

Ofcom ref: 00561482

Information Requests  
Email: [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

2 August 2018

## Ref: 00561482, Freedom of Information: Right to Know Request

Thank you for your request for additional information following on from your request for statistics on complaints by category (ref 00526572). We received this on 5 July 2018, and we are dealing with it under the terms of the Freedom of Information Act 2000 (“the Act”).

You requested the following information:

- 1. Yearly data on the outcomes for the data previously provided. Please could the data for the outcomes also be included in this data.*
- 2. The training or guidance given to case officers when they are making determinations of whether to pursue a case and how to come to reach a decision on the outcome.*

We have enclosed a spreadsheet with additional data you requested. Please note that we do not consider it possible to draw meaningful conclusion between the numbers of complaints by specific categories and outcomes, as these complaints relate to a wide range of subjects, and are considered on a case by case basis on their own merit.

Complaints about content standards are assessed in accordance with *Ofcom’s Procedures for investigating breaches of content standards for television and radio*<sup>1</sup>. Ofcom reviews every complaint we receive to make an initial assessment. We then review the relevant broadcast content to consider whether it raises potentially substantive issues under the Ofcom Broadcasting Code<sup>2</sup> which warrant investigation. When assessing material under the Code, in addition to giving consideration to material against the requirements of the relevant Code rules, we also take account of other relevant factors such as our published Guidance on the Code<sup>3</sup>, precedent cases and audience research.

If we consider that these rules may have been broken, we work swiftly to investigate. Should we conclude our rules have been broken, we have the power to impose statutory sanctions on broadcasters. You can find decisions about complaints we have received in Ofcom’s Broadcast and On Demand Bulletin, published every fortnight on our website here:

<http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins>.

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<sup>1</sup> See:

<https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/procedures>

<sup>2</sup> See: <https://www.ofcom.org.uk/tv-radio-and-on-demand/broadcast-codes/broadcast-code>

<sup>3</sup> See: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/programme-guidance>

Decisions on broadcasting standards cases are collective decisions of the Ofcom Executive rather than one individual. Staff involved in handling broadcast standards complaints have a range of professional experience and qualifications, and have undergone various training.

Full details of such internal training and guidance is withheld under sections 36(2)(b)(ii) and 36(2)(c) of the Act<sup>4</sup>. These exemptions apply when, in the opinion of Ofcom's 'qualified person' (the Secretary to the Corporation, Steve Gettings), disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation, or would otherwise prejudice, or be likely to prejudice, the effective conduct of public affairs.

Given the number of complaints Ofcom receives each year with regard to broadcast standards (approximately 28,000) it is important that Ofcom's Standards and Audience Protection team is able to deal with these effectively and efficiently. If this information was to be disclosed, it would likely inhibit the extent to which team members would feel able to communicate openly, thereby prejudicing Ofcom's ability to reach a view on complaints and resolve them as effectively and efficiently as possible.

Further information on this process is set out in Annex A, attached.

We hope this information is helpful. If you have any queries then please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk). Please remember to quote the reference number above in any future communications.

Yours sincerely,

## Information Requests

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

### Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings  
The Secretary to the Corporation  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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<sup>4</sup> See: <https://www.legislation.gov.uk/ukpga/2000/36/section/36>

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

**ANNEX A**

**Section 36: Prejudice to Effective Conduct of Public Affairs**

Section 36 exempts information from disclosure where this would, or would be likely to, have any of the following effects:

- a. inhibit the free and frank provision of advice,
- b. inhibit the free and frank exchange of views for the purposes of deliberation; or
- c. prejudice the effective conduct of public affairs.

Key points:

- Section 36 can only be used if, in the **reasonable view of a "qualified person"**, disclosure of the requested information would have one of the specified effects.
- The application of section 36 is subject to the 'public interest' test.

<b>Factors for disclosure</b>	<b>Factors for withholding</b>
<ul style="list-style-type: none"> <li>• Open policy making may lead to increased trust and engagement between stakeholders and regulators; and</li> <li>• The desirability of stakeholders being confident that decisions are taken on the basis of robust debate and the best available information.</li> </ul>	<ul style="list-style-type: none"> <li>• Disclosure of this information would be likely to inhibit the free and frank exchange of views for the purposes of deliberating upon broadcasting complaints. This in turn would prejudice the effective conduct of Ofcom's affairs, insofar as compromising its ability to carry out its statutory role in dealing with broadcast complaints as effectively and efficiently as possible.</li> </ul>

**Reasons why public interest favours withholding information**

In order for Ofcom to undertake its statutory duties in relation to assessing complaints about broadcast standards, it is important that Ofcom is able to determine quickly which matters to investigate and to commit resources to, and that the Standards and Audience Protection team is able to consider standards cases in an uninhibited manner, so as to ensure the efficient and effective use of its limited public resources.

The disclosure of the information requested would not further the public interest but rather may hinder it because of the detriment it would have on Ofcom's ability to effectively consider broadcasting complaints.

**Section 36 exemption**

The information you requested is being withheld as it falls under the exemption in section 36 of the Freedom of Information Act.

I am a "qualified person", as defined in section 36(2) of the Freedom of Information Act 2000 and am duly authorised by a Minister of the Crown for the purposes of that section. In my reasonable opinion, disclosure of the information requested would, or would be likely to, inhibit the free and frank provision of advice and exchange of views for the purposes of deliberation, and so would or would be likely to prejudice the effective conduct of public affairs.

Also, in applying this exemption I have had to balance the public interest in withholding the information against the public interest in disclosing the information.

I have set out above the factors I considered when deciding where the public interest lay.

If you have any queries about this letter, please contact [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk).

Signed

A handwritten signature in blue ink that reads "S. Gettings." The signature is written in a cursive style and is underlined with a single horizontal stroke.

Date: 2 August 2018

Steve Gettings  
Secretary to the Corporation  
Ofcom