



Providing a service in accordance with ‘Key Commitments’, Cumbernauld FM Ltd

Type of case	Broadcast Licence Conditions
Outcome	In Breach
Service	Cumbernauld FM
Date & time	15 May to 21 May 2023
Category	Key Commitments
Summary	The Licensee failed to fulfil the requirements specified in its Key Commitments to deliver 84 hours of original output per week. Breaches of Licence Conditions 2(1) and 2(4).

Introduction

Cumbernauld FM is a community radio station based in Cumbernauld, Lanarkshire. The licence for Cumbernauld FM is held by Cumbernauld FM Ltd (“Cumbernauld FM” or “the Licensee”).

Like all other community radio stations, Cumbernauld FM is required to deliver ‘[Key Commitments](https://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr102242.pdf)’ (static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr102242.pdf), which form part of its licence. These set out how the station will serve its target community and deliver social gain (community benefits) and include a description of the on-air programme service.

Ofcom requested full 24-hour recordings for the week 15 May to 21 May 2023 to ensure that Cumbernauld FM was complying with its Key Commitment to broadcast a minimum of 84 hours of original output per week. This was following the Breach Decisions (https://www.ofcom.org.uk/__data/assets/pdf_file/0023/237245/Cumbernauld-FM.pdf and https://www.ofcom.org.uk/__data/assets/pdf_file/0026/251918/Licensing-Decision-Cumbernauld-FM-Key-Commitments.pdf) published in [May 2022](#) and [January 2023](#) respectively in which we found the Licensee in breach of its licence for failing to meet its original output requirement. We also

requested a full programme schedule for the week beginning 15 May 2023 and an explanation of how Cumbernauld FM was meeting its obligations under its Key Commitments.

Having assessed the recordings, associated programme schedules and information from the Licensee, it appeared that Cumbernauld FM was not delivering the following Key Commitments:

- The service provides original output¹ for a minimum of 84 hours per week
- Programming is in English, with Gaelic, European and Indian Sub-continent languages

Ofcom considered that this raised potential issues under Licence Conditions 2(1) and 2(4). These state, respectively:

- 2(1) “The Licensee...shall provide the service specified in Part I (b) of the Annex for the remainder of the licence period”; and
- 2(4) “Subject to Condition 2(5) below..., the Licensee shall ensure that the Licensed Service accords with the proposals set out in Part I (b) of the Annex so as to maintain the character of the Licensed Service throughout the licence period”

We requested comments from Cumbernauld FM on how it was complying with these licence conditions.

Response

In reaching our Decision and in accordance with our [General procedures for investigating breaches of broadcast licences](https://www.ofcom.org.uk/__data/assets/pdf_file/0019/31942/general-procedures.pdf) (https://www.ofcom.org.uk/__data/assets/pdf_file/0019/31942/general-procedures.pdf), Ofcom provided Cumbernauld FM with the opportunity to provide representations on our Preliminary View. Ofcom did not receive a response to this request by the stated deadline but took into account the following information provided by the Licensee prior to receiving the Preliminary View.

Original output

Cumbernauld FM noted that it has been struggling to meet its weekly requirement of 84 hours for original output despite running free training programmes for members of its target community. In addition to this, the Licensee highlighted “the cost of living crisis, illness [and] changing situations for volunteers have meant [it has] gained, but also lost presenters/volunteers at the same time.” The Licensee also claimed it “consistently managed at least 50+ hours per week, and [it believes that it] broadcast at least 65 hours of original locally produced output...in the week in question”. The Licensee further explained that it does not have any permanent staff to monitor this figure.

Cumbernauld FM stated that it is taking steps to ensure the provision of the service in the future, including offering a Scottish Qualifications Authority assured training course in conjunction with a

¹ Original output is content which is first produced for, and transmitted by, the station and excludes output that was transmitted elsewhere before. Original output can be live, pre-recorded or voice-tracked. Repeat broadcasts of original output and continuous music with no speech content other than advertisements, station idents and/or outsourced news bulletins (i.e. news bulletins produced by a third party) do not meet Ofcom’s definition of original output.

local college. The Licensee stated that it has 17 students enrolled on this course, however, explained that it will be unable to gauge the success of this course until its completion.

Cumbernauld FM explained to Ofcom that it engages with a number of local groups including “CACE, Cornerstone house, GRACE, Cumbernauld Library, Bield retirement complex, Condorrat Church Guild, Cumbernauld Community Forum, New College Lanarkshire”. The Licensee also referenced its support of a local gala day in Cumbernauld, which the Licensee states demonstrates it is delivering off-air social gain.

Languages of programming

With regard to the requirement for programming in English, with Gaelic, European and Indian sub-continent languages, the Licensee explained that it had trained a presenter to deliver a show in Gaelic, who then left the station. Cumbernauld FM stated that it had previously been working with a Swedish presenter who returned to Sweden having presented three English language shows earlier in 2023.

The Licensee said that it has approached a local mosque about the possibility of presenting a show, however, it has not been able to progress this exploration to date. Cumbernauld FM also explained that it had held discussions with one of its training cohort about the possibility of a dual language show, however, this was not included during the week monitored.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the licensed service specified in their Key Commitments. This is a fundamental purpose for which a community licence is granted.

Cumbernauld FM submitted a request to [change its Key Commitments](https://www.ofcom.org.uk/manage-your-licence/radio-broadcast-licensing/amend/change-requests) (https://www.ofcom.org.uk/manage-your-licence/radio-broadcast-licensing/amend/change-requests) on 1 August 2023, which proposed to remove the requirement to broadcast programming in languages other than English. Cumbernauld FM also requested to amend its original output and locally-produced output requirements to 54 hours per week with respect to both requirements. This request was approved by Ofcom in September 2023 and published on our website on 5 October 2023.

Original output

In assessing the content, we found that Cumbernauld FM was not delivering 84 hours of original output per week. Ofcom found that the Licensee was broadcasting a maximum of 40 hours of original output for the week commencing 15 May 2023. The amount of original output broadcast during this week was unchanged from when Ofcom assessed the output of Cumbernauld FM in August 2022. We acknowledge that we have since agreed to a change to the Licensee’s Key Commitments (in September 2023), reducing its weekly requirement for original output to 54 hours. However, for the week monitored, the Licensee would not have met this reduced requirement.

While we appreciate that the Licensee was unable to deliver on its original output requirement during the week monitored due to issues it stated that were out of its control, it is the responsibility of the Licensee to ensure it is meeting its Key Commitments and have contingency plans in place to manage the absence of volunteers. Ofcom found that, even if volunteer absence had not impacted

on the schedule, the Licensee would have delivered 63 hours of original output for the week in question. This would not have met the Licensee's Key Commitment on original output, which at the time was 84 hours per week.

Nevertheless, Ofcom found that for the week in question, the Licensee broadcast a maximum of 40 hours of original output. As this did not meet the requirement of 84 hours which was required at the time of the broadcast and does not meet the Licensee's amended requirement of 54 hours per week, Ofcom's Decision is therefore that Cumbernauld FM is in breach of its original output requirement in its Key Commitments.

Languages of programming

Cumbernauld FM did not broadcast any programming in "Gaelic, European and Indian Sub-continent languages" during the week in question. We acknowledge that the Licensee has experienced retention issues with volunteers. Additionally, Cumbernauld FM provided Ofcom with specific recent examples of volunteers who had been asked and/or trained to deliver this output. However, the Licensee failed to provide programming in these languages and did not inform Ofcom of its difficulties in delivering this content prior to Ofcom requesting recordings of its output.

We recognise that the requirement has now been removed from its Key Commitments. Given all of the above, we consider this matter resolved.

Conclusion

Ofcom's Decision is that Cumbernauld FM Limited is in breach of Licence Conditions 2(1) and 2(4) for failing to deliver 84 hours of original output between 15 to 21 May 2023, which was its requirement during the week monitored. Ofcom also took into account that the Licensee would not have met its subsequently reduced requirement of 54 hours of original output.

Cumbernauld FM Limited has been found in breach of Licence Conditions 2(1) and 2(4) twice prior and Ofcom is concerned that this is the third occasion within 18 months that we have recorded a breach for failure to broadcast the required hours per week of original output.

Due to the repeated breaches of Licence Conditions 2(1) and 2(4), Ofcom considered whether it was appropriate and proportionate to consider the imposition of a statutory sanction for the current breaches. However, Ofcom has very recently approved a reduction in the required hours of original output within Cumbernauld FM's Key Commitments and we therefore expect it to be able to meet this requirement going forwards. Therefore, on this occasion, we have decided not to consider the imposition of a statutory sanction. We will be monitoring Cumbernauld FM to ensure its ongoing compliance with its Key Commitments. If Ofcom finds further breaches of Licence Conditions 2(1) and 2(4), we will consider taking further regulatory action which may include the imposition of a statutory sanction.

Breaches of Licence Conditions 2(1) and (4)