



Code of Conduct for Ofcom Content Board

Publication date: 1 April 2025

Revision cycle: Annual

Approved by: Ofcom Board 5 March 2025

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Overview

It is essential that Ofcom maintains a reputation for impartiality, integrity and high professional standards.

There should never be any legitimate reasons for people outside Ofcom to question that Ofcom's decisions may be influenced by the private interests, or political interests and opinions, of Members, or that Members may be able to profit from information available to them through their work.

Accordingly, Ofcom's Content Board Members should comply at all times with this Code of Conduct (and any agreed modifications the Ofcom Board might make to it) and act in good faith and in the best interests of Ofcom.

1. Introduction

- 1.1 It is essential that Ofcom maintains a reputation for impartiality, integrity and high professional standards. There should never be any legitimate reasons for people outside Ofcom to question that Ofcom's decisions may be influenced by the private interests or political interests or opinions of Members or that Members may be able to profit from information available to them through their work.
- 1.2 Ofcom's Content Board is established by the Communications Act (2003). It acts in an advisory capacity to the Ofcom Board and the Ofcom Executive on content-related matters. Individual Content Board members may also act as a decision-maker on a content-related sanctions panel¹ or on Ofcom's Election Committee².
- 1.3 Working within the necessary standards of impartiality, integrity and probity it is important that Ofcom is able to attract Content Board Members with knowledge and experience, at a senior level, of the broadcasting and media industries.
- 1.4 However, it is important that Members avoid any perception of, or actual, conflict of interest arising in relation to their other undertakings. It may, therefore, be necessary for Ofcom to manage sensibly and appropriately potential conflicts of interest that Content Board Members may have or that may arise from time to time.
- 1.5 In addition, Ofcom needs to ensure that the actions of Members do not bring into question Ofcom's impartiality and objectivity. Members are expected to avoid conduct that might bring Ofcom into disrepute or create a perception of bias/lack of impartiality. Members must ensure that their conduct accords with the Seven Principles of Public Life (attached as an annex to this Code).
- 1.6 Members should exercise their duties thoughtfully and with consideration. Ofcom colleagues are expected to adhere to the four behavioural values of Excellence, Collaboration, Agility

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0030/71967/Procedures_for_consideration.pdf

² <https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/committees/election-committee>

and Empowerment and Members are expected to do the same. Members should treat all Ofcom colleagues with respect and dignity.

2. The role of the Content Board, its Chair and Members

The role of the Content Board is addressed in its published [Terms of Reference](#).

The role of the Members of the Content Board

- 2.1 The responsibilities of Members include:
- a) the discharge of Ofcom's duties under the Communications Act 2003, any other relevant supplementary legislation or Orders thereto in relation to matters delegated to the Content Board;
 - b) the provision of recommendations and advice to the Ofcom Board on those media, broadcasting and content-related matters reserved to the Ofcom Board;
 - c) ensuring that the highest standards of corporate governance are observed always; and
 - d) ensuring that the Content Board operates within the limits of its statutory authority and within the limits of its delegated authority.

The role of the Chair of the Content Board

- 2.2 The Chair of the Content Board (who is a Main Board member and must comply with the Ofcom Board Code) has particular responsibility for leading the Content Board in:
- a) agreeing with the Ofcom Board a strategy for discharging its statutory duties in so far as they are delegated from the Ofcom Board;
 - b) representing the views of Ofcom on matters for which the Content Board has delegated responsibility;
 - c) providing advice to the Ofcom Board on matters reserved to the Ofcom Board in the area of media and broadcasting and on demand policy;
 - d) ensuring that the Content Board meets regularly throughout the year and that the minutes of meetings accurately record the discussion; and
 - e) providing an assessment of the performance of individual Content Board Members on an annual basis, to inform any proposed reappointment to the Content Board.

Delegations

- 2.3 Ofcom Content Board Members serve on a part-time basis. The Content Board acts collectively as an advisor to the Ofcom Board and to the Ofcom Executive on content-related matters. As set out in paragraph 1.2 above, there are two exceptions relating to roles on certain content-related matters.

Confidentiality

- 2.4 Members of the Content Board will be expected to show complete confidentiality in respect of information or materials supplied to them for the purposes of and in connection with their duties on the Content Board.
- 2.5 Section 393 of the Communications Act sets out restrictions on individuals on the disclosure of any information without the consent of the person who provided the information.
- 2.6 Any disclosure of information in contravention of that provision is a criminal offence subject to up to two years imprisonment and/or a fine.
- 2.7 These restrictions continue to apply once Members have ceased being Members of the Content Board, in relation to confidential information received while they held office. This is in order for people to avoid the risk that a particular firm might gain an improper advantage over its competitors by employing someone who, in the course of their Ofcom duties, has had access to technical or other information which those competitors might legitimately regard as their own trade secrets or to information relating to proposed developments in Government policy which may affect that firm or its competitors.

Concerns about malpractice

- 2.8 If a Member wants to raise a concern about potential malpractice, they should in the first instance raise their concerns with the Chair of the Content Board and the Corporation Secretary.

Security policy

- 2.9 Board Members are asked to read and comply with Ofcom's Security Policy. This policy covers a number of areas, including acceptable use of information systems, information security, retention and disposal of information, dealing with third parties and premises security.

3. Interests

- 3.1 The interests of the Member and their close family members i.e. partners and dependent children must not create the impression that the Content Board's collective advice nor any individual advisory opinion given in content-related investigations, sanction decisions or Election Committee decisions in which they may be involved might be influenced by personal circumstance. All Members of the Content Board must operate within the agreed principles for conflicts of interest for such posts.
- 3.2 In all cases, Ofcom reserves the right to determine what constitutes a potential or actual conflict of interest and to decide whether conflicts can be sensibly managed through declarations and recusals. Where this is not possible, Ofcom reserves the right to terminate the Member's position with immediate effect.

Declaration of interests

- 3.3 Members must declare any such actual or potential interests before taking up their appointment and as and when they arise during the course of such appointment. Members are asked to declare whether there have been any changes in their interests at each meeting and must complete a fresh declaration on an annual basis.
- 3.4 Before a relevant item is discussed, Members of the Content Board should declare any direct or indirect interests or connections they may have. Interests which should be declared are not only financial ones but those which involve some material benefit to either party. Personal friendships, other than mere acquaintances, and family interests may also constitute a connection. If in doubt, Members are advised to declare the connection in order to give other Members the opportunity to determine whether it is an actual or potential interest and the appropriate course of action. A general notification of interest may be given, which would apply to all meetings of the Content Board.

Register of interests

- 3.5 Ofcom maintains a register of Members' interests which is updated annually and as changes arise, and relevant information is published on Ofcom's website.
- 3.6 This register provides details of Members' public and charitable appointments, directorships, related employments, relevant financial interests/shareholdings and relevant activities of family members (as defined in 3.1 above).
- 3.7 All shareholdings in relevant companies (including those of partners and of dependent children) should be disclosed. Relevant companies include those operating within the broadcast or newspaper sectors, including content suppliers to those sectors.
- 3.8 Members will be expected to make an annual declaration of any relevant interests. Between annual updates, Members must notify the Corporation Secretary of any changes to their interests, so that consideration can be given to the matter and if appropriate, the Register amended accordingly.

Interest in the sectors we regulate

Employment

- 3.9 It is recognised that the capacity to earn from the broadcasting and on demand sector may actually add value to the contribution Content Board Members are able to make to their work at Ofcom. Content Board Members may have strong links with the broadcasting and on demand industries; consequently, certain paid employment may be permissible so long as it is open and accounted for and any conflict of interest is declared and discussed at a Content Board meeting before each relevant agenda item. Overall, Ofcom will take care to ensure that the range and balance of the skills on the Content Board is such that no one voice or interest can be seen to unduly influence the advice that it gives.
- 3.10 However, Content Board Members must avoid any suspicion that their work for Ofcom might be influenced in the hope or expectation of future employment with a particular firm or organisation, and Ofcom reserves the right to judge whether conflicts of this type are manageable.

- 3.11 Accordingly, during their term of office Members must generally avoid consultancy contracts, directorships or other employment with media organisations regulated by Ofcom, be they existing commercial licensees or regulated services, the BBC, organisations seeking to become commercial licensees or regulated services, or a company with a significant investment in such a company. If offers of employment are received from such a company (including the BBC), Members may accept only with the prior agreement of the Chair of the Content Board and the Corporation Secretary. Occasional consulting work by Members for companies that Ofcom regulates or licenses might be permissible, but only if the role with that licensee or regulatee does not and would not appear to place in jeopardy their ability to offer impartial advice to Ofcom. The matter must be discussed with the Chair of the Content Board and the Corporation Secretary and consideration will be given to any perceived or actual conflict of interest and what action should be taken. This may include advising the Member that they can no longer continue in their role with the Content Board. Any Member who might wish to contract with Ofcom as a third party for specialist services must consult with the Chair of the Committee and the Corporation Secretary, and if deemed appropriate would should go through the usual competitive tendering process.
- 3.12 In all cases, before accepting such paid employment prior notification to the Chair of the Content Board (or in the case of the Chair of the Content Board, the Chair of Ofcom) and the Corporation Secretary must be made, and the work disclosed on the public Register of Interests. Ofcom will reserve the right to withdraw its consent for such paid employment at any time.

Restrictions on financial investments

- 3.13 We recognise that previous employment in the communications sector may add value to the contribution that a Member can make to their work as a Member of the Content Board. It is possible, therefore, that, from time-to-time, Members may hold financial investments in (and pensions from) organisations operating in the broadcasting or media industry, as a result of previous employment.
- 3.14 On the whole, in the two exceptional roles where individual Content Board Members may act as decision-makers (that is, on sanctions panels or on the Election Committee), they should not retain any investments (nor their partners nor dependent children) or undertake any work which Ofcom determines amounts to an unacceptable conflict of interest. Ofcom reserves the right to judge whether conflicts of this type are manageable while being a member of the Content Board.
- 3.15 Ofcom's remit stretches across a wide range of industries and regulatory activities. However, for Content Board Members, the focus of concern is in financial interests in those companies whose core business activities (and where relevant, share price) could be affected by Ofcom's decisions where the Content Board has provided advice or made a recommendation. This will generally be limited to companies in the broadcasting and on demand sectors, including content suppliers to those sectors.
- 3.16 For other companies in the communications sector, we use a 'hold or divest' policy. This means that Members should either dispose of their financial investments in organisations that Ofcom regulates or hold on to them for the duration of their term, and declare them. If the investments are held, they should be declared on Ofcom's register of interests.

- 3.17 Members should declare any investments that their close family members (as defined above) might hold in organisations that Ofcom regulates or licenses. Whilst there is nothing preventing close family members trading relevant shares, Ofcom expects Members to exercise due caution in relation to any such trading, so as to avoid any possible perception that any trade was influenced by their role as a Member or that the Member, individually or as part of a couple/family, could have benefitted as a result.

Avoiding other potential conflicts

- 3.18 If there are any other conflicts not covered in paragraphs 3.1 to 3.17 above, a person with an interest must not take part in any relevant discussion unless the other Content Board Members present decide unanimously that the interest can be disregarded. Decisions on participation must be in favour of the most severe exclusion suggested by a Content Board member.

4. External communications

General principle

- 4.1 The conduct of Content Board Members when performing duties in a personal capacity or for other organisations can have a bearing on Ofcom's reputation for independent and impartial evidenced-based decision making.
- 4.2 The points set out below are designed to ensure that Members' outside interests do not conflict with the advice they give to Ofcom.

Relationship with Government

- 4.3 The main point of contact between Ofcom and DSIT or DCMS or the relevant departments in devolved administrations on day-to-day matters will normally be the Chief Executive or other members of staff who are authorised to act on behalf of Ofcom. Members of the Content Board must act independently from UK Government, and from any equivalent institutions in the devolved governments.

Public speaking or appearances on television, radio, online, in print

On behalf of Ofcom

- 4.4 As a general principle, it will usually be the Chair of Ofcom or Chief Executive who speak in public on behalf of Ofcom.
- 4.5 On rare occasions, Members of the Content Board might be asked to speak at stakeholder or industry events, on Ofcom's behalf, and particular care should be taken about any invitation to speak publicly, including speaking to journalists, in the capacity as a Member of Ofcom's Content Board.
- 4.6 In any such instance, Members should in the first instance consult the Corporation Secretary and the Communications Director as appropriate. If consent is given, Members should not

express views at variance from agreed Ofcom policy or which give rise to the perception of political bias or partisanship of any other kind.

- 4.7 Members should also avoid publicly stating personal opinions on matters where Ofcom policy has not been determined (bearing in mind that Members may well have been offering advice – and privy to information – as part of the policy development process) which they have obtained as a result of their position at Ofcom. Members should not state personal opinions where Ofcom’s reputation may be harmed.

In a personal capacity on matters unrelated to Ofcom

- 4.8 Members are not restricted outright from access to the media in their personal non-Ofcom capacity, or in pursuit of a professional interest, for example as performers, experts, critics, or commentators. Appearances on television or radio, the production of television, radio or on demand programmes and the writing of online, newspaper or magazine columns/blogs or contributions to social media (e.g. X, Facebook, LinkedIn and Google etc) (together the 'permitted activities') by Members are not prohibited outright.

- 4.9 Personal views may be expressed so long as it is made clear that the Member is speaking or writing in a purely personal capacity and stating his or her own private opinion on matters outside Ofcom’s range of responsibilities or matters of public, political and industrial controversy that relate to them.

- 4.10 Members should however undertake them with care. For example, comments which might have an adverse impact on Ofcom's reputation (noting that all comments or posts on social media should be considered to be in the public domain) and comments on Ofcom policy should be avoided. Caution is necessary in respect of matters of political, industrial or public controversy which could be thought to compromise the Content Board's reputation for impartiality or the objectivity of its advice in the broadcasting or on demand sphere or on economic regulatory decision making. For example, a Member of the Content Board, appearing in another capacity, may express a personal opinion on a matter unrelated to Ofcom. However, lobbying or frequent expressions of opinion on matters of public controversy which might be thought to influence the Content Board’s judgments on advice on regulatory matters would be incompatible with membership. Before posting online Members may wish to consider:

- Is this a highly political, sensitive or divisive matter on which people have a strong range of divergent views?
- Is this a matter in relation to which Ofcom has a direct regulatory role?
- Taking into account my role, could posting about this issue call into question Ofcom’s impartiality or independence, or the public’s perception?

- 4.11 In support of the above, Members will be invited to draw to the attention of the Corporation Secretary and the Communications Director any proposed online, newspaper or magazine article - or appearance on, or production of, television or radio programming. This will allow for a discussion about how such engagement might be sensibly managed.

Attending conferences

- 4.12 All invitations to attend or speak at industry or stakeholder events should be referred first to the Chief Executive, or in his/her absence the Communications Director, for advice. Care

must be taken to ensure there is appropriate Ofcom representation at events, and that Members are properly briefed in advance of attending.

Dealing with stakeholders during purdah periods

- 4.13 Members should avoid visiting and/or socialising with stakeholders during pre-election or 'purdah' periods – that is, where a significant decision involving or affecting that stakeholder is imminent.

5. Other matters

Conduct and the seven principles of public life

- 5.1 It is essential that both individual Members and Ofcom maintain a reputation for impartiality, integrity and high professional standards. There should never be any legitimate reasons for external observers to question that our advice or decisions might be influenced by the private interests, or political interests or opinions, of Members, or that Members might be able to profit from information available to them through their work.
- 5.2 The 7 principles of public life apply to anyone who works as a public office-holder. This includes people who are elected or appointed to public office, nationally and locally, and all people appointed to work in:
- the civil service
 - local government
 - the police
 - the courts and probation services
 - non-departmental public bodies
 - health, education, social and care services

The principles also apply to all those in other sectors that deliver public services. They were first set out by Lord Nolan in 1995 and they are included in the Ministerial code. For further information on the 7 principles and the work of the Committee on Standards in Public Life, visit the Committee's website and blogsite.

- 5.3 Members must ensure that their conduct accords with the 7 principles of public life annexed to this Code.

Political activities

- 5.4 To comply with Ofcom's status as an independent regulator, it is inappropriate for any Member to engage in active politics. This includes holding, or being a candidate for, political office at a national, regional or local level, active political campaigning in support of a political party and making a donation or donations to a political party in a calendar year in

excess of £11,180³. Working full time for any Central Government department or as an official in the civil service (including in the devolved nations) or for local government is also not acceptable.

- 5.5 Members are asked in case of doubt to consult the Chair of the Content Board and the Corporation Secretary.

Criminal and civil liability

- 5.6 Although any legal proceedings initiated by a third party are likely to be brought against Ofcom as a corporate entity, in exceptional cases proceedings (civil or, in certain cases, criminal) may be brought against the Chair or other individual Members. For example, a
- 5.7 Board Member may be personally liable if he or she makes a fraudulent or negligent statement which results in loss to a third party. A Member may also be liable for breach of confidence under common law or under insider dealing legislation if he or she misuses information gained by virtue of his or her position.
- 5.8 However, individual Members who act honestly, reasonably and in good faith and without negligence will not have to meet any personal civil liability which is incurred in execution or purported execution of their Ofcom duties. Ofcom will indemnify Members against claims in these circumstances.

Expenses

- 5.9 Travel and other expenses are only recoverable if the expenditure is reasonably and necessarily incurred on behalf of the Content Board in accordance with Ofcom's Expenses Policy. First-class travel is generally not possible and will only be accommodated in exceptional circumstances. All expense claims must be made on the appropriate Ofcom claim form and must be submitted within 90 days of the date of the expenditure. Expenses submitted after this time period are unlikely to be paid.

Gifts and hospitality

Gifts

- 5.10 It is Ofcom policy not to accept, provide or receive gifts either from an individual or an organisation. If an individual or organisation insists on making a gift to a Member in their capacity as a Member, and its value is greater than £10, it should be donated to a charity of Ofcom's choice. Gifts of less than £10 in value may be accepted.
- 5.11 All gifts with a retail value of more than £10 must be declared and recorded on the Gifts and Hospitality Register.

Hospitality

³ This figure is linked to the sum the Electoral Commission designates at any particular time as the figure above which a donor's name needs to be published on their website where donations, singly or in aggregate, have been made by an individual over a calendar year.

- 5.12 The problems and advantages associated with the acceptance of hospitality vary widely across the industries subject to regulation by Ofcom.
- 5.13 Members should pay careful attention to the advice set out in the following paragraph in determining whether or not to accept offers of hospitality. There should be a presumption against accepting offers of hospitality from those organisations that Ofcom regulates. The burden falls to the Member to explain why an offer of hospitality should be accepted.
- 5.14 Members should consider the following broad guidelines which may be of help in assessing the relative merits of accepting an invitation:
- a) Category 1: Event-based hospitality that presents networking opportunities with Ofcom's stakeholders, and which might therefore inform or promote the work of Ofcom, may be acceptable. An example would be attendance at an industry awards dinner.
 - b) Category 2: Work-related hospitality from a single stakeholder or licensee is acceptable where it can clearly be seen to be of value to Ofcom's work and to the wider industry in question. A working lunch may be an example.
 - c) Category 3: Hospitality that benefits the recipient personally should be politely declined if it is difficult to justify the benefit to Ofcom, or if there is a risk of perceived bias or malign comment. An example would include invitations by Ofcom stakeholders to cultural or sporting events, such as the offer of tickets to the BBC Proms, or to the FA Cup final, or to a concert at the O2 Arena.

Register of gifts and hospitality

- 5.15 Ofcom will keep a publicly-available register of gifts and hospitality in which, for purposes of accountability and consistency, all relevant hospitality received or given by Board Members should be logged.
- 5.16 This register is published on the Ofcom website. Members are required to inform the Secretary to the Corporation of all hospitality and gifts given or received.
- 5.17 The Secretary to the Corporation is able to give Members advice on relevant offers of gifts and hospitality. Those that are accepted by Members should be drawn to the attention of the Corporation Secretary, who will keep the Register of Gifts and Hospitality regularly updated. This process is not intended as a censoring mechanism but, first, to ensure an appropriate level of Ofcom representation at events or functions, and, secondly, to ensure that there can be no suggestion of actual or apparent bias towards any particular stakeholder.

Data protection

- 5.18 For the purposes of complying with Data Protection legislation, Members give their consent for all purposes to the holding, processing and accessing of personal data about them held by Ofcom. Your personal information (with the exception of interests you declare and your biography, which are both published on the website) will be kept confidential by Ofcom and not disclosed to third parties, unless we are required to do so by law or where we have obtained your consent in advance. Ofcom's general data privacy statement sets out further information.

Exit restrictions

- 5.19 On termination of office, Members must return to Ofcom all property (including, but not limited to, documents and software, credit cards, computer equipment, keys and security passes) belonging to it.

6. Annex: The Seven Principles of Public Life

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.