	Elections/Referendums	3
Sky News	Sky News	23/06/2016	Elections/Referendums	1
Sky News	Sky News	24/06/2016	Due impartiality/bias	4
Sky News	Sky News	25/06/2016	Crime and disorder	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Sky News	Sky News	25/06/2016	Due impartiality/bias	1
Sky News	Sky News	26/06/2016	Due impartiality/bias	2
Sky News	Sky News	27/06/2016	Age discrimination/offence	1
Sky News	Sky News	27/06/2016	Due impartiality/bias	2
Sky News	Sky News	28/06/2016	Due accuracy	1
Sky News	Sky News	28/06/2016	Due impartiality/bias	2
Sky News	Sky News	29/06/2016	Due impartiality/bias	1
Sky News	Sky News	01/07/2016	Due impartiality/bias	1
Sky News	Sky News	01/07/2016	Generally accepted standards	1
Sky News	Sky News	03/07/2016	Due impartiality/bias	1
Sky News	Sky News	04/07/2016	Generally accepted standards	1
Sky News	Sky News	05/07/2016	Privacy	5
Sky News	Sky News	07/07/2016	Due impartiality/bias	1
Sky News at Six	Sky News	10/07/2016	Generally accepted standards	1
Sky news with Eamon Holmes	Sky News	04/07/2016	Due impartiality/bias	1
Sky News with Jeremy Thompson	Sky News	04/07/2016	Due accuracy	1
Sky News with Kay Burley	Sky News	04/07/2016	Due impartiality/bias	1
Sunrise	Sky News	21/06/2016	Elections/Referendums	1
The Pledge	Sky News	30/06/2016	Due impartiality/bias	6
EU Referendum coverage	Sky News, BBC News, ITV News	01/06/2016	Elections/Referendums	1
Ray Donovan (trailer)	Sky Sports 1	25/06/2016	Violence	1
The Open Championship	Sky1, Sky The Open & Sky Sports 4	14/07/2016	Other	1
Sath Nibhana Sathiya	StarPlus	02/07/2016	Other	1
Tell Me Another	Talking Pictures	10/07/2016	Generally accepted standards	1
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	Talksport	15/06/2016	Elections/Referendums	1
Extra Time on Talksport	Talksport	25/06/2016	Generally accepted standards	1
The Colin Murray Show	Talksport	07/07/2016	Generally accepted standards	1
London Time	TV99	29/05/2016	Charity appeals	1
Ramadan Kareem	Ummah Channel	22/06/2016	Elections/Referendums	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	Various	Various	Elections/Referendums	1
Coverage of EU Referendum	Various	09/06/2016	Elections/Referendums	1
Coverage of EU Referendum	Various	19/06/2016	Elections/Referendums	1
EU Referendum promotions	Various	Various	Elections/Referendums	1
News	Various	24/06/2016	Due impartiality/bias	1
News	Various	28/06/2016	Due impartiality/bias	3
Programming	Various	25/06/2016	Due impartiality/bias	1
Programming	Various	30/06/2016	Due impartiality/bias	1
Jesse Stone: Death in Paradise (EPG Listing)	Virgin Media	06/05/2016	Generally accepted standards	1

### Complaints assessed under the General Procedures for investigating breaches of broadcast licences<sup>1</sup>

For more information about how Ofcom assesses complaints about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/procedures/general-procedures/>

Licensee	Licensed service	Categories
Channel 5 Broadcasting Limited	5USA	Subtitling
Classic FM Limited	Classic FM	Other
Plus Media TR Limited	RIT MIX	Retention and production of recordings
Preston Community Radio 23	City Beat Preston	Other
The NR5 Project	Future Radio	Key Commitments
Smooth Radio London Ltd	Smooth Radio	Format

### Complaints assessed under the Procedures for investigating breaches of rules for On Demand programme services

Programme	Service name	Accessed date	Categories	Number of complaints
Good Morning Britain	ITV Hub	15/07/2016	Due impartiality/bias	1

For more information about how Ofcom assesses complaints about on demand services, go to: <http://stakeholders.ofcom.org.uk/binaries/broadcast/on-demand/rules-guidance/procedures-investigating-breaches.pdf>

<sup>1</sup> This table was amended after publication to correct a factual inaccuracy.

## Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts, accuracy in BBC programmes or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

### Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Programme	Broadcaster/ Service	Transmission Date	Categories	Number of complaints
Match Game	ABC	14/07/2016	Outside of remit	1
A Referendum Campaign Broadcast by the Stronger IN Europe Campaign	BBC 1	01/06/2016	Elections/Referendums	4
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 1	23/05/2016	Elections/Referendums	13
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 1	31/05/2016	Elections/Referendums	12
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 1	09/06/2016	Elections/Referendums	28
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 1	14/06/2016	Elections/Referendums	24
BBC News	BBC 1	24/06/2013	Due impartiality/bias	1
BBC News	BBC 1	24/05/2016	Due impartiality/bias	1
BBC News	BBC 1	24/05/2016	Elections/Referendums	1
BBC News	BBC 1	28/05/2016	Due impartiality/bias	1
BBC News	BBC 1	02/06/2016	Elections/Referendums	1
BBC News	BBC 1	05/06/2016	Due impartiality/bias	1
BBC News	BBC 1	05/06/2016	Elections/Referendums	1

Programme	Broadcaster/ Service	Transmission Date	Categories	Number of complaints
BBC News	BBC 1	13/06/2016	Elections/Referendums	1
BBC News	BBC 1	18/06/2016	Elections/Referendums	1
BBC News	BBC 1	21/06/2016	Elections/Referendums	1
BBC News	BBC 1	23/06/2016	Due impartiality/bias	1
BBC News	BBC 1	24/06/2016	Due impartiality/bias	3
BBC News	BBC 1	25/06/2016	Due impartiality/bias	2
BBC News	BBC 1	28/06/2016	Due impartiality/bias	1
BBC News	BBC 1	29/06/2016	Due impartiality/bias	3
BBC News	BBC 1	02/07/2016	Due impartiality/bias	1
BBC News	BBC 1	08/07/2016	Due accuracy	1
BBC News at One	BBC 1	22/06/2016	Elections/Referendums	1
BBC News at One	BBC 1	05/07/2016	Due impartiality/bias	1
BBC News at Six	BBC 1	24/06/2016	Due impartiality/bias	1
BBC News at Six	BBC 1	21/07/2016	Due impartiality/bias	1
BBC News at Ten	BBC 1	05/06/2016	Due accuracy	1
BBC News at Ten	BBC 1	14/06/2016	Elections/Referendums	5
BBC News at Ten	BBC 1	16/06/2016	Elections/Referendums	1
BBC News at Ten	BBC 1	18/06/2016	Elections/Referendums	1
BBC News at Ten	BBC 1	27/06/2016	Due impartiality/bias	2
BBC News at Ten	BBC 1	02/07/2016	Due impartiality/bias	1
Breakfast	BBC 1	31/05/2016	Elections/Referendums	1
Breakfast	BBC 1	04/07/2016	Due impartiality/bias	1
EU Referendum - The Result	BBC 1	24/06/2016	Due impartiality/bias	5
Have I Got News for You	BBC 1	03/06/2016	Elections/Referendums	1
How Should I Vote? – the EU Debate	BBC 1	26/05/2016	Elections/Referendums	2
Panorama	BBC 1	04/07/2016	Due impartiality/bias	1
Question Time	BBC 1	09/06/2016	Elections/Referendums	6
Question Time	BBC 1	15/06/2016	Elections/Referendums	1
Question Time	BBC 1	30/06/2016	Due impartiality/bias	8
Sunday Politics	BBC 1	05/06/2016	Elections/Referendums	1
The Andrew Marr Show	BBC 1	12/06/2016	Elections/Referendums	2
The Andrew Neil Interviews: Leave or Remain?	BBC 1	08/06/2016	Elections/Referendums	1
Wimbledon 2016	BBC 1	27/06/2016	Other	1
South Today	BBC 1 South	21/06/2016	Elections/Referendums	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 2	31/05/2016	Elections/Referendums	8

Programme	Broadcaster/ Service	Transmission Date	Categories	Number of complaints
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 2	09/06/2016	Elections/Referendums	5
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC 2	14/06/2016	Elections/Referendums	9
Brexageddon?!	BBC 2	19/07/2016	Due impartiality/bias	2
Exodus: Our Journey to Europe	BBC 2	11/07/2016	Due accuracy	1
Jack Dee's Referendum HelpDesk	BBC 2	21/06/2016	Due impartiality/bias	1
Jack Dee's Referendum HelpDesk	BBC 2	21/06/2016	Elections/Referendums	1
Mock the Week	BBC 2	09/06/2016	Elections/Referendums	1
Mock the Week	BBC 2	03/07/2016	Due impartiality/bias	1
Newsnight	BBC 2	07/06/2016	Elections/Referendums	1
Newsnight	BBC 2	16/06/2016	Elections/Referendums	2
Newsnight	BBC 2	21/06/2016	Elections/Referendums	1
Newsnight	BBC 2	29/06/2016	Due accuracy	1
Newsnight	BBC 2	29/06/2016	Due impartiality/bias	4
Newsnight	BBC 2	30/06/2016	Due impartiality/bias	1
Victoria Derbyshire	BBC 2	27/06/2016	Due impartiality/bias	1
Victoria Derbyshire	BBC 2	20/07/2016	Due impartiality/bias	1
EU Referendum coverage	BBC Channels	Various	Elections/Referendums	1
EU Referendum: the Great Debate	BBC News	21/06/2016	Elections/Referendums	4
BBC News	BBC News Channel	18/05/2016	Elections/Referendums	1
BBC News	BBC News Channel	31/05/2016	Elections/Referendums	1
BBC News	BBC News Channel	04/06/2016	Due impartiality/bias	1
BBC News	BBC News Channel	05/06/2016	Due impartiality/bias	1
BBC News	BBC News Channel	22/06/2016	Due impartiality/bias	1
BBC News	BBC News Channel	22/06/2016	Elections/Referendums	1
BBC News	BBC News Channel	29/06/2016	Due impartiality/bias	1
BBC News	BBC News Channel	30/06/2016	Due impartiality/bias	1
BBC News	BBC News Channel	03/07/2016	Due impartiality/bias	1
The Papers	BBC News Channel	02/07/2016	Due impartiality/bias	1
BBC News	BBC News Online	n/a	Outside of remit/other	1
Jeremy Vine	BBC Radio 2	07/06/2016	Elections/Referendums	1
Ken Bruce	BBC Radio 2	13/07/2016	Due impartiality/bias	1
News	BBC Radio 2	15/07/2016	Due accuracy	1

Programme	Broadcaster/ Service	Transmission Date	Categories	Number of complaints
Paul O'Grady	BBC Radio 2	03/07/2016	Due impartiality/bias	1
The Chris Evans Breakfast Show	BBC Radio 2	10/06/2016	Elections/Referendums	1
Vanessa Feltz	BBC Radio 2	01/06/2016	Elections/Referendums	1
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC Radio 4	31/05/2016	Elections/Referendums	2
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC Radio 4	09/06/2016	Elections/Referendums	2
A Referendum Campaign Broadcast by the Vote Leave Campaign	BBC Radio 4	14/06/2016	Elections/Referendums	4
The World at One	BBC Radio 4	23/06/2016	Elections/Referendums	1
Today	BBC Radio 4	09/06/2016	Elections/Referendums	1
Today	BBC Radio 4	14/06/2016	Elections/Referendums	1
Today	BBC Radio 4	01/07/2016	Due impartiality/bias	1
News	BBC Radio Shropshire	01/06/2016	Due impartiality/bias	1
BBC News	BBC Radio Stoke	23/06/2016	Elections/Referendums	1
Evening News	BBC Radio Ulster	23/06/2016	Elections/Referendums	1
BBC News	BBC World Service Radio	05/06/2016	Due impartiality/bias	1
BBC News	BBC World Service Radio	01/07/2016	Due impartiality/bias	1
Advertisement	Channel 4	12/07/2016	Advertisements	1
Advertisement	Channel 5	17/07/2016	Advertisements	1
Advertisement	Channel 5	18/07/2016	Advertisements	1
Big Brother	Channel 5	07/06/2016	Outside of remit	1
Big Brother	Channel 5	14/06/2016	Outside of remit	1
Big Brother	Channel 5	19/06/2016	Outside of remit	1
Big Brother's Bit on the Side	Channel 5	15/06/2016	Outside of remit	1
Disney brought to you by Create and Craft	Create and Craft	15/06/2016	Advertisements	1
Disney Brought To You By Create and Craft	Create and Craft	12/07/2016	Advertisements	1
Disney Brought to You by Create and Craft	Create and Craft	16/07/2016	Advertisements	1
Breakfast Briefing	Euronews	23/06/2016	Elections/Referendums	1
News	Euronews	23/06/2016	Elections/Referendums	1
News	France 24	23/06/2016	Elections/Referendums	1
Advertisement	ITV	09/07/2016	Advertisements	2

<b>Programme</b>	<b>Broadcaster/ Service</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Advertisement	ITV	10/07/2016	Advertisements	1
Advertisement	ITV4 +1	18/07/2016	Advertisements	1
R Mornings	Revelation	14/07/2016	Sexual orientation discrimination/offence	1
Advertisements	Various	Various	Advertisements	1
BBC News	Various	05/06/2016	Due impartiality/bias	1
BBC News	Various	20/06/2016	Due impartiality/bias	1
BBC News	Various	02/07/2016	Due impartiality/bias	1
Coverage of EU Referendum	Various	04/06/2016	Due impartiality/bias	1
BBC News	YouTube	n/a	Outside of remit/other	1
The Andrew Marr Show Live/BBC News	YouTube	n/a	Outside of remit/other	1

## Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 11 and 24 July 2016.

### Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date
Labour Party EU Referendum Debate	BEN TV	10 June 2016
Special Event Investigation	NTV Mir Lithuania	15 April 2016

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to: <http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

### Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Broadcaster	Transmission date
February Box	Al Arabiya News	28 February 2016
Can't Pay? We'll Take it Away!	Channel 5	25 May 2016
The Secret	ITV	April/May 2016

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to: <http://stakeholders.ofcom.org.uk/broadcasting/procedures/fairness/>

### Investigations launched under the General Procedures for investigating breaches of broadcast licences<sup>1</sup>

Licensee	Licensed Service
DM Global Media Limited	DM News Plus
Faraj Media Ltd	Safeer TV

<sup>1</sup> This table was amended after publication to correct a factual inaccuracy.

<b>Licensee</b>	<b>Licensed Service</b>
Gravity FM CIC	Gravity FM
KM TV Limited	Tiny Pop
Radio Ramadhan Bristol FM	Ramadan Radio Bristol 87.7FM
Youth Community Media	Youthcomm

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/general-procedures/>

### **Investigations launched under the Procedures for investigating breaches of rules for On Demand programme services**

<b>Service</b>
Universal Somali TV
Royal TV

For more information about how Ofcom assesses complaints and conducts investigations about on demand services, go to:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/on-demand/rules-guidance/procedures-investigating-breaches.pdf>