

# **Ofcom Broadcast Bulletin**

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## Introduction

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

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

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

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

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

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

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

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

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

## Standards cases

### In Breach

#### Temptation

*Klear TV, 25 July 2013, 07:55*

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#### Introduction

Klear TV is a UK digital satellite television channel that broadcasts “ethnic and mainstream programming” to an “Afro-Caribbean and European” audience. The licence for this channel is held by Millennium Media House Limited (“Millennium Media” or “the Licensee”)<sup>1</sup>.

A complainant alerted Ofcom to the inclusion in the drama *Temptation* of scenes of a sexual nature, including a scene of sexual violence, which the complainant did not consider to be appropriate for the time of transmission.

*Temptation* was a dramatised feature film of approximately two hours in duration broadcast at 07:55. The film, set in Ghana, was about a troubled marriage between a couple, Michael and Nicky. The film focused on a brief sexual liaison (between Michael and a second married woman, Tricia) and its consequences, which included Michael being blackmailed by another character, Raymond. The conclusion of the film showed Michael discovering that Tricia was Raymond’s accomplice in the blackmail plot.

#### Violent and sexual scenes

Ofcom noted that the programme included scenes of a sexual nature before the 21:00 watershed, involving Michael, Tricia and Raymond.

The Licensee broadcast an audience warning notice before the programme began. The notice, which was shown on-screen for eight seconds, read:

*“Parental Advisory Explicit Content. Parental Guidance is advised. This Programme may contain some mild violence, language or brief nudity. Some scenes may be unsuitable for young children.”*

Two linked scenes in the programme, which were shown from approximately 08:18, were of particular concern to Ofcom.

Both scenes took place in a hotel bedroom. In the first scene Michael and Tricia were shown in bed together. Michael, dressed in a white vest and black trousers, was shown lying on top of Tricia, who was wearing a short strapless pink satin dress. As Michael stroked Tricia’s face and kissed her, an intruder (Raymond) entered the hotel room. From a close-up of Tricia’s face, the camera panned out to reveal Raymond pointing a gun at the couple.

Over the next two minutes, Raymond continued to brandish a gun while speaking to Michael and Tricia, instructing them to kiss in order to enable him to take a photo of

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<sup>1</sup> The service stopped broadcasting on the digital satellite platform on 18 September 2013. At the date of publication of this finding it was not known whether, and if so when, the service would start broadcasting again.

the couple in bed together. Michael was then shown getting up slowly from the bed and moving towards Raymond while attempting to reason with him. As Michael approached, Raymond struck him across the head with his gun, knocking Michael to the ground. Michael was then shown holding his head with his right hand, which was covered in blood.

Raymond was then shown forcing a gun between Trisha's ankles to part her legs, before aggressively pushing the gun up between Tricia's thighs towards her genital area. The camera panned up to show a distressed and crying Tricia, who was then forced back down on to the bed by Raymond, grabbing her by the neck with his free hand. A close-up of Michael holding his head with his blood-soaked hand was then shown, before cutting to a black screen on which the following caption was displayed:

*"The first step towards avoiding Temptation, is recognizing our human tendency to be tempted by our own fleshly desires..."*

The second scene then immediately followed the caption. Michael was again shown in close-up lying bleeding and in distress on the bedroom floor. This shot was followed by a sequence lasting approximately 22 seconds in which a bare-chested Raymond was depicted on top of Tricia in the bed and pointing a gun to her head. Both characters bodies could be seen from the waist up, with their movements clearly indicating that Tricia was being raped. Throughout, Tricia could be heard crying in distress. This sequence, which was blurred and moved in and out of focus, was intercut with close-up shots of Michael lying on the floor, seemingly struggling to speak. A black screen was then shown, upon which the following caption was displayed:

*"Temptation is a given, so don't be surprised by it. Rather, expect to be tempted. Be prepared for it..."*

Michael was then again shown in close-up, with blood visible on the floor tiles below his head. As Michael tried to get up off the floor, Tricia could also be seen sitting upright on the bed, covered by the bed sheets, crying.

Ofcom considered this material raised issues warranting investigation under Rule 1.3 of the Code, which states:

*"Children must also be protected by appropriate scheduling from material that is unsuitable for them"*

We therefore sought comments from the Licensee as to how the material complied with this rule.

### Offensive Language

Ofcom noted that in a later scene, broadcast at 08:42, Michael and Raymond were shown having a heated argument in Michael's house. After Michael pushed Raymond over, the latter responded:

*"Think you can escape from me by changing your number? Now you can see how easy it is for me to get to your family. Today I am here laughing and playing; next time I come here, I'm gonna be fucking your wife on your bed"*

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

“The most offensive language must not be broadcast before the watershed (in the case of television)...”.

We therefore sought comments from the Licensee as to how the material complied with this rule.

## **Response**

Millennium Media apologised for the broadcast, stating that an unedited version of the film had been shown in error. The Licensee explained that, although it edited all films in order to comply with the Code, some unedited versions of older content had previously been stored at its outsourced play-out station. In this case, Millennium Media stated that a member of staff had mistakenly inserted an unedited film into the schedule.

The Licensee said that following a previous breach<sup>2</sup> of the Code it has taken steps to ensure no further breaches occur. However, Millennium Media acknowledged that it had breached the Code again. Therefore, it said that the member of staff responsible for the error was no longer involved in “slotting in programs”.

The Licensee added that recurring compliance issues were a contributing factor to the decision for the service to stop broadcasting on 18 September 2013. Following the broadcast of the programme in this case, and while Klear TV had stopped broadcasting for the present, it “had taken steps to overhaul its compliance measures”. These steps included Millennium Media: “sort[ing] its content out along with others issues”; engaging “more competent” compliance staff; and changing its “third party service provider”, whom the Licensee said had “contribute[d]” to the broadcasting of this programme.

## **Decision**

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content in order to ensure the standards objectives, including that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

### Violent and sexual scenes

Rule 1.3 states that “Children must be protected by appropriate scheduling from material that is unsuitable for them”. Appropriate scheduling is judged by a number of factors including: the nature of the content; the likely number and age of the audience; the time of the broadcast; and likely audience expectations.

We first considered whether the programme contained material which was unsuitable for children.

Ofcom noted that the programme included a scene in which a man first struck another with a gun, leaving the victim bleeding and incapacitated. The assailant was then shown forcing a gun between a woman’s legs, which he then pushed up

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<sup>2</sup> See issue 236 of Ofcom’s Broadcast Bulletin (see <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb236/obb236.pdf>). In that case, we also recorded breaches of Rule 9.4: “Products, services and trade must not be promoted in programming” and Rule 9.5: “No undue prominence may be given in programming to a product, service or trade mark...”.

towards her genital area, before grabbing her by the neck and forcing her down on a bed. As the first victim looked on, the by now seemingly naked assailant was shown lying on top of the woman, pointing a gun to her head. Although the man and the woman were visible only from the waist up, it was clear that the woman, who was visibly distressed and crying throughout, was being raped by the man.

In Ofcom's view, this material was clearly unsuitable for children. We therefore went on to assess whether the content has been appropriately scheduled.

Ofcom considered that the programme, which concerned one character blackmailing another about the latter's infidelity, would appeal primarily to an adult audience. However, we noted that Klear TV was at the time of broadcast listed in the general entertainment section of the Sky EPG and that access to its content was not restricted. Accordingly, the material described above, which was transmitted in the morning during a school holiday period, was shown at a time when children were likely to be available to view.

Although Ofcom noted that the programme was preceded by a warning, the provision of such information – while it may be useful as a guide to viewers in some circumstances – is not, in itself, sufficient to ensure that that material is appropriately scheduled. In particular, we considered the reference to "mild violence, language and brief nudity" was clearly insufficient to prepare viewers for content which had the potential to cause considerable distress to younger viewers and offence more generally. Given the above, we considered the material was not appropriately scheduled. As a result, we concluded the broadcast was in breach of Rule 1.3.

### Offensive language

Rule 1.14 states that the most offensive language must be not broadcast on television before the watershed. Ofcom's research on offensive language<sup>3</sup> clearly notes that the word "fuck" and its derivatives are considered by audiences to be among the most offensive language, particularly when used in a threatening manner.

The broadcast of the word "fucking", used in this case by one male character who had already committed a violent sexual assault on a woman within the context of a threat towards another, at approximately 08:45 was a clear example of the most offensive language being broadcast before the watershed. The material was therefore in breach of Rule 1.14.

Ofcom noted that Millennium Media: apologised for the broadcast of this programme, which it said had been shown in its unedited form before the watershed as a result of an error by a member of staff; acknowledged that it had breached the Code; and stated in its response to Ofcom that it "had taken steps to overhaul its compliance measures" in light of the incident.

Ofcom considered the broadcast of sexual content, including a violent sexual assault, before the watershed was a significant failure of compliance by Klear TV. We also noted that this was the second breach of Rule 1.3 recorded against the Licensee this year<sup>4</sup>. Although that finding was published after the programme in this case was broadcast, Ofcom was concerned that in neither case had the Licensee provided

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<sup>3</sup> Audience attitudes towards offensive language on television and radio, August 2010 (See <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>).

<sup>4</sup> See footnote 2.

Ofcom with any detail about the steps it had put in place at the time to ensure the material it broadcast complied with the Code. We are putting Klear TV on notice that Ofcom may take further regulatory action should similar compliance issues arise.

**Breaches of Rules 1.3 and 1.14**

## In Breach

### Red Light Central

*Red Light 2, 31 August 2013, 22:00*

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#### Introduction

*Red Light Central* is interactive adult sex chat advertising content broadcast on the service Red Light 2, which is available freely without a requirement for mandatory restricted access on Sky channel number 902. This channel is situated in the 'adult' section of the Sky Electronic Programme Guide ("Sky EPG"). The licence for this service is owned and operated by Playboy UK TV Limited ("the Licensee"). Viewers are invited to contact on-screen female presenters via premium-rate telephony services ("PRS"). The female presenters dress and behave in a sexually provocative way while encouraging viewers to contact the PRS numbers.

Ofcom received a complaint that at 22:10 two female presenters appeared on-screen together miming sexual acts with one another.

The presenters, who wore white thongs and white lace vests (which for much of the time were pulled down to reveal their breasts), were in a set designed to look like a bathroom. During the broadcast they were shown touching each other's breasts and buttocks, rubbing their breasts against each other and miming sexual acts together. At approximately 22:48 the presenters went into the bathtub and rubbed water onto each other's breasts and buttocks and continued to mime sexual acts such as masturbation and oral sex. The presenters, when addressing the viewers, said that this was a "*special two for one*" and it was "*the first official two for one*" on the service and that the presenters were "*horny for each other*".

All PRS chat-based services, including 'adult chat' services and 'daytime chat' services are regarded as long-form advertising and are regulated as advertising. Such services continue to be regulated by Ofcom, but under the UK Code of Broadcast Advertising (the "BCAP Code"). Ofcom considered that the advertising content raised issues warranting investigation under Rule 4.2 of the BCAP Code, which states:

"Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards."

We therefore requested comments from the Licensee as to how the advertising content complied with this rule.

#### Response

The Licensee did not submit any representations to Ofcom.

#### Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that "the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented." This objective is reflected in the rules set out in the BCAP Code.

The BCAP Code contains rules which permit 'adult chat' services to be advertised within prescribed times and on free-to-air channels that are specifically licensed by Ofcom for that purpose. But they must carefully circumscribe their content to exclude inappropriate material. These rules apply to both 'daytime' and 'adult chat' services.

When setting and applying the standards in the BCAP Code to provide adequate protection to members of the public from serious or widespread offence, Ofcom must have regard to the need for standards to be applied in a manner that best guarantees an appropriate level of freedom of expression in accordance with Article 10 of the European Convention of Human Rights as incorporated in the Human Rights Act 1998. However, the advertising content of 'adult chat' services has much less latitude than is typically available to editorial material in respect of context and narrative. The primary intent of advertising is to sell products and services, and consideration of acceptable standards will take that context into account.

Rule 4.2 of the BCAP Code states that: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".

On 4 February 2013, Ofcom published revised guidance on the advertising of telecommunications-based sexual entertainment services (the "Guidance")<sup>1</sup>. The Guidance sets out what Ofcom considers to be acceptable to broadcast on these services post-watershed<sup>2</sup>. Ofcom has also made clear in a number of published decisions the type of material that is unsuitable to be broadcast in 'adult chat' advertising content which is available without mandatory restricted access.

The Guidance states that licensees should:

*"take particular care if two or more presenters appear together on-screen. If there is any contact between the presenters of an erotic or sexual nature (for example kissing, stroking or contact between thighs, breasts or genital areas) or any miming or simulation of a sexual act performed by one presenter on another, in Ofcom's view there is a high risk of causing serious or widespread offence against generally accepted standards."*

Between 22:10 and 22:48 the two female presenters adopted a variety of sexual positions, such as on all fours with their buttocks facing the camera, and lying back with their legs apart, and touched, stroked and rubbed one another with the intention of making viewers think that they were engaging in sexual acts with one another. These acts, which were mimed, included stroking the other's buttocks and massaging the other's breasts, rubbing their breasts together, and miming oral sex as one presenter lay back with her legs apart. In addition, the presenters moved continuously rubbing their bodies together so that their breasts rubbed against the other's body, including her buttocks. At 22:48, the two presenters got into the bathtub, pulled each other's tops down to their waists, and rubbed water and foam into one another's breasts. In addition, one presenter sat in the bathtub with her legs wide open as the other presenter mimed oral sex.

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<sup>1</sup> Ofcom's guidance on the advertising of telecommunications-based sexual entertainment services and PRS daytime chat services updated and reissued on 4 February 2013. See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/bcap-guidance.pdf>.

<sup>2</sup> For example, *Elite Nights*, Studio 66 TV 2, issue 223 of Ofcom's Broadcast Bulletin, 4 February 2013: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb223/obb223.pdf>.

Ofcom noted that the actions were mimed and no genital or anal detail was visible. However, in Ofcom's view the material clearly showed continuous contact between the presenters as they stroked each other's breasts and buttocks and the material featured the miming of sexual acts by one presenter on the other. This is clearly at odds with the Guidance. In Ofcom's view, the broadcast of this material in 'adult chat' advertising content was likely to cause serious or widespread offence.

Ofcom also took into account whether appropriate scheduling restrictions were applied to this material. Ofcom noted that the content was broadcast well after the 21:00 watershed, and that viewers generally expect on all channels that stronger material will be shown after the 21:00 watershed. Ofcom had regard to the fact that this channel was positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the Sky EPG than on other channels in other sections. However, in this case (given the frequent and prolonged contact between the presenters, particularly in the bathtub, and the miming of sexual acts on one another which clearly did not comply with the Guidance), the location of the channel in the 'adult' section of the Sky EPG and the time of the broadcast at 22:00 were not sufficient to ensure serious or widespread offence against generally accepted standards was not caused.

Taking into account all these factors, Ofcom concluded that relevant scheduling restrictions were not applied so as to ensure that the material broadcast did not cause serious or widespread offence and this material was clearly in breach of BCAP Code Rule 4.2.

Ofcom has noted that in this instance the Licensee accepted immediately that this content was at odds with the published Guidance. Ofcom therefore advises licensees, providing similar long-form advertising and PRS material, that to ensure compliance with the BCAP Code there is no contact between presenters of an erotic or sexual nature when two presenters appear on-screen at the same time.

#### **Preliminary View: Breach of BCAP Code Rule 4.2**

## In Breach

### Sponsorship of Channel 4 Racing by Dubai

*Channel 4, various dates and times*

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#### Introduction

Channel 4 (or “the Licensee”) shows regular live coverage of horse racing under the title *Channel 4 Racing*. The programmes are sponsored by Falcon and Associates FZ-LLC, a private limited company which acts for the state of Dubai.

During routine monitoring, Ofcom noted sponsorship credits broadcast around *Channel 4 Racing* which featured the former footballer, Trevor Sinclair, discussing his life in Dubai.

We contacted Channel 4, who told us that these credits were part of a series featuring six individuals discussing their lives in Dubai. Channel 4 stated that the credits featured statements made by the individuals about their working lives, leisure activities, and their personal feelings about Dubai.

Channel 4 explained that there were between five and eight credits about each individual, who introduced themselves in the opening credit before stating “*I want you to take a closer look at my Dubai.*” Each credit, which lasted 10 seconds, ended with a shot of horses in the Dubai desert and a voiceover identifying the sponsorship arrangement.

For example, the series of credits featuring Trevor Sinclair contained the following voiceovers and images:

#### Credit One, “Intro”

*“Hi, I’m Trevor Sinclair. I work on the TV doing the Premier League football. I moved here with my family and I’d like you to take a closer look at my Dubai.”*

The credit showed Trevor Sinclair in close-up, playing football with his children and in a boat with Dubai’s skyline visible in the background.

#### Credit Two, “Out With The Boys”

*“I think Dubai is a fantastic place to raise a family. I can get out every day with the boys and do different things.”*

The credit showed Trevor Sinclair playing football and exercising with his children.

#### Credit Three, “Quality of Life”

*“The lifestyle benefits for me and my family are the quality of time we spend together. For that it’s absolutely superb.”*

The credit showed Trevor Sinclair with his family riding in a boat with Dubai’s skyline visible in the background and eating in a restaurant.

Credit Four, "We Love It"

*"When I retired playing football, we came to Dubai for one year. That was five years ago. We love it here."*

The credit showed people on a sandy beach, bunting featuring the flag of the United Arab Emirates and Trevor Sinclair and a young boy on a boat.

Credit Five, "Camels and Hotels"

*"People think about Dubai, they think about the desert, they think about camels, but to me, it's more about community and the outdoor lifestyle."*

The credit showed Trevor Sinclair playing football with his children.

Credit Six, "Dining Out"

*"We tend to eat out quite a lot in Dubai, it's great to have that option where you can eat al fresco."*

The credit showed Trevor Sinclair with his family dining in a restaurant terrace.

Credit Seven, "Fishing Trips"

*"The kids just really enjoy going on fishing trips. They take a lot in, and they get a lot out of it as well."*

The credit showed Trevor Sinclair with his family, fishing from a boat out to sea, with Dubai's skyline visible in the background.

Credit Eight, "Golf"

*"In my opinion the golf out in Dubai is superb. I started playing golf, fell in love with the game, and have been playing average ever since"*

The credit showed two people playing a round of golf.

In total, 46 credits were shown by Channel 4 between 24 August and 14 September 2013.

Ofcom considered these credits raised issues warranting investigation under the following Code rule:

Rule 9.22 "Sponsorship credits must be distinct from advertising. In particular:...

- a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor's products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement."

We therefore requested comments from the Licensee on how the sponsorship credits complied with this rule.

## Response

Channel 4 told us that the 46 credits shown were part of a series of 49 credits featuring six individuals discussing their lives in Dubai.

In its response, which addressed the campaign as a whole, the Licensee told us that the credits were designed to reflect the personal and individual experiences of people who lived and worked in Dubai, rather than to provide a platform for advertising messages from the sponsor. Channel 4 said that the people who featured in the credits, with one partial exception, had not been paid to appear. The Licensee stated that none of the credits had been scripted and that the statements they contained entirely reflected the personal sentiments of the individuals concerned. Accordingly, it considered that there was “a significant difference between this type of advertising message and the use/inclusion of material directly prepared and provided by the sponsor...”.

The Licensee argued that all of the credits in the campaign contained a very clear sponsorship message both in the voiceover – “*Dubai Sponsors Channel 4 Racing*” – and through the use of images of horses. The Licensee also stated that it had been mindful to “ensure that the credits adhered to the principle that there should be no encouragement for viewers to do anything” and that there were “no claims made about the sponsor which would require objective substantiation.” Channel 4 said that it had believed that the focus of Ofcom’s Guidance on Section Nine of the Code<sup>1</sup> had been on the need for licensees to avoid references in sponsorship credits to products and services, rather than the sponsor itself. In developing the campaign, therefore, it had sought to take account of the fact that “the sponsoring brand, the state of Dubai, is not an entity that produces or sells tangible products”. Overall, therefore, Channel 4 considered that because the credits were “based around a highly individualistic perspective” they were sufficiently distinct from advertising to comply with the Code.

Nevertheless, Channel 4 acknowledged that “there are a number of credits where, on reflection, we feel that Ofcom may feel that the language used is such that it could be construed to have, even if that was not the intent, a promotional effect in some sense, even though it is not the sponsor’s message and is simply the expression of an individual.” Accordingly, Channel 4 said it had decided to remove nine credits which it considered featured more “enthusiastic” language from the broadcast schedule, pending the outcome of our investigation. The Licensee felt strongly, however, that four credits<sup>2</sup> about which Ofcom had expressed concerns “should not

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<sup>1</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

<sup>2</sup> The four credits, each of which showed images of the speaker’s life in Dubai, included the following statements:

*“I like taking my dogs to the beach, they enjoy it there you know, they get to play with the water, chase birds...and it’s five minutes from my house.”*

*“I enjoy going to the textile souk because there’s so much energy, there’s so much hustle and bustle and it’s a very vibrant atmosphere.”*

*“One of the places I like to take guests who are visiting me is to the desert...it really brings you back to where we are in the world.”*

be found in breach as they do focus very predominantly indeed on the individual's personal life, feelings and very specific experiences, and do not include any promotional language and/or superlatives about the sponsor itself."

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to ensure the standards objectives, one of which is "that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with". These obligations include ensuring compliance with the Audiovisual Media Services ("AVMS") Directive.

The AVMS Directive limits the amount of advertising a broadcaster can transmit, and requires that advertising is distinguishable from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages.

Rule 9.22(a) of the Code therefore requires the focus of credits to be the sponsorship arrangement and not the attributes of the sponsor, or its products and services. In particular, credits must contain no advertising messages or calls to action.

Ofcom noted the Licensee's argument that the credits had featured a series of individual viewpoints made by the protagonists, rather than objective claims about the sponsor which, as a state, did not directly offer products for sale. However, Ofcom's guidance makes clear that as well as claims which are capable of objective substantiation, other examples of advertising messages may include "the use of promotional language and/or superlatives **to describe the sponsor** and/or its products and services..." (emphasis added).

In our view, many of the statements made by the protagonists inviting viewers to "take a closer look at my Dubai" were less about the individuals concerned, than they were positive testimonials about Dubai as a place to live and work. For example:

*"The quality of life is really quite high here, I mean, the quality of life for business, and the quality of your personal life."*

*"The greenery is unbelievable. People have barbecues in the park, there's lakes, there's ducks, there's bikes you can ride around on. There's a lot to do."*

*"For me personally, I think it's very safe..."*

*"When you wake up and you really don't have to think about what to wear because the weather is always good, that is a bonus!"*

*"Every type of culture or nationality, they blend in Dubai. You can live happily together and it works, y'know?"*

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*"The kids just really enjoy going on the fishing trips. They take a lot in, and they get a lot out of it as well."*

*“When you have an idea, it’s very easy to implement it in the UAE, which is really great, and that is why I call it the city of opportunity.”*

*“Next to me is the tallest tower in the world, behind me is a man-made island...I have to step up my game, be incredible like everything around me!”*

*“I think the thing that surprises everybody is like ‘everything is so clean!’ And it’s hard to keep things clean in the desert, just to let you know.”*

*“People think Dubai is still very young, but I disagree. I think Dubai has arrived and it is the city of the future.”*

We noted Channel 4’s view that the credits as a whole (and four credits in particular) focused on the “specific experiences” of the individuals featured. However, we considered that in 30 cases the credits contained statements which, in combination with the images of Dubai shown on-screen and regardless of whether they were freely given by the people concerned, were essentially promotional advertising messages that served to highlight positive attributes of life in Dubai – e.g. the proximity of beaches or the vibrancy of the souk. As a result, we have recorded a breach of Rule 9.22(a).

Ofcom has published a number of findings in relation to sponsorship credits in recent months, and has made clear the need for licensees to exercise care to ensure that credits do not contain advertising messages. In light of this, we were concerned that Channel 4 had broadcast these credits and are putting Channel 4 on notice that should similar compliance issues arise Ofcom may consider further regulatory action.

#### **Breach of Rule 9.22(a)**

## In Breach

### Hajj Coach

*Islam Channel, 9 October 2013, 17:41*

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#### Introduction

The Islam Channel broadcasts on the Sky digital satellite platform and is directed at a largely Muslim audience in the UK. Its output ranges from religious instruction programmes to current affairs and documentary programmes. The licence for the Islam Channel is held by Islam Channel Limited (“Islam Channel” or “the Licensee”).

A complainant alerted Ofcom to a sponsorship credit broadcast around the programme *Hajj Coach*. Ofcom noted the credit contained the following material:

Voiceover:

*“The Live Prayers from Makka is brought to you by the Arabic intensive programme at Ebrahim College. Learn Arabic and remove those subtitles”.*

On-screen text:

*“The Arabic Intensive Learn the language of the Qu’ran in a Year. [sponsor’s website address and phone number]”.*

Ofcom considered the content of the sponsorship credit raised issues warranting investigation under Rule 9.22(a) of the Code which states:

“Sponsorship credits must be distinct from advertising. In particular:

Sponsorship credits broadcast **around sponsored programmes** must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor’s products, services or trade marks should be for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement.”

We therefore requested comments from the Licensee on how the sponsorship credit complied with this rule.

#### Response

The Licensee considered Ofcom had “incorrectly relied on Rule 9.22[a]” and argued instead that relevant test was set out in Rule 9.19, with which it believed it was compliant. Further, the Islam Channel claimed the material also complied with Rule 9.20, which requires sponsorship credits to be broadcast at specific points.

The Licensee went on to explain how the broadcast of the sponsorship credits also complied with Rule 9.22(b), which is applicable to those sponsorship credits broadcast “during” the sponsored programme.

The Licensee strongly refuted that the credit contained any advertising messages, calls to action or any other information about the sponsor, its products services or trade marks and argued that Ofcom had misunderstood the sponsorship credit.

Ofcom did not consider it necessary to seek the Licensee's formal comments before reaching a Preliminary View in this case.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to ensure specific standards objectives, one of which is "that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with". These obligations include ensuring compliance with the Audiovisual Media Services ("AVMS") Directive.

The AVMS Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is distinguishable from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages.

Rule 9.22(a) reflects this requirement. Among other things, it requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action.

Firstly, we noted the Licensee disagreed with Ofcom's application of Rule 9.22(a) and instead considered 9.22(b) was relevant. However Rule 9.22(b) is only applicable to those sponsorship credits broadcast "during programmes". In this case the credit appeared "around" the sponsored programme, for which requirements are stipulated in Rule 9.22(a). We also noted the Islam Channel's view that the credit complied with Rules 9.19 and 9.20. However, licensees are required to ensure that the content which they broadcast complies with *all* applicable rules. Because the credit appeared around the sponsored programme, we concluded that Rule 9.22(a) was applicable in this case and assessed the content of the sponsorship credit itself.

We noted the credit contained verbal and on-screen statements about the sponsor's service, namely "*Learn Arabic and remove those subtitles*" and "*Learn the language of the Qu'ran in a Year*. [sponsor's website address and phone number]".

The Islam Channel considered that the credit did not contain any advertising messages, calls to action or any other information about the sponsor, its products, services or trade marks. We disagreed. Ofcom considered that the statements about the sponsor's services included in the credit were advertising messages that went beyond identifying the sponsor. In our view, the statements took the form of claims about the outcome viewers could expect to achieve if they used the sponsoring company's intensive Arabic language programme (i.e. sufficient proficiency in Arabic to watch programmes without subtitles). As such they amounted to advertising claims about the benefits of the sponsor's service. The credit was therefore in breach of Rule 9.22(a).

Ofcom has published a number of findings in relation to sponsorship credits in recent years, and has made clear the purpose of credits are to identify the sponsorship arrangement and are not a platform for a sponsor to sell its products or services.<sup>1</sup>

We note this is the second breach<sup>2</sup> of this nature we have recorded against the Islam Channel. We therefore advise the Licensee to take particular care when complying material of this nature in future.

**Breach of 9.22(a)**

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<sup>1</sup> See issue 223 of Ofcom's Broadcast Bulletin (Introduction to Sponsorship Credit findings).

<sup>2</sup> See issue 223 of Ofcom's Broadcast Bulletin (Sponsorship of Isha Adhaan *Islam Channel*, 22 July 2011, 21:55 Sponsorship of Maghrib Adhaan *Islam Channel*, 23 July 2011, 22:05) <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb197/>

## Not in Breach

### **Broadcast news coverage of the Woolwich incident on 22 May 2013**

*Iain Dale Show, LBC 97.3 FM, 22 May 2013, 16:00*

*London Tonight, ITV, 22 May 2013, 18:00*

*Channel 5 News, Channel 5, 22 May 2013, 18:29*

*ITV News, ITV, 22 May 2013, 18:37*

*Channel 4 News, Channel 4, 22 May 2013, 19:00*

*BBC News, BBC News Channel, 22 May 2013, 19:00 and 20:00*

*World News Today, BBC Four, 22 May 2013, 19:00*

*Sky News, Sky News Channel, 22 May 2013, 20:00*

*News Live, Al Jazeera News, 22 May 2013, 20:00*

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#### **Summary of Ofcom's decision**

Ofcom received almost 680 complaints about the broadcast news coverage of the killing of Fusilier Lee Rigby in Woolwich on 22 May 2013<sup>1</sup>. In summary, complainants considered the television coverage of the incident on several channels and programmes (which included mobile telephone footage taken at the scene of the incident) was too graphic and distressing, insensitive and disrespectful to the family of Fusilier Rigby, and gave one of the alleged attackers a platform to justify and explain his actions. Many complainants also expressed concern at the effect that the content may have on younger viewers.

Ofcom assessed all the broadcast material complained of and opened an investigation. Separately Ofcom conducted a monitoring exercise to examine how radio and television broadcasters reported the incident on the day itself.

Ofcom concluded that none of the broadcasts breached Rule 1.3 (material unsuitable for children must be appropriately scheduled) or Rule 2.3 (offensive material must be justified by the context) of the Code. We also concluded that LBC did not breach Rule 1.5 (radio broadcasters must have particular regard to times when children are particularly likely to be listening). While the coverage was detailed and at times distressing, we did not consider that the images were too offensive for broadcast given they were appropriately scheduled and justified by the context. We have however set out some guidance to broadcasters about, for example, the need to give appropriate warnings to viewers before broadcasting material which might cause offence or distress to viewers.

#### **Chronology of events**

The incident occurred at approximately 14:20 on Wednesday, 22 May 2013. It was soon established that the attack had been exceptionally violent and involved a serving British soldier and two suspects. Separately at least two members of the

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<sup>1</sup> On 19 December 2013, Michael Adebolajo and Michael Adebowale were found guilty of the murder of Fusilier Lee Rigby at the conclusion of their trial at the Old Bailey. Ofcom announced on 30 September 2013 that it was postponing publication of this decision (and others related to broadcast coverage of the killing of Fusilier Rigby) until the conclusion of the criminal trial:

<http://media.ofcom.org.uk/2013/09/30/ofcom%E2%80%99s-decisions-on-the-broadcast-coverage-related-to-the-killing-of-fusilier-lee-rigby-on-22-may-2013/>

public are known to have filmed the following on their mobile telephones: both the suspects; the victim; one suspect speaking directly to camera with a machete and knife in his hands covered in blood; three female members of the public attending to the victim; and, later the police arresting both suspects. The incident was widely reported on many radio and television services that day. Many broadcasters chose to show the mobile telephone footage throughout the evening but the footage was treated differently by individual broadcasters.

The mobile telephone footage was widely disseminated via social media very soon after the incident. At approximately 15:51 the Press Association sent out an alert about the event, describing it as a “serious incident”.

There were a number of significant reactions to the attack, demonstrating how seriously it was regarded:

- a meeting of COBRA, the Government’s emergency committee, took place in Whitehall;
- the Ministry of Defence stepped up security at all of its London barracks and military personnel were advised not to wear their uniform in public;
- David Cameron made a public statement in Paris condemning the attack and announced his earlier than planned return to the UK;
- the proposed demonstrations by the English Defence League; and
- the Muslim Council of Great Britain released a statement publicly condemning the attack.

Ofcom was informed by ITV that in the hours that followed the incident the ITV news desk made contact with one witness who had footage of the aftermath of the incident filmed at the scene on his mobile telephone. This individual travelled to ITN’s studios<sup>2</sup>, arriving at approximately 17:45. ITV informed Ofcom that once ITV News had satisfied itself that the person who filmed the incident was not linked to the incident and was genuinely a member of the public who happened to be there at the time, the footage was transferred to the ITV News digital server and first broadcast in the second part of the ITV *London Tonight* bulletin at approximately 18:20.

During the course of the evening other television services broadcast the footage originally shown on ITV *London Tonight* (see below), although edited and presented in various ways. Editing techniques included blurring images of the victim and the face of one of the alleged attackers, shortening the sequences in question and not broadcasting the audio of the alleged attacker when he spoke directly to camera.

## Investigation

Ofcom considered this matter raised issues warranting investigation under Rules 1.3 and 2.3:

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

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<sup>2</sup> ITN produces news programming for ITV, Channel 4 and Channel 5.

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

Ofcom therefore sought comments from the BBC, ITV, Channel 4, Channel 5, Sky News and Al Jazeera as to how the material broadcast on 22 May 2013 (set out at the start of this Decision) complied with these rules.

We considered the material broadcast on LBC 97.3 FM (see above) raised issues under the same rules and additionally warranted investigation under Rule 1.5:

Rule 1.5: “Radio broadcasters must have particular regard to the times when children are particularly likely to be listening”.

### **Broadcast material**

Certain sequences of mobile telephone footage filmed by an eye witness and of footage filmed by the broadcasters on the day were repeatedly shown across all television bulletins. We first set out below common pieces of programme material, some or all of which appeared in the broadcasts included in this Decision.

#### “Sequence One”

This mobile telephone footage showed one of the alleged attackers holding a machete and knife in his hands, which were covered in blood. The man stated to camera:

*“I apologise that women had to witness this today but in our land our women have to see the same. You people will never be safe. Remove your governments. They don’t care about you”.*

Two passersby were seen hurrying past the man. Afterwards the man walked back to the other alleged attacker and in the background the victim was very briefly visible lying on the road. In the top left corner of the screen a graphic stated ‘Pictures from ITV News’.

#### “Sequence Two”

This sequence consisted of mobile telephone footage in mid-range shot of three women standing around the victim. The alleged attackers were in the background.

#### “Sequence Three”

Helicopter footage of the scene included images of: a body on the road covered by a red blanket; a white forensics tent; a car on the pavement with damage to its front and what appeared to be blood stains on the pavement around the car; items on the road under plastic forensic covers; forensic officers and their equipment; and police cars and emergency vehicles in the cordoned off street.

#### “Sequence Four”

Mobile telephone footage of police officers arresting the suspects who were on the ground. A police officer was shown shouting “*get back, get back, move back, move*

*back*” to members of the public who were at the scene. The body of the victim was briefly seen with members of the public standing around him.

#### “Sequence Five”

This material shot at ground level featured: police officers; forensic officers; police cars and police incident tape; members of the public; and, a shot of the street sign where the killing happened.

Next we have summarised, in chronological order, the most significant content shown in each news bulletin relevant to Ofcom’s investigation.

#### ITV London Tonight, 18:20

This broadcast is the regional news programme for the London area and starts at 18:00. At approximately 18:20 a short section of Sequence One was broadcast, introduced by a presenter as follows:

Presenter: *“Well, we can actually show you some video now and I’ll explain what it is exactly – it’s the aftermath of this attack in Woolwich and it shows one of the attackers reportedly talking about why he’s done the attack, and giving an explanation for the attack. We’ll take a look at that just now”.*

A short part of Sequence One was then broadcast, but without any natural sound and with the face of the alleged attacker blurred. This same edited sequence was on a ‘loop’ (i.e. repeated) four times and the ‘loop’ had a total duration of 32 seconds. Approximately ten seconds into the ‘loop’ the presenter voiced over the silent images as follows:

Presenter: *“Well, as I repeat – as I said, this is the picture of one of the alleged attackers in today’s incident. We do apologise for the graphic nature of these pictures, but understandably considering exactly what has happened today it is important for us to get an understanding of what happened at the scene down there in Woolwich in south east London. Okay, well we will continue to give you updates throughout this programme. I’ll try to – I’ll try to figure out what has happened in Woolwich in south east London”.*

#### Channel 5 News, 18:29

Channel 5 informed Ofcom that it recorded the *London Tonight* news as it was being broadcast thereby giving Channel 5 access to Sequence One. These images were broadcast at approximately 18:32:

Presenter: *“On 5 News a suspected terror attack by Islamic militants on the streets of London. It’s reported that a soldier has been killed by two men in a machete attack. Sources say the men filmed the attack and shouted ‘God is great’. The Prime Minister David Cameron has described the incident in Woolwich as ‘truly shocking’ and in the last half hour police gave this update”.*

Presenter: *“[Images of men being apprehended by police] Tonight we’ll have the dramatic pictures from the scene moments after the attack which appears to show two of the men being held by police and [image from helicopter of scene in Woolwich] we’ll have the latest on this breaking news story*

*from the scene. [Cuts to presenter in studio] Welcome to 5 News. I'm Emma Crosby and we start with breaking news tonight, a serving soldier has been killed in South London in what's now being treated as a terrorist incident. The man who was reportedly wearing a Help for Heroes t-shirt was attacked by two men with a machete in Woolwich this afternoon. The attackers were then shot by armed police. As we go on air tonight the Home Secretary is holding an emergency meeting with other ministers, police and security chiefs and the Prime Minister has described the attack as 'truly shocking'. A warning - Rebecca Barry's report contains graphic pictures from the scene which you may find distressing".*

Rebecca Barry report:

*[Images from Sequence Three were shown which included a shot of the victim under a red blanket and numerous weapons scattered across the road] "The body of a soldier lies on a south London street – if reports are correct this could be unprecedented: a suspected terrorist attack by Islamist extremists. Reports say two men attacked a serving soldier near his barracks in Woolwich. [Cuts to Sequence One with the man's face is blurred. The footage was shown twice with a total duration of 14 seconds] This is said to be one of the suspects wielding knives with blood on his hands. Witnesses say they shouted 'Allah Akbar', God is great, and may have filmed themselves attacking a man wearing a Help for Heroes t-shirt. [Cut to Sequence Four. The body of Fusilier Rigby was not visible. An on screen graphic stated 'Pictures from Woolwich finest youtube'] This video filmed on a mobile phone shows the moment the two suspects were detained having been shot by armed police. Officers were called to Woolwich just after two o'clock this afternoon. There are reports of an assault involving a machete and a gun. [Image cuts to a police officer reading a statement to reporters] Officers including local officers and Greenwich police..."*

Channel 5 also recorded as it was being broadcast, the ITV National News (see below), which provided Channel 5 with the mobile telephone footage broadcast which for the first time showed the face of one of the alleged attackers.

Channel 5 continued its coverage of the incident in the second part of the Channel 5 News at 18:50. This was introduced as follows:

*Presenter: "Welcome back: you are watching Channel 5 News and a reminder of our breaking story tonight. A soldier has been killed in South London in what is being treated as a terrorist incident. The man was attacked by two men with a machete in Woolwich this afternoon. This evening the Home Secretary is holding a meeting with other ministers, police and security chiefs. And graphic footage has emerged of a man carrying two bloodied knives after the incident. A warning: we are about to show you those pictures which have emerged in the last half hour".*

The presenter then described the scene at Woolwich after the killing, voicing over Sequence One. But this time when playing Sequence One, Channel 5 showed the alleged attacker's face but edited the footage so that the victim's body was not shown. No natural sound from the footage was broadcast.

ITV National News, 18:30

The ITV National news bulletin also led with the story:

Presenter: *“Good evening a man believed to be a serving soldier was this afternoon killed in broad daylight in a savage attack near an Army barracks. Police confirm they are treating it as a terrorist incident. Two men, his alleged attackers, are in separate hospitals after armed officers opened fire. Some witnesses say the soldier, who was wearing, it seems, a Help for Heroes t-shirt, was beheaded. We have exclusive witness video of the incident and we will be live to the scene in just a moment. But first Tim Ewart has this story and you may find some of the images distressing”.*

Tim Ewart: [A pre-recorded package followed which began with images from Sequence Three: a white forensics tent, ambulance, police vehicles and various weapons under plastic forensic covers taped to the road] *“It happened on a busy road close to the Woolwich army barracks in south east London near the gates of a primary school. What has emerged from eye witness accounts is that two men, described as black and in their twenties or early thirties carried out a violent attack and then simply waited for police to arrive. [Cut to long shot of items forensically sealed on road] Weapons left littering the street and pavement were according to what people saw happened used to attack a man wearing a Help for Heroes t-shirt. [Mid-range shot of weapons on road] He was repeatedly stabbed and hacked and his body was then dragged into the middle of the road. [Cut to Sequence Four, the victim’s body was not visible] As passersby recorded the scene, the two alleged attackers, on the ground in this picture, stood where they were until armed police turned up. Shots were fired and both men were hit. The man who they’d attacked is believed to have been a serving soldier”.*

At approximately 18:37 the presenter said:

*“Now ITV News has gained exclusive access to pictures of the incident filmed by an eyewitness. Many parts of the video are simply too violent to broadcast but what we can show leaves no doubt as to the horrifically public nature of the attack. But you should be warned that Paul Davis’ report contains extremely distressing images”.*

Paul Davis: [Sequence One was then shown] *“In a south London street a man with bloodied hands carrying a knife and machete approaches a camera and tries to justify what has just happened”.*

[Alleged attacker in sync]:

*“I apologise that women had to witness this today but in our land our women have to see the same. You people will never be safe remove your governments. They don’t care about you”.*

Paul Davis: [Sequence One continued: the alleged attacker walked towards his accomplice. The victim was shown on the ground with women around him] *“He then walks back up the road. Back towards the victim of this attack who lies prone in the street, a young man believed to be a soldier. The man with blood on his hands then talks to a second man. There are also heated conversations with passersby, people who have witnessed*

*appalling violence. Some of whom tried to stop it. [Cut to Sequence Four] But there was more violence to come. These pictures were taken shortly after the police opened fire on the two apparent attackers, who according to witness made to attack the officers". [Sequence Four continued and showed a police officer shouting: "Get back, get back, move back, move back"] "These pictures were taken by a man on a bus heading for a job interview. The day Bagdad style violence came to London. Paul Davies, ITV News".*

At approximately 18:50 coverage continued with: the presenter describing the incident and reaction to it over images from Sequences One and Three; a clip of the Mayor of London, Boris Johnson, condemning the attack; an interview with a reporter live from Woolwich, which included a clip from Sequence One omitting the image of the dead victim and without audio; and, images from Sequence Four.

#### Channel 4 News, 19:00

Images from Sequence Four were embedded in the graphics of the opening title sequence, over which Jon Snow read the following headlines: "*A suspected terrorist killing of a soldier in South London. [Image from Sequence Three of the car with blood stains on pavement.] The victim was run over, hacked with a cleaver and killed. [Image of sealed weapons on road.] The assailants were eventually shot by armed police". [A still image from Sequence Four of members of the public standing around the victim was shown.] "If the account from Whitehall sources is confirmed it is the first killing of a soldier by suspected jihadists on the British mainland. [Still image of emergency helicopter on road and two police officers looking on] The two men who killed the man are believed to...who was believed to have been a soldier outside*

[Cut to presenter Jon Snow in studio]

*the barracks in Woolwich reportedly shouted 'Allah Akbar', God is great, as they danced around the corpse filming what they'd done, shouting we swear by almighty Allah, we will never stop fighting you. Details are still in conflict, genuine witnesses were few, but what is beyond doubt tonight is that the man was run over by two men in a car who then got out and attempted to behead the victim and kill him. The men had wielded a gun. At least it was a vicious murder by any standard. But if as one key Whitehall source is reporting tonight, the victim was a soldier and the assailants appeared to be home-grown, the crime assumes an even grimmer dimension. This is an important warning if you have children watching you may not want them to see what happens next. This is a major and extremely violent incident. The man you are about to see appears to have been involved".*

The clip of the alleged attacker's comments from Sequence One was then broadcast and the victim was briefly visible. After the other headlines, Jon Snow said: "*a major anti terror operation is underway.*" He described the incident as: a "*brutal murder which happened in broad daylight this afternoon in a south east London street. A man who was a serving soldier was hacked to death by suspected Jihadist*". He then linked to a live report from Woolwich by the programme's Social Affairs Editor. She summarised eye witness accounts of the killing, confirming it was a terrorist attack, over images from Sequence Three including shots of police cars and officers and of the crime scene. She then introduced an item by another reporter with the words: "*Now some of the details in the report you are about to see may be distressing for some people. Simon Israel reports*".

Simon Israel:

[Image from Sequence Four of a white forensic tent.] *“Mid afternoon in a road in south east London running between a council tower block and lying behind the trees, Woolwich Barracks. Witnesses report the most horrific of attacks. Two men armed with knives and what appeared to be a meat cleaver, savaging a young man who was wearing a Help for Heroes t-shirt, and then dragging his body into the middle of the road”.*

[On screen graphic states ‘James: eyewitness speaking to LBC radio’]

Voice of James from LBC Radio:

*“They were hacking at this poor guy, we thought they were trying to remove organs or something. They were just hacking at him, chopping him, cutting him...we jumped up, my partner jumped out of the car and shouted, I jumped out as well. One of the black guys got into the crashed car, got in the front pulled out a bag, he pointed a gun at us. Shouted at my partner, ‘Get in the car, get in the car’. He was waving his gun around. I then moved the car up the road. I then got on the phone to the police. 999”* [long shot from Sequence Three of white tent being moved over the victim’s body covered by a red blanket].

Simon Israel:

*“It’s not yet known if the victim was a serving soldier. But this has now been categorised as a terrorist attack. A tent now covers the spot where he died. Parked in the middle of the road is an armed response vehicle. The firearms officers were on the scene, according to witnesses, within 20 minutes. The attackers they say, were simply waiting for their arrival”* [Image from Sequence Three of weapons scattered on road].

Voice of James from LBC Radio:

*“They were just standing there...with knife in hand, waving the gun about. I’m on the phone to the police saying, ‘You need to get them here, where are they?’ They took 20 minutes to arrive, the police, the armed response”.*

Simon Israel then completed his report with Sequence One (including the alleged attacker’s comments) and pictures from Sequence Four showing the arrest of the two suspected killers, stating that they were now both in hospital.

BBC News Channel (a 24-hour rolling news service), 19:02

Presenter in studio (with on-screen strap saying: ‘Woolwich Attack’):

*“...now in the past few minutes ITV News has broadcast footage its obtained of a man with bloodied hands talking to a camera. He makes a series of political statements before walking towards a man who is believed to be a soldier lying on the street. We are about to show a short clip of ITV News footage, which we should warn you is distressing”.*

The clip of the alleged attacker making his comments in Sequence One was then played, showing him holding a meat cleaver and knife covered in blood but not showing any images of the victim.

Presenter in studio:

*“So that short piece of footage there from ITV News. Now let’s go to Ben Geoghegan who’s near the scene of the incident. Ben - just give us a sense of what’s happening there this evening” [cuts to Ben Geoghegan in Woolwich].*

Ben Geoghegan:

*“Well I think that footage as more and more people see it certainly here is going to heighten the sense of shock and bewilderment that some people are expressing tonight at what has gone on there...”*

19:08

Presenter: *“...now we just want to show you again some footage that has been broadcast in the past few minutes on ITV News, footage that it’s obtained of a man with bloodied hands talking to a camera at the scene of the attack in Woolwich. He makes a series of political statements before walking towards a man who is believed to be a soldier lying, on the street. We are going to show you this short clip from ITV News again, and once again just to warn you that this footage is distressing”*.

The same clip from Sequence One was then repeated before the programme moved on to report reaction to the killing.

20:02

At this time a correspondent reported live from Woolwich and images shown included a police officer, a lorry, police incident tape, and the correspondent.

Correspondent:

*“...just off to the left of the white lorry where forensic officers are now at work. I’ve spoken to one young man who witnessed, says he witnessed this account and heard the two men after the attack deliberately staying at the scene, making no attempt to leave, shouting that it was God’s will and that only a man would be allowed to touch the body not a woman. This report now from Matt Prodger”*.

Matt Prodger:

*“[Over images from Sequence Four] The immediate aftermath of a horrific attack on a busy street in south east London. Three men lie on the ground. Witnesses say two of them killed the third. [Images from Sequence Five including shots of the road, cars and emergency vehicles] Shortly after two o clock, a man, thought to be a soldier, wearing a Help for Heroes t-shirt [image from Sequence Three of white tent and damaged car with blood stains on pavement] was attacked with a machete. The disturbing footage you’re about to see shows one of the attackers after the*

*murder speaking to the camera. The first evidence that this was a terrorist attack”.*

The clip of the alleged attacker making his comments was then broadcast, and then the programme moved on to report reaction to the killing.

BBC Four World News Today, 19:00

BBC Four opts into BBC World News, the international 24 hour rolling news service, for *World News Today*, at 19:00 each evening.

The presenter in the studio said that the British Government was treating the violent killing that afternoon in London of a young man who was possibly a soldier as a serious suspected terrorist attack. He then introduced a report by Sophie Hutchinson. The report summarised what had happened that afternoon in Woolwich as it was then publicly known over shots from Sequence Three of the street, white forensic tent, damaged car and blood stains on the pavement. The report included a clip (sound only) of an interview with an eyewitness.

[On screen graphic: ‘Graham Wilders Eyewitness’]

*“There was two people leaning over and I thought they was trying to resuscitate him [the victim]. There was a bloke against the wall. [Images from Sequence Three of white tent and lorry] And then another bloke has come along and told me that they’re actually like stabbing him. But apparently they actually run the car into him and knocked him down”.* [Images from Sequence Five of police cars at ground level and of police incident tape].

Sophie Hutchinson:

*“According to reports the two men were then shot by police [image from Sequence Five of police officers standing in street]. They have been treated as suspects and have been taken to hospital. [Shots from Sequence Three of forensically sealed weapons on road] Investigators have now cornered off the scene where a number of knives and other weapons are reported to have been found. One witness claimed he saw the two men attack the young victim with a meat cleaver. Unconfirmed reports say the dead man was wearing a Help for Heroes t-shirt and the local MP suggested the deceased was a soldier from a nearby barracks. The Ministry of Defence has said it can’t confirm this. The Home Secretary Theresa May has ordered an urgent meeting of the Government’s crisis response committee [still image from Sequence Four of victim on the ground with members of the public around him] COBRA. Sophie Hutchinson, BBC News”.*

There was then a live interview in the studio with the BBC Defence Correspondent Jonathan Beale, who said that the meeting of COBRA *“gives you all the indication that this is a terrorist incident even though it hasn’t officially been confirmed yet”.*

Presenter: *“We have some footage which I think we can play now. This is a, what we’ve been hearing some footage from the scene, so let’s just err, let’s just play this”.*

The clip of the alleged attacker making his comments in Sequence One was then broadcast.

Presenter in studio:

*“And that you could see there, the man was holding a knife, what looked like a blooded knife, and that is footage that has just come in. Now this does appear to have been calculated doesn’t it, somebody there to film, an accomplice and the man carrying out this attack?”*

Jonathan Beale:

*“Yeah, and it certainly looks like it’s premeditated. There is another clip where somebody, [image broadcast live from a helicopter of John Wilson Street, showing the crime scene] another man is quoted as saying ‘We swear by almighty Allah we will never stop fighting you...’ This does look like it was pre-planned...it looks like they were hanging around to make statements on camera as well”.*

Presenter: *“And do we know, we are just showing our viewers live pictures from the scene, do we know if this was a soldier or an army cadet?”*

Sky News (a 24-hour rolling news service), 20:00

Presenter in studio:

*“Hacked to death in broad daylight on the streets of south east London. The two men who carried out the attack, amazingly spoke to eye witnesses afterwards before they were shot by armed police officers. David Cameron says there are strong indications it was a terrorist incident. [On screen graphic states: ‘Warning: Graphic Pictures’] Sky’s defence correspondent David Bowden has this report and a warning - it contains a distressing image of one of the attackers immediately after the attack right from the very start”.*

David Bowden:

*“[Still image from Sequence One of alleged attacker holding bloodied weapons] This is one of the two men suspected of a savage murder speaking into a passerby’s camera. He’s heard apologising that women have had to witness what happened and urges onlookers to remove the government. And all of this in the middle of the afternoon in a south east London suburb [Cut to still image of police arresting suspects] before armed police shot both suspects. It was witnessed by this man”.*

*[On screen strap states: ‘eyewitness speaking on LBC 97.3’] Voice of eye witness: “These two guys are chopping this guy to pieces literally hacking at something. Like it was bits, a piece of meat. [Cut to moving mobile footage of people running to victim’s body as suspects were arrested in background] These two guys were...they just...they were just animals. They then dragged the poor guy - he was obviously dead, there was no way a human could take that, what they did to him - they dragged him from the pavement and dumped his body in the middle of the road and they just left his body there. They then went to the path and they were*

*standing there with a knife in hand waving the gun about. I'm on the phone to the police saying, 'You need to get them here, where are they?'*

David Bowden:

*"[Cuts to helicopter footage of car crashed into street sign, with blurred image of blood stains on pavement] It appears the two attackers first knocked down their victim with this car before setting about stabbing him to death. [Still image of people standing looking at scene from distance. Police and emergency vehicles] Local people rushed to help the dying man...".*

Al Jazeera (a 24-hour rolling news service), 20:00

This broadcast began with the headlines:

David Cameron:

*"I have been briefed by the Home Secretary about this absolutely sickening attack in Woolwich in London. It is the most appalling crime".*

*[Cut to five seconds from Sequence One of mobile footage, man with bloody hands and weapons but no image of body]*

Presenter: *"The British Government calls an emergency meeting after a man is killed in London". [Image cut to channel ident then presenter in studio] "a man believed to be a serving British soldier is hacked to death on the streets of London. The British Prime minister has said it could be a terrorist attack. Hello there I'm Julie Macdonald. This is Al Jazeera live from London. Also coming up [Other headlines (including visuals) on the Syria conflict, the effects of the Oklahoma Tornado and the impact of the economic crisis on the lemon industry in Italy]. Hello there a warm welcome to the programme. A man believed to be a serving British Soldier has been murdered near an army barracks in London in what the UK Prime Minister David Cameron has called a terrorist incident. Police say two men were involved in the attack. In just a moment we'll be live at the scene, but first this report from Lauren Taylor".*

Lauren Taylor:

*[Cut to Sequence One. On-screen graphic at bottom of screen states: 'Man murdered in London. UK govt calls emergency COBRA meeting'. 'ITV News Exclusive' strap top left corner] "Amateur video shows a man with bloody hands holding what looks like a meat cleaver" [The clip of the alleged attacker making his comments in Sequence One was then broadcast followed by images from Sequence One showing the man walking back towards the body of Fusilier Rigby in background surrounded by people trying to help]. "The man then walks back to where a man believed to be a soldier lies dead. The victim of what witnesses say was a horrific attack by two men. Three women are seen near the victim lying in the middle of a usually quiet south London street. People who saw the attack say the two men shouted Allah Akbar as they attacked the victim with knives. [Cut to shot of attackers being arrested.] Police arrived not long after and it's believed to have had a shoot out with the two suspects. The amateur video shows police treating the two suspects on*

*the ground. One was taken by air ambulance and both are being treated in London hospitals”. [Cuts Sequence Four of policeman shouting “get back, get back, move back” and suspects on ground being apprehended].*

Lauren Taylor then completed her report which included statements from a police spokesman and David Cameron. The coverage then continued from the scene of the incident in Woolwich with Al Jazeera’s UK correspondent Laurence Lee. He described the location of the incident, the potential divisions within the community that may emerge, reactions from local residents and that the English Defence League was planning a demonstration.

Laurence Lee:

*“...It sounded like a pretty horrific attack, but it was only over time that it started to become clear that there might actually be a political motivation behind this. We still don’t know for certain what happened but this video has emerged because it seems the people who attacked and brutally killed this man were perfectly happy to be filmed and were perfectly happy to face off the armed police when they arrived that reportedly on the [split screen onwards showing the correspondent and Sequence One and later Sequence Two ] video one of them makes reference to Allah and we will never stop fighting you. And that’s led to a generalised opinion that this was quote a terrorist attack and there’s a massive sense of shock around here. Woolwich like many other parts of this area of London, very mixed, black people, Asian people, white people, Muslims, Sikhs all sorts of people all living and all muddling along together and no-one can quite believe something quite as shocking as this has happened exactly where they are. Of course there are many, many questions which we can get into in a second as to what the implications of all this [cuts to Sequence Four of police apprehending suspects] might be but at the moment the two suspects who faced off the police and were then shot by them are seriously ill in hospital. Of course the police are now going to want to find out from them exactly what their motivations really were”. [Cuts to images from Sequence Three of white forensics tent on the road].*

*“...Now if you just suppose for a minute [cuts to repeat of helicopter image of white tent again] that this was as is now suspected an attack by [cuts to repeat of helicopter image of white tent again] people who have a political agenda against British forces overseas, then one of the questions is [cut back to full screen of Laurence] did anybody actually know about this. They weren’t making bombs. They didn’t have a cell. They weren’t buying bags of fertilizer. They attacked this man with a machete and knives and by all accounts a very old gun [split screen onwards – of correspondent and mobile footage of man, bloody hands and weapons. Jump cut in mobile footage then shows man walking back towards body. Then cut to image of women standing around victim] and nobody seemed to know this was actually going to happen. It seemed more or less to come out of nowhere. So some questions arise, how organised were they? Are they part of a bigger group? Where exactly were they from? You get a sense of African men from the video that’s been on British television but where were they from? What is the motivation? All of these things are going to be being discussed in absolutely minute detail at this specialist government led [cuts to end of Sequence One of women attending to the victim] COBRA as it’s called, meeting that is now happening tonight and which by all accounts David Cameron the Prime Minister will join when he*

*comes back. But if you listen to the radio stations here and also if you look on the social networks [cuts to Sequence Four of police apprehending suspects] there are lot of people now expressing very, very vehement generalised anti-Muslim sentiment and this has become one of those tinder box moments in a country like Britain with a mixed ethnic and religious community. Well at least one of the jobs for the politicians is to try to keep a lid on things and not [cuts back to full screen of correspondent] to let sentiments, a much wider sentiment get out of control”.*

*“...But there is something else happening here too again on Twitter, we are told that the English Defence League, which is a far right Neo-Nazi organisation has said, whether you believe it or not, they’re not a very big organisation, but they have support not very far from here, to be mobilising tonight. And the question is at this point in time, where does it go from here, do people use this as an opportunity to push more extremist agendas and on the other side these people who did this, whatever their motivation was, were they completely alone or were they part of any bigger group”.*

There was then a live interview in the studio with Raphael Pantouchi from the Royal United Services Institute, “a British think tank on defence and security”, who explained what measures the COBRA committee would be considering given the nature of the attack, how the security services could prevent such attacks in the future and that any reaction by the English Defence League was likely to be limited. Sequence One was shown again during the interview:

Raphael Pantouchi:

*“Well, I mean they start with the evidence they have in front of them. So the evidence they have in front of them seems to be two individuals attacked another individual who was a serving soldier in the middle of the street and appear to have almost beheaded him in public and then appeared to have spoken in terms that would indicate they [cut to full screen image of alleged attacker, bloodied hands, weapons] might have some sort of Islamist links”.*

Presenter: *“We heard Laurence saying that the English Defence League, which are a group just explaining to our viewers who are not from Britain have a rather extreme nationalist ideology, I think it’s fair to say here in Britain, that they are claiming to be mobilising this evening”.* [Jump cut to shot of man walking back towards body – body in background – and women around the body, then cuts to mobile footage of police apprehending suspects].

Raphael Pantouchi:

*“Yeah, well the English Defence League are mostly an English organisation. They have sort of grown up in response in certain specific communities in response to some of the more extremist Islamist groups that have been doing very provocative actions. That they have reacted to the incident like this is not that surprising. The fact that it was a soldier targeted it will suggest that it is something that fits into the narrative that they talk about, of some sort of clash of civilisations if you will. However I would emphasise that they are very small and even if they do muster any sort of group to meet there tonight, I suspect it will be very small”.*

LBC 97.8 FM broadcast, 16:06

As part of Ofcom's routine monitoring we noted that at approximately 16:06 LBC had broadcast a live interview with a member of the public ("James") who had witnessed the incident. The interview included a detailed description of the events James had witnessed earlier that day and lasted approximately ten minutes. The interview was later edited and broadcast again at 16:53. We noted that at various points throughout the interview at 16:06 it appeared that James was audibly distressed by the incident he had witnessed.

James: *"...To the left of the car there was two guys and we now know the victim, on the floor. We thought they were like trying to help him, we thought he was involved in this crash of some sort. My partner next to me has got out of the car to see...[indistinguishable] sorry I'm a bit nervous".*

Iain Dale: *"No well take your time James, because clearly it was a terrible thing to have witnessed. So don't worry about..."*

James: *"We turn out and see the two guys and the victim, and we now know the victim is, we thought they were helping him, but next thing, my partner, she let out an almighty scream. We then saw clearly two knives, a meat cleaver and they weren't little small knives, they were like big kitchen knives which you would use in a butchers. They were hacking at this poor guy literally [James breaks down]...We saw the whole incident. They were hacking at this poor guy, we thought they were trying to remove organs or something; they were just hacking at him, chopping him, cutting him. We jumped out, my partner jumped out the car and shouted, I jumped out as well. One of the black guys went to the car. Got in the front pulled out of the bag a gun. He shouted at my partner, get in the car, get in the car. He was waving this gun around. I then moved the car up the road, I then got on the phone to the police, 999...you need armed response. You need, these guys are chopping this guy to pieces, literally hacking at something, like it was a piece of meat. These two guys were, they was just animals. They then dragged the poor guy. He was obviously dead there was no way a human could take that, what they did to him. They dragged him from the pavement and dumped his body in the middle of the road and then just left his body there. They then went back to the path. They're standing there all, knives in hand, waving the gun about. I'm on the phone to the police saying you need to get them here, where are they? They took 20 minutes to arrive, the police, armed response".*

*"...people were getting out of the cars, shouting at them and trying to stop them, not stop them, but shouting at them to stop and things like that. But they were taking no notice, they were standing there they were pretty proud of what they were doing. When they dumped the body in the middle of the road, they...they had the opportunity to hurt people if they wanted to because there were brave women with the body of the dead guy on the floor. They were basically trying to not protect him, but shielding him and covering him, like keeping close to him. The attackers with knives, they were standing over these women, they had the opportunity to stab these women, they could have done that as well. They were walking across the road. People filming it on their phones. The guy with the gun, the tall guy with the beanie cap on. Even the bus had pulled up. He was going over to the bus and asking people to take his photo".*

*“...he was standing there like, take photos of me, I want to be, as if he wants to be on TV. Must be proud of what he done to this poor guy. The guy look only as if he was young. He had a Help for Heroes t-shirt on, there’s rumours going around saying that he was a soldier. Which we don’t know, that’s just rumours...then they was walking up and down with the gun and the knives...”*

*“...I didn’t get that close to him but I’d say he was young, say twenties, between twenty and twenty five. He looked young, poor fella. It’s just sad thought, for his family if anyone knows who he is; it’s just horrendous to see that in broad daylight, at twenty past two in the afternoon. You know it’s just shaken us up”*

Iain Dale: *“I mean, a terrible thing for anyone to witness, how’s your partner bearing up?”*

James: *“She’s hysterical. She’s got her friend come up now. I was taking her to work, and she’s hysterical, I’m really worried about her now [sniffing, shallow breathing, clearly distressed...sobs]”*

Iain Dale: *“Well I think James, take your time to recover from that, because whenever anyone witness’ a major incident like this, obviously can be traumatic, clearly suffering from a little bit of an aftershock from it. Um I mean the scene on the street was it complete chaos, were people shouting at these two guys?”*

James: *“...there was loads of people there filming it. They were shouting at them but they were taking it, they were oblivious to it, they were more worried about getting their photos taken...It’s just horrendous what they were doing to the guy, it’s something you would see in a horror movie”*

*“We thought the guy driving the car, they helped him out and they were helping him. Then we saw them, I just can’t describe it...they was just digging and digging and digging, horrendous. I know it’s just after four, but the blood, the pool of blood just trickling down the road and pavement...”*

## Responses

### Common arguments

In response to Ofcom’s request for comments, a number of broadcasters made the same or similar points. These included:

- that Rules 1.3 (and 1.5 with regard to the broadcast on LBC) and 2.3 were complied with (specifically with regard to giving the audience appropriate information and the limited amount of mobile telephone footage broadcast);
- the audience’s and the broadcaster’s right to freedom of expression as set out in Article 10 of the European Convention of Human Rights was very important in this case as was the duty fully to inform the public of the detail of unprecedented news events;
- the extraordinary and unprecedented set of events (specifically the nature of the attack and behaviour of the alleged attackers after the incident) were of high

public interest and potentially had wider ramifications for public security and was a major national news event;

- the very limited time in which editorial decisions had to be made;
- serious news programmes are aimed at and primarily of interest to an adult audience;
- the unique nature of news reporting is acknowledged in Ofcom's guidance on Section One (Protecting the Under-Eighteens), namely that in exceptional circumstances stronger material than is normally in pre-watershed programmes may be warranted in a news programme;
- the footage (of Sequence One in particular) was carefully selected and edited and helped viewers fully to understand the nature of and potential justification for the attack. The images conveyed a substantial amount of information about the men's demeanour and their proximity to the victim, as did the clear British accent of one of the men who had willingly made a public statement about the incident. This statement implied a potential terrorist motive;
- the body of the victim was visible in some of the mobile telephone footage. However it was never the focus of the shot. There was no visible evidence of injuries the victim had suffered or any close-up shots. Nothing was broadcast that could readily identify the victim, including any physical characteristics;
- for legal reasons parts of the audio of one alleged attacker making what could be interpreted as an express confession/admission was not broadcast;
- a substantial amount of mobile telephone footage was not shown because it was judged too graphic for broadcast;
- although the images were strong, they are not inconsistent with those images seen in news programmes from warzones or other areas of conflict or other terrorist attacks abroad; and
- the descriptions of the attack were strong, but justifiably so given they were describing what was known about this shocking incident on the basis of eye witness reports at the time.

Set out below are additional points raised by individual broadcasters.

#### ITV London Tonight

ITV explained that the decision to 'loop' some images from Sequence One (i.e. repeat them several times) was taken in the gallery at the time. "[S]ince only a very short extract of the footage had been edited and cleared for use at that point, and given the extraordinary nature of the footage itself, and what it revealed about the incident, it was felt to be editorially justified to repeat the short sequence to convey fully to viewers the information it revealed". ITV considered viewers (and parents of young children) would have been aware of the distressing nature of the incident "long before the footage was shown, relatively late in to the programme".

The broadcaster said that given the limited period of time available to assess the mobile phone footage it took a cautious approach to revealing the identity of the

suspect, or broadcasting his statements on camera, primarily for legal reasons. Therefore the alleged attacker's face was obscured and his statement was not broadcast. ITV added that the image of the victim was never the focus of the shot, was brief and only visible for a few seconds.

ITV accepted that with the "benefit of hindsight, there could have been a more explicit warning given prior to the footage being shown". However it argued that the nature of the event had been brought to the attention of the audience by the presenter before Sequence One was shown. Therefore the footage was not being "shown without any information or context" and viewers would have understood that the footage was likely to be disturbing.

#### ITV National News

The broadcaster argued that it is always important in reporting news of violent events that a balance is maintained between the imperative to inform the public and to reflect the truth of events (i.e. not to overly sanitise), and the need to ensure appropriate scheduling and application of generally accepted standards to avoid harm to children or offence to viewers. ITV stated that: "it is crucial that, whilst some details may have to be omitted as too horrifying for broadcast, the full sense of what has happened is reported – otherwise there is a danger of the event being distorted in "soft focus" and the public not being given a full picture of the truth of what has occurred".

The broadcaster said that it was after careful consideration that it decided that the images of the alleged attacker's bloodied hands and weapons could be broadcast with warnings about the nature of the content. "It was considered that these images were important in informing the viewer about what had happened, given the extraordinary nature of the incident and the suspects' behaviour at the scene". The images "provided significant information about the nature of the attack; that the alleged attacker had stayed at the scene; and that these shocking events were all taking place on a public place."

#### Channel 5

Channel 5 said in reporting "so horrific" a public act of violence as this it was important not to "suppress visual information that would bring home the horror of the act to the public". The need to inform the public was at all times balanced, the licensee added, by the editorial team against taking appropriate measures to protect the public. For example they issued a strong warning at the outset of the programme, limited the amount of footage used, ensured the graphic material did not appear at the start of the report and for the second broadcast of Sequence One removed images of the victim and dropped the audio for the entire sequence, to prevent unnecessary fear or distress to viewers. Channel 5 said that it had eight minutes to decide whether to rebroadcast the material from ITV London Tonight and ten minutes to edit the material from the ITV National News broadcast. Channel 5 argued that under "extreme deadline pressures and faced with a story that was both unprecedented and presented so many issues of significant public interest, we achieved the right balance between the right of the public to be informed and our obligations under the Code".

#### Channel 4

Channel 4 said that one of its first priorities is to report news and to inform the public. Given that news reporting will sometimes be about disturbing or distressing events,

and that the events in this case were so shocking, it was “perhaps inevitable” that reporting such terrible events would distress some people. Channel 4 added that the mobile phone footage played a key part in the debate about the issues arising from the killing, and these images were at the centre of informing the public of what had happened. Channel 4 said that difficult editorial decisions had to “be made swiftly both before and during [the] broadcast”. It considered the audio of one alleged attacker’s speaking to camera was important as it showed a likely terrorist motivation to the crime.

The broadcaster pointed out that it preceded Sequence One with an “exceptionally strong warning by the presenter”. “When distressing footage was used a warning was given.” “Channel 4 News”, it said, “will always try to strike a clear balance between unduly sanitised and excessive information in our news reports. This balance was uppermost when deciding how to handle this extraordinary event when careful and detailed editorial judgements were made at speed in good faith”.

#### BBC News Channel (a 24-hour rolling news channel)

The BBC said that given the exceptional editorial need to explain what had happened, a decision was taken to run an eight second clip of Sequence One but excluding the image of the victim. The BBC News channel is a serious news service “aimed at an adult audience, but is mindful of UK watershed sensibilities”.

The broadcast at 19:00 did not show any images of the victim and when a brief image was seen in the broadcast at 20:00, it was preceded by an extended introduction by the presenter which described the incident as “*an astonishingly gruesome attack*”, which would have established the nature of the coverage.

#### BBC Four

The BBC said that *World News Today* is a programme on BBC World News (a 24-hour rolling news channel) to which BBC Four opts in at 19:00. As an international service its content cannot be tailored to suit any one time zone in terms of compliance. As with the BBC News Channel, BBC World News is aimed at adults but is mindful of UK watershed sensibilities. BBC Four added that: “in terms of compliance and accountability, the responsibility for the broadcast [of *World News Today*] falls to BBC News and to BBC World News in particular”.

BBC Four said that the brief clip from Sequence One shown was placed in appropriate context by for example not being used in the programme headlines or before the tenor of the story had been firmly established, but in the context of a live interview with a BBC correspondent to discuss what appeared to be a terrorist attack. The presenter also quoted the Prime Minister’s description of the incident as “*truly shocking*” before Sequence One was shown.

The BBC conceded that an explicit warning would have been preferable and that after this incident there had been discussions with production staff with regard to the need to check material that is transferred from other bulletins and networks for relevant information on audience warnings, and to “judge whether all programme material has been appropriately labelled in cues”.

#### Sky News (a 24-hour rolling news channel)

Sky News did not broadcast moving telephone footage of the alleged attackers speaking to camera. It said that instead it decided to use a still image and reportage

of what had occurred – “for a number of reasons, not least that children ought to be protected”. The broadcaster said “...audiences are seeking exclusively to watch news [on this service]. Certainly by 8pm in the evening there was very widespread awareness of the news event at Woolwich which would suggest most new joiners to the channel would have understood the nature of the news story, reducing the possibility of children watching”. Sky News argued “as a news channel, our audience is in any case more than 95% adult and so exposure for children is severely diluted by that fact...”.

Sky News said that each occurrence of graphic images or material was preceded by an explicit verbal warning and onscreen graphic that would have alerted viewers to the nature of the content.

#### Al Jazeera (a 24-hour rolling news channel)

Al Jazeera commented that as rolling 24-hour news channel it attracts a self-selecting audience who have actively chosen to watch the channel and predominantly consists of adults. Al Jazeera went on to argue that given the incident had already been widely covered on other news outlets, it was probable that any adults watching would have had a broad awareness of the story and would have been in a position to decide whether they wanted their children to watch, and could have reasonably expected to see graphic images. Al Jazeera said that viewers watching the broadcast would have expected the graphic footage to be included in the broadcast that evening. However in hindsight it agreed that it “could have given a warning in this case” and added that following this incident relevant production and compliance staff will carefully consider the need for audience warnings in the future.

Al Jazeera said the service “is perceived to have strong connections with the Middle East and a particular focus on Middle Eastern affairs. This has given rise to many unjustified perceptions about the Channel among certain segments of Western audiences, stemming largely out of ignorance regarding the Channel’s remit and values. The editorial team was concerned that, had it chosen to alter the footage in any way (through techniques such as blurring or editing) or delayed broadcasting the footage once it had received broad coverage on other channels, Al Jazeera might have been accused of failing to report accurately or with due impartiality by manifesting an apparent unwillingness to broadcast material which might depict Islam in an unfavourable light”.

#### LBC 97.8 FM

LBC said that it is a speech-based news and opinion station, which is targeted at adults and holds little appeal to anyone aged 14 and under. It tends to attract a self-selecting, mature audience with an average age of around 48 years. Further it does not attract child listeners, regardless of the time of day and the likely audience on 22 May 2013 was predicted to have been almost exclusively adult.

The licensee remarked that its listeners expect frank and comprehensive coverage of significant news events, including hard-hitting, first-hand reports. It argued that the purpose of eyewitness testimony is to give an unconstrained, first-hand report of an event without interference or censorship. It would be a significant restriction on free speech and modern journalism if such statements were edited or curtailed without good reason.

The level of detail was in LBC’s view appropriate and justified given the exceptional circumstances and unprecedented nature of the breaking story. “One of the key

facets of this case was the ferocity and brutality of the crime; this was no ordinary attack or murder and it was central to the testimony [of James] that this was conveyed. Despite the striking nature of the content, it is actually a purely factual account of events, sombre and proper in tone, without any hysterical discourse or gratuitous detail”.

LBC argued that it did not believe a specific warning would have helped or been necessary for an LBC audience. It added that although it considered James’ eyewitness account was entirely justified by the context, to mitigate any offence that might have been caused an apology was broadcast at 16:24. The licensee said that its coverage did not result in any complaints.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that “persons under the age of eighteen are protected” and “generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material”. These duties are reflected in Section One (Protecting the Under-Eighteens) and Section Two (Harm and Offence) of the Code.

Rule 1.3 requires that children must be protected by appropriate scheduling from material that is unsuitable for them. Rule 1.5 states that radio broadcasters must have particular regards to times when children are particularly likely to be listening. Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material must be justified by the context.

In reaching its decisions in this case, Ofcom has taken account of the right to freedom of expression of the broadcaster and of the audience. This is set out in Article 10 of the European Convention on Human Rights, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. Ofcom must balance this against its duties to ensure that under-eighteens are protected from material that is unsuitable for them, and to provide adequate protection for members of the public from potentially offensive material.

The Code contains no absolute prohibition on distressing or graphic content as there may be occasions where the broadcast of such material is justified. Ofcom believes that, taking account of the right to freedom of expression, it is important for news programmes to be able to report freely on events which the broadcasters consider to be in the public interest. However when broadcasting distressing material broadcasters must comply with Rule 1.3 (to protect the under-eighteens), Rule 2.3 (to apply generally accepted standards) and for radio, Rule 1.5 (when children are particularly likely to be listening).

Against this background Ofcom considered whether the following television broadcasts complied with Rules 1.3 and 2.3:

*Iain Dale Show*, LBC 97.3 FM, 22 May 2013, 16:00  
*London Tonight*, ITV, 22 May 2013, 18:00  
*Channel 5 News*, Channel 5, 22 May 2013, 18:29  
*ITV News*, ITV, 22 May 2013, 22 May 2013, 18:37  
*Channel 4 News*, Channel 4, 22 May 2013, 19:00  
*BBC News*, BBC News Channel, 22 May 2013, 19:00  
*World News Today*, BBC Four, 22 May 2013, 19:00

*Sky News, Sky News Channel, 22 May 2013, 20:00*  
*News Live, Al Jazeera News, 22 May 2013, 20:00*

We also considered whether the broadcast on LBC complied with Rule 1.5.

### **Rule 1.3 (and Rule 1.5 in the case of LBC)**

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

When applying Rules 1.3 and 1.5 to protect children from unsuitable material, Ofcom must have regard to the need for the rule to be applied in a manner that best guarantees an appropriate level of freedom of expression. For example, in reaching decisions about whether material unsuitable for children is “appropriately scheduled”, we must take into account the proportionality of potentially restricting the broadcast of such material to transmission post-watershed in the case of television, or only the later evening in the case of radio. With television news bulletins likely to feature subjects and material that may well be challenging or upsetting, we must weigh up whether it would be a disproportionate restriction of freedom of expression to limit the broadcast of such content to post-watershed slots. Even in cases such as the current one, where some details of the violence may need to be omitted due to the horrific nature, it is important that broadcast journalists can report the news of what has occurred as freely as possible.

Ofcom’s guidance on Section One of the Code states:

“It is accepted that it is in the public interest that, in certain circumstances, news programmes may show material which is stronger than may be expected pre-watershed in other programmes as long as clear information is given in advance so that adults may regulate the viewing of children”.

It is of course open to carers and parents to restrict the watching of programming that they consider unsuitable for children in their care, particularly with regard to programming broadcast before the 9pm watershed that may contain material which is potentially distressing for them. In Ofcom’s view, in this case, appropriate warnings were of particular importance so that the audience were alerted to the likelihood of potentially distressing images, and parents and carers given the opportunity to restrict children’s viewing where necessary.

### Suitability for children

We first assessed whether the material that was broadcast in each case was suitable for children. In our view, Sequence One in particular was potentially distressing for children, given the image of one alleged killer immediately after the incident (with bloodied hands holding a machete and knife covered in blood) and his statement to camera (“...*you people will never be safe...*”). Further we noted that the vast majority of the broadcasts included images of the victim on the ground in the background, and relatively detailed descriptions of the attack. For example:

“...*he was repeatedly stabbed and hacked...*” (ITV National News)

“...*attempted to behead the victim and kill him...*” (Channel 4 News)

*“...The man who was reportedly wearing a Help for Heroes t-shirt was attacked by two men with a machete in Woolwich this afternoon” (Channel 5 News)*

*“...hacked to death in broad daylight on the streets of South East London”. (Sky News)*

In our view some of the mobile phone content (showing in particular one of the alleged killers, and the body of the victim) had the potential to cause distress to children and was therefore unsuitable for them.

In the exceptional circumstances of this particular case, we accept that there was a strong public interest in showing the mobile telephone footage in some form before the watershed. However, such graphic material must be edited and broadcast in an appropriate manner. In particular, given the broadcasts were transmitted before the 9pm watershed, an attempt to alert viewers (and parents in particular) to the material in question was crucial.

We went on to consider whether the material was appropriately scheduled.

#### Appropriate scheduling

The Code lists a number of factors against which Ofcom judges whether broadcast material was “appropriately scheduled”.

#### *Time of broadcast, and nature of the content*

We noted that all the news programmes were broadcast before the television watershed, and outside school hours between 16:00 and 21:00 midweek in the UK. Although some of the mobile phone content shown was shocking and distressing, Ofcom noted that it was limited. There were for example, no close shots of the dead soldier, and the clip of the alleged attacker speaking to the mobile phone camera was very brief. Similarly, although some of the descriptions of the attack that were broadcast were quite graphic, none went into great detail.

With regard to Rule 1.5 and the broadcast on LBC, the interview with the eyewitness was broadcast midweek, during school term time in the *Iain Dale programme* at 16:00. Ofcom’s guidance states that when deciding whether a radio broadcast is made at a time when “children are particularly likely to be listening”, broadcasters should have particular regard to content broadcast Monday to Friday between 15:00 and 19:00<sup>3</sup>. In accordance with the guidance therefore this broadcast was made at a time when children were particularly likely to be listening. However, although some of the eyewitness description of the attack was powerful, it was limited.

#### *Nature of the programmes and channels*

Ofcom understands that viewers and listeners make a distinction between channels which appeal to a wide-ranging audience, including children, and those unlikely to appeal to children that attract a smaller, niche audience, such as 24 hour rolling news channels. While broadcasters of niche channels still of course carry a responsibility towards a potential child audience, many homes do not contain children and these viewers and listeners have a right to expect a range of subject matter. We noted that

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<sup>3</sup> Ofcom guidance: Offensive language on radio, 20 December 2011:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>

in three cases (Al Jazeera, BBC News Channel and Sky News) the services were rolling 24-hour news channels, targeted at, and almost exclusively attracting, adult viewers. Further, the television news programming we investigated on the other channels was in our opinion unlikely to appeal to younger viewers.

We considered LBC as a service is targeted at adults only, and that its content was unlikely to appeal to children and that very few, if any, children would be listening to LBC at this time. Further we noted that the detailed and graphic description by the eyewitness occurred towards the end of the live interview, therefore giving listeners accompanied by any children an opportunity to take appropriate action if required.

#### *Number and age of children in the audience*

This was confirmed by the audience figures for the television programmes we investigated. These showed that in all cases (except for *Channel 5 News*) adults comprised the majority of the total audience (between 94.5% and 100%). With *Channel 5 News* children made up 8.3% (3,000 children aged 4-9 and 14,000 aged 10-15) of the audience, which in Ofcom's opinion was likely to be partly due to the preceding programme (*Home and Away*) which attracted approximately 30,000 child viewers.

With regard to LBC, according to RAJAR<sup>4</sup> figures this service attracts almost no child listeners.

#### *Warnings*

We went on to consider how broadcasters alerted the audience to the likelihood of potentially distressing content. Sometimes information about pre-watershed programmes, or those broadcast when children are particularly likely to be listening, may be appropriate to help parents and carers protect children.

We noted that the television audience was given a variety of verbal warnings, such as:

*"We are about to show a short clip of ITV News footage, which we should warn you is distressing".* (BBC News Channel)

*"Many parts of the video are simply too violent to broadcast, but what we can show leaves no doubt as to the horrific nature of the attack. But you should be warned that Paul Davies' report contains extremely distressing images".* (ITV National News)

*"This report contains a distressing image of one of the attackers immediately after the attack right from the very start".* (Sky News). In addition an on-screen graphic was shown which stated: 'WARNING: Graphic images'.

Channel 4 preceded its report with an exceptionally strong warning. This in our view would have left no doubt in viewers' minds that the material about to be broadcast was potentially inappropriate for younger viewers (and distressing for some adults):

*"Details are still in conflict, genuine witnesses were few, but what is beyond doubt tonight is that the man was run over by two men in a car who then got out and*

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<sup>4</sup>RAJAR (Radio Joint Audience Research <http://www.rajar.co.uk/>)

*attempted to behead the victim and kill him. The men had wielded a gun. At least it was a vicious murder by any standard... This is an important warning if you have children watching - you may not want them to see what happens next. This is a major and extremely violent incident. The man you are about to see appears to have been involved”.*

Channel 5 also had a detailed, lengthy introduction and explicit warning prior to the broadcast of Sequence One.

In all cases we noted that the violent and lethal nature of the attack was made clear to those watching by the presenters who introduced the news item, or by discussions with relevant studio guests before Sequence One was broadcast. Further, over the course of the afternoon and evening the 24-hour rolling news channels frequently included pertinent information in the ticker bar at the bottom of the screen such as:

*“Home Secretary Theresa May confirms she has been briefed by MI5 on the ‘sickening and barbaric’ incident”.* (Sky News)

*“Man murdered in London. UK Govt calls emergency COBRA meeting in London”.* (Al Jazeera)

LBC did not give its listeners any warning before broadcasting the live interview with an eyewitness to the incident.

Most broadcasters in Ofcom’s opinion gave appropriate information to the audience to help protect children and minimise offence to adults. However, in Ofcom’s view, albeit with the benefit of hindsight, a few broadcasters could and should have provided more information to viewers (see guidance at the end of this Decision).

#### *Likely expectations of the audience*

We noted that from approximately 16:00 on 22 May the 24-hour rolling news channels were reporting the incident. As highlighted above the mobile telephone footage was not shown until 18:20 on ITV *London Tonight*. Further the incident was being widely covered through reports on social media and other television and radio services during the course of the afternoon and early evening. We therefore considered that many in the audience would probably already have had an awareness of the incident and that the nature of the attack was particularly disturbing, before the news programmes included in this Decision were broadcast.

More importantly, in Ofcom’s view, this event was unprecedented in the UK and was clearly of public importance. For example the nature of the attack (an apparently planned, violent and lethal assault on a British soldier on a busy street in London) potentially had ramifications for the public’s security. We also had regard to the value placed by viewers on television journalism as a crucial source of news, as demonstrated by Ofcom research. Ofcom therefore considered that viewers had a right, and the expectation, to be fully informed through television and radio news programmes about the events that unfolded that afternoon.

#### *Conclusion: Rules 1.3 and 1.5*

Although some of the material included in the television news programmes was unsuitable for children, Ofcom’s view was that in each case we investigated the broadcaster scheduled it appropriately. We considered we should take particular note of the significance of the right to freedom of expression in this case because news

programming has a duty to inform the public when incidents such as this occur. While some of the images and the descriptions of the attack were shocking, we noted the various steps taken by the broadcasters to ensure that any children watching their channel were protected. None of the material broadcast therefore was in breach of Rule 1.3.

With regard to the broadcast on LBC, we took into account in particular that LBC attracts virtually no child listeners and is not aimed children. For these reasons and others set out above, we therefore concluded that this material was not in breach of Rules 1.3 or 1.5.

### **Rule 2.3**

Rule 2.3 states that in applying generally accepted standards broadcasters must ensure that potentially offensive material is justified by the context. The Code requires Ofcom to consider the manner in which the material was presented in order to assess if the potential offence was justified by the context. Context includes, but is not limited to, the editorial content of the programme, warnings given to viewers, the time of broadcast and the service the material was broadcast on.

Ofcom first considered whether the material was potentially offensive.

#### Offensiveness

We considered that some of the mobile telephone footage, showing for example the alleged attacker in Sequence One and the body of Fusilier Rigby, was capable of causing offence. It showed graphic images of an alleged killer, holding a knife and meat cleaver covered with the blood, while behind him was the body of a man whom eye witnesses said he had attacked and killed with those same weapons. It also included the man making statements in which he appeared to attempt to justify his actions. The potential offence in our view was increased in those images where the alleged attackers and the body of Fusilier Rigby could be seen in the same shot (in particular Sequence One). We also considered that the eyewitness description of the incident broadcast on LBC was sufficiently graphic for it to be capable of causing offence to listeners.

We next considered whether the material was justified by the context.

#### Context

Ofcom noted that many of the factors we took account of when assessing whether the material was appropriately scheduled so as to protect children were also applicable in judging whether the offensive content was justified by the context.

#### *Time of broadcast, and editorial content*

We noted for example again that all the news programmes were broadcast before the television watershed, between 16:00 and 21:00. Therefore audiences may not have expected the broadcasts to include such shocking images and graphic descriptions. However, as stated above, each programme was a news broadcast and therefore viewers (who were predominantly adult) would have an expectation that news content will cover themes of a potentially disturbing or distressing nature.

Ofcom noted that, given the unprecedented nature of the attack and its level of newsworthiness, several broadcasters from 18:00 onwards dedicated the vast majority of their news bulletins to coverage of the incident as did the rolling 24-hour news channels. Several broadcasters highlighted that a substantial amount of material had not been broadcast due to firstly, its graphic nature and secondly, the need to consider the dignity of the victim and those directly affected by his death. We noted that Sky News chose to broadcast only a still image from Sequence One of the man, holding the machete and knife in his bloodied hands. Although some of the mobile phone content shown and descriptions of the incident were shocking they were restricted in the ways already described. While the victim was briefly visible the images of his body were limited, showed no graphic detail of any injuries and the focus of the shot was never his body. We noted that some broadcasters chose to obscure various aspects of the mobile footage, such as in the ITV *London Tonight* and *Channel 5 News* broadcasts, where the face of the alleged attacker speaking to camera was blurred. In other instances (Sky News, BBC Four and the BBC News Channel) Sequence One had been edited so that the body of the victim could not be seen at all. Some broadcasters (Sky News, Channel 5 and ITV for the *London Tonight* broadcast) also chose to drop the audio of the alleged attacker speaking to camera. Ofcom noted that in the subsequent days broadcasters reduced the number of times images of the victim's body were broadcast: the editorial justification for showing such images was highest on the day.

Finally, we considered the descriptions of the attack in these broadcasts, although harrowing and graphic, were not sensationalised and were used to provide context and information to viewers about the nature of the attack. We therefore considered the material, although strong, was limited.

#### *Services on which the material was broadcast, and audience expectation*

As under Rule 1.3, we took into account that in each case the material in question was broadcast in news programmes or on three rolling 24-hour news channels (Al Jazeera, BBC News Channel and Sky News), targeted at and almost exclusively attracting adult viewers. LBC is targeted at adult listeners.

In this case we took into account the unprecedented nature of the incident which was clearly a matter of major public interest. As already stated, Ofcom considers it is a fundamental duty of news programmes to inform the public on matters of public importance, so that informed debate can take place. Broadcasters provided the audience with crucial information and enabled a clearer understanding of the event. The mobile phone footage showed the public nature of the incident and the demeanour of the suspects concerned. Further we noted that the attack was soon classified as a terrorist incident.

We understand that there are pressures under which a newsroom operates, particularly during a live broadcast, and editorial decisions have to be made swiftly to ensure the necessary important information is provided to the public as quickly as possible. Ofcom notes that difficult editorial judgements needed to be made at speed and in pressurised environments.

#### *Warnings*

We next considered what information was given to the audience to warn them about offensive material and the extent to which this may have helped to justify broadcasting this content.

As highlighted above, in five television broadcasts (BBC News Channel, ITV National News, Sky News, Channel 4, and Channel 5) various warnings were given to viewers. Also (with one exception) Sequence One was not shown at the start of any of the broadcasts and therefore the preceding content (presenters' introductions, pre-recorded packages and interviews with relevant studio guests and members of the public) would have given the audience information and context before the mobile telephone footage was shown.

In one case (Al Jazeera) we noted five seconds of Sequence One was shown in the headlines, therefore with limited context. In this instance we noted that it was preceded by a clip of David Cameron who said "*I've been briefed by the Home Secretary about this absolutely sickening attack in Woolwich in London. It is the most appalling crime*". This was broadcast at 20:00, nearly six hours after the incident had occurred. We considered therefore that in this particular instance, given news about the attack had been extensively covered in other broadcast and social media, it was likely that many in the audience would already have been aware to some extent prior of the content of clip.

In the case of LBC, no advance warning was given. LBC argued that none was necessary, although it subsequently broadcast an apology to mitigate any offence that may have been caused by the eye witness account of the killing.

Most broadcasters in Ofcom's opinion gave appropriate information to the audience to help minimise offence to adults. However, in Ofcom's view, with the benefit of hindsight, a few could and should have provided more information to viewers (see guidance at the end of this Decision).

#### *Expectations of the audience*

Many of the factors considered above relating to audience expectations when assessing the material against Rule 1.3 were also relevant to judging context under Rule 2.3. For example, we noted that: many in the audience would probably already have had an awareness of the incident and its seriousness from other news outlets and social media before the news programmes included in this Decision were broadcast; the public interest justification for reporting this incident was very high; and, viewers had a right, and expectation, to be informed fully through news programmes about the events that unfolded that afternoon.

Ofcom's view was that the vast majority of the audience watched or listened to these news programmes with the expectation of viewing or hearing an up-to-date account and analysis of what had happened in London. These would be appropriately illustrated with the most relevant and dramatic pictures available at time (television of course being a visual medium), or eye witness testimony. They would also have watched or listened with the expectation that the reporting would inevitably involve content that some viewers or listeners might find distressing and offensive. For these reasons Ofcom believed that the content of all these news programmes did not exceed likely audience expectations for these broadcasts.

#### *Conclusion: Rule 2.3*

We considered we should take particular note of the significance of the right to freedom of expression in this case because news programming has a duty to inform the public as fully as possible when incidents such as this occur. Taking all the factors outlined above into account, we concluded that all of the programmes investigated ensured that the broadcast material that might have caused offence was

justified by the context and that the broadcasters therefore applied generally accepted standards. Rule 2.3 of the Code was therefore complied with.

## **Guidance**

However we were concerned about a few aspects of some news coverage of this incident, and wish to give some general guidance to broadcasters as a result. Ofcom recognises that when covering a breaking and important news story, especially where the subject matter and associated audio visual material is potentially distressing and offensive, important and timely editorial judgement is required. Television journalists must balance the need to inform the public fully and in a timely way in a competitive news environment against the requirements of the Code. However, we set out below, some guidance to broadcasters when covering similar stories in the future.

### ITV London Tonight

In this particular bulletin we noted Sequence One was shown four times on 'a loop', without audio, and without being preceded by any specific warning. We noted that ITV said that with hindsight some form of explicit warning should have been broadcast before this material was shown. While Ofcom agreed with ITV that sufficient information had in fact been given to viewers through the content shown before Sequence One was broadcast, we considered that an explicit warning would have been preferable given the shocking nature of the images. Further we were concerned about the repetition of the same material four times without audio, particularly as this was the first time this material was shown on UK television and no warning had been given beforehand. Ofcom recognised that ITV News understandably wished to broadcast this powerful (and exclusive) material to viewers as soon as possible. Nonetheless, while acknowledging these sorts of pressures, Ofcom urges news broadcasters always to consider giving explicit warnings before broadcasting challenging material before the watershed, and not repeating potentially offensive material in a way that some may perceive as gratuitous.

### BBC Four World News Today

Similarly we noted the BBC's view that it would have been preferable if the broadcast of the clip of the alleged attacker from Sequence One had been preceded by an explicit warning. Ofcom agreed. We were also concerned that BBC Four opts in to BBC World News, which is an international 24-hour rolling news service, and that the BBC said it therefore "cannot be tailored to suit any one time zone in terms of compliance". Whatever a broadcaster's scheduling arrangements, it must (as the BBC recognises) ensure compliance with the Code at all times. We note that *World News Today's* compliance procedures have been revised to take into account the need for audience warnings as appropriate when the programme is broadcast.

### Al Jazeera

With regard to the broadcast on Al Jazeera, we noted that there was no warning given to viewers prior to the broadcast of Sequence One. We noted that Al Jazeera acknowledged that with hindsight an explicit warning would have been preferable before this material was shown.. In our view the sequences that showed images of the alleged attackers (particularly Sequence One) and the body of the victim on a London Street were disturbing, regardless of the nature of the service, and therefore in Ofcom's opinion the broadcaster could usefully have warned viewers in advance. Dedicated news channels regularly include images of violence from warzones and

terrorist attacks abroad. Nonetheless, when showing distressing images broadcasters should ensure adequate protection is afforded to audiences from harmful and/or offensive material.

### LBC

No advance warning was given to listeners in this case before LBC broadcast a live interview with an eyewitness who gave a fairly graphic account of the killing. Ofcom advises that, before broadcasting a live interview or material where it can be (as here) reasonably anticipated that the interview or material may contain distressing content, broadcasters should seriously consider giving an appropriate advance warning to listeners or viewers.

### **Decision:**

***Iain Dale Show*, LBC 97.3 FM: Not in Breach**  
***London Tonight*, ITV: Not in Breach**  
***Channel 5 News*, Channel 5: Not in Breach**  
***ITV News*, ITV: Not in Breach**  
***Channel 4 News*, Channel 4: Not in Breach**  
***News*, BBC News Channel: Not in Breach**  
***World News Today*, BBC Four: Not in Breach**  
**Sky News Channel: Not in Breach**  
**Al Jazeera News: Not in Breach**

## Not in Breach

### BBC News at Six

*BBC One, 24 May 2013, 18:00*

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#### Introduction

On 24 May 2013 the *BBC News at Six* broadcast a report on the killing two days earlier of Fusilier Lee Rigby. The report focused on the background of his two alleged attackers and how armed police officers had arrested the men on the day of the killing, 22 May 2013<sup>1</sup>.

Ofcom received two complaints about the graphic nature of the material in the headlines of this bulletin, and in a news report broadcast at 18:06. The complainants considered the material was offensive and inappropriate for broadcast at this time.

#### Headlines broadcast at 18:01

The first headline was about the distress of Fusilier Rigby's family. A photograph of Fusilier Rigby and his wife taken on their wedding day was shown, followed by a short clip of his wife at a press conference saying: *"he was a devoted father to our son Jack and we'll both miss him terribly"*. This was immediately followed by the second headline which showed footage of the alleged attackers being apprehended by armed police officers. The footage had been filmed on a mobile telephone from a point high above the incident. It showed one man running towards a police car, stopping, and dropping a knife before gunshots were heard. The man fell to the ground. The footage then showed another man circled by a red onscreen graphic running towards armed police officers before the image cut back to the presenter. This footage lasted approximately 15 seconds in total and six gunshots were heard.

The soundtrack music which accompanied the headlines was played over these images while the newsreader read the following: *"New images of the attack. One man runs and gets within feet of a police car before he's shot. As he lies on the ground the other runs forward, he too is shot."* The studio then cut to the presenter who continued: *"More details are emerging about the two men, we'll bring you the latest. Also tonight..."*

#### News item broadcast at 18:06

A news item reported on how much the security services knew about the two men arrested for the murder of Fusilier Rigby. The presenter explained that the men were still in hospital after being shot by the police and in the meantime that *"dramatic pictures have emerged showing what happened when armed police arrived at the scene"*. The presenter went on to say: *"You may find some of the images in his report disturbing"*.

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<sup>1</sup> On 19 December 2013, Michael Adebolajo and Michael Adebowale were found guilty of the murder of Fusilier Lee Rigby at the conclusion of their trial at the Old Bailey. Ofcom announced on 30 September 2013 that it was postponing publication of this decision (and others related to broadcast coverage of the killing of Fusilier Rigby) until the conclusion of the criminal trial:

<http://media.ofcom.org.uk/2013/09/30/ofcom%E2%80%99s-decisions-on-the-broadcast-coverage-related-to-the-killing-of-fusilier-lee-rigby-on-22-may-2013/>

This report began with the same footage already broadcast in the headlines, but now shown twice: first in real time, then slowed down to demonstrate how the first man had dropped a knife and how close he had come to a police car before being shot by armed police officers. This sequence of mobile telephone footage lasted in total approximately 36 seconds.

The correspondent said “...*incredibly the suspects survived as they are surrounded and searched. Shot in the legs they are now recovering in hospital and are expected to be questioned by detectives...*”. The report went on to explore the backgrounds of the alleged attackers, their families and how much was known by the security services about the men before the killing on 22 May 2013.

Ofcom considered that the material raised issues warranting investigation under the following rules of the Code:

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

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

We therefore sought the BBC’s comments as to how this material complied with these rules.

## **Response**

The BBC said the footage was recorded from a distance high above the incident and did not show any graphic images of injury. Further given the unsteady camera work “it was difficult to distinguish what was actually happening when it was shown at its actual speed”. The BBC said that the 6pm edition of the BBC News, although broadcast before the watershed, is a serious news programme and therefore the audience “do not bring to it an expectation that it will never include upsetting images”.

The broadcaster argued that the first item in the headlines was about the distress of Fusilier Rigby’s family, expressed at their press conference, which “set a sombre tone and context, founded in the serious and shocking nature of the events”. The BBC considered that in light of this and the quality of the mobile telephone footage a warning was not necessary before its use in the headlines.

With regard to the broadcast of the footage in the news item at 18:06, the BBC said the report began with the footage shown twice, once in real time and then slowed down, “in order to convey the nature of the events with greater clarity”. In these circumstances the BBC considered an explicit warning prior to the broadcast of the report was necessary and was given by the newsreader.

The BBC said it had carefully considered the use of this footage in the 6pm news bulletin and argued that “the circumstances in which the suspects were apprehended clearly formed an important element of the story and the footage shed light on a crucial part of the police operation”. The broadcaster added that it was relevant in assessing the impact of the material that the report referred to the fact that the two suspects had survived and were recovering in hospital.

The BBC stated that the decision to use potentially distressing material on this occasion was not lightly taken. In conjunction with the significant public interest in reporting this news story and mitigating factors highlighted above, the BBC considered that its use in this context was justified.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that persons under the age of eighteen are protected and generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material. These duties are reflected in Section One (Protecting the Under-Eighteens) and Section Two (Harm and Offence) of the Code.

In reaching its decisions in this case, Ofcom has taken careful account of the broadcaster's and audience's right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights ("ECHR") which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. Ofcom must therefore seek an appropriate balance between ensuring members of the public are protected from material which may be considered harmful or offensive on the one hand, and the broadcaster's and audience's right to freedom of expression on the other.

### Rule 1.3

Rule 1.3 requires that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content; the likely number and age range of the audience; the start and finish time of the programme; the nature of the particular programme; and, the likely audience expectations.

We first considered whether the material investigated in this case was unsuitable for children.

The footage used in the headlines was filmed from a distance, high above the incident and was accompanied by natural sound, including the six gunshots. The fact that a man had been shot was clear to viewers from the words of the headline and the images and sound broadcast. The mobile phone footage included in the news item at 18:06 showed the clip twice, once in real time, and once in slow motion to show the point at which one alleged attacker dropped a knife and how the men were surrounded by armed police officers and arrested. We considered that on balance this material was unsuitable for children because of its graphic and distressing nature.

We therefore went on to consider whether children were protected from it by appropriate scheduling.

As a news programme aimed at an adult audience, we noted that the percentage of the number of all viewers watching who were children aged 15 and under was low: 2.55% of the total audience of 4,578,000. This nonetheless equated to about 115,000 children in total aged 15 and under who watched the programme.

No form of warning was broadcast before the news headlines which featured the clip of mobile phone footage of the shooting and arrest of the suspects. It was however contextualised to some extent by the fact that it was the second headline, and

directly followed the lead headline showing Fusilier Rigby's family at a press conference.

The same footage was repeated both at greater length and in slow motion in the report at 18:06. This news item was however preceded by an explicit warning by the newsreader before the broadcast of the mobile telephone footage in the news item at 18:06.

We took into account that the footage was filmed from a considerable distance and of poor quality, and it was difficult to distinguish clearly what was happening due to trees obscuring the images of the incident and the unsteady camera work (this was particularly so when the footage was shown at normal speed). As a result no details could be seen in the footage of any injuries. The clip shown in the headlines in particular was limited in duration.

Although this bulletin was broadcast pre-watershed, it was the main early evening news bulletin broadcast on the BBC's principal television service. In Ofcom's opinion, viewers of this bulletin therefore expected it to report fully the news of events following the violent killing of Fusilier Rigby, and that (in view of the nature of the news story) it might include potentially distressing content.

For these reasons we considered that the material was appropriately scheduled, and the broadcaster complied with Rule 1.3.

### Rule 2.3

Rule 2.3 requires broadcasters to ensure that the broadcast of material that may cause offence is justified by the context. Context is assessed by reference to a range of factors including but not limited to: the editorial content; the effect of the material on viewers who might come across it unawares; whether the nature of the content has been brought to the attention of the audience by appropriate information; and, likely audience expectations.

The footage in the headlines of the shooting and arrests clearly showed a suspect falling to the ground after shots had been fired, which implied the man had been wounded by a number of bullets. This sequence was later repeated twice in the news report at 18:06. The gunshots were clearly audible. The considerable distance from which the incident was filmed and the poor quality of the footage mitigated the graphic nature of the content to some extent. However the impact of showing a man being shot repeatedly was in our view capable of causing offence.

We next considered whether the broadcast of the material was justified by the context.

As highlighted above Ofcom noted that programme is a high profile and regular news bulletin. It is aimed at, and primarily of interest to, an adult audience (figures already cited showed that 97% of the audience for this broadcast were adults). They expect the news to be reported fully and as a result on occasions expect challenging and offensive material.

In assessing the context, we took into account a number of the same factors as when judging whether the material was appropriately scheduled to protect children. These factors included the limited duration of the clips, and that the footage was filmed from a distance and was of poor quality, showing no graphic images of any injuries. We also noted that the clip shown in the headline was contextualised to some extent by

the preceding images of Fusilier Rigby's grieving family, and that the footage broadcast at 18:06 was preceded by a clear warning.

We considered the footage was of public interest, and that the circumstances in which the suspects were arrested was a legitimate part of reporting the developing news story of events following the killing of Fusilier Rigby. Further, Ofcom noted that by the evening of 24 May and prior to the broadcast of this report, it had been widely reported (and so many adult viewers would have been aware) that both suspects had been shot in the legs and were being treated in hospital for their non-life threatening injuries.

Taking account of all these factors, Ofcom concluded that the broadcast of this material was justified by the context and there was no breach of Rule 2.3 of the Code.

Ofcom reminds broadcasters to take care to ensure that material included in news bulletin headline sequences are appropriate for the likely audience. They should take account of the fact that it is not in keeping with audience expectations nor with the well-established style of television news bulletins to give warnings to viewers in advance about the content of news headline sequences. The content of headline sequences must therefore be selected with care.

### **Not in Breach of Rules 1.3 and 2.3**

## Broadcast Licensing Findings

### Resolved

#### Commercial radio licensees

##### *Late payment of licence fees*

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Ofcom is partly funded by the licence fees it charges television and radio licensees. Ofcom is under a statutory obligation to ensure that the aggregate amount of fees that are required to be paid by licensees is sufficient to meet the cost of Ofcom's functions relating to the regulation of broadcasting. The principles which Ofcom applies when determining what fees should be paid by licensees are set out in the Statement of Charging Principles<sup>1</sup>. The detailed fees and charges which are payable by broadcasting licensees are set out in Ofcom's Tariff Tables<sup>2</sup>. The payment of a fee is a licence requirement<sup>3</sup>. Failure by a licensee to pay its licence fee when required represents a serious and fundamental breach of a broadcast licence.

The following licensee failed to pay its annual licence fee in full, in accordance with the original deadline, but has subsequently paid. We therefore consider the matter **resolved**.

Licensee	Licence number	Service name
GTMN Ltd	RLCS000097BA	GTBC (Global Tamil Broadcasting Corporation)

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1

[http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging\\_principles.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf)

2 <http://www.ofcom.org.uk/files/2013/03/tariff-tables-2013-14.pdf>

3 For example, Broadcasting Act licence Schedule Part 2, Condition 3.

## Fairness and Privacy cases

### Not Upheld

#### Complaint by Mr Paul Collins

*Obsessive Compulsive Cleaners, More4, 16 July 2013*

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#### Summary

Ofcom's Decision is that this complaint made by Mr Paul Collins of unjust or unfair treatment and unwarranted infringement of privacy should not be upheld.

The programme complained of was an episode of the series, *Obsessive Compulsive Cleaners*, a documentary style programme which followed "obsessive cleaner" Ms Lynda Dykes as she organised for like-minded people to clean dirty homes around the country. In this episode "obsessive cleaner Penny" was sent to the home of Mr Collins and his wife, Mrs Elaine Collins. Penny attempted to clear away the large amount of clutter in the Collins' home whilst Mr Collins struggled with the idea of either selling or throwing away items he had collected over the years. During filming, Mr Collins withdrew his consent to be a part of the programme although his wife and daughter continued to be involved.

Ofcom's Decision is that:

- Although the scene in which Mr Collins, his wife and Penny discussed having a garden sale of Mr Collins' belongings was heavily edited, it presented an accurate reflection of their conversation. Therefore there was no unfairness to Mr Collins.
- Mr Collins did not have a legitimate expectation of privacy in relation to the obtaining of footage of him, having given permission to the programme makers to film both him and his property. The other filming that took place was also acceptable as part of his wife and daughter's continued involvement in the programme. Mr Collins' privacy was therefore not unwarrantably infringed in connection with the obtaining of material included in the programme.
- Mr Collins did not have a legitimate expectation of privacy in relation to the programme as broadcast because he had given permission to the programme makers to broadcast footage of him and his property. His wife and daughter also wished for their involvement to continue and therefore the footage broadcast was also acceptable as a part of their ongoing contribution.

#### Introduction and programme summary

On 16 July 2013, Channel 4 broadcast on its channel More4 the fourth episode of the first series of *Obsessive Compulsive Cleaners*, a documentary style reality programme which followed an "obsessive cleaner", Ms Lynda Dykes, as she organised for like-minded people to clean dirty homes around the country.

This episode included an item in which "obsessive cleaner Penny" visited the home of Mr Collins and his wife, Mrs Collins, who suffers from multiple sclerosis. The programme's narrator introduced the programme by saying:

*“Penny will be visiting this two bedroom house in Surrey, home to Paul Collins and his wife Elaine, and Paul’s 20 years’ worth of hoarding, collections and bric-a-brac”.*

To encourage Mr Collins to clear away some of his possessions, Penny arranged three piles: one for items to keep; one for items to sell; and one for items to be thrown away. Mr Collins appeared to be unwilling to cooperate with this idea as he identified only a few items that could be thrown away. The programme then explained that Penny had a *“plan B”*. Penny and Mr and Mrs Collins were shown eating lunch in the garden during which the following exchange took place:

Penny: *“We’re going to do a garden sale.*

Mrs Collins: *Seriously? [laughs]*

Mr Collins: *No – a garden sale? [laughs]*

Mrs Collins: *Seriously? [laughs] That would be good.*

Mr Collins: *You reckon?*

Penny: *What doesn’t go, goes to the charity shop.*

Mr Collins: *Not happening”.*

Following this conversation, Mr Collins was shown walking away from the house down the street. The programme stated that: *“10 minutes later and without explanation, Paul leaves the house”*. Penny then commented that: *“He just came through and said ‘I can’t do this anymore”*.

Mr Collins was not seen in the programme again. The programme explained that:

*“Paul, who walked out on Penny’s plan to de-clutter his home, has since returned and locked himself in his bedroom saying he feels unwell”.*

Footage was shown of the outside of the bedroom door as Mrs Collins took Mr Collins a drink.

Later, Mrs Collins stated that she was not going to back out of Penny’s efforts to help de-clutter the house and Penny confirmed to her that she would stay to see the job through for Mrs Collins’ sake. The garden sale went ahead despite Mr Collins’ withdrawal from the programme.

Towards the end of the programme, ‘before and after’ shots of the inside of Mr and Mrs Collins’ house were shown and it looked clean and tidy after Penny’s visit. Mr and Mrs Collins’ daughter, who had helped with the garden sale, expressed her gratitude to Penny for helping her mother. Penny was then shown saying goodbye to Mr Collins through his closed bedroom door.

At the end of the programme, the following caption was shown on-screen:

*“Paul and Elaine’s living room has remained clutter free and they plan to sell more of Paul’s hoard”.*

Throughout the item shots of the outside of Mr and Mrs Collins' house were shown, including footage of the motor home parked in the driveway.

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

Mr Collins completed a Fairness and Privacy Complaint Form which was submitted to Ofcom on 24 July 2013.

#### Unjust or unfair treatment

- a) Mr Collins complained that he was treated unjustly or unfairly in the programme as broadcast because a scene in which he, his wife and "obsessive cleaner Penny" discussed Penny's plan to have a garden sale was edited to give the impression that he was selfish and did not care about his wife, who suffers from multiple sclerosis. Mr Collins complained that this conversation did not happen as it appeared in the broadcast footage, but was edited to make him look bad. Mr Collins explained that, since the programme was broadcast, he had been criticised by people for the way in which they considered he appeared to treat his wife.

In response, Channel 4 said that Mr Collins' immediate reaction to Penny's suggestion of a garden sale was to respond "*not happening*". Although this sequence as broadcast was very short, Channel 4 claimed that it was an indication of Mr Collins' general attitude to the specific idea and evidenced his overall reluctance to give away many of the items he had collected over the years.

Channel 4 supplied Ofcom with unedited footage of the scene in which Mr Collins detailed the reasons why he did not want to give his items away to charity. However, Channel 4 claimed that this did not add anything to the footage which was broadcast and that the broadcast programme accurately portrayed Mr Collins' attitude to having a garden sale.

The broadcaster disagreed that viewers would have concluded from the programme that Mr Collins was "selfish" and "did not care about his wife". Rather, Channel 4 stated that it was evident from the programme that Mr Collins found the process very difficult and that he and "obsessive cleaner" Penny did not see eye to eye.

Channel 4 further explained that the production company had hired a psychologist to advise the programme makers on any issues and also to act as support for the contributors. After Mr Collins decided that he no longer wished to take part in the making of the programme, the psychologist explained that Mr Collins' reaction to the clearing up around him was typical behaviour of a hoarder. Channel 4 said that it considered that viewers would see Mr Collins' reaction in this context and as rooted in his reluctance to give away the items he had collected over the years, rather than evidence of him being "selfish" or "not caring" about his wife.

Channel 4 highlighted the update given at the conclusion of the programme which stated:

*"Paul and Elaine's living room has remained clutter free and they plan to sell more of Paul's hoard".*

Channel 4 said that this did not suggest someone who was selfish or uncaring. Rather, it demonstrated a desire to change on Mr Collins' part and a willingness to try to improve his compulsion to hoard.

The broadcaster said that it was important to note that following filming Mr and Mrs Collins were invited to a viewing of the programme. Although Mr Collins declined to attend, Mrs Collins and her daughter accepted the invitation. At the screening, Mrs Collins explained to the programme makers the reason behind Mr Collins wanting to withdraw his involvement. She said that, while helping to clean, Mr Collins had come across items which belonged to a deceased friend which had upset him. After discussions between Mrs Collins and programme makers, it was decided that the most appropriate course of action was for the voiceover to reflect that Mr Collins had not been well and to refrain from any specific references to his deceased friend. Channel 4 explained that Mrs Collins did not indicate any concern about Mr Collins' involvement in the programme or allude to any matters contained within his complaint.

Channel 4 maintained that the programme accurately reflected the unedited footage and the programme as broadcast did not cause unfairness to Mr Collins.

#### Unwarranted infringement of privacy

- b) Mr Collins complained that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because footage of the upstairs area of his home and closed bedroom door was filmed without his consent and, after the disagreement about the garden sale took place, Mr Collins was filmed leaving the house and walking down the street, despite him stating that he objected to this.

Channel 4 stated that on 30 July 2012 the production company completed some test filming at Mr and Mrs Collins' home. Formal filming commenced on 18 September 2012 and both Mr and Mrs Collins signed release forms for their contribution in the programme and a location release form (copies of these were supplied to Ofcom). The forms stated that the production company could: "film, photograph and record all or any part of the interior, the exterior and the contents of the Property". Although part of the way through filming Mr Collins decided that he no longer wanted to be a part of the programme, his wife and their daughter were still keen to continue their participation and were happy for both themselves and the property to be filmed. Channel 4 explained that such filming was an essential part of the programme since the aim of the programme was to try and de-clutter the property. It indicated that while the programme makers no longer expected Mr Collins to be a contributor and engage with filming, he could not have a legitimate expectation of privacy in relation to the filming of an area of his home which was shared with his wife, who did wish to continue to contribute and engage with the programme being filmed.

Channel 4 explained that the filming of Mr Collins walking away from the camera on a public street and the brief audio of his voice saying "bye" to Penny was within the scope of the consent given in the release forms and therefore could not give rise to a legitimate expectation of privacy. In its view, there was nothing inherently private about this filming and it did not disclose anything that had not already been captured by previous filming which Mr Collins had consented to and which formed part of the access granted by Mr and Mrs Collins in the location release. Channel 4 said that had the production company attempted to gain, or gained, access to the room where Mr Collins had retreated then this may have

given rise to a legitimate expectation of privacy but this did not hold for any of the footage taken at the time or included in the final programme as broadcast.

Channel 4 highlighted that, even if Ofcom were to find that Mr Collins had a legitimate expectation of privacy in the obtaining of material, in its view recording the “trivial” footage of Mr Collins walking away was proportionate. In addition, it said it was necessary for the programme makers not to be unduly obstructed from filming, taking into account the public interest in being able to film openly, particularly when filming is taking place in a house where there are still contributors to the project, and where the property is such a key element of the programme.

- c) Mr Collins also complained that his privacy was unwarrantably infringed in the programme as broadcast because footage of the outside of his house and motor home was broadcast without his consent. Mr Collins said that this showed viewers exactly where he lived. He also said that footage of the upstairs area of his home and closed bedroom door was broadcast without his consent. Furthermore, he argued that after the disagreement about the garden sale took place, footage of Mr Collins leaving the house and walking down the street was included, despite him stating that he did not want to be filmed.

Channel 4 reiterated the points made in response to the complaint outlined in head b) above. It maintained the view that Mr Collins could not have a legitimate expectation of privacy in relation to the footage broadcast in the programme. The broadcaster said that the complainant could not have an expectation that footage of the outside of his house, his motor home, the closed bedroom door and the upstairs areas of the house would not be broadcast in circumstances where a location release form gave permission for this to be broadcast. Channel 4 also argued that it would be untenable to conclude that Mr Collins had a legitimate expectation of privacy when his wife, who also occupied the property, and had the right to grant access to and permission to broadcast footage of the house, had remained actively involved in the making of the programme.

In response to Mr Collins’ complaint that the footage included showed viewers “exactly where he lived”, Channel 4 said that, although his home was shown and a general location (Surrey) was given, it was not possible to discern the address from the information given in the programme. It pointed to the fact that the registration number of the motor home and the house number had been obscured. Channel 4 explained that what was broadcast, i.e. the interior and exterior of Mr Collins’ home, was in accordance with the rights granted in the location release form. The broadcaster maintained that this was not invalidated by Mr Collins stating that he no longer wished to be a contributor in the programme. Therefore, Channel 4 said that the broadcast of this footage did not reveal anything in the programme which had not already been shown and what was shown was not private in nature.

Similarly, Channel 4 argued that the footage of Mr Collins walking away from the camera also could not give rise to a legitimate expectation of privacy as he was on a public street and he was fully aware of the fact that the camera crew were filming in the area.

Channel 4 concluded by stating that, even if Ofcom deemed that Mr Collins had a legitimate expectation of privacy, any infringement was proportionate and in the public interest in demonstrating the challenges and difficulties associated with obsessive compulsive cleaning and hoarding behaviour.

## Decision

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

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

In reaching its Decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, the original unedited footage and both parties' written submissions. Ofcom provided the parties with the opportunity to make representations on Ofcom's Preliminary View (which was not to uphold the complaint). In response to Mr Collins' representations, Ofcom made a minor amendment to its summary of Channel 4's representations (see above). Channel 4 made no representations to the Preliminary View.

### Unjust or unfair treatment

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

- a) Ofcom considered Mr Collins' complaint that he was treated unjustly or unfairly in the programme as broadcast because the scene in which the garden sale was discussed (as detailed in the "Introduction and programme summary" section above) was unfairly edited to give the impression that Mr Collins was selfish and did not care about his wife.

In considering this part of the complaint Ofcom took account of Practice 7.2 of the Code, which states that broadcasters and programme makers should normally be fair in their dealings with contributors to programmes. Ofcom also had regard to Practice 7.6 of the Code which states that, when a programme is edited, contributions should be represented fairly.

Having been supplied with unedited footage of the discussion, Ofcom carefully examined both this and the programme as broadcast. It was clear that the original conversation as filmed had been heavily condensed in the final programme. The unedited footage of the conversation about the garden sale continued for approximately twenty minutes after Mr Collins gave his response of "*not happening*", whereas the edited footage of the conversation, as seen in the broadcast, concluded immediately after the response given by Mr Collins.

Programme makers and broadcasters can legitimately select and edit material from interview footage or general footage of a contributor for inclusion in a programme. This is an editorial decision for the programme makers and broadcaster to make. However, in editing such material, broadcasters must ensure that they do so in a manner that represents contributions fairly.

It was clear to Ofcom from both the unedited footage and the material broadcast that Mr Collins was struggling with having to clear out the items he had collected over many years and that the plan to have a garden sale made him deeply uncomfortable. Mr Collins had particular resistance to Penny's suggestion that any items that were not sold at the garden sale be given to a charity shop. The programme as broadcast did not explain why Mr Collins reacted in this way. In the unedited footage provided to Ofcom by Channel 4, Mr Collins was shown explaining that he was reluctant to give away things he had previously spent money on. He also expressed concern over what percentage of the money raised by selling his goods in a charity shop would go to good causes, rather than be spent on administration costs.

Following the conversation about the garden sale, Mr Collins was shown walking away from the house down the street. The programme stated that: *"10 minutes later and without explanation, Paul leaves the house"*. Penny then commented that: *"He just came through and said 'I can't do this anymore'"*.

Mr Collins was not seen in the programme again. The programme explained that:

*"Paul, who walked out on Penny's plan to de-clutter his home, has since returned and locked himself in his bedroom saying he feels unwell"*.

In its response to the complaint, Ofcom noted that Channel 4 said that Mrs Collins explained some time after the filming that Mr Collins' reaction had been caused by him coming across items that had belonged to a deceased friend and that this had upset him considerably. It was therefore decided that the voiceover in the programme would reflect that Mr Collins was not well and avoid specific references to the reasons for him not continuing to contribute to the programme.

The unedited footage and the content actually broadcast in the programme were carefully considered. Ofcom was of the view that, although the amount of content included in the final programme was heavily edited, Channel 4 had followed Practice 7.6. While Ofcom appreciated that following the Practices will not necessarily avoid a breach of Rule 7.1 of the Code, it came to the view that the scene presented a concise and accurate reflection of the conversation about the garden sale and, above all, fairly represented Mr Collins' contribution to the conversation.

Ofcom's Decision therefore is that there was no unfairness to Mr Collins in this respect.

#### Unwarranted infringement of privacy

In Ofcom's view, the individual's right to privacy has to be balanced against the competing rights of freedom of expression. These rights to freedom of expression relate to both the broadcaster and, in programmes such as these which feature several individuals, the rights of the other participants in the programme insofar as their rights of expression are exercised in the same circumstances as the complainant and might be affected by any judgements in relation to the complainant. Neither right, of privacy or freedom of expression, has precedence as such over the other and, where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

- b) Ofcom first considered Mr Collins' complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because:
- i) it showed footage of Mr Collins leaving the house and walking down the street, whilst removing his microphone to indicate he no longer wished to be filmed, despite him stating that he objected to this.
  - ii) it showed footage of the conversation with Penny which took place through a closed bedroom door after he had indicated he no longer wished to be filmed.

In considering both elements to this head of complaint, Ofcom noted that Mr Collins had previously provided the programme makers with two distinct consent forms. The first was his personal consent which stated: "I agree to the recording / broadcasting of the interview / sequence you have filmed, of me over a period of time and hereby give all consents necessary for the reproduction, exhibition, transmission, exploitation and broadcast thereof...". The second consent granted permission for the programme makers to "film, photograph and record all or any part of the interior, the exterior and the contents of the Property". Up until the point he was filmed leaving the house, Mr Collins had not indicated any intention to withdraw consent.

- i) In relation to the filming of Mr Collins leaving the house, which was at the point Mr Collins had first expressed his wish to withdraw from filming, Ofcom noted that this footage had been filmed in a public place, and that the programme makers had not concealed the fact that they were filming in any way. While Ofcom acknowledged that there may be circumstances where an individual can reasonably expect privacy, even in a public place, it considered in this particular case that, not only was Mr Collins filmed openly and in a public place, he was also not shown engaged in anything that could be reasonably considered sensitive or private.

Given these factors, Ofcom did not consider that Mr Collins had a legitimate expectation of privacy with regards to the filming of him leaving the house and walking away down the street.

- ii) Ofcom then considered the complaint in relation to the filming that took place in the upstairs area of his house and outside his bedroom door during the recording of the conversation with Penny which took place through a closed bedroom door. Ofcom noted the following factors:
  - While the programme makers continued to film the upstairs area of Mr and Mrs Collins' house, they did not attempt to gain entry to Mr Collins' bedroom, where Mr Collins stayed while filming took place.
  - After Mr Collins had withdrawn from participating in the programme, his wife and daughter continued their involvement with the project, and the filming inside the property was a necessary requirement for a programme of this type.

- The conversation recorded did not contain any material that could be reasonably considered sensitive or private.

Ofcom also considered that any expectation of privacy that Mr Collins may have should be considered in the light of the right to freedom of expression held by the three active participants in the documentary (Mrs Collins, her daughter and Penny) as well as the rights of the programme makers to continue making the programme with these willing participants. In this case, Ofcom considered that the rights to freedom of expression extended to Mrs Collins and Penny being filmed continuing work within the house on the project of clearance, and being shown going upstairs to speak with Mr Collins, demonstrating how they dealt with his withdrawal from the project.

Whilst none of their rights outweighed Mr Collins in themselves, taking all these factors into account, and in these particular circumstances, Ofcom did not consider that Mr Collins had a legitimate expectation of privacy with regards to the filming of the footage of the upstairs area of his home and closed bedroom door.

Having found that Mr Collins did not have a legitimate expectation of privacy in relation to the obtaining of material included in the programme, it was therefore not necessary to go on to consider whether any infringement of Mr Collins' privacy was warranted.

- c) Ofcom then considered Mr Collins' complaint that his privacy was unwarrantably infringed in the programme as broadcast. Mr Collins said that footage of the outside of his house and motor home was broadcast without his consent, which he considered showed viewers "exactly where he lived". Footage of Mr Collins leaving the house and walking down the street was included, despite him stating that he did not want to be filmed, and footage of the upstairs area of his home and closed bedroom door was broadcast without his consent.

In relation to the broadcast of the footage of the outside of Mr Collins' house and motor home, Ofcom had regard to Practice 8.2 of the Code which states that information which discloses the location of a person's home or family should not be revealed without permission, unless it is warranted.

Ofcom noted from the programme as broadcast that the location of his house was identified only as being in "Surrey" and that both the registration number of the motor home and the house number were obscured. Given these factors, Ofcom did not consider that Mr Collins had a legitimate expectation of privacy in this regard.

With regard to the broadcast of shots of Mr Collins walking away down the street, as discussed under head b) of the Decision above, it was Ofcom's view again that Mr Collins did not have a legitimate expectation of privacy as he was in a public place, was aware that he was being filmed and was not shown engaged in anything inherently private.

Ofcom then considered whether Mr Collins had a legitimate expectation of privacy in relation to the broadcast of footage of the upstairs area of his home and closed bedroom door. As already noted in head b) of the Decision above, Ofcom noted that Mr Collins had signed a release form which granted the programme makers permission to "record all or any part of the interior, the exterior and the contents of the Property" and that, although he had stopped

participating in the programme, his wife and daughter had continued their involvement. Ofcom acknowledged their right to freedom of expression and also considered that the filming and subsequent broadcast of footage of the inside of the property was an intrinsic requirement for a programme of this type, i.e. a programme focussed on the cleaning of the interior of a particular property.

Taking these factors into account, Ofcom did not consider that Mr Collins had a legitimate expectation of privacy in relation to the broadcast of the footage of the upstairs area of his home and closed bedroom door.

In light of the above, Ofcom did not consider that Mr Collins had a legitimate expectation of privacy in relation to any other footage of him broadcast in the programme. Therefore, it was not necessary to go on to consider whether any infringement of Mr Collins' privacy was warranted.

Ofcom's Decision is therefore that Mr Collins' privacy was not unwarrantably infringed in the programme as broadcast.

**Accordingly, Ofcom's Decision is that Mr Collins' complaint of unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material, and in the programme as broadcast, should not be upheld.**

## Not Upheld

### Complaint by Mr Richard Ward

*Secrets of the Pickpockets, 4Seven, 16 July 2013*

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#### Summary

Ofcom has not upheld this complaint made by Mr Richard Ward of unwarranted infringement of privacy in the programme as broadcast.

The programme included CCTV footage of Mr Ward being pickpocketed at a bus stop by two men. Mr Ward, who was not named and whose face was obscured in the footage, appeared to be unaware that a theft had taken place. Portions of the same CCTV footage were shown on three other occasions during the programme.

Ofcom found that Mr Ward did not have a legitimate expectation of privacy in relation to the inclusion in the programme of the obscured CCTV footage of him being pickpocketed. Mr Ward's privacy, therefore, was not unwarrantably infringed in the programme as broadcast.

#### Introduction and programme summary

On 16 July 2013, Channel 4 broadcast on 4Seven (a channel showing programmes broadcast on Channel 4 in the previous seven days) an edition of *Secrets of the Pickpockets and Shoplifters*, a series of programmes that examined shoplifting and pickpocketing from the perspective of the perpetrators, their victims and the police. The programme, focusing exclusively on London's West End, looked at pickpocketing techniques used by criminal gangs to target nightclub and public house patrons as they walked between establishments or made their way home.

One part of the programme featured a thirty-second piece of CCTV footage showing a man, (Mr Ward, the complainant) standing at a bus stop. He was shown being approached by two men who were gesturing wildly (a pickpocketing technique called "scattering" that was explored later in the programme) and – without Mr Ward's apparent knowledge – removed an item from his jacket pocket. They were then shown walking away and waving goodbye to Mr Ward, who appeared unaware of a theft having taken place. Mr Ward was not named and face was obscured in the footage shown.

Accompanying this footage, the programme's narrator stated that one of the two men: *"searches for the man's [i.e. Mr Ward's] wallet, and hands the wallet to his accomplice. Job done. The victim is none the wiser until the bus comes, and he can't find his Oyster card"*.

Two shorter, five-second portions of this footage were shown twice during the hour-long programme: the first during the opening title sequence, and the second promoting the content of the remaining forty-five minutes of the programme to viewers. During shorter footage, Mr Ward – whose face remained obscured – was shown waiting at the bus stop and being approached by the two men. No related commentary accompanied this footage.

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

Mr Ward complained that his privacy was unwarrantably infringed in the programme as broadcast because CCTV footage of him being pickpocketed was included in the programme. Mr Ward said that despite his face being obscured, other people had recognised him from the footage broadcast.

By way of background, and before responding to the complaint proper, Channel 4 stated that the CCTV footage in question was controlled by the police and that it had been provided to the programme makers by the police for inclusion in the programme as an example of the "scattering" pickpocketing technique in action. The programme makers were told by the police that the CCTV footage "was captured a number of years previously" and that Mr Ward did not report the incident to the police.

In response to the complaint, Channel 4 said that the programme makers were aware of the necessity to obtain full informed consent from contributors. Careful consideration was given to ensure that in a situation where an individual might have had a legitimate expectation of privacy, but had not consented to being in the programme, he/she could only be included in the programme in an unidentifiable manner, unless there was a sufficient public interest to warrant infringing his/her legitimate expectation to privacy. In this instance, the identity of the individual in the CCTV footage was unknown to the police (and therefore the programme makers), and as such it was not possible for the programme makers to contact the individual to seek consent to be included in an identifiable manner in the broadcast programme. Therefore, in the circumstances, the programme makers and Channel 4 decided to blur the face of the victim in accordance with the programme's own protocol and the requirements of the Code.

Channel 4 said that Mr Ward had no legitimate expectation of privacy with regard to the broadcast of the CCTV footage. The CCTV filmed Mr Ward in a public place, on the street, waiting for a bus. Although he was the victim of pickpocketing, the CCTV footage showed that he was unaware of it and was not shown in any distress. It also said that Mr Ward was not reasonably identifiable from the broadcast. His face was blurred in all shots, he was not named, he was not wearing anything particularly distinctive, there was no audio of his voice, nor was his address or personal information revealed. In these circumstances, Channel 4 said that Mr Ward's privacy had not been unwarrantably infringed.

Channel 4 said that Mr Ward had identified himself as being the individual shown in the CCTV footage, though – as the individual's identity was unknown to both the programme makers and Channel 4 – it was unable to corroborate whether this was indeed the case. In any event, the individual's face was blurred in all parts of the CCTV footage and was unidentifiable in the programme. There were no distinguishing features on the street or bus stop at which the individual was waiting, nor did the narrator draw attention to its location; accordingly, the individual's particular location within London was unidentifiable.

In addition, in relation to Mr Ward's complaint that despite his face being obscured other people had recognised him from the CCTV footage, Channel 4 stated that Mr Ward has provided no evidence of this. Having been out with friends when the incident occurred, Channel 4 said that it would not have been unsurprising if Mr Ward had subsequently told his friends (from whom, Channel 4 said, he was separated on the night of the theft) about the incident. In Channel 4's view, if Ofcom was persuaded that despite Mr Ward's face being blurred in the programme some people may have recognised him, then the only people that could reasonably have

recognised him from the CCTV footage were those people aware that Mr Ward had been pickpocketed in these particular circumstances.

Channel 4 stated that, should Ofcom take the view in this instance that Mr Ward's legitimate, albeit limited, privacy rights were engaged and that there was an infringement, albeit limited, of these rights, then the extent to which such infringement was warranted must be considered. Channel 4 said that the broadcast of the CCTV footage featuring blurred shots of Mr Ward served a clear public interest. Through providing an insight into how pickpockets operate, the programme served to inform the public of what to be aware of and how to be more vigilant so as to evade being a victim of pickpocketing. In addition, Channel 4 said that the programme highlighted the prevalence of pickpockets both on the London transport system and on the streets of London. It also made clear the benefits of the CCTV systems used by the police across the London transport system and the key role they play in capturing pickpockets in action and assisting in locating them for arrest, thus protecting the public.

## **Decision**

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

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

In reaching this decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a transcript of it, both parties' written submissions and supporting material. Ofcom prepared a Preliminary View in this case that Mr Ward's complaint of unwarranted infringement of privacy should not be upheld. Mr Ward made no representations that were directly relevant to the Preliminary View, other than that he disagreed that his complaint should not be upheld. Channel 4 did not make any representations on the Preliminary View.

Ofcom considered Mr Ward's complaint that his privacy was unwarrantably infringed in the programme and trailer as broadcast because the programme included footage of him without his consent.

The individual's right to privacy has to be balanced against the competing rights of the broadcasters to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate. This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

In assessing the complaint, we had particular regard to Practice 8.6 of the Code which states that, if the broadcast of a programme would infringe the privacy of a

person, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

In considering whether or not Mr Ward's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first assessed the extent to which he had a legitimate expectation of privacy in relation to the CCTV footage of him as broadcast.

We noted the CCTV included in the programme and the commentary accompanying it, the detail of which is set out in the "Introduction and programme summary" section above. In our view, whether or not someone who has been filmed on CCTV in relation to an incident has a legitimate expectation of privacy in the broadcast of that footage depends on all the circumstances: for example (depending on their relevance to any particular case) whether the filming took place in a public place; whether the individual was vulnerable in any way (e.g. through the consumption of alcohol or drugs or because of an illness or disability); whether the person concerned was a minor; whether the footage depicted the individual doing something, or disclosed information about that individual, which could reasonably be considered confidential, sensitive or personal; the time that had elapsed between the events depicted in the footage and its broadcast (or re-broadcast); any change in factual circumstances between the events depicted and its broadcast which may affect the extent to which the material could be considered to be private or confidential (for example, whether since the incident filmed the individual concerned was charged and/or found guilty of any offences); and whether the individual is identifiable from the footage.

In the circumstances of this particular case, Ofcom noted from the CCTV footage broadcast within the programme that Mr Ward appeared to have been filmed in a public place, i.e. waiting at a bus stop. Mr Ward was shown responding to, and acknowledging, the two men who approached him, and seemingly unaware that he was being pickpocketed. While Mr Ward appeared to be unaware that he was being pickpocketed by the men and was not in any state of distress, we considered that Mr Ward was, nevertheless, a victim of crime which could reasonably be regarded as placing him in a sensitive situation.

Ofcom recognised that the CCTV footage showed Mr Ward in a sensitive situation (i.e. as victim of crime). However, we took into account the circumstances in which Mr Ward was filmed and what content was actually broadcast in the programme as set out above. Mr Ward was not named in the programme, nor was the location of the incident disclosed, other than it was in London (on which this edition exclusively focused) and at a bus stop. Neither was any indication given as to when the incident had occurred. Ofcom took into account too that Mr Ward's face was obscured by blurring and, in our view, there was nothing particularly distinctive about his physical appearance or clothing that made him identifiable, nor was any sensitive or personal information about his private life disclosed in the programme. While we noted that Mr Ward said that other people had recognised him from the footage broadcast, no material to support this claim was provided to Ofcom.

Taking into account the factors detailed above, Ofcom considered that, owing to the steps taken by the programme makers to obscure Mr Ward's identity in the programme, he was not identifiable in the programme as broadcast. We therefore considered that, in the circumstances of this case, Mr Ward did not have a legitimate expectation of privacy in relation to the footage included in the programme as broadcast. Having reached this conclusion, it was not necessary for us to consider whether any infringement into the privacy of Mr Ward was warranted.

Ofcom therefore found that Mr Ward's privacy was not unwarrantably infringed in the programme as broadcast.

**Accordingly, Ofcom has not upheld Mr Ward's complaint of unwarranted infringement of privacy in the programme as broadcast.**

## Other Programmes Not in Breach

Up to 16 December 2013

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>
Caught on Camera	Channel 5	18/10/2013	Scheduling
Pickpockets and Proud	Channel 5	28/10/2013	Crime

## Complaints Assessed, not Investigated

### Between 3 and 16 December 2013

This is a list of complaints that, after careful assessment, Ofcom has decided not to pursue because they did not raise issues warranting investigation.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
10 O'Clock Live	Channel 4	29/05/2013	Generally accepted standards	1
5 Live Breakfast	BBC Radio 5 Live	24/05/2013	Generally accepted standards	1
5 News at 6.30	Channel 5	24/05/2013	Outside of remit / other	1
Adult Party	Party	27/10/2013	Participation TV - Harm	1
Advertisements	ITV	Various	Advertising minutage	1
Alan Carr: Chatty Man	Channel 4	06/12/2013	Drugs, smoking, solvents or alcohol	1
Auschwitz: The Nazis and the Final Solution	Yesterday	21/11/2013	Scheduling	1
Backchat with Jack Whitehall and His Dad	BBC 3	29/11/2013	Generally accepted standards	1
BBC London	BBC 1	21/06/2013	Race discrimination/offence	1
BBC News	BBC	Various	Outside of remit / other	1
BBC News	BBC 1	28/05/2013	Outside of remit / other	1
BBC News	BBC 1	05/12/2013	Outside of remit / other	1
BBC News	BBC 1	15/12/2013	Outside of remit / other	2
BBC News	BBC News Channel	24/05/2013	Generally accepted standards	2
BBC News	BBC News Channel	05/12/2013	Outside of remit / other	1
BBC News at One	BBC 1	13/12/2013	Outside of remit / other	1
BBC News at Six	BBC 1	28/05/2013	Religious/Beliefs discrimination/offence	1
BBC News at Six	BBC 1	02/12/2013	Outside of remit / other	1
BBC News at Six	BBC 1	09/12/2013	Outside of remit / other	1
BBC News at Ten	BBC 1	28/05/2013	Generally accepted standards	7
BBC News at Ten	BBC 1	03/12/2013	Outside of remit / other	1
BBC News at Ten	BBC 1	05/12/2013	Outside of remit / other	1
BBC News Update	BBC 1	05/12/2013	Outside of remit / other	1
BBC Radio New Comedy Award	BBC Radio 2	02/12/2013	Generally accepted standards	1
Breakfast	BBC 1	04/12/2013	Generally accepted standards	1
Breakfast	BBC 1	04/12/2013	Religious/Beliefs discrimination/offence	1
Breakfast	BBC 1	10/12/2013	Outside of remit / other	2
Breakfast	BBC 1	12/12/2013	Generally accepted standards	1
Breakfast	BBC 1	16/12/2013	Outside of remit / other	1
Broadcasting House	BBC Radio 4	01/12/2013	Outside of remit / other	1
Channel 4 News	Channel 4	25/05/2013	Due accuracy	2
Channel 4 News	Channel 4	28/05/2013	Due impartiality/bias	6

Channel 4 News	Channel 4	04/12/2013	Generally accepted standards	1
Channel 4 News	Channel 4	10/12/2013	Due impartiality/bias	1
Channel promotion	Viva	04/12/2013	Violence and dangerous behaviour	1
Charlie Brooker's How Videogames Changed the World	Channel 4	30/11/2013	Generally accepted standards	1
Come Dine with Me	Channel 4	04/12/2013	Electronic Programme Guides	1
Competitions	ITV	Various	Competitions	1
Coronation Street	ITV	27/11/2013	Generally accepted standards	1
Coronation Street	ITV	29/11/2013	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV	02/12/2013	Promotion of products/services	1
Coronation Street	ITV	04/12/2013	Promotion of products/services	1
Coronation Street	ITV	08/12/2013	Disability discrimination/offence	1
Coronation Street	ITV	08/12/2013	Drugs, smoking, solvents or alcohol	1
Countryfile	BBC 1	01/12/2013	Animal welfare	1
Cowboy Builders	Channel 5	19/11/2013	Competitions	1
Cowboy Builders	Channel 5	19/11/2013	Crime	1
Daybreak	ITV	25/11/2013	Crime	1
Deal or No Deal	Channel 4	09/12/2013	Disability discrimination/offence	1
EastEnders	BBC 1	14/11/2013	Scheduling	2
EastEnders	BBC 2	24/11/2013	Outside of remit / other	1
Emmerdale	ITV	25/11/2013	Outside of remit / other	1
Emmerdale	ITV	25/11/2013	Scheduling	7
Emmerdale	ITV	28/11/2013	Religious/Beliefs discrimination/offence	1
Emmerdale	ITV	05/12/2013	Scheduling	25
Emmerdale	ITV	09/12/2013	Scheduling	1
EPG Information	All	Various	Outside of remit / other	1
Escape from Sobibor	Drama	23/11/2013	Scheduling	1
Fat for Cash	Channel 5	09/10/2013	Generally accepted standards	1
Fat for Cash	Channel 5	09/10/2013	Materially misleading	1
Fat for Cash (trailer)	Channel 5	02/10/2013	Scheduling	2
Fat for Cash (trailer)	Channel 5	03/10/2013	Scheduling	8
Fat for Cash (trailer)	Channel 5	04/10/2013	Scheduling	6
Fat for Cash (trailer)	Channel 5	05/10/2013	Scheduling	3
Fat for Cash (trailer)	Channel 5	06/10/2013	Scheduling	25
Fat for Cash (trailer)	Channel 5	08/10/2013	Scheduling	7
Fat for Cash (trailer)	Channel 5	09/10/2013	Scheduling	16
Fearne Cotton	BBC Radio 1	20/11/2013	Scheduling	1
Fight Night International	Sky Sports 2	01/12/2013	Generally accepted standards	1
Film 4 trailer	Film 4	24/11/2013	Scheduling	1
Fort Boyard	ITV	01/12/2013	Animal welfare	1
Foxy Bingo's sponsorship of The Jeremy Kyle Show	ITV	13/12/2013	Generally accepted standards	1

Foxy Bingo's sponsorship of The Jeremy Kyle Show	ITV	Various	Generally accepted standards	1
Geordie Shore	MTV	n/a	Generally accepted standards	1
Getting Rich in the Recession: The Man Who Buys Anything	Channel 4	05/12/2013	Crime	2
Gogglebox	Channel 4	11/12/2013	Disability discrimination/offence	1
Gogglebox	Channel 4	12/12/2013	Disability discrimination/offence	1
Greg James	BBC Radio 1	06/12/2013	Gender discrimination/offence	1
Have I Got a Bit More News for You	BBC 1	02/12/2013	Generally accepted standards	1
Heart Breakfast	Heart Bristol	18/11/2013	Generally accepted standards	1
Him and Her	BBC 3	10/12/2013	Sexual orientation discrimination/offence	1
Hollyoaks	Channel 4	05/12/2013	Scheduling	1
I'm a Celebrity, Get Me Out of Here!	ITV	23/11/2013	Animal welfare	26
I'm a Celebrity, Get Me Out of Here!	ITV	30/11/2013	Generally accepted standards	1
I'm a Celebrity, Get Me Out of Here!	ITV	01/12/2013	Animal welfare	1
I'm a Celebrity, Get Me Out of Here!	ITV	01/12/2013	Gender discrimination/offence	1
I'm a Celebrity, Get Me Out of Here!	ITV	01/12/2013	Generally accepted standards	40
I'm a Celebrity, Get Me Out of Here!	ITV	02/12/2013	Animal welfare	2
I'm a Celebrity, Get Me Out of Here!	ITV	02/12/2013	Generally accepted standards	5
I'm a Celebrity, Get Me Out of Here!	ITV	03/12/2013	Animal welfare	2
I'm a Celebrity, Get Me Out of Here!	ITV	03/12/2013	Generally accepted standards	2
I'm a Celebrity, Get Me Out of Here!	ITV	04/12/2013	Competitions	1
I'm a Celebrity, Get Me Out of Here!	ITV	04/12/2013	Sexual orientation discrimination/offence	1
I'm a Celebrity, Get Me Out of Here!	ITV	05/12/2013	Generally accepted standards	2
I'm a Celebrity, Get Me Out of Here!	ITV	05/12/2013	Scheduling	5
I'm a Celebrity, Get Me Out of Here!	ITV	06/12/2013	Drugs, smoking, solvents or alcohol	2
I'm a Celebrity, Get Me Out of Here!	ITV	07/12/2013	Animal welfare	1
I'm a Celebrity, Get Me Out of Here!	ITV	07/12/2013	Generally accepted standards	1
I'm a Celebrity, Get Me Out of Here!	ITV	08/12/2013	Animal welfare	2
I'm A Celebrity, Get Me Out of Here!	ITV	Various	Generally accepted standards	1
I'm a Celebrity, Get Me Out of Here! Coming Out	ITV	11/12/2013	Generally accepted standards	2

ITV News	ITV	03/12/2013	Generally accepted standards	1
ITV News and Weather	ITV	24/05/2013	Generally accepted standards	2
ITV News and Weather	ITV	25/05/2013	Race discrimination/offence	1
ITV News and Weather	ITV	27/05/2013	Generally accepted standards	2
ITV News and Weather	ITV	13/12/2013	Generally accepted standards	1
ITV News and Weather	STV	29/11/2013	Generally accepted standards	1
ITV News at Ten	ITV	03/12/2013	Generally accepted standards	1
ITV News at Ten	ITV	03/12/2013	Generally accepted standards	1
ITV News at Ten	ITV	03/12/2013	Generally accepted standards	1
ITV News at Ten	ITV	05/12/2013	Generally accepted standards	2
ITV News at Ten	ITV	09/12/2013	Generally accepted standards	1
ITV News at Ten	ITV	09/12/2013	Generally accepted standards	1
ITV News at Ten and Weather	ITV	23/05/2013	Generally accepted standards	1
Jackass	Comedy Central	09/12/2013	Violence and dangerous behaviour	1
Jurm Bolta Hai	ARY News	30/11/2013	Scheduling	1
Kim Wilde Christmas	Magic Radio	30/11/2013	Commercial communications on radio	1
Last Tango in Halifax	BBC 1	26/11/2013	Religious/Beliefs discrimination/offence	2
Liberty of London	Channel 4	02/12/2013	Generally accepted standards	1
Live Football	Various	Various	Outside of remit / other	1
Lorraine	ITV	13/12/2013	Outside of remit / other	1
Macaamadi	Horn Cable	15/11/2013	Generally accepted standards	1
Mandmdirect.com's sponsorship of The Simpsons	Channel 4	02/12/2013	Generally accepted standards	1
Mandmdirect.com's sponsorship of The Simpsons	Channel 4	06/12/2013	Generally accepted standards	2
Mandmdirect.com's sponsorship of The Simpsons	Channel 4	12/12/2013	Generally accepted standards	1
Mandmdirect.com's sponsorship of The Simpsons	Channel 4	Various	Generally accepted standards	6
MasterChef: The Professionals	BBC 2	28/11/2013	Race discrimination/offence	1
Matchday Live: Manchester City v West Ham	Talksport	19/10/2013	Commercial communications on radio	1
Miranda	BBC 1	13/12/2013	Scheduling	1

Mission Christmas Appeal	Downtown Radio	05/12/2013	Generally accepted standards	1
Morning Programme	Kiss FM	28/11/2013	Race discrimination/offence	1
Motorway Cops	Watch	04/12/2013	Outside of remit / other	1
Murnaghan	Sky News	01/12/2013	Generally accepted standards	2
New Tricks	BBC 1	04/12/2013	Race discrimination/offence	1
News	Channel Nine UK	17/10/2013	Generally accepted standards	1
News	Smooth Radio	07/12/2013	Race discrimination/offence	1
News programming	BBC / ITV / Sky	28/05/2013	Religious/Beliefs discrimination/offence	1
News programming	Various	22/05/2013	Generally accepted standards	2
News programming	Various	23/05/2013	Generally accepted standards	1
News programming	Various	n/a	Religious/Beliefs discrimination/offence	1
Newsbeat	BBC Radio 1	29/11/2013	Scheduling	1
Nick Ferrari	LBC 97.3FM	02/12/2013	Generally accepted standards	1
Nihal	BBC Asian Network	14/06/2013	Race discrimination/offence	4
No Fire Zone	Channel 4	03/11/2013	Due impartiality/bias	1
Prize Island	ITV	01/12/2013	Violence and dangerous behaviour	1
Programming	Corby Radio	n/a	Outside of remit / other	1
Programming	ITV3	Various	Scheduling	1
Programming	News Channels	Various	Generally accepted standards	1
Programming	Various	Various	Offensive language	1
Psychopath Night	Channel 4	14/12/2013	Generally accepted standards	2
Psychopath Night (trailer)	Channel 4	12/12/2013	Disability discrimination/offence	1
QI	Dave	24/11/2013	Scheduling	1
QI XL	Dave	24/11/2013	Fairness	1
Question Time Special	BBC 1	12/12/2013	Outside of remit / other	3
Radio 1 Breakfast Show	BBC Radio 1	19/11/2013	Offensive language	3
Rickie, Melvin & Charlie in the Morning	Kiss FM	27/11/2013	Generally accepted standards	1
Ripper Street	BBC 1	02/12/2013	Outside of remit / other	1
Sangat TV	Sangat TV	01/12/2013	Materially misleading	2
Sawal Ye Hai	ARY News	11/08/2013	Crime	7
Scott Mills	BBC Radio 1	18/11/2013	Scheduling	2
Scottish Cup Football: Falkirk v Rangers	Sky Sports 2	30/11/2013	Religious/Beliefs discrimination/offence	1
Shoplifters and Proud	Channel 5	21/10/2013	Crime	4
Sikh Youth Show	Sikh Channel	10/11/2013	Generally accepted standards	1
Sky News	Sky News	28/05/2013	Religious/Beliefs discrimination/offence	1
Sky News	Sky News	29/11/2013	Generally accepted standards	1

Sponsorship credit	Absolute Radio 70s	16/11/2013	Commercial communications on radio	1
Sports Personality of the Year (Trailer)	BBC 1	09/12/2013	Generally accepted standards	1
Sports Personality of the Year 2013	BBC 1	15/12/2013	Outside of remit / other	1
Stand Up for the Week	Channel 4	Various	Race discrimination/offence	1
Station ident	Jack FM	02/12/2013	Sexual orientation discrimination/offence	1
Steve Power at Breakfast	Wave 105 FM	20/11/2013	Commercial communications on radio	1
Stobart: Trucks, Trains and Planes	Channel 5	06/12/2013	Scheduling	4
Storage Hunters	Dave	14/12/2013	Scheduling	1
Strictly Come Dancing	BBC 1	07/12/2013	Gender discrimination/offence	1
Strictly Come Dancing	BBC 1	14/12/2013	Scheduling	1
Strictly Come Dancing	BBC 1	15/12/2013	Outside of remit / other	1
Sunrise	Sky News	15/12/2013	Outside of remit / other	1
The Ashes: Test Match Special	BBC Radio 5 Live Sports Extra	06/12/2013	Generally accepted standards	1
The Chris Evans Breakfast Show	BBC Radio 2	12/12/2013	Outside of remit / other	1
The Crash that Shook Scotland	BBC 1	02/12/2013	Generally accepted standards	2
The Gadget Show	Channel 5	02/12/2013	Gender discrimination/offence	1
The Jeremy Kyle Show	UTV	29/11/2013	Generally accepted standards	1
The National Lottery Live	BBC 1	07/12/2013	Gender discrimination/offence	1
The One Show	BBC 1	06/12/2013	Generally accepted standards	1
The One Show	BBC 1	09/12/2013	Outside of remit / other	3
The One Show	BBC 1	11/12/2013	Generally accepted standards	4
The Paul O'Grady Show	ITV	12/12/2013	Animal welfare	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	06/12/2013	Generally accepted standards	1
The Report	BBC Radio 4	12/12/2013	Race discrimination/offence	1
The Royal Variety Performance	ITV	09/12/2013	Generally accepted standards	2
The Royal Variety Performance	ITV	09/12/2013	Nudity	3
The Royal Variety Performance	ITV	09/12/2013	Race discrimination/offence	1
The Royal Variety Performance	ITV	09/12/2013	Violence and dangerous behaviour	1
The Silent War	BBC 2	05/12/2013	Outside of remit / other	1
The Simpsons	Channel 4	12/12/2013	Scheduling	3
The Week The Women Came (trailer)	More4	10/12/2013	Scheduling	2

The Week The Women Came (trailer)	More4	11/12/2013	Scheduling	2
The Wright Stuff	Channel 5	27/11/2013	Due impartiality/bias	4
The Wright Stuff	Channel 5	29/11/2013	Generally accepted standards	1
The Wright Stuff	Channel 5	11/12/2013	Generally accepted standards	1
The Wright Stuff	Channel 5	Various	Outside of remit / other	1
The X Factor	ITV	30/11/2013	Race discrimination/offence	3
The X Factor	ITV	07/12/2013	Scheduling	7
The X Factor	ITV	14/12/2013	Outside of remit / other	1
The X Factor	ITV	15/12/2013	Outside of remit / other	1
The X Factor Results Show	ITV	01/12/2013	Outside of remit / other	3
The X Factor Results Show	ITV	08/12/2013	Generally accepted standards	5
The X Factor Results Show	ITV	08/12/2013	Outside of remit / other	1
The X Factor Results Show	ITV	08/12/2013	Scheduling	1
This Morning	ITV	05/12/2013	Due impartiality/bias	1
This Morning	ITV	11/12/2013	Offensive language	1
Today	BBC Radio 4	09/12/2013	Outside of remit / other	1
Topsy and Tim	CBeebies	25/11/2013	Animal welfare	1
UEFA Champions League Live	ITV	10/12/2013	Outside of remit / other	1
UEFA Europa League Live	ITV4	12/12/2013	Outside of remit / other	1
Visit Scotland advertisement	Various	Various	Political advertising	4
What Happens in Kavos...	Channel 4	28/11/2013	Generally accepted standards	1
Woman's Hour	BBC Radio 4	06/12/2013	Generally accepted standards	1
Young, British and Broke	BBC 3	03/12/2013	Outside of remit / other	1
You've Been Framed!	ITV	30/11/2013	Generally accepted standards	3
You've Been Framed!	ITV	30/11/2013	Under 18s in programmes	1
You've Been Framed!	ITV	14/12/2013	Scheduling	1

## Investigations List

If Ofcom considers that a broadcast may have breached its codes, it will start an investigation.

Here is an alphabetical list of new investigations launched between 5 and 18 December 2013.

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>
Advertisement by London Borough of Tower Hamlets	Bangla TV	Various
Advertisement by London Borough of Tower Hamlets	CHS TV	Various
Advertising minutage	Community Channel	7 October 2013
Advertising minutage	Hidayat TV	9 October 2013
Advertising minutage	Vintage TV	18 October 2013
Balika Vadhu	Colors	11 November 2013
Programming	Geo TV	Various

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the Codes being recorded.**

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

For fairness and privacy complaints go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.