

## **BBC News Online and BBC London News**

**2 December 2021 (published online) and 2 December 2021, 18:30 (broadcast)**

### **Summary**

This document sets out Ofcom's Opinion on a BBC News online article and its decision under the Broadcasting Code in respect of a BBC One London news report about an antisemitic attack on Jewish students on a bus in London, which were published and broadcast on 2 December 2021.

Ofcom was alerted to this content by a number of complaints that the online article and news broadcast were not duly accurate or duly impartial. These issues arose as a result of the BBC's claim in both pieces of content that an audio recording made during the attack included anti-Muslim slurs which came from inside the bus.

Ofcom has issued an Opinion on the online article that the BBC failed to observe its Editorial Guidelines on due impartiality and due accuracy. The BBC failed to acknowledge promptly that there was a dispute about its interpretation of the audio, after it received evidence to support an alternative explanation that the words it had heard were in fact a Hebrew phrase, meaning "Call someone, it's urgent". In Ofcom's Opinion, the BBC's failure to update the BBC News Online Article to reflect this dispute for almost eight weeks was a significant and concerning omission.

Ofcom found that the news broadcast shown on BBC One London did not breach Rule 5.1 and therefore did not engage or breach Rule 5.2 of the Code. However, in our view, the BBC made a serious editorial misjudgment by not reporting on air at any point that the claim it had made in the news broadcast was disputed, once the new evidence emerged.

This was particularly the case given that the BBC was aware that its news broadcast and online article were causing significant distress and anxiety to the victims of the attack, and to the wider Jewish community. In Ofcom's view, if the BBC had reported on the dispute on air and amended the online article sooner than it did once new evidence emerged, this could have gone some way to help resolve the issues raised by complainants and would have enabled the focus of attention to be on the antisemitic incident itself, and not the BBC's reporting.

We will review how the BBC has addressed the complaints handling and transparency issues raised by this case.

## BBC News Online and BBC London News

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<b>Type of case</b>	BBC Online Material Opinion / Broadcast Standards
<b>Opinion/ Decision</b>	The BBC did not observe its Editorial Guidelines / Not in breach of Rule 5.1 and Rule 5.2 of the Code.
<b>Service</b>	BBC News Online / BBC One London
<b>Date &amp; time</b>	Published on 2 December 2021 / broadcast on 2 December 2021 at 18:30
<b>Category</b>	Due impartiality Due accuracy
<b>Summary</b>	<p>Ofcom investigated whether an online news article and a news broadcast on BBC One London about an antisemitic attack on Jewish students were duly accurate and duly impartial, in accordance with, respectively, the BBC's Editorial Guidelines and Ofcom's Broadcasting Code.</p> <p>Ofcom's Opinion on the BBC News Online article is that the BBC failed to observe its Editorial Guidelines.</p> <p>Our Decision is that the news broadcast shown on BBC One London did not breach Rule 5.1 and therefore did not engage or breach Rule 5.2 of the Code.</p>

### Introduction

On 29 November 2021, a group of Jewish students were subjected to an antisemitic attack while travelling on a privately-hired bus on Oxford Street, London, where they had been celebrating the festival of Chanukah. The BBC reported this incident on 2 December 2021 in both an online article<sup>1</sup> on

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<sup>1</sup> [Oxford Street: Images issued after men filmed spitting at Jews on bus - BBC News](#).

BBC News Online entitled *“Oxford Street: Men filmed spitting at Jewish people on bus”*<sup>2</sup> (“the Online Article”) and in a news report broadcast within *BBC London News* at 18:30 on BBC One London (“the Broadcast”)<sup>3</sup>.

Both the Online Article and the Broadcast of 2 December 2021 included video footage of part of the attack taken from inside the bus and, on the basis of that footage, reported that *“racial slurs about Muslims”*<sup>4</sup> could be heard coming from inside the bus. This claim subsequently attracted widespread criticism from several individuals, as well as organisations including the Board of Deputies of British Jews (“the Board of Deputies”)<sup>5</sup>, the Jewish Chronicle<sup>6</sup> and the Office of the Chief Rabbi (“the OCR”). The criticism largely focused on the accuracy of this claim, with some arguing that the phrase apparently identified by the BBC as the slur *“dirty Muslims”*, on which the BBC’s reporting had been based, was in fact part of the Hebrew phrase *“Tikrah lemishu, ze dachuf”*, which translates into English as *“Call someone, it’s urgent”*. Other criticism focused on whether the disputed wording had been said at all and whether the BBC’s reporting of the incident had been duly impartial. The incident and subsequent criticism also achieved significant press coverage<sup>7</sup>.

Complaints about content broadcast on the BBC, as set out in the [BBC Charter and Agreement](#), are generally dealt with through a [“BBC First” complaints process](#). This means that Ofcom normally considers complaints about BBC content after the BBC has the opportunity to address it first and issue its final response. If a complainant is not satisfied with the BBC’s final decision about their complaint, they can then bring their complaint to Ofcom<sup>8</sup>.

In response to complaints from various groups and individuals regarding the due accuracy and due impartiality of the BBC’s coverage of this incident, the BBC’s Executive Complaints Unit (“ECU”) investigated the Online Article and the Broadcast. The BBC’s ECU partly upheld the complaints in relation to due accuracy and due impartiality (the “ECU Finding”). Ofcom also received complaints

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<sup>2</sup> The title of the article was amended later on 2 December 2021 to *“Oxford Street: Images issued after men filmed spitting at Jews on bus”*.

<sup>3</sup> The Broadcast was also made available for 24 hours on the BBC iPlayer.

<sup>4</sup> In the Broadcast the statement used was: *“racial slurs about Muslim people”*.

<sup>5</sup> The Board of Deputies of British Jews describes itself in the [“About us” section of its website](#) as “a democratically elected, cross-communal, representative body in the British Jewish community”.

<sup>6</sup> See: [“BBC demonised our children, parents of Oxford street victims say”](#), The Jewish Chronicle, 6 December 2021.

<sup>7</sup> For example: [Hundreds of protesters accuse the BBC of ‘blaming Jews’ after report on anti-Semitic bus attack](#), MailOnline, 14 December 2021; and, [Damning new evidence undermines BBC’s Oxford Street racist slur claim](#), The Jewish Chronicle, 30 December 2021.

<sup>8</sup> This does not apply for Fairness and Privacy complaints, which can be made directly to Ofcom.

about the Online Article and Broadcast, including from some complainants who were dissatisfied with the outcome of the BBC complaints process.

Ofcom received 17 complaints about the BBC's reporting of this incident: nine about the Online Article only; three complaints about the Broadcast only; and five that raised issues about both. Eight of the complaints post-dated the ECU Finding and referenced it or included criticisms on it. Given the similarities between the two pieces of content, some of the issues raised by complainants were relevant to both the Online Article and the Broadcast.

Some complainants challenged the accuracy of the BBC's characterisation of what was apparently said on the bus, saying that what was heard by the BBC as a slur against Muslim people in English in the video footage was in fact a Hebrew phrase meaning "Call someone, it's urgent". Other complainants expressed concern over what they considered to be the BBC's failure to promptly acknowledge there was a dispute over the characterisation of the audio recording relating to the footage, even after questions had been raised by organisations such as the Board of Deputies. Some complainants said that the BBC's reporting had caused distress to the Jewish community<sup>9</sup>. The Board of Deputies also described the situation as "causing deep distress to Jewish victims of antisemitism"<sup>10</sup>. In articles published in The Jewish Chronicle, the Board of Deputies President, Marie van der Zyl, described the BBC's reporting as "add[ing] insult to injury in accusing victims of antisemitism of being guilty of bigotry themselves..." and parents of the Jewish victims of the incident accused the BBC of "demonising" their children<sup>11</sup>.

Following publication of the ECU Finding on 26 January 2022, Ofcom announced the opening of its own investigation into the BBC's broadcast coverage of the incident on the same day<sup>12</sup> and subsequently we accepted the complaints about the Online Article.

In relation to BBC online material, our role is different to the one we have for BBC broadcast standards. Under the [BBC's Charter and Agreement](#), set by Government, the BBC is responsible for the editorial standards of its online material. Ofcom is not required to resolve complaints about standards in the content of BBC online material and Ofcom has no related enforcement powers. Instead, the BBC Agreement provides that Ofcom must consider and give an Opinion, including such recommendations as it considers appropriate, on whether the BBC has observed the relevant editorial guidelines in the

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<sup>9</sup> The Board of Deputies raised similar concerns in an [open letter to the BBC published on 7 December 2021](#) which said the BBC's reporting: "...harms Jews directly, and it also harms societal understanding of antisemitism".

<sup>10</sup> See: [Independent Reports commissioned by Board of Deputies conclusively prove BBC error in antisemitic incident story](#), The Board of Deputies' website, 30 December 2021.

<sup>11</sup> See Jewish Chronicle articles: [BBC demonised our children, parents of Oxford street victims say - The Jewish Chronicle \(thejc.com\)](#), 6 December 2021, and [Damning new evidence undermines BBC's Oxford Street racist slur claim](#), 30 December 2021; and, [Independent Reports commissioned by Board of Deputies conclusively prove BBC error in antisemitic incident story](#), The Board of Deputies' website, 30 December 2021.

<sup>12</sup> See Ofcom media release: [Ofcom to investigate BBC over Oxford Street bus incident coverage](#).

content of online material in the UK Public Services<sup>13</sup>. In accordance with the BBC Agreement, Ofcom has entered into an [Arrangement](#) (the “Online Arrangement”) with the BBC which outlines the respective roles of the BBC and Ofcom in handling complaints about BBC online material.

The Online Arrangement provides that Ofcom will consider whether a complaint about the editorial standards of BBC online material raises potentially substantive issues under the relevant editorial guidelines which warrant consideration by Ofcom<sup>14</sup>. Ofcom will do so by reference to the gravity and/or extent of the matter complained of and whether it considers the BBC reached an appropriate final view on the complaints.

We have considered the Online Article under our [Procedures for handling complaints relating to BBC online material](#) (the “Online Material Procedures”), in particular having regard to sections 3 (“Due Accuracy”) and 4 (“Due Impartiality”) of the [BBC’s Editorial Guidelines](#).

We have considered the Broadcast under our [Procedures for investigating breaches of content standards on BBC broadcasting services and BBC on demand programme services](#) (“the Broadcast Procedures”) and against the Rules in Ofcom’s [Broadcasting Code](#) (“the Code”), specifically Rule 5.1 and Rule 5.2 (concerning due impartiality and due accuracy in news).

Due to the similarities between the two pieces of content, this document sets out our Opinion on the Online Article alongside our Decision on the Broadcast.

## Content summary

### The Online Article

The Online Article, which was published on the London section of the *BBC News* website on 2 December 2021 at approximately 15:00, was originally titled “*Oxford Street: Men filmed spitting at Jewish people on bus*” and covered the antisemitic incident that took place on Oxford Street, London on 29 November 2021. The Online Article was amended or corrected several times following its publication. These amendments and corrections are detailed below and all published versions of the Online Article are available in Annex 1 to this document.

The original version of the Online Article, published on the BBC News website on 2 December 2021, included 58 seconds of video footage taken from inside the bus during the incident, embedded in the text at the top of the Online Article. The footage showed a group of men whose faces had been blurred, surrounding the outside of the bus, coming up to the windows and appearing to spit and hit the bus. One of the group also appeared to make a Nazi salute. In the audio recording relating to the footage, the passengers on the bus could be heard shouting to each other and to the driver. In the

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<sup>13</sup> Clause 60(1) of the BBC Agreement. The “relevant editorial guidelines” are defined as “those of the BBC’s Editorial Guidelines for the time being in force which reflect the standards set under section 319 of the Communications Act 2003 and the code in force under section 107 of the Broadcasting Act 1996 (together, the ‘Ofcom Broadcasting Code’): see the Schedule to the [Online Arrangement](#).”

<sup>14</sup> Clause 3(2) of the Online Arrangement.

embedded video of the footage, the BBC had bleeped the audio recording twice in the first 15 seconds.

Underneath the embedded video of the footage, the Online Article stated:

*“An alleged anti-Semitic incident involving passengers on a bus in central London is being treated as a hate crime, the Met Police has said. Footage appears to show men spitting at and abusing people on the bus”.*

Describing the content of the footage, the Online Article also said that *“a man seems to make a Nazi salute and others wave their shoes – an insult in some countries”*. After detailing the place, time and timing (Chanukah) of the incident, the Online Article added that: *“Boris Johnson said the clip was ‘disturbing’”*. The article then explained that *“No arrests have been made and police have appealed for information in the wake of the footage being posted on social media”*.

The Online Article then said:

*“Some racial slurs about Muslims can also be heard from inside the bus, which had been hired by a group of Jewish people celebrating the eight-day festival. The Met said the incident would be looked at ‘in its entirety’”*.

The Online Article continued with a comment from a passenger on the bus who, it reported, said *“did not hear anyone saying anything provocative to the group of men gathered outside the vehicle”*. The Online Article reported the passenger had described the group as initially *“standing around watching and making fun”* of those on the bus but *“as it went on they started getting really aggressive, shouting and being abusive”*. She added that:

*“We [the passengers on the bus] wanted to leave but couldn’t because of the traffic. That’s when they came up to the bus and started banging on the bus with their shoes, swearing and shouting at us and making gestures”*.

This was followed by information on the progress of the police investigation, including a further statement from the same passenger who said: *“I do feel like it was only after the video got more attention online that I started to see that the police started to take it more seriously”*.

The Online Article finished with a statement from Marie van der Zyl, the President of the Board of Deputies, who said:

*“We are appalled by the horrifying footage of Jewish people targeted on Oxford Street. We note that besides attempts to spit at them, at least one of the perpetrators appears to be performing a Nazi salute”*.

On 2 December 2021, at approximately 18:00, the Online Article’s headline was amended to *“Oxford Street: Images issued after men filmed spitting at Jews on bus”*.

On 3 December 2021, following complaints, the BBC amended the Online Article so that it referred in the singular to “a slur about Muslims”. This change was explained in a footnote at the bottom of the article which read:

*“Correction 3 December: During the editing process a line was added to this article reporting that racial slurs about Muslims could be heard inside the bus. This line has been amended to make clear that ‘a slur about Muslims’ could be heard”.*

On 26 January 2022, following its consideration of complaints, the ECU published its Finding on the case and partly upheld complaints in relation to due accuracy and due impartiality. The Online Article was then amended for a second time, as follows:

*“The initial BBC report said a slur about Muslims could also be heard coming from inside the bus. This claim has been disputed”.*

The amendment was explained in a footnote and the BBC also provided a link to direct readers to the ECU Finding:

*“Amendment 26 January 2022: The article published on 2 December 2021 included a line which said that slurs about Muslims could be heard coming from the bus. The article was amended the following day to say that only one such slur could be heard. Since publication of that amendment, the claim a slur could be heard has been disputed by Hebrew speakers and others. In response to criticism of the reporting the director general of the BBC instructed the Executive Complaints Unit (ECU), which is editorially independent from BBC News, to investigate a number of issues relating to the original reporting of the incident and the subsequent dispute over whether a slur could be heard”.*

Following publication of the ECU Finding on 26 January 2022, Ofcom received complaints about the Online Article<sup>15</sup>. It was Ofcom’s view that these complaints about the Online Article raised potentially substantive issues under the due accuracy and due impartiality provisions within the BBC’s [Editorial Guidelines](#). We considered this warranted further consideration and we therefore accepted the complaints. Ofcom went on to consider the issues raised in order to give an Opinion on whether the BBC had observed the relevant Editorial Guidelines in the Online Article, in accordance with clause 3(2) of the [Arrangement](#) between Ofcom and the BBC relating to online material. We give this Opinion below. The Arrangement and our Online Procedures do not require Ofcom to give the BBC the opportunity to provide formal comments when we are considering online material. However, exceptionally and due to the similarities between the two pieces of content, we invited the BBC to make representations to us relevant to its consideration about the Online Article, alongside its formal comments about the Broadcast.

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<sup>15</sup> Paragraph 7 of the Online Material Procedures states: “Complainants must have received the BBC’s ‘final view’ on a complaint (i.e. the BBC’s final decision subject to any reconsideration in light of Ofcom’s opinion) before Submitting it to Ofcom”.

## The Broadcast

During the opening segment of *BBC London News* a presenter (“Presenter”), introduced the programme’s upcoming news stories. One of the stories related to the antisemitic incident that took place on Oxford Street, London:

Presenter: *“Also tonight, police investigate alleged antisemitic abuse targeted at passengers on board a bus”.*

The story was discussed later in the programme in more detail, in a section lasting approximately three minutes. The Presenter said:

Presenter: *“Police have released images of three men wanted in connection with an alleged antisemitic attack on a bus carrying Jewish teenagers celebrating Chanukah in Central London. Boris Johnson has condemned footage that appeared to show the men shouting threats, spitting, and hurling abuse. [The Reporter] has more”.*

This was followed by an item from a Reporter (“Reporter”) who was live from Oxford Street:

Reporter: *“Well, this is disturbing footage of this incident which took place not that far from where I’m standing at the moment, and it comes as the Jewish community of London are celebrating tonight the festival of Chanukah. And also, it comes at a time of record numbers of antisemitic incidents. Then what we know about this incident is that it took place on Monday evening. Around about 30 to 40 Jewish teenagers were on a bus that had been hired to take them into the centre of town to celebrate the festival of Chanukah. And then this happened”.*

This was followed by approximately 22 seconds of video footage filmed during the incident. Talking over the images of the footage, the Reporter said:

Reporter: *“And the footage shows the mob spitting, hurling abuse and even appearing to perform Nazi salutes. Well, we spoke to someone who was on the bus”.*

A clip of one of the passengers on the bus was then shown:

Passenger: *“Pretty scared for myself, I mean the way that it was escalating, I didn’t want there to be any violence, like obviously we weren’t in that mindset, which is why we got on the bus. And we were starting to leave and then the people that were kind of blocking us, they got close to the bus, they started hitting the bus. Um, they started shouting out rude slurs. It was just escalating pretty quickly”.*

The item then returned to the Reporter:

Reporter: *“Well, the Metropolitan Police are treating this as an alleged hate crime, and I should say though, that we at BBC London did watch this footage and you can hear some racial, er, slurs about Muslim people which does come from the bus. Um, it’s not clear at the moment, er, for the person that, that, that said that, what role that may have played in this incident. Now Sadiq Khan and Boris Johnson have condemned the incident, and tonight this is the reaction from the organisation that oversees security for British Jews”.*

A clip of a spokesperson from the Community Security Trust (“CST”)<sup>16</sup>, was then shown:

CST Spokesperson: *“They’re in the heart of London, which is a diverse multicultural city, where everybody should have the right to celebrate their faiths and their festivals as they wish. And instead of being able to do this, they were subjected to a really vicious, nasty attack; threats and abuse from a group of passersby. It’s completely unacceptable”.*

The Reporter then finished the story as follows, before returning to the Presenter in the studio:

Reporter: *“Well, this is a live police investigation, and as we’ve been hearing the police have tonight released three images of three people that they want to speak to in connection with this incident. There have been no arrests so far. Police are appealing for anyone with any information to come forward”.*

Presenter: *“[The Reporter] on Oxford Street there”.*

Ofcom received complaints about the Broadcast while the BBC was considering complaints under the BBC First complaints handling process. In light of our concerns over the press reports we had seen about the BBC’s coverage, we wrote to the BBC asking for background information on 7 January 2022. The ECU Finding on the complaints received by the BBC was published on 26 January 2022 and due to the significance of the issues raised, we subsequently launched our own investigation on the same day<sup>17,18</sup>.

We considered that this edition of *BBC London News* raised potential issues which warranted consideration by Ofcom under the following rules set out in [Section Five](#) of the Code:

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<sup>16</sup> The Community Security Trust (CST) is a charity which provides security advice and training for Jewish communal organisations, schools and synagogues ([About CST – CST – Protecting Our Jewish Community](#)).

<sup>17</sup> Following publication of the ECU Finding on 26 January 2022, we received two complaints about the Broadcast only, three complaints about the Online Article only and three complaints about both.

<sup>18</sup> Paragraph 1.18 of Ofcom’s Broadcast Procedures states that: “Ofcom may, in exceptional circumstances, intervene at an earlier stage to handle and resolve a complaint which has not been resolved by the BBC”. In relation to the Broadcast, we launched our investigation after the ECU Finding was published but before we had received any of the nine complaints referring the ECU Finding to us.

Rule 5.1: “News, in whatever form, must be reported with due accuracy and presented with due impartiality”.

Rule 5.2: “Significant mistakes in news should normally be acknowledged and corrected on-air quickly. Corrections should be appropriately scheduled”.

### **The BBC’s investigation**

The BBC said it received complaints from “a significant number of groups and individuals”<sup>19</sup>, including the Board of Deputies. As summarised by the ECU, these complaints were “critical of the accuracy and impartiality of the BBC’s coverage of the events described, particularly in relation to the claim that an anti-Muslim slur had been heard from inside the bus”. On Friday 7 January 2022, the Director-General of the BBC instructed the BBC’s ECU to “investigate the complaints as a matter of urgency”, bypassing the earlier stages of the BBC’s complaints process.

The ECU investigated the complaint under the BBC’s [Editorial Guidelines](#), which incorporate the specific obligations of the Code. The Guidelines also cover the BBC’s journalistic best practice and other requirements for its staff, programmes and non-broadcast activities.

### **ECU Finding**

On 26 January 2022, the BBC ECU published its Finding to [partially uphold the complaint that both the Broadcast and the Online Article](#) had breached the BBC’s Editorial Guidelines on due accuracy and due impartiality.

The ECU Finding outlined the BBC’s final position on a number of points. It also outlined the ECU’s understanding that the disputed audio recording “had been provided to the [CST] when the incident was reported to them and subsequently began to circulate on social media”. The ECU therefore explained in its finding that “the CST became a point of contact about the incident for the media”.

The ECU concluded that the Online Article did not meet the BBC’s standards of due accuracy “and, to the extent that the anti-Muslim slur claim has itself become controversial, it also lacks due impartiality in failing to reflect alternative views”. The ECU concluded that the same applied to the Broadcast, but said that the Broadcast “could not have been updated as an online item can”.

As a result of this conclusion, the Online Article was revised and a posting was made on the BBC’s [Corrections and Clarifications](#) page about the Broadcast.

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<sup>19</sup> See ECU Finding: [Oxford Street: Men filmed spitting at Jewish people on bus, BBC News Online \(England\) & BBC London News, BBC One \(London\), 2 December 2021](#).

After the publication of the ECU Finding, the CST made representations to the BBC outlining “significant concerns”<sup>20</sup> about how it was referenced in the ECU Finding. On 3 February 2022, the ECU published an ‘Update and Clarification’ beneath its ECU Finding to address these concerns.

### Ofcom’s investigation

Ofcom received 17 complaints about the BBC’s reporting of this incident: nine about the Online Article only; three complaints about the Broadcast only; and five that raised issues about both. Eight of the complaints post-dated the ECU Finding and referenced it or included criticisms on it.

Some complainants challenged the accuracy of the BBC’s characterisation of what was said, saying that what was heard by the BBC as a slur against Muslims in English in the video footage was in fact a Hebrew phrase meaning “Call someone, it’s urgent”. Other complainants expressed concern over what they considered to be the BBC’s failure to promptly acknowledge there was a dispute over the characterisation of the audio recording, even after questions had been raised by organisations such as the Board of Deputies.

Some complainants also considered that:

- the BBC should have apologised for not presenting the report accurately;
- the way that the attack on the bus on Oxford Street was presented as an “alleged” hate crime whereas racial slurs against Muslims were presented as “unequivocally heard”, was not duly accurate or duly impartial; and
- the BBC’s reporting falsely suggested that the individuals on the bus might have provoked or exacerbated the attack and this constituted “victim-shaming”.

As outlined above, following the publication of the ECU Finding on 26 January 2022, Ofcom launched an investigation into the Broadcast on the same day. We subsequently accepted the complaints about the Online Article.

### Meetings with third parties

During its investigation, in the process of gathering relevant material/evidence, Ofcom met with the OCR, the CST and the Board of Deputies, all of whom we understood had been in contact with the BBC following its coverage of the Oxford Street incident.

The Board of Deputies provided Ofcom with a written complaint after the ECU Finding was published about both the Online Article and the Broadcast. Alongside this complaint, the Board of Deputies also submitted a bundle of documents to Ofcom which were:

- a letter communicating the ECU Finding from the Head of the ECU to the President of the Board of Deputies Marie van der Zyl, dated 26 January 2022;

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<sup>20</sup> These concerns included how the ECU had described in its finding the CST’s interactions with the BBC in relation to the disputed audio recording. The ECU clarified in its published ‘[Update and Clarification](#)’ that its finding did not imply that the CST provided verification of the slur nor confirmation that that the disputed phrase could be heard on 3 February 2022. It also clarified that the CST “were not proactively releasing or initiating use of the video by the media and had acted during this incident as a conduit between the media and the students on the bus”.

- a document comparing the original version of the ECU Finding as published to the above letter to Marie van der Zyl;
- a report commissioned by the Board of Deputies from D3 Forensics<sup>21</sup>. A native Hebrew-speaking specialist from D3 Forensics performed an analysis and review of an audio file which was extracted from the video footage used in both the Online Article and the Broadcast. The report, published on 21 December 2021, “unequivocally confirms that the audio does not contain any racial slur”. Rather “the disputed speech...is clearly a phrase spoken in Hebrew saying “Tikrah lemishu, ze dachuf”<sup>22</sup>;
- a report commissioned by the Board of Deputies from Professor Ghil’ad Zuckermann<sup>23</sup>. Professor Zuckermann is Chair of Linguistics and Endangered Languages at the University of Adelaide. The report, published on 27 December 2021, concluded that Professor Zuckermann was “unable to detect any anti-Muslim slur at any point in the footage”. Professor Zuckermann could, however, hear the sentence “*ti-krá le-míshu ze dakhúf*”;
- an open letter from Marie van der Zyl to the BBC, dated 7 December 2021. The letter “condemn[ed] in the strongest possible terms” the “harmful framings and allegations” made in the Online Article and in the Broadcast; and
- various press articles about the BBC’s coverage of the incident.

## The BBC’s response

### Initial response

In accordance with our published Broadcast Procedures, Ofcom requested the BBC’s formal comments on how it believes the Broadcast complied with Rules 5.1 and 5.2 of the Code, in relation to both due accuracy and due impartiality. We also, exceptionally, invited the BBC to send us any information or comments relevant to its consideration about the Online Article<sup>24</sup>. The BBC’s response to Ofcom covered both of these pieces of content together.

At Ofcom’s request, the BBC also submitted a timeline of events, starting on 29 November 2021 when the incident on Oxford Street took place and ending on 3 February 2022 when the ECU published its ‘Update and Clarification’ to its final response. This timeline is shown in Annex 2 to this document.

In its formal comments, the BBC highlighted its general commitment to accuracy, which it said “entails correcting errors appropriately or, as in this case, taking due account of new evidence when it emerges”.

In relation to the content under consideration in this case, the BBC explained that “the level of concern from interested parties” in the BBC’s investigation into both the Broadcast and the Online

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<sup>21</sup> D3 Forensics is a firm that specialises in digital forensics analysis.

<sup>22</sup> See: [Report On Digital Forensic Acquisition And Analysis Review for Board of Deputies of British Jews](#), D3 Forensics, 21 and 27 December 2021 .

<sup>23</sup> See: [Report of Professor Ghil’ad Zuckermann](#), 27 December 2021.

<sup>24</sup> The Arrangement and our Online Procedures do not require Ofcom to give the BBC the opportunity to provide formal comments when we are considering online material but we decided, exceptionally, to do this in this case because of the similar issues raised by the Broadcast and the Online Article.

Article “necessitated an unusually detailed response” from the ECU. As such, the BBC’s formal comments were largely a replication of the ECU Finding.

In its representations, the BBC focused its response around three main questions:

- “First, did the overall coverage lack impartiality, both in its choice of language and its focus – in effect, as was suggested at the time, ‘victim-shaming’ the Jewish passengers on the bus, implying they bore a share of responsibility for the incident, or otherwise creating a false equivalence?”;
- “Second, was the BBC justified, on the basis of the evidence available to it at the time, to include a line saying an insult of some kind had been heard coming from the bus (in addition to those already reported as having come from the pavement)?”; and
- “[F]inally, in the light of new analysis of the recording, was the BBC right to continue to defend all the statements included in its reports as accurate and not requiring amendment?”

In relation to the first question, and in response to complainants who pointed to the use of the word “alleged” and phrases such as “appears to show” as evidence of a lack of impartiality, the BBC said that “the terminology was used on the basis that it reflected the language used by the Police in their statement, and because of legal advice taken by the programme-makers, and was by no means unusual in reporting matters under police investigation which may fall to be decided by the courts, and where not all the facts have been established”. The BBC also noted that the claim regarding the “*racial slurs*” was contextualised in the Online Article “by the inclusion of a quote from one of the students on the bus, in which she denied hearing any such insults from her fellow-passengers”. Some complaints about the Broadcast, received by both the BBC and Ofcom, had pointed to the Reporter’s statement, in relation to the alleged anti-Muslim slur, that “*It’s not clear at the moment... for the person [that] said that what role this may have played in the incident*”. In response to this point, the BBC said that “as is sometimes the case in unscripted broadcasting, it is apparent that the [R]eporter’s intended meaning was not expressed with complete clarity, but what can be said is that he did not assert that the slur had played a role, and that, at that point in time... there were elements of uncertainty about what had happened which it was appropriate for the report to reflect”. The BBC also pointed out that the “overriding focus” of the report “had been on the behaviour of those outside the bus” and said that this was not, in their view, “conducive to the view that the passengers shared responsibility for the incident”.

The BBC therefore said that it “does not accept that either item lacked impartiality in the senses complained of, nor that the charges of victim-blaming or false equivalence are warranted”. The BBC did, however, accept that both items were inaccurate, specifically, that the original Online Article was inaccurate in its reference to “*some racial slurs about Muslims*” and that the Broadcast was inaccurate in its claim that “*you can hear some racial... slurs about Muslim people*”. The BBC noted that “in later versions... the online copy was changed to ‘*a slur about Muslims*’, reflecting that the original iterations had mischaracterised the nature of the insult and there was insufficient evidence that it had happened on more than one occasion”. However, it said that “an oversight meant there was no equivalent correction at the time in the case of the TV report, though a note [dated 26 January 2022] was added to the BBC [Corrections and Clarifications](#) page subsequent to the finding by the ECU published in January”.

Moving to the second question, the BBC explained that “at the time the BBC ran the story, the principal primary source material consisted of a mobile phone recording lasting 58 [seconds], which was provided to the Community Security Trust (CST) when the incident was reported to them and subsequently began to circulate on social media”. The BBC said that “in the somewhat unusual circumstances which obtained here, it was inevitable that reporting of the incident would reflect such information as could be gleaned from the recording”. The BBC said that the timeline of events submitted to Ofcom – shown in Annex 2 – “shows an unusually high level of consultation among colleagues about the content of the recording”.

The BBC explained that “It was on the afternoon of 1 December that it was first identified as containing an anti-Muslim slur (in the form of *‘Dirty Muslims’*), and the recording was subsequently assessed by at least seven members of BBC London news staff and a senior editor in network news, all of whom agreed that the phrase *‘Dirty Muslims’* could be heard, before a decision to include a statement to that effect in BBC output was made”.

The BBC went on to say that “with hindsight, and in the light of subsequent evidence that the recording was open to another interpretation, it might be argued that even further verification should have been sought, but the situation at the time was that no alternative interpretation had been proposed...”. The BBC described the internal process it conducted in relation to the recording as amounting to “an editorial process which we would regard as more than sufficient in any but the most extraordinary circumstances”.

Referring to the third question of whether the BBC was right to continue to defend the statements about an anti-Muslim slur, the BBC noted in its representations that “this goes beyond a strict assessment of the conformity of the online article with the BBC Editorial Guidelines and the BBC London broadcast with the Ofcom Code as they relate to the issues of accuracy and impartiality”. The BBC also said that at the time of publication and of broadcast, “absent the availability of an alternative explanation, we do not accept either [the Online Article or the Broadcast] was in breach of relevant standards in the references to the phrase *‘Dirty Muslims’* having been heard emanating from the bus”. It said that BBC News was first aware of an alternative explanation “on the afternoon after publication and broadcast when comments to that effect began circulating on Twitter”. On the morning of 3 December 2021, the BBC received formal complaints about the use of the phrase “racial slurs” and by the afternoon of 3 December 2021, the BBC had received a formal complaint which suggested the relevant piece of language in the audio recording was a Hebrew phrase “Tikrah lemishu, ze dachuf”, which translates in English to “Call someone, it’s urgent”. In response to these complaints, the BBC reviewed the Online Article on 3 December at 18:00 and changed the plural “*slurs*” to the singular “*slur*” and removed the word “*racial*” from the article.

The BBC recognised that “how the BBC handled requests for the story to be updated once a different interpretation was put forward, is relevant in the context of the BBC’s general commitment to accuracy, which entails correcting errors appropriately or, as in this case, taking due account of new evidence when it emerges”.

According to the BBC’s timeline the BBC sought further assessment on its characterisation of the audio recording from senior members of BBC News management, including a member of staff with a “working knowledge of Hebrew”, and it was also discussed with the BBC’s Jerusalem bureau with

input from native Hebrew speakers there. The BBC said the results of this consultation were inconclusive, leading the BBC to commission a firm of translators external to the BBC to consider the audio recording. Their report was obtained on 9 December 2021. According to the BBC, the results were not unanimous, with three of the four translators involved construing the phrase as “dirty Muslims” and one as the Hebrew for “Call someone, it’s urgent”.

In addition to the BBC’s work to verify its characterisation of the audio recording, the Board of Deputies also commissioned and provided the BBC on 27 December 2021 with two extensive reports, from a Professor of Linguistics and a team of digital forensic and data security specialists respectively.

The BBC said it “viewed and listened to a version of the material with enhanced audio... and the Head of the ECU listened to the material in studio conditions with the help of a BBC sound engineer who was able to apply a number of further enhancements”.

The BBC said that, in its view, “the disputed audio material could genuinely be construed in entirely different senses by different listeners”. Referring to the suggestion of one of the reports commissioned by the Board of Deputies that BBC staff may have misheard the phrase as a result of the “Apollonian tendency”<sup>25</sup>, the BBC agreed that “the interpretation arrived at may well depend on cues which the listener is unaware of having received and, once arrived at, may be very difficult to controvert. In the BBC’s view, the contesting interpretations of the material under consideration were a case in point, and it might not be possible to determine with certainty which of them is correct on the basis of the recording alone”.

The BBC therefore accepted that its coverage “should have acknowledged an element of doubt about the anti-Muslim slur claim at an earlier point”. The BBC then noted that “the report commissioned by the BBC did not result in unanimity, with three of the four translators involved construing the phrase as ‘Dirty Muslims’ and one as the Hebrew for ‘Call someone, it’s urgent’”. The BBC said that “taken with the evidence put forward by the Board of Deputies, [this] should have led the BBC to recognise at an earlier stage that there was genuine doubt about the accuracy of what it had reported”.

Finally, the BBC also pointed to a BBC News Online article of 8 January 2022, which it said “did report that the Board of Deputies had disputed that an anti-Muslim slur could be heard, but did not reflect the alternative interpretation”<sup>26</sup>.

### **Response to Ofcom’s Preliminary View**

In accordance with our Broadcast Procedures, we gave the BBC the opportunity to make representations on our Preliminary View on the Broadcast content. The BBC did not make any substantive comments in response to the Preliminary View, asking only that we clarify the meaning of a phrase.

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<sup>25</sup> Professor Zuckermann describes the “Apollonian tendency” as “the wish to create order, the craving for meaningfulness, especially when encountering unfamiliar information. The problem with the Apollonian tendency in language arises from the fact that a person applying his/her Apollonian tendency only uses what is accessible in his/her brain”.

<sup>26</sup> See: [‘BBC seeks swift response to bus anti-Semitism story complaints’](#), 8 January 2022.

In accordance with the Online Material Procedures, we did not seek the BBC's comments on our draft Opinion on the Online Article.

## **The rules under consideration**

### **The BBC's Editorial Guidelines**

The relevant Guidelines are defined in the Online Arrangement as those of the BBC's Editorial Guidelines which reflect the standards set in Ofcom's Code. The Editorial Guidelines set out best practice for the BBC's editorial staff. In considering this complaint, we had regard to Section 3 of the Guidelines on Due Accuracy, and Section 4 on Due Impartiality. We also took into account the Article 10 rights of the BBC and its online viewers, encompassing the right to freedom of expression, namely the right to receive and impart information and ideas without interference.

We considered the Guidelines below were relevant in this case:

### **Due Accuracy**

- 3.3.1: "Accuracy is not simply a matter of getting facts right. Relevant opinions as well as facts may need to be considered. When necessary, all the relevant facts and information should be weighed to get at the truth. Where appropriate to the output and wherever possible, [the BBC] should:
- gather material using first-hand sources
  - check facts and statistics, identifying important caveats and limitations
  - validate the authenticity of documentary evidence and digital material
  - corroborate claims and allegations made by contributors".
- 3.3.2: "In news and current affairs content, achieving due accuracy is more important than speed".
- 3.3.6: "[The BBC] must check and verify information, facts and documents, where required to achieve due accuracy. If [the BBC] have been unable to verify material [the BBC] should usually say so and attribute the information".
- 3.3.7: "Achieving due accuracy in live content can be challenging, as there may be little opportunity to verify factual claims. Where practicable, and particularly if an issue is controversial, content makers should take steps to ensure due accuracy. Where possible, risks should be identified in advance and measures taken to mitigate them. This may include ensuring the appropriate preparation is undertaken so that the content contains sufficient challenge or context; or ensuring other contributors are able to provide additional challenge. Significant inaccuracies that may arise should be corrected quickly".

## Due Impartiality

4.3.10: “News in whatever form must be treated with due impartiality, giving due weight to events, opinion and main strands of argument. The approach and tone of news stories must always reflect [the BBC’s] editorial values, including [the BBC’s] commitment to impartiality”.

Ofcom considered that Guidelines 4.3.4 to 4.3.6 on “Controversial Subjects” were also relevant:

4.3.4: “[The BBC] must apply due impartiality to all [the BBC’s] subject matter. However, there are particular requirements for ‘controversial subjects’ whenever they occur in any output, including drama, entertainment and sport.

A ‘controversial subject’ may be a matter of public policy or political or industrial controversy. It may also be a controversy within religion, science, finance, culture, ethics or any other matter”.

4.3.5: “In determining whether subjects are controversial, [the BBC] should take account of:

the level of public and political contention and debate

how topical the subject is

sensitivity in terms of relevant audiences’ beliefs and culture

whether the subject is a matter of intense debate or importance in a particular nation, region, community or discrete area likely to comprise at least a significant part of the audience

a reasonable view on whether the subject is serious

the distinction between matters grounded in fact and those which are a matter of opinion”.

4.3.6: “When dealing with ‘controversial subjects’, [the BBC] must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active. Opinion should be clearly distinguished from fact”.

## Due accuracy and due impartiality under the Broadcasting Code

Reflecting our duties under the Communications Act 2003 (“the Act”), Section Five of the Code reflects the requirements of [section 319 of the Act](#) and requires that news must be reported with due accuracy and presented with due impartiality<sup>27</sup>.

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<sup>27</sup> One of the complainants also raised Rule 1.2 of the Code on the grounds that those on the bus were children and were potentially at risk of abuse as a result of the Broadcast. We decided that there were not issues

Every time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights. This encompasses the broadcaster's right to freedom of expression, as well as the audience's right to receive information and ideas without interference.

We considered whether the Broadcast complied with Rules 5.1 and 5.2 of the Code:

Rule 5.1: "News, in whatever form, must be reported with due accuracy and presented with due impartiality".

Rule 5.2: "Significant mistakes in news should normally be acknowledged and corrected on air quickly (or, in the case of BBC ODPS, corrected quickly). Corrections should be appropriately scheduled (or, in the case of BBC ODPS, appropriately signalled to viewers)".

The requirement under Rule 5.1 to preserve due accuracy and due impartiality in news applies to any matter covered in a news programme and not just matters of political or industrial controversy and matters relating to current policy. News includes news bulletins, news flashes and daily news magazine programmes. In this case, the item in question was broadcast as part of a news programme and we considered it clearly constituted news, and therefore Rule 5.1 applied.

The Code itself states "due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel and the likely expectation of the audience.

Our published guidance on Section Five of the Code says "Accuracy entails getting the facts right. In complying with the requirement to report news with 'due accuracy', broadcasters should refer to the clarification of 'due' set out in the meaning of 'due impartiality'... For example, where a matter is of particular public interest, the requirement to present that matter with due accuracy will be correspondingly higher".

Where significant mistakes are made, Rule 5.2 requires broadcasters to ensure they are acknowledged and corrected on air quickly. Ofcom noted that, having found that the Broadcast was not duly accurate under the BBC's Editorial Guidelines, the ECU observed that it "could not have been updated as an online item can". However, for the avoidance of doubt, the temporal nature of broadcast news is not a sufficient reason under the Code for failing to issue timely, *on air*, corrections when necessary.

In order to reach a Decision on whether due impartiality and due accuracy were maintained in the Broadcast, Ofcom has taken into account the Article 10 rights, as described above, and all relevant contextual factors.

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warranting investigation under Section 1.

## Opinion on the Online Article

As explained above, Ofcom's role in relation to BBC online material is different to that regarding BBC broadcasting content. While Ofcom has no enforcement powers for regulating BBC online material, we can reach an "Opinion" about whether the BBC has observed its Editorial Guidelines and provide recommendations.

As above, the relevant Editorial Guidelines are defined in the Online Arrangement as those of the BBC's Editorial Guidelines, which reflect the standards set out in the Code pursuant to section 319 of the Communications Act 2003 and section 107 of the Broadcasting Act 1996. In this case, we had regard to Section 3 Accuracy (3.3.1) and Section 4 Impartiality (4.3.1) of the BBC's Editorial Guidelines which reflects Section Five: Due Impartiality and Due Accuracy of the Code.

In considering the application of the relevant due accuracy and due impartiality requirements, we took into account that the Online Article remained available to view, with the amendments noted, on the BBC News website.

### Due accuracy

We first considered whether the Online Article was duly accurate. We were mindful of the BBC's Editorial Guidelines at paragraph 3.3.1, which states:

"Accuracy is not simply a matter of getting facts right. Relevant opinions as well as facts may need to be considered..."

We took into account that complainants were concerned with the accuracy of the statement which in the original version of the Online Article was *"Some racial slurs against Muslims can also be heard from inside the bus"*. As explained above, the BBC provided Ofcom with information about the steps it took prior to publication to check the accuracy of its characterisation of the audio, before it took an editorial decision to include this statement in the original version of the Online Article. Ofcom acknowledged the BBC had subsequently accepted the original version of the Online Article *"mischaracterised the nature of the insult and there was insufficient evidence that it had happened on more than one occasion"*. In light of this, the BBC amended the Online Article on 3 December 2021 so that it read: *"a slur about Muslims"*. The ECU ruled the original version of the Online Article did not meet the BBC's standards of due accuracy for this reason, but given the correction, it considered this *"resolv[ed] the complaint in that respect"*. In view of the amendment on 3 December 2021, we have not commented further on the use of the plural in the original version of the Online Article in this Opinion.

In relation to the reporting that the audio provided evidence of a slur, Ofcom acknowledged that the original version of the Online Article provided some limited context in the form of a comment from a passenger on the bus, who said *"she did not hear anyone saying anything provocative to the group of men gathered outside the vehicle"*. However, without providing further explanation, it was our view that this testimony was ambiguous and could be interpreted as meaning that the passenger had not heard what was said, rather than she was providing an alternative viewpoint on the substance of what was recorded on the footage.

According to the BBC's timeline (see Annex 2), the BBC was made aware of concerns about the accuracy of the statement the following day on 3 December 2021. These concerns intensified after an alternative explanation for what was said on the audio recording was put forward by the Board of Deputies and others, specifically, the possibility that what the BBC had heard on the audio recording was a Hebrew phrase. As such, we considered the BBC was presented with supplementary information swiftly, after publication, from reputable sources which provided an alternative explanation about what was said, including from the two reports commissioned by the Board of Deputies<sup>28</sup>. The BBC was also presented with evidence from its own inquiries which cast a degree of doubt on its original assessment of the audio recording, namely the inconclusive discussions with its Jerusalem bureau and the dissenting opinion from one of the four translators contributing to the report which it commissioned from an external firm of translators (this information was given to the BBC on 7 December 2021 and 9 December 2021, respectively).

As stated above, Ofcom was provided with two conflicting interpretations of the audio recording, both of which were supported by language experts. However, in order to reach an opinion about whether the BBC observed its Editorial Guidelines in this case, we did not consider it necessary to make a determination on the content of the audio recording one way or another. In Ofcom's view, it was apparent that the content of the audio recording was disputed and that the alternative interpretation was a "relevant opinion" to which the BBC should have given consideration in ensuring due accuracy under paragraph 3.3.1 of its Editorial Guidelines.

Specifically, we established that following publication of the Online Article, the BBC received new information from reputable sources, and from its own inquiries, which very quickly demonstrated that the interpretation of what was said in the audio was disputed. However, the Online Article was not amended to reflect this contention until 26 January 2022, nearly eight weeks after its original publication. In accordance with its Editorial Guidelines, we considered that this new material, including the linguistic report it commissioned and which was available from 9 December, should have led the BBC to recognise at a much earlier stage that it needed to take account of the alternative opinions about the audio recording and to reflect these in the Online Article with due weight to ensure it remained compliant with due accuracy requirements. In this case it was Ofcom's view that the BBC's failure to appropriately take account of this new evidence when it emerged soon after publication meant the BBC did not observe its due accuracy requirements in the Online Article.

### Due impartiality

We went on to consider whether the Online Article was duly impartial. We were mindful of the BBC's Editorial Guidelines at paragraph 4.3.10 which states:

"News in whatever form must be treated with due impartiality, giving due weight to events, opinions and main strands of the argument".

We also took account of the BBC's Editorial Guidelines at paragraphs 4.3.4 to 4.3.6 about the application of due impartiality to "controversial topics" and the definition of a "controversial subject"

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<sup>28</sup> According to the BBC's timeline, on 27 December 2021, the Board of Deputies provided the BBC with the report from Professor G Zuckermann and the analysis commissioned from D3 Forensics and DigFind.

at paragraph 4.3.4 as “a matter of public policy or political or industrial controversy. It may also be a controversy within religion, science, finance, culture, ethics or any other matter”. We considered these Guidelines require the BBC to take a multifaceted and flexible approach to determining whether a subject is controversial. This includes, among other things, considering the level of public and political contention and debate surrounding a particular topic, the sensitivity of the relevant audience’s beliefs and culture, and whether the subject is a matter of intense debate or importance within a particular community. In the event the BBC determines that the topic in question is controversial, it must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active.

As stated above, following publication of the original Online Article, the BBC received evidence swiftly from a number of reputable sources, including from its own inquiries, that there was a different interpretation of the audio recording to that which it had reported. We also took into account the press coverage about the response of the Jewish community to this incident and the BBC’s reporting of it, for example: the description by the Board of Deputies that the situation was “causing deep distress to Jewish victims of antisemitism” and “add[ing] insult to injury in accusing victims of antisemitism of being guilty of bigotry themselves...” and that the parents of the Jewish victims of the incident accused the BBC of “demonising” their children<sup>29</sup>.

It was apparent from this and other information that we gathered in our investigation that the BBC was made aware very quickly that its interpretation of the footage was disputed and, moreover, that it was causing distress and anxiety to those targeted by this antisemitic attack during Chanukah, namely the victims and the wider Jewish community. In our opinion, these factors should have led the BBC to treat the issue as a controversial subject, in accordance with paragraphs 4.3.4 and 4.3.5 of its Editorial Guidelines. We therefore considered whether the action the BBC took gave sufficient weight and prominence to other views and perspectives while the controversy was active, in line with paragraph 4.3.6 of its Editorial Guidelines. We also considered whether the action the BBC took met the requirement to give due weight in news to events, opinion and the main strands of argument in line with paragraph 4.3.10 of its Editorial Guidelines.

We acknowledged the separate BBC News Online article published 8 January 2022, which the BBC pointed to in its representations to Ofcom and which, according to the BBC, “did report that the Board of Deputies had disputed that an anti-Muslim slur could be heard, but did not reflect the alternative interpretation”<sup>30</sup>. However, Ofcom found no evidence that the two articles were clearly linked, for example by the inclusion of a hyperlink to alert readers of the Online Article that the article published on 8 January was available. In any event, the Online Article remained unchanged on this issue until after the ECU Finding.

As outlined above, the Online Article provided some limited context in the form of a comment from a passenger on the bus, who said “*she did not hear anyone saying anything provocative to the group of men gathered outside the vehicle*”. However, without providing further explanation, it was our view

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<sup>29</sup> See footnotes 6 and 7.

<sup>30</sup> See: [BBC seeks swift response to bus anti-Semitism story complaints](#), 8 January 2022.

that this testimony could be interpreted as meaning that the passenger had not heard what was said, rather than she disagreed with the reporting of the substance of what was recorded on the footage.

As such, we were concerned that the BBC did not amend the Online Article to acknowledge that there was an active dispute over the substance of what was said and whether it was a slur at all until 26 January 2022, almost eight weeks after it was first published. We considered that this was a significant and concerning omission, particularly given that the BBC was aware that its content was causing significant distress and anxiety to the victims of the attack, and to the wider Jewish community. It was our view that, during this period, the Online Article failed to give sufficient weight and prominence to the alternative views about its reporting of the incident and, in particular, failed to acknowledge the dispute about the interpretation of the audio recording that had been put forward, as required by the BBC's Editorial Guidelines on due impartiality.

We took into account that the Online Article used the qualifiers "*alleged*", "*appears*" and "*seems*" to refer to the "*anti[s]emitic incident*" and to the descriptive details ("*spitting*", "*abusing*", and making "*a Nazi salute*") of the conduct in the video footage. It did not use any similar qualifier when reporting that "*some racial slurs about Muslims can also be heard from inside the bus*". Ofcom acknowledged the strong objections from some complainants that the qualified wording about the attack, combined with the positioning of the statement about the slurs immediately before a reference to the Met Police looking at the incident "*in its entirety*", created a "*false equivalence*" between the actions of the perpetrators and the victims and suggested the victims were in some way responsible for the incident. However, on this point, we accepted the BBC's argument that the use of "*alleged*" and similar language was not "*intended to contrast with the treatment of the anti-Muslim slur claim*" but reflected the fact that the attack against the bus and its passengers was the subject of a police investigation. We also took into account that the overriding focus of the Online Article was the antisemitic attack and the experience of the victims.

Ofcom also understood some complainants felt the inclusion of the statement "*some racial slurs about Muslims*" was inaccurate and should not have been included in the Online Article at all. However, Ofcom considered that the BBC had satisfied itself about the due accuracy of what it reported and therefore the decision to include the reference to the slur was a matter for the BBC's editorial judgment. Given this context, and taking account of the BBC's right to freedom of expression under Article 10, and in line with the reasoning in our Decision below in relation to similar concerns in respect of the Broadcast, we did not consider that the Online Article raised substantive issues under due impartiality or due accuracy in this specific regard.

### **Online Opinion: conclusion**

In summary, our Opinion is that the BBC failed to observe its own Editorial Guidelines on both due impartiality and due accuracy by failing to acknowledge in the Online Article that there was a dispute about its interpretation of the audio recording at a much earlier stage after it received new evidence to support an alternative explanation for what was said. It was not until after the ECU Finding on 26 January 2022 that the BBC amended the Online Article to make it clear that the interpretation of the audio was disputed by Hebrew speakers and others. By this time almost eight weeks had passed since the publication of the Online Article, during which the BBC was aware that its content was causing significant distress and anxiety to the victims of the attack and to the wider Jewish community.

Therefore, while we considered the action the BBC took on 26 January 2022 was sufficient to correct the position, its failure to act sooner to remedy the breach of the BBC's Editorial Guidelines was a significant and concerning omission. In Ofcom's view, if the BBC had acted sooner, this could have gone some way to help resolve the issues raised by complainants and would have enabled the focus of attention to be on the antisemitic incident itself, and not the BBC's reporting.

## Decision on the Broadcast

### The preservation of due accuracy

#### Rule 5.1

Ofcom first considered whether the Broadcast, which was transmitted on BBC London on 2 December 2021 and was made available to view for the following 24 hours on the BBC iPlayer, was duly accurate. We took into account the context surrounding this Broadcast, which was the reporting of an antisemitic hate crime incorporating the use of mobile phone footage taken from the scene. Within the Broadcast, the BBC Reporter described the incident as "*disturbing*" and explained the footage showed a "*mob spitting, hurling abuse and even appearing to perform Nazi salutes*". The Reporter also added that this incident had come at a time of "*record numbers of antisemitic incidents*". The Broadcast also included: an interview with one of the students on the bus describing her experience; comments from the CST describing the incident as "*completely unacceptable*" and as a "*vicious, nasty attack, threats and abuse from a group of passers-by*"; and statements from Prime Minister Boris Johnson and the Mayor of London Sadiq Khan who had "*condemned*" the incident. The Broadcast also made it clear that the police were now investigating. We considered it would have been evident from these statements that a potentially serious, criminal incident had occurred and the people on the bus were the victims of this incident.

We also took into account that the Reporter said towards the end of the report: "*you can hear some racial, er, slurs about Muslim people which does come from the bus*" before adding "*it's not clear at the moment, er, for the person [that] said that what role that may have played in the incident*".

We acknowledged that, as referenced above, the Reporter used language including "*alleged hate crime*" and "*appearing to show*" during the Broadcast to describe the attack on the bus and its passengers. However, we accepted the BBC's representations that this language "reflected the language used by the Police in their statement", and was used on the basis of "legal advice taken by the programme-makers, and was by no means unusual in reporting matters under police investigation which may fall to be decided by the courts, and where not all the facts have been established". Ofcom is clear that broadcasters should use appropriate language when reporting on crimes under investigation to avoid inadvertently jeopardising future criminal proceedings. While we observed the BBC had reported that "*some racial... slurs about Muslims can also be heard from inside the bus*" without these qualifiers attached, Ofcom accepted the BBC's argument that the language used was not "intended to contrast with the treatment of the anti-Muslim slur claim" but reflected the fact that the attack against the bus and its passengers was the subject of a police investigation.

Ofcom acknowledged the strong objections from some complainants on this element of the Broadcast, in particular the suggestion that it created a "false equivalence" between the actions of the perpetrators and the victims and implied the victims were in some way responsible for what took place. We took into account that the Reporter also added that "*It's not clear at the moment... for the*

*person [that] said that what role this may have played in the incident*". We agreed with the BBC's assessment that the Reporter's intended meaning "was not expressed with complete clarity". However, we took account of the BBC's representation that the statement was made in "unscripted broadcasting" and considered that it did not amount to an explicit attribution of blame. We considered that the Reporter's comment and the reference to the BBC hearing slurs about Muslim people in the footage represented a very brief section of the overall report, which predominantly focussed on the attack on the bus and covered the police's investigation of the antisemitic attack, the impact on its victims and the response from the CST.

As mentioned above, Ofcom was provided with two conflicting interpretations of the audio recording, both of which were supported by different language experts. However, in order to reach a view about whether the broadcast was duly accurate, we did not consider it necessary to make a determination on the contents of the audio recording one way or another. As outlined above, the BBC's reporting of this incident quickly became the subject of accuracy complaints and an alternative explanation was put forward that the phrase in question was not an anti-Muslim slur said in English, but part of a Hebrew phrase for "Call someone, it's urgent". Ofcom acknowledged that broadcasters are often required to make quick editorial judgments in their news operations. In relation to the steps taken by the BBC in reviewing the audio recording prior to broadcast, as described in detail above, we took account of the ECU's description that these entailed an "unusually high level of consultation among colleagues about the content of the recording" and that it "amounted to an editorial process...more than sufficient in any but the most extraordinary circumstances". In this case, we agreed the BBC adopted reasonable editorial processes in relation to the audio recording prior to broadcast.

We acknowledged the strong submissions about the interpretation of the audio recording, including the expert opinions that the Board of Deputies, and others, commissioned in response to this report after it was broadcast, which suggested that the claim in question was a Hebrew phrase. As outlined above, this alternative interpretation was first known to the BBC on 3 December 2021, the day after the broadcast. This dispute over the interpretation of the footage intensified over the following days and weeks, with translators, linguistics experts and Hebrew speakers disagreeing over the content of the footage. However, Ofcom must have regard to what information was reasonably available to the BBC at the time of broadcast. Therefore, it is an important contextual factor that this disputed meaning was not known to the BBC prior to broadcast. Similarly, we took into account that the Broadcast was made available on the BBC iPlayer for a period of 24 hours, during which time the BBC first became aware about the disputed nature of the recording. However, it was not until after the Broadcast had been taken off the BBC iPlayer that the BBC received expert evidence concerning the disputed nature of the audio recording. We therefore also considered this to be an important contextual factor in relation to the 24 hour period that the Broadcast was made available on the BBC iPlayer.

Ofcom has taken into account the BBC's acceptance that the Broadcast was inaccurate when it referenced "*you can hear some racial... slurs about Muslim people*" because it said it had "mischaracterised the nature of the insult and there was insufficient evidence that it had happened on more than one occasion". We also took into account that the focus of the Broadcast was on the antisemitic attack. Given this context, and that the qualified requirement under Rule 5.1 is "due

accuracy”, we considered that the incorrect use of the plural in the Broadcast did not raise a substantive issue under the Code.

As such, taking account of all the factors outlined above, our Decision is that the news report was duly accurate at the time of broadcast (and for the 24 hour period that it was on the BBC iPlayer) and did not breach Rule 5.1.

### The preservation of due impartiality

We then went on to consider whether the Broadcast was duly impartial and, in particular, the issue raised by some complainants of “false equivalence”. We have taken into account the context of this Broadcast as detailed above and all other relevant contextual factors.

We agreed with the ECU Finding that the “overriding focus” of the Broadcast was on the “behaviour of those outside the bus”. We considered the report made it clear the people on the bus had been victims of an antisemitic attack. While we acknowledged the Reporter said that *“It’s not clear at the moment... for the person [that] said that what role this may have played in the incident”*, we accepted, as outlined above, the BBC’s argument that in “unscripted broadcasting, it is apparent that the reporter’s intended meaning was not expressed with complete clarity”. Considering the statement in the context of the overall report which in our view was primarily focused on the experience of the victims, we did not consider it detracted from the experience of those on the bus so as to cause a substantive issue under due impartiality.

In light of all of these factors and taking account of the Broadcast as a whole, we did not consider there to be sufficient evidence to find the Broadcast in breach of the Code’s due impartiality rules.

As such our Decision is that this broadcast did not breach Rule 5.1 (due impartiality).

### Rule 5.2

Rule 5.2 states that “Significant mistakes in news should normally be acknowledged and corrected on air quickly (or, in the case of BBC ODPS, corrected quickly). Corrections should be appropriately scheduled (or, in the case of BBC ODPS, appropriately signalled to viewers)”.

As stated above in our reasoning for Rule 5.1, we considered the BBC took reasonable steps prior to broadcast to check the audio recording, before making an editorial decision to include the statement: *“you can hear some racial... slurs about Muslim people which does come from the bus”*. As explained above, we found that the news report was duly accurate at the time of broadcast (and for the 24 hour period that it was on the BBC iPlayer). Accordingly, there was not a “significant mistake” to be corrected and Rule 5.2 was not engaged in this instance.

However, significant controversy about the Broadcast developed and the BBC received evidence which supported the alternative interpretation of the audio recording put forward by the Board of Deputies and others. According to the BBC’s timeline (see Annex 2), after the alternative explanation was put forward by the Board of Deputies and others, new evidence emerged from the BBC’s own inquiries: on 7 December 2021, the BBC’s Jerusalem bureau provided the BBC with inconclusive evidence about the audio recording and on 9 December 2021 one member of the translating firm commissioned by the BBC disagreed with the BBC’s original characterisation of the audio recording. On 27 December 2021,

the Board of Deputies then provided the BBC with two linguistic reports which provided further evidence of a possible alternative explanation for what was said on the audio recording.

Furthermore, the interpretation which the BBC had decided to include in the Broadcast (and in the Online Article) caused significant distress to the victims involved, who according to their parents were being “demoni[sed]” because they were being accused of “bigotry themselves”. It also caused significant distress to the wider Jewish community, especially given that the Broadcast was framed against the context of there being “*record numbers of antisemitic incidents [in London]*”.<sup>31</sup>

In all the circumstances, we considered that the BBC made a serious editorial misjudgment by not reporting on air that the claim it had made in the Broadcast was disputed, once the new evidence emerged. In Ofcom’s view, if it had done so, this could have gone some way to help resolve the issues raised by complainants and would have enabled the focus of attention to be on the antisemitic incident itself, and not the BBC’s reporting.

#### **Not in breach of Rule 5.1 and Rule 5.2**

#### **Other matters: complaints handling and transparency**

The BBC Charter and Agreement introduced the “BBC First” system of complaints handling. The BBC First system allows audiences to hold the BBC to account by engaging with it directly through a single complaints process, with independent regulatory oversight of editorial matters by Ofcom.

Public confidence in the operation and effectiveness of the BBC’s complaints process depends on the BBC being sufficiently transparent in how it handles and resolves complaints. Ofcom has, on a number of occasions, raised with the BBC the issue of transparency in its complaints handling. In particular, in 2017 we set a series of requirements, by way of our [BBC Complaints Determinations](#), for the BBC to publish detailed information regarding its complaints function. This was intended to build and maintain public confidence in the operation of the BBC First framework. Since then we have reviewed and amended these Determinations to improve the transparency of the BBC’s complaints handling, most recently in June 2022.

As mentioned above, on 7 January 2022 after extensive media coverage, the Director-General of the BBC instructed the ECU to investigate the complaints about both the Broadcast and the Online Article as a matter of urgency. We observed that the ECU published a full Finding providing an explanation of the ECU’s reasons for its decision. Ofcom acknowledged the complexities of this case and the intense scrutiny the ECU Finding was subject to by audiences and stakeholders. It is critical that the BBC is open and clear with audiences about how it handles and responds to complaints. This is an area of concern which Ofcom recently highlighted in its statement proposing changes on *How We Regulate the BBC*<sup>32</sup>, which included recommendations for the Government to consider as part of its Mid-Term Review of the BBC Charter. As part of this Review, Ofcom recommended that the BBC must be more transparent and open about its decision-making. Ofcom remains concerned about how the BBC

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<sup>31</sup> [Anti-Semitic reports in London hit new high, charity says - BBC News](#).

<sup>32</sup> See [documents published by Ofcom on 22 June 2022](#) about its regulation of the BBC.

handled the initial complaints in this case, which resulted in significant distress and anxiety to the Jewish community and community stakeholders.

We note that in October 2021, less than two months before the Broadcast took place and the Online Article was first made available, the BBC published the results of the Serota Review<sup>33</sup>. Amongst other things, the Serota Review stated:

“Many of the people we spoke to in this Review felt that a culture of defensiveness still exists at the BBC. They suggested that there remains a tendency to rush into immediate defence of BBC content and an unwillingness to admit mistakes, especially in the face of external pressure”.

We acknowledge the steps that the BBC has been taking to implement the findings of the Serota Review through its Impartiality and Editorial Standards Action Plan<sup>34</sup>. However, we consider that, given the strength of feeling expressed by a range of significant stakeholders in the Jewish community disputing a key aspect of both the Broadcast and the Online Article, the BBC could – and should – have acted much more promptly and transparently in responding to the issues raised. In our view, the failure to report swiftly that the audio was disputed created an impression of defensiveness by the BBC among the Jewish community. In our view, it demonstrates that the BBC has further to go in learning how to respond when its reporting is in contention. We consider that prompt acknowledgement by the BBC of the views of the Board of Deputies and OCR and that the BBC’s interpretation of the audio recording was disputed could have gone some way to addressing the concerns of the complainants. We consider it deeply unfortunate that the BBC’s handling of complaints in this case and its failure to represent the views from the Jewish community became the overriding focus of this incident and detracted from the focus being on the antisemitic incident and the experiences of the victims.

We expect the BBC to take account of our considerations in this case as it implements its Impartiality and Editorial Standards Action Plan. We will also review how the BBC has addressed the complaints handling and transparency issues raised by this case.

## **Annex 1 – All versions of the Online Article**

As part of its representations, the BBC provided Ofcom with all versions of the Online Article.

**First iteration of the Online Article published:** Thursday 2nd December 2021 Approx. 15:00

**Headline:** Oxford Street: Men filmed spitting at Jewish people on bus

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<sup>33</sup> This review was commissioned by the BBC Board following the publication of Lord Dyson’s report into the circumstances surrounding Martin Bashir’s 1995 *Panorama* interview with Diana, Princess of Wales. See: [The Serota Review BBC editorial processes, governance, and culture](#), October 2021.

<sup>34</sup> See: [Impartiality And Editorial Standards BBC Action Plan, Incorporating The Response To The Serota Review](#), October 2021.

[footage of the incident] with caption: People on the bus had been out celebrating the Jewish festival of Hanukkah

An alleged anti-Semitic incident involving passengers on a bus in central London is being treated as a hate crime, the Met Police has said.

It happened on Monday night in Oxford Street during the Jewish festival Hanukkah, the force said.

Footage appears to show men spitting at and abusing people on the bus. Boris Johnson said the clip was “disturbing”.

In the video, a man seems to make a Nazi salute and others wave their shoes – an insult in some countries.

No arrests have been made and police have appealed for information in the wake of the footage being posted on social media.

Some racial slurs about Muslims can also be heard from inside the bus, which had been hired by a group of Jewish people celebrating the eight-day festival. The Met said the incident would be looked at “in its entirety”.

[The passenger], who was on the bus, said she did not hear anyone saying anything provocative to the group of men gathered outside the vehicle.

She described the group initially “standing around watching and making fun” of those on the bus.

‘Really intense’

[The passenger] added: “Then as it went on they started getting really aggressive, shouting and being abusive.

“We wanted to leave but couldn’t because of the traffic.

“That’s when they came up to the bus and started banging on the bus with their shoes, swearing and shouting at us and making gestures.

“It was all really intense”.

[Link to news story: Jewish man abused twice in an hour on bus and Tube]

The Met Police said officers were deployed to investigate after the incident was reported on Monday.

They met the bus in Grosvenor Place and spoke to the occupants.

A spokesman added: “The group shown in the video could not be located at the time of the incident and there have been no arrests.

“The incident is being treated as a hate crime and officers will be assessing the available evidence to identify any possible lines of inquiry”.

However, [the passenger] said she was disappointed in the police response.

She added: “They said they couldn’t do anything at the time because there was no actual violence that happened. That’s kind of ridiculous.

“I do feel like it was only after the video got more attention online that I started to see that the police started to take it more seriously.

“That’s pretty disappointing. They should have done something sooner”.

[Link to news story: Anti-Semitic reports in London hit new high]

[Link to news story: Anti-Semitism in London spiked amid tensions]

The President of the Board of Deputies of British Jews, Marie van der Zyl, called for swift arrests.

She said: “We are appalled by the horrifying footage of Jewish people targeted on Oxford Street.

“We note that besides attempts to spit at them, at least one of the perpetrators appears to be performing a Nazi salute”.

**Second iteration of the Online Article published:** Thursday 2nd December 2021 approximately 18:00.

Article headline amended

**Headline:** Oxford Street: Images issued after men filmed spitting at Jews on bus

Article showed image of three men with caption: Police want to speak to these three men over an incident officers are treating as a hate crime.

**Third iteration of the Online Article published:** Friday 3<sup>rd</sup> December 2021 approximately 18:00. Article corrected to amend to one slur.

**Headline:** Oxford Street: Images issued after men filmed spitting at Jews on bus

Article showed image of three men with caption: Police want to speak to these three men over an incident officers are treating as a hate crime.

Images have been released of three men police want to speak to about allegations of anti-Semitic abuse directed at Jewish passengers on a bus.

A group was filmed approaching the privately hired bus on Oxford Street in central London on Monday.

Footage shows men spitting at the bus and apparently abusing passengers. Prime Minister Boris Johnson has described the video as “disturbing”.

Det Insp Kevin Eade said police were treating the incident as a hate crime.

In the video, which was posted on social media, a man seems to make a Nazi salute and others wave their shoes – an insult in some countries.

Det Insp Eade said: “This was a deeply upsetting incident for a community group who were celebrating the Jewish festival, Hanukkah.

There is no place in our city for hate crime. Everyone should be able to enjoy their lives without harassment and I urge anyone who can name the individuals pictured to contact police without delay”.

A slur about Muslims can also be heard from inside the bus. The Met said the incident would be looked at “in its entirety”.

[footage from the incident with caption: People on the bus had been out celebrating the Jewish festival of Hanukkah]

[The passenger], who was on the bus, said she did not hear anyone saying anything provocative to the group of men gathered outside the vehicle.

She described the group initially “standing around watching and making fun” of those on the bus.

‘Really intense’

[The passenger] added: “Then as it went on they started getting really aggressive, shouting and being abusive.

“We wanted to leave but couldn’t because of the traffic.

“That’s when they came up to the bus and started banging on the bus with their shoes, swearing and shouting at us and making gestures.

“It was all really intense”.

[Link to news story: Jewish man abused twice in an hour on bus and Tube]

The Met Police said officers were deployed to investigate after the incident was reported on Monday. They met the bus in Grosvenor Place and spoke to the occupants.

A spokesman added: “The group shown in the video could not be located at the time of the incident and there have been no arrests.

However, [the passenger] said she was disappointed in the police response.

She added: “They said they couldn’t do anything at the time because there was no actual violence that happened. That’s kind of ridiculous.

“I do feel like it was only after the video got more attention online that I started to see that the police started to take it more seriously.

“That’s pretty disappointing. They should have done something sooner”.

[Link to news story: Anti-Semitic reports in London hit new high]

[Link to news story: Anti-Semitism in London spiked amid tensions]

The President of the Board of Deputies of British Jews, Marie van der Zyl, called for swift arrests.

She said: “We are appalled by the horrifying footage of Jewish people targeted on Oxford Street.

“We note that besides attempts to spit at them, at least one of the perpetrators appears to be performing a Nazi salute”.

*Correction 3<sup>rd</sup> December: During the editing process a line was added to this article reporting that racial slurs about Muslims could be heard from inside the bus. This line has been amended to make clear that “a slur about Muslims” could be heard.*

**Fourth iteration of the Online Article published:** 26 January 2022 12:00. Article amended to include ECU Finding

**Headline:** Oxford Street: Images issued after men filmed spitting at Jews on bus

[Article showed image of three men with caption: Police want to speak to these three men over an incident officers are treating as a hate crime]

Images have been released of three men police want to speak to about allegations of anti-Semitic abuse directed at Jewish passengers on a bus.

A group was filmed approaching the privately hired bus on Oxford Street in central London on Monday.

Footage shows men spitting at the bus and apparently abusing passengers. Prime Minister Boris Johnson has described the video as “disturbing”.

Det Insp Kevin Eade said police were treating the incident as a hate crime.

In the video, which was posted on social media, a man seems to make a Nazi salute and others wave their shoes – an insult in some countries.

Det Insp Eade said: “This was a deeply upsetting incident for a community group who were celebrating the Jewish festival, Hanukkah.

There is no place in our city for hate crime. Everyone should be able to enjoy their lives without harassment and I urge anyone who can name the individuals pictured to contact police without delay”.

The initial BBC report said a slur about Muslims can also be heard from inside the bus. This claim has been disputed. (You can see details about the BBC’s response to that dispute below.)

The Met said the incident would be looked at “in its entirety”.

[Footage from the incident with caption: People on the bus had been out celebrating the Jewish festival of Hanukkah]

[the passenger], who was on the bus, said she did not hear anyone saying anything provocative to the group of men gathered outside the vehicle.

She described the group initially “standing around watching and making fun” of those on the bus.

‘Really intense’

[The passenger] added: “Then as it went on they started getting really aggressive, shouting and being abusive.

“We wanted to leave but couldn’t because of the traffic.

“That’s when they came up to the bus and started banging on the bus with their shoes, swearing and shouting at us and making gestures.

“It was all really intense”.

[Link to news story: Jewish man abused twice in an hour on bus and Tube]

The Met Police said officers were deployed to investigate after the incident was reported on Monday. They met the bus in Grosvenor Place and spoke to the occupants.

A spokesman added: “The group shown in the video could not be located at the time of the incident and there have been no arrests.

However, [the passenger] said she was disappointed in the police response.

She added: “They said they couldn’t do anything at the time because there was no actual violence that happened. That’s kind of ridiculous.

“I do feel like it was only after the video got more attention online that I started to see that the police started to take it more seriously.

“That’s pretty disappointing. They should have done something sooner”.

[Link to news story: Anti-Semitic reports in London hit new high]

[Link to news story: Anti-Semitism in London spiked amid tensions]

The President of the Board of Deputies of British Jews, Marie van der Zyl, called for swift arrests.

She said: “We are appalled by the horrifying footage of Jewish people targeted on Oxford Street.

“We note that besides attempts to spit at them, at least one of the perpetrators appears to be performing a Nazi salute”.

*Correction 3<sup>rd</sup> December: During the editing process a line was added to this article reporting that racial slurs about Muslims could be heard from inside the bus. This line has been amended to make clear that “a slur about Muslims” could be heard.*

*Amendment 26 January 2022: The article published on 2 December 2021 included a line which said that slurs about Muslims could be heard coming from the bus. The article was amended the following day to say that only one such slur could be heard. Since publication of that amendment, the claim a slur could be heard has been disputed by Hebrew speakers and others. In response to criticism of the*

*reporting the director general of the BBC instructed the Executive Complaints Unit (ECU), which is editorially independent from BBC News, to investigate a number of issues relating to the original reporting of the incident and the subsequent dispute over whether a slur could be heard. You can read the ECU's findings here [hyperlink to the ECU Finding].*

## Annex 2 – BBC timeline

As part of its representations, the BBC provided Ofcom with a timeline for the incident, as set out below. Redactions in respect of information provided by the BBC in relation to third parties and additions made by Ofcom are shown with square brackets.

Monday 29 November 2021

- At about 8pm an attack on a group of Jewish people celebrating Chanukah took place outside a bus in Oxford Street, London.

Wednesday 1 December 2021

- BBC London became aware of the video circulating on social media.
- The BBC Network News Editor posted a report on the event in the Jewish Chronicle onto the BBC London WhatsApp group on Wednesday afternoon at 2.40pm.
- [ ✂ ] Network Journalist with the “Society” team posted a story on Quickfire (the internal BBC Story alert system)<sup>35</sup> at 3.51pm which included a statement from the Metropolitan Police. He was not in a position to write the story at the time as he was out and about, but Quickfired the following copy:

An alleged antisemitic incident on a bus in central London is being treated as a hate crime, the Metropolitan Police have said.

The abuse took place on Monday night, police said, during the eight-day Jewish festival of Hanukkah.

A video on social media showed a group of men spitting and abusing people on a bus.

One man appears to make a Nazi salute and others wave their shoes – an insult in some countries.

Police say they are investigating and have appealed for information.

The President of the Board of Deputies of British Jews condemned the incident and called for swift arrests.

Marie van der Zyl said: “We are appalled by the horrifying footage of Jewish people targeted on Oxford Street. We note that besides attempts to spit at them, at least one of the perpetrators appears to be

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<sup>35</sup> It is not unusual for story teams e.g. Society, to flag stories in Quickfire and for TV, radio or online to work them up. Society has one person who works on online stories but this is for long reads and long term planned items.

performing a Nazi salute. We hope the police will swiftly identify and arrest those involved in this disgusting incident”.

A statement from the Met Police said officers were deployed to investigate after the incident was reported on Monday. They met the bus in Grosvenor Place and spoke to the occupants.

No arrests were made.

“The group shown in the video could not be located at the time of the incident and there have been no arrests,” a statement from the Met said.

“The incident is being treated as a hate crime and officers will be assessing the available evidence to identify any possible lines of enquiry.

“Anyone who recognises the men shown in the video, or who has other information that may assist officers, can call police on 101 with the reference 6187/29NOV.

“Information can also be provided to Crimestoppers, anonymously, on 0800 555 111”.

ENDS

[Network Journalist] available for outlets.

FULL MET STATEMENT:

We are aware of a video posted on social media which shows the occupants of a bus being abused by a group of men.

We believe the video was filmed on Oxford Street, W1 at around 8pm on Monday, 29 November. The occupants of the bus were Jewish and the abuse directed at them was allegedly antisemitic in nature.

Police were called at the time of the incident and officers were deployed.

While they were en route, the bus left the location to avoid any further confrontation. Officers met it in Grosvenor Place to speak to the occupants and check on their welfare. Details of the incident were taken. There were no reports of any injuries.

The group shown in the video could not be located at the time of the incident and there have been no arrests. The incident is being treated as a hate crime and officers will be assessing the available evidence to identify any possible lines of enquiry.

Anyone who recognises the men shown in the video, or who has other information that may assist officers, can call police on 101 with the reference 6187/29NOV.

Information can also be provided to Crimestoppers, anonymously, on 0800 555 111.

- At 4.30pm the Network News Editor flagged he could hear the phrase “*dirty Muslims*” in the audio recording. The Newsroom Editor also heard the phrase. [The Network Journalist] then put this to the Metropolitan Police, who responded: “*The incident will be looked at in its entirety but we’re not going to provide a commentary on the various aspects as it progresses*”.
- BBC London tried to establish the owner of the video. UGC (the User-Generated Content team which deals with information and content produced on social media) also tried to find out more.
- By the evening efforts were still being made to determine how the incident started in order to get the full context, and a draft story was prepared by a member of the BBC London Online team.
- By 6.50pm a journalist from UK Front Page had been alerted in the event that the story developed overnight and she was made aware there were still some issues in confirming down ownership of the video.
- Israel National News ran a piece on the incident.

Thursday 2 December 2021

- BBC London were told by the England Chief Sub that UK Front Page were keen on pursuing the story.
- The story was discussed in the BBC London morning editorial meeting. Both BBC London online and TV worked on the story together<sup>36</sup>.
- [The Reporter] a senior BBC London reporter, worked on the story through the day to provide an insert into the 18:30 programme.
- [X] at the Community Security Trust, which provides security in the Jewish community and monitors anti[s]emitic activities gave the BBC what appeared to be confirmation that he had heard the phrase “*Dirty Muslims*” in the soundtrack of the mobile phone video [X][<sup>37</sup>]

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<sup>36</sup> Ofcom has asked “*what steps the BBC took, ahead of the BBC London News Broadcast (and separately, ahead of the Online Article)*” in connection with verification but, as will become clear, these were at no point separate processes.

<sup>37</sup> [As the ECU acknowledged in their Finding, the responsibility for verification rested with the BBC journalists and managers and at least seven members of BBC London news staff and a senior editor in network news had

- BBC London blooped the men in the video attacking the bus and bleeped the phrase believed to be “Dirty Muslims” at 3” in
- [The Reporter] did a report, in the form of a two-way, in the 6.30pm edition of BBC London News on BBC One [transcript included].
- During the afternoon the BBC London Online Editor assigned a second reporter to work on the online story.
- The second reporter began liaising with [the Network Journalist] to create an online story using [his] copy, statements from a rabbi, the police etc.
- Programme Legal Advice and Editorial Policy were consulted about the story in general. Both said it was in the public interest to run the video even without the consent of the video owner. Editorial Policy said: *“I think the copy is fine if it’s accurate ie I don’t know if there was more than one anti-Muslim slur”*. Programme Legal advice offered no view other than to say the copy was legally satisfactory.
- It was agreed amongst the BBC London team that comments on the bus should be included in the story, at least seven people in the BBC London newsroom having confirmed they heard the phrase “Dirty Muslims” used at 3” in.
- The piece was subbed and published by BBC London at around 3pm.
- [The Network Journalist] tweeted out the story, which had his by-line on it, and thanked his colleague for their help with it.
- The Metropolitan Police later disclosed that they were hunting three men in connection with the incident, and the story was re-written to reflect this. The “slurs” line did not change.
- The Evening Standard, Metro, Telegraph Online, Mail Online run stories about the attack.

Friday 3<sup>rd</sup> December

- On Friday morning complaints were made about the use of the phrase *“racial slurs”*. By early afternoon the BBC has received a formal complaint suggesting the language being used was Hebrew and not English.
- Alternative interpretations of the phrase were being circulated on Twitter.

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already agreed that the slur could be heard. The CST asked the ECU to reflect that their concern during this exchange was not on confirming or disputing the claim, but on putting the case that, even if a slur had been uttered, there were insufficient grounds for the BBC to refer to it in reports of the incident. The ECU was happy to accept the CST’s account of its position. See the ECU Finding]

- And equalised version of the audio produced by BBC London for internal use appeared to make “Dirty Muslims” at 3” in more clearly audible [sic].
- The BBC News Output Controller listened to an enhanced audio tape of the video along with other senior figures in the Newsroom including the Head of Journalism, the duty News Editor, and a senior Jewish colleague with a working understanding of Hebrew. They all agreed the phrase “Dirty Muslims” was audible, and that the phrase should be reflected in the BBC’s reporting.
- Later that day there was further discussion and the use of “racial slurs” in the article was judged to be inaccurate. It was pointed out by the Newsroom editor that the slur was not racial in nature. It was also agreed that only one slur could be heard clearly.
- The Jerusalem bureau was asked to listen to the audio tape and give a view.
- Late on Friday the article was amended, and the following correction was added:

“Correction 3rd December: During the editing process a line was added to this article reporting that racial slurs about Muslims could be heard inside the bus. This line has been amended to make clear that ‘a slur about Muslims’ could be heard”.

- The following press line was issued:

A BBC spokesperson said: “The article is about the police’s appeal for information. The main focus is the actions of the individuals the police want to identify. The audio appears to show that a slur can be heard coming from the bus. We have changed our story to clarify only one such slur can be heard clearly”.

Briefed: There is an active police investigation.

#### Tuesday 7<sup>th</sup> December

- The BBC’s Jerusalem bureau reported back in response to the 3<sup>rd</sup> December enquiry. The bureau chief had asked a Hebrew speaking contact on 3<sup>rd</sup> December what they could hear. They said: “It’s not clear but I could make out “tikra le mishehu” call someone “hem nichmasim lanu meahora “they are coming in from the back”. However, the bureau chief confirmed she could hear the phrase “Dirty Muslims”.

#### Wednesday 8<sup>th</sup> December

- Head of TV & Online News for BBC England, and Head of Complaints and Compliance for BBC England spoke with Head of Comms for the Chief Rabbi.

#### Thursday 9<sup>th</sup> December

- A firm of translators was contracted to listen to and translate any Hebrew audible and spoken on the bus. The firm agreed to accept the contract only on the basis that the BBC entered into a non-disclosure agreement, so we [the BBC] are not at liberty to identify it, but we can say that it is highly reputable, with a strong track record of commissions from national and international organisations, and that it arranged for four of its Hebrew specialist to assess the material. Three confirmed they heard the phrase “Dirty Muslims” spoken in English, while one heard: “Tikra lemishehu, ze dachuf” (“Call someone it’s urgent”).

Monday 13<sup>th</sup> December

- Head of TV & Online News for BBC England had a second meeting with the head of comms for the Chief Rabbi and made him aware of the verification work.

Monday 13<sup>th</sup> December

- The following Stage 1a reply to complaints was approved:

Thank you for getting in touch.

The article is about the police’s appeal for information about what they described as an attack “allegedly antisemitic in nature”. The main focus of the article is the actions of the individuals the police want to identify those that were shouting at the bus.

The Metropolitan Police described this as “a hate crime” and officers will be assessing the available evidence to identify any possible lines of enquiry. They went on to say “the incident will be looked at in its entirety but we’re not going to provide a commentary on the various aspects as it progresses,” which is what we have reported.

There was a brief reference to a slur that appeared to come from the bus. We amended our story to clarify only one such slur can be heard and also added a correction note advising readers of this change.

The brief reference to the slur was included to ensure the fullest account of the incident was reported. It was not included to diminish the trauma suffered by those on the bus or justify the actions of those shouting abuse.

We will report any further developments as they happen.

Monday 13<sup>th</sup> December

- Following critical commentary on the BBC coverage in the Jewish Chronicle and the Jewish News, the BBC sent the following letter to the editors of both papers (the highlighted sentence was included only in the letter to the Jewish News):

Dear Editor,

This newspaper has covered at length the criticism of the BBC's coverage of the Chanukah bus incident on Oxford Street. We have been cautious in our response because of the ongoing police investigation but we want to address the accusation the BBC has acted unfairly.

Our story was a factual report that overwhelmingly focused on the individuals the police want to identify. In the eighth paragraph of the article, there was a brief reference to a slur, captured in a video recording, that appeared to come from the bus. The slur was expressed in English and can be heard in the recording. Our report reflected this.

It has been claimed what we considered to be an abusive term in English was in fact someone speaking in Hebrew. We have consulted a number of Hebrew speakers in determining that the slur was spoken in English.

The brief reference to the slur was included to ensure the fullest account of the incident was reported. The idea it was included to 'balance' our coverage is simply untrue. Nor was it included to diminish the trauma suffered by those on the bus or justify the actions of those shouting abuse. **We have never repeated the actual words of the slur, as has been suggested.**

Finally, our subsequent reporting of 'allegations of anti-Semitic abuse' reflects the fact that the events are now part of a live police investigation.

Anti-Semitism is abhorrent. We understand this was an upsetting incident and people want to stand up for their communities. But our intentions have been misrepresented. We strive to serve the Jewish community, and all communities across our country, fairly.

Monday 27<sup>th</sup> December 2021

- The Board of Deputies of British Jews send Professor G Zuckerman's [sic] assessment of the audio which disputed the BBC version.
- The Board of Deputies also sent an analysis commissioned from D3 Forensics and DigFind, which said: "*the disputed speech (is) at 00h00m01.589s in and can categorically confirm that the spoken phrase is Hebrew; "Tikrah lemishu, ze dachuf"*."

Tuesday 28<sup>th</sup> December 2021

- The following press line was issued:

A BBC spokesperson said: "Anti-Semitism is abhorrent. We strive to serve the Jewish community, and all communities across our country, fairly."

As we have stated previously, our story was a factual report that overwhelmingly focused on the individuals the police want to identify; those who directed abuse at the bus.

There was a brief reference to a slur, captured in a video recording, that appeared to come from the bus.

We consulted a number of Hebrew speakers in determining that the slur was spoken in English. The brief reference to this was included so the fullest account of the incident was reported”.

Friday 7<sup>th</sup> January 2022

- Secretary of State for Culture, Nadine Dorries MP writes to the Director-General:

Dear Tim

As I’m sure you are aware, it has been raised with me a number of times that the Board of Deputies of British Jews continues to be dissatisfied with the BBC’s coverage of an anti-Semitic incident on 29 November on Oxford Street and the Corporation’s subsequent response to those concerns, which were set out in a letter of 7 December to you from the Board of Deputies.

The scenes on the bus were obviously distressing for not only those involved, but also the wider Jewish community. I’m aware the police are investigating the incident and therefore this may have affected how you have approached addressing the concerns, but clearly the BBC’s coverage of the events of 29 November is a particularly sensitive issue.

Whilst it would obviously be inappropriate for the Government to take a view on the details of the case, as the BBC is editorially and operationally independent, and responsibility for regulation sits with Ofcom, I would like to understand the actions the BBC has taken so far in response to the concerns raised by the Board of Deputies, and how you intend to resolve the issue in a suitably timely manner. You will know my concerns about the speed of the process which I asked officials to communicate to the BBC.

It is crucial that the BBC can be properly held to account for the fulfilment of its Mission and Public Purposes as set out in the Charter, including through a fair and effective complaints process. I expect the Mid-Term Review of the BBC Charter to consider whether this is currently the case.

I would therefore be grateful if we could discuss this during our forthcoming meeting”.

- The following press line was issued:

Anti-Semitism is abhorrent. We strive to serve the Jewish community, and all communities across our country, fairly. As we have stated previously, our story was a factual report that overwhelmingly focused on the individuals the police want to identify; those who directed abuse at the bus.

We know that there are some strong views about this report. We take complaints very seriously and they are being taken through our complaints process. Tim Davie has instructed that this process is accelerated to the Executive Complaints Unit which is editorially independent from news and will ensure complaints are fully responded to as swiftly as possible.

Monday 10<sup>th</sup> January

- The Director-General's Office passed to the ECU five complaints (including that of the Board of Deputies) which had been addressed to the Director-General and notified it of his instruction to investigate the issues they raised and report its conclusions to him by 14 January.
- A standard 1b reply was drafted, offering escalation to the ECU:

Thank you for getting in touch again about our article Oxford Street: Images issued after men filmed spitting at Jews on bus (<https://www.bbc.co.uk/news/uk-england-london-59495842>)

I'm sorry you were unhappy with our response to your complaint. You may have already seen in the press that the BBC's Director-General has asked for the complaints process regarding this story to be accelerated.

As a result, you can now contact the BBC's Executive Complaints Unit (ECU) – which is Stage 2 of the BBC's complaints process – if you were unhappy with the Stage 1 response you received and believe there's been a potential breach of standards which should be investigated.

If you wish to send a complaint to the ECU, you must follow the directions set out below. Please do so as soon as possible – and no later than 20 working days after receiving this reply.

How to contact the ECU:

We've provided a unique link for you in this email. This will open up further information about how to submit your complaint. You'll be asked for the case reference number we've provided in this reply. Once you've used the link and submitted your complaint, the link will no longer work.

This is your link to contact the ECU if you wish:

Full details of how we handle complaints are available at <http://www.bbc.co.uk/complaints/handle-complaint/>.

Friday 14 January

- The ECU sent a summary of its main conclusions to the Director of Editorial Policy and Standards for reporting to the Director-General.

Wednesday 26<sup>th</sup> January

- A reasoned summary of the ECU's findings was posted on the complaints pages of [bbc.co.uk](http://bbc.co.uk), and appropriate versions of the finding were then sent to the Board of Deputies and others who had corresponded with DG. A note of the finding, and a link to it, were added to the online article and a posting was made on the Corrections and Clarifications page of [bbc.co.uk](http://bbc.co.uk).

Thursday 3 February

- An "update and clarification", reflecting representations from the CST, was added to the summary of the ECU's finding.