



Dan Wootton Tonight

Type of case	Broadcast Standards
Outcome	In Breach
Service	GB News
Date & time	26 September 2023, 21:00
Category	Generally accepted standards
Summary	<p>This programme, presented by Dan Wootton and featuring Laurence Fox, contained misogynistic comments about a female political journalist which were potentially highly offensive and were not sufficiently challenged or otherwise contextualised. In breach of Rule 2.3.</p> <p>In light of the circumstances of this case, Ofcom has significant concerns about GB News' editorial control of its live output. We are requiring GB News to provide further detailed information about its compliance practices in this area for Ofcom's consideration, and requesting it attends a meeting at our offices to discuss this.</p>

Introduction

GB News is a UK-based channel that broadcasts a range of news content and current affairs programmes. The licence holder for GB News is GB News Limited ("GB News" or "the Licensee").

Dan Wootton Tonight was a two-hour nightly news and current affairs programme that was broadcast Monday to Thursday at 21:00 on GB News¹. It was also normally repeated at 03:00 the following day, although on this occasion, the programme was not repeated. The programme typically featured a celebrity panel in the studio, which discussed topical news stories and current affairs.

¹ Dan Wootton was suspended by GB News in September 2023 pending its own investigation.

Ofcom received 8,867 complaints about the programme broadcast on GB News on 26 September 2023 (“the programme”) relating to comments made by Laurence Fox and his discussion with Dan Wootton about a female political journalist. The majority of complainants expressed concern that the comments were sexist, misogynistic and offensive.

Programme Summaries

The programme which was the subject of this investigation was broadcast on 26 September 2023. The following day on 27 September 2023, an edition of *Mark Dolan Tonight* was broadcast in place of *Dan Wootton Tonight* which referred to the programme the previous evening. We have taken account of the relevant parts of both of these programmes in reaching our decision.

Dan Wootton Tonight – Tuesday 26 September 2023

Dan Wootton Tonight began with a segment called “*The Digest*” which discussed a speech that had been delivered by then Home Secretary, Suella Braverman, at the American Enterprise Institute in Washington DC. A panel discussion followed. A regular feature of the programme, “*The Clash*”, then took place with a different panel debating various topics.

Following an advertising break at 21:37, Dan Wootton introduced Laurence Fox as “*the actor turned activist*” to deliver “*The Fox Report*”. Laurence Fox joined the programme via video link and gave his view on Russell Brand’s return to the online video platform, Rumble, after facing multiple allegations of sexual assault and harassment. Laurence Fox then discussed comments made by political journalist Ava Evans (also known as Ava Santina) on the BBC’s *Politics Live* programme which had been broadcast on BBC2 the previous day, Monday 25 September 2023 at 12:15. Dan Wootton introduced the segment as follows:

“Let’s move on to the BBC, Laurence, because they are once again under fire for allowing the hard left commentator Ava Santina to mock and smirk during comedian Geoff Norcott’s emotional plea for a ‘Minister for Men’ which he hopes could fight the epidemic of male suicide currently ravaging the UK. Watch what happened”.

A clip from the BBC’s *Politics Live* programme was shown and included a brief exchange between writer and comedian Geoff Norcott and Ms Evans. As the clip of the BBC programme was shown, an on-screen banner was displayed which read: “*Smirking face of disdain*” and “*Hard-left commentator slammed for shrugging off male suicide crisis*”.

Mr Norcott: *“If you flip those things i.e. that it’s the biggest cause of death for men under 50 is suicide, men are less likely to go to the doctors, you know, men are less likely to maintain friendships. If that was for women, we’d often look at well why is society making that happen. Whereas with men, the argument is often why are they doing that to themselves”.*

Ms Evans: *“I think that it feeds into the culture war a little bit this ‘Minister for Men’ argument and I think, you know, a lot of ministers kind of bandy this about to sort of, I’m sorry but, make an enemy out of women”.*

Mr Norcott: *“I mean literally the biggest killer of men under 50 is suicide. That is an arresting statistic. And, if that doesn’t warrant specific attention. Mental health is an umbrella issue”.*

Ms Evans: *"I have to say that it's also because women are unsuccessful, that is a lot of, that feeds into that statistic".*

The following conversation between Dan Wootton (DW) and Laurence Fox (LF) took place:

DW: *"Laurence, it's total disdain there".*

LF: *"Man, what wave of feminism are we on? Is it 4th, 5th at this juncture. We are past the watershed so I can say this. Show me a single self-respecting man that would like to climb into bed with that woman, ever, ever, who wasn't an incel². Who wasn't a cucked³ little incel. That little woman has been fed, spoon-fed oppression day after day after day after day, starting with the lie of the gender wage gap. And she's sat there and I'm going like, if I met you in a bar and that was like sentence three, chances of me just walking away are just huge. We need powerful, strong amazing women who make great points for themselves. We don't need this sort of feminist 4.0. They are pathetic and embarrassing, who'd want to shag that?"*

DW: *"[Laughter] Laurence, well look she..."*

LF: *"[Laughter] Sorry, it's true though".*

DW: *"I'm just, I'm just, I'm just going to provide a touch of balance from her because she did actually respond to this earlier today saying that she regretted her comments, but she didn't apologise. Err yes, so [laughter]...so, so there you go and she is a very beautiful woman Laurence, very beautiful woman, there you go".*

LF: *"She is a very beautiful woman Dan".*

DW: *"I'm probably not allowed to say that..."*

LF: *"If you can turn away and walk away from that beautiful a woman just because she is so fundamentally irritating, it goes to show that women are not attractive to men in that way. Those sort of women, men are repulsed by, we find them disgusting. How dare you do that to Geoff Norcott? Geoff Norcott is a very reasonable guy and he was pointing out that suicide in men under 50 is the biggest cause of death in under 50 men. Also, a hundred percent of the causes of death in armed conflict and people that come to protect our country. So, women like that need to go and do one and they need to be told to do one as well.*

² An "incel" is commonly understood to be a man who identifies as being involuntarily celibate and who expresses extreme resentment and hostility towards women.

³ A derogatory term to describe someone who is considered weak; it is derived from the word "cuckold" referring to a man whose wife has a sexual relationship with another man.

You wanted equality, let's treat you like men. We find you boring. Do one".

DW: *"Laurence Fox, with The Fox Report. Thank you, Laurence, great to chat".*

Dan Wootton concluded the segment and advised the audience what was coming up in the next part of the programme. There was no further reference to this topic in the remainder of the programme.

Mark Dolan Tonight – Wednesday 27 September 2023

The following day an episode of *Mark Dolan Tonight* was broadcast. Mark Dolan said the following at the outset of the programme:

"You're watching GB News, Britain's News Channel.

I didn't expect to be sat here tonight. I was going to wash my hair and watch Coronation Street. But unless you've been living under a rock or don't have internet access, you'll be aware that GB News presenter Laurence Fox appeared on the channel last night and made some offensive comments about the journalist Ava Evans.

Free speech is everything, but it comes with responsibility. Anything you say or write or broadcast will rightly be exposed to the court of public opinion. I know, I've been there, and I'll be there again. Whether Laurence should stay on air is not my decision, and Dan's absence tonight is also beyond my control. There is an investigation ongoing, but the comments made by Laurence, in my view, were sexist, misogynistic and unusually in the frenzied climate of the so-called culture wars, have been condemned across the political spectrum from left and right and even the Liberal Democrats, wherever they are. GB News has directly apologised to the journalist concerned.

Now, from my distant background in stand-up comedy, I learnt a lesson a long time ago, which is that you can joke about anything you like, but when you cross the line the audience will have you. Their judgement will be felt. It's very regrettable that that has happened on GB News where myself and my colleagues rightly condemn personal ad hominem attacks on other people. Where possible we seek to play the ball, not the man, or in this case, the woman. We don't always achieve that. Unfortunately, this awful episode plays into the hands of our critics, the people who would love to see the back of GB News. That mustn't happen. This is still a relatively new channel, and yet we're garnering a fast growing and incredibly loyal audience. We are rewriting the rule book on how current affairs broadcasting is done. And whilst we're here, for the many people in this country who feel they do not have a voice, the truth is we're here for everyone. People are coming to us in their numbers across all political colours because they want a different angle, a different approach and they want debate, they want a diversity of opinion and they want it done with wit and wisdom. Fiery and good humoured, but respectful and fair too, that is the GB News way. We didn't have that last night, in the end, a hard lesson has been learnt. We have freedom of speech but not freedom from the fallout".

Mark Dolan then introduced a standalone news bulletin, which was presented by a news anchor in the “GB Newsroom” in a separate studio. This bulletin included the following statement:

“Now, as you've been hearing, this company, GB News, has suspended its presenter, Dan Wootton. It's after offensive comments were made by Laurence Fox during an interview on this channel last night. He made a series of derogatory remarks about political journalist Ava Evans. Presenter Laurence Fox has also been suspended with immediate effect and taken off air. In a statement, GB News called the comments totally unacceptable, adding they did not reflect the company's values. GB News has issued a formal apology to Ms Evans and launched a full investigation”.

We considered that the programme raised potential issues under Rule 2.3 of the Code, which states:

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context... such material may include, but is not limited to, offensive language... discriminatory treatment or language (for example on the grounds of... sex...) ... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

In accordance with Ofcom’s [Procedures for investigating breaches of content standards for television and radio](#) (“our Procedures”), we requested comments from the Licensee on how the programme complied with this rule.

Responses

GB News said it takes its responsibilities as a regulated broadcaster very seriously and that it had alerted Ofcom to the incident as quickly as possible. It added that it regretted the incident had happened and had taken “serious and appropriate steps as a consequence”. The Licensee said that the comments broadcast were “incompatible with the letter and spirit of the GB News Editorial charter... but they were not a breach of the Ofcom Code”. In its representations on Ofcom’s Preliminary View, GB News further acknowledged that the incident in question should not have happened.

The Licensee said the item in question was intended to be a discussion about male well-being, including the issue of male suicide. It said that the programme production team were aware that Mr Wootton and Mr Fox intended to discuss the comments and opinions offered by Ms Evans, including that Mr Fox was going to criticise her apparent hostility to the idea that a ‘Minister for Men’ should be appointed, an approach that some people had perceived as anti-male ideology. They were not, however, “aware that Mr Fox would use language that was personally offensive towards her”. It added that it “would not have been allowed if [it] had been known in advance”. GB News also said that it had been agreed beforehand “that Mr Wootton would offer an element of ‘balance’ or ‘push back’ to any strong criticism that Mr Fox made”.

The Licensee said that when “Mr Fox made his comments about Ms Evans, Mr Wootton did attempt to mitigate the effect of them by making some favourable comments of his own about her, with the help of advice given in his earpiece by the production team”. GB News said that in its view “this was not enough to completely compensate for the offensive comments used by Mr Fox” and that a clear and immediate apology should have been made. The Licensee added that during an advertising break, “Mr Wootton was told by the programme’s Executive Producer to make an apology on air.

This was backed up by a text instruction from a senior member of editorial management. The apology was drafted and put onto the autocue, but Mr Wootton did not read it out”.

GB News said that at 23:51, a short time after the programme concluded, it posted an apology on social media sites X and Facebook which said: “Comments made tonight on GB News by Laurence Fox were totally unacceptable. What he said does not reflect our values and we apologise unreservedly for the comments and the offence they have caused. We have launched an investigation and will be apologising to the individual involved”. GB News also set out that the following day: it alerted Ofcom to the incident; GB News’ Chief Executive, Angelos Frangopoulos, sent a personal message of apology to Ms Evans and also informed Ms Evans about the actions that had been taken since the broadcast and emphasising GB News’ view that free speech “should never be at the expense of personal insults, abuse or misogyny”; and, as summarised above, Mark Dolan made a statement about the incident on his programme. Mr Wootton also posted an apology to Ms Evans on X at 23:27 which said:

“Dear [Ms Evans]... I think you’re brilliant. Earlier tonight I was attempting to find your tweets to read back from my iPad and couldn’t locate them. I apologise for what was said during the course of my show and should have done this immediately on air. This is not what our channel is about”.

The Licensee also said it began an immediate investigation, and that the following day, Mr Fox was suspended from his duties and it subsequently announced that he would not be returning. In addition, Mr Wootton was, and remained, suspended. It also said that it had parted company with another presenter, Calvin Robinson.

GB News said it has started a fresh series of compliance training and refresher sessions with a close focus both on Editorial Charter and on programmes that have raised specific issues, and introduced more detailed compliance checklists which must be completed before every programme.

It emphasised that it considered the programme was “unacceptable and incompatible with the channel’s values and ethos” and was not “in alignment with our Editorial Charter”. GB News reiterated this point in its representations on the Preliminary View.

In relation to the programme, the Licensee said that while it was not “seeking to defend” or “justify” the comments broadcast, it did not consider this was a breach of Rule 2.3 of the Code. It set out the following contextual factors that it considered to be relevant in this case:

- the programme was broadcast well after the 9pm watershed;
- the word “shag” is not in Ofcom’s list of the terms regarded as most offensive by viewers;
- the format of the programme is live, fast moving and largely unscripted and is often provocatively humorous, irreverent, controversial in the subjects it covers, and robust in its language;
- the format and the programme’s participants are well-known to viewers and audience expectations should therefore be taken into account;
- although “imperfect”, an immediate attempt was made to mitigate the offence of Mr Fox’s comment;
- multiple apologies were made that evening and subsequently – on air, on social media and to Ms Evans herself; and,
- GB News took immediate and serious actions with regards to the presenters involved.

GB News said that in light of the context provided, there had been no breach of Rule 2.3. The Licensee made reference to past cases where Ofcom has reached a “Resolved” finding and said that if Ofcom considered this programme was in breach of Rule 2.3, then it should regard the matter as “Resolved” on the facts and context provided.

Ofcom issued a Preliminary View finding the programme in breach of Rule 2.3 of the Code and provided it to the Licensee for its comments. The Licensee reiterated its position as set out above in its representations on the Preliminary View.

Further responses

Ofcom considered that in the circumstances of this case, Dan Wootton was a third party who may be directly affected and, under our [Procedures](#), it was appropriate to give him an opportunity to make representations on Ofcom’s Preliminary View. These were then provided to the Licensee who had an opportunity to respond. Below we summarise, insofar as they are relevant, the submissions from Mr Wootton, made on his behalf by his solicitors, and the Licensee.

Mr Wootton's representations

Mr Wootton said that he agreed with the Licensee’s view that Rule 2.3 of the Code was not breached for the reasons set out in the Licensee’s response.

In response to Ofcom’s statement in the Preliminary View that after the broadcast Mr Fox posted a series of tweets where he alleged that the production team knew beforehand what he had intended to say in the programme, Mr Wootton explained that he was not aware, nor was it communicated to him prior to the broadcast, that Mr Fox “would be making those comments or comments of any similarly inappropriate nature...”.

Referring to Ofcom’s statement in the Preliminary View that Mr Wootton’s reaction to Mr Fox’s comments “exacerbated the potential for offence”, Mr Wootton said that he wished to clarify “that he certainly did not laugh at Mr Fox’s comments... in the manner of someone who had found them to be funny”. Mr Wootton expressed that he “felt considerable discomfort and embarrassment” at Mr Fox’s comments. Mr Wootton added that he “grimaced uneasily” and hurried to provide balance to what Ms Evans had said and followed this up by complimenting Ms Evans “on her beauty”.

Mr Wootton said he “did not receive advice in his earpiece by the production team” as GB News have “inaccurately represented to Ofcom”. Mr Wootton explained that he was only told once to provide “some sense of balance” by a member of the production team. Mr Wootton further explained that in order to do so he had to scroll through his iPad live on air to find Ms Evans’ tweets. Mr Wootton added that a member of the production team belatedly provided him “with a precis of Ms Evans’ tweets which informed ...[his] remarks on-air”.

Mr Wootton said that as Mr Fox was a fellow employee of GB News at the time of broadcast, Mr Wootton did not consider himself to be in a position to reprimand Mr Fox, “in the same manner he would have reprimanded any other (non-employee) guest on his programme for making similarly offensive remarks”. Mr Wootton said he was worried that if he reprimanded Mr Fox live on-air it could have turned into an “uncomfortable exchange”.

Mr Wootton said it was not true that GB News had told Mr Wootton to make an on-air apology “during the advertising break immediately after the conclusion of the discussion” with Mr Fox, that the programme’s executive producer told Mr Wootton to make an on-air apology and that he was sent a text instruction to apologise from a senior member of editorial management. Mr Wootton

added that “no instructions or comments of any kind were made to our client... until almost an hour after Mr Fox made his remarks on air”. This, Mr Wootton said, meant GB News’ executive producer and editorial management had considered his immediate response to Mr Fox to be sufficient or that his “actions had certainly not been insufficient up to that point”.

Mr Wootton said that Ofcom had mistakenly stated in the Preliminary View that he had been instructed to apologise immediately after Mr Fox’s comments and had been provided with an apology to read out. Mr Wootton said that the instruction to apologise was given to him during the final advertising break in the programme, an hour after the incident, and he never saw the wording of the apology on the autocue.

Mr Wootton further explained that it was during the final advertising break that the executive producer told Mr Wootton that he ought to make an on-air apology. Mr Wootton asked, “what the apology ought to say” and “for it to be provided to him for him to read it out”. Mr Wootton was told by a member of production team, on set, that he needed to speak with a senior member of editorial management team. During a “brief exchange” with the editorial manager, Mr Wootton was informed that the segment with Mr Fox was receiving “a bit of backlash”, such that Mr Wootton assumed it was reasonable to wait until the show was off air to decide the best course of action.

Mr Wootton said he was now aware that an apology was drafted and put on the autocue but clarified that the reason it was not read out was due to him being unaware of it at the time. Mr Wootton explained that he was focused on chairing and facilitating the discussion with guests, and he was not using or reading from the autocue. It was therefore not the case that he had refused to read it, adding that when he later did look at the autocue, it had scrolled past the apology. Mr Wootton also said that no one in the production team alerted him to the fact that an apology was on the autocue ready to be read out. During the remainder of the programme, Mr Wootton said he did not receive a hard copy of the apology to be read out on air and he did not receive any further instructions to apologise from any member of the production team.

Mr Wootton said that immediately after the programme ended, he sought permission to issue an on-air apology during the next programme, and that GB News’ editorial management team prevented him from doing so, saying to him “... we will sort it”. As a result, an apology was agreed with GB News’ editorial management team and that apology was posted on social media by Mr Wootton. Mr Wootton said he subsequently contacted Ms Evans directly to apologise.

In reference to Ofcom’s statement in the Preliminary View that Mr Fox’s comments went “largely unchallenged,” Mr Wootton said that Ofcom had overlooked his immediate response to Mr Fox’s comments in which he referred to providing “*a touch of balance from her...*”.

GB News’ representations on Dan Wootton’s comments

In response to Mr Wootton’s submission regarding the timing of when Mr Wootton was told to apologise, the Licensee said that in its previous response to Ofcom, it had referred to this request as: “Later, during an advertising break” (the Licensees’ emphasis). It said that it did not submit that the request was in the advertising break immediately following the discussion.

The Licensee said that before the request to apologise, Mr Wootton had been asked to provide some balance and while his solicitors state that “our client most certainly did not receive advice in his earpiece by the production team in this regard, as GB News have inaccurately represented to Ofcom was the case”, they go on to immediately accept that “in fact, all that was said to our client, and only once by... the production team, was that he should provide some sense of balance”. The Licensee added that there was more advice given and that “the situation was being proactively

managed by the production team but what is undisputed is that Mr Wootton received advice". It further added that Mr Wootton's solicitor's speculation that it did not ask him to apologise instantly was because it did not consider the comments to be offensive, is false. It said, "we hope that our actions demonstrate that we considered the comments to be offensive and took this matter extremely seriously".

The Licensee said that "the only reason that an on-air apology was not broadcast during the programme was because when asked to read out the text of an apology (during the programme), Mr Wootton outright refused to do so".

Decision

Reflecting our duties under the Communications Act 2003, [Section Two of the Code](#) requires that generally accepted standards are applied to the content of television and radio services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

Ofcom must perform its duties in accordance with the right to freedom of expression, as set out in Article 10 of the European Convention on Human Rights. This provides for the broadcaster's and audience's right to receive and impart information and ideas without unnecessary interference by public authority. The right to freedom of expression is not absolute. Ofcom must exercise its duties in light of the broadcaster's and audience's Article 10 rights and not restrict that right unless it is satisfied that it is necessary and proportionate to do so. This means that each and every time Ofcom applies the Code to broadcast content, we give careful consideration to the broadcaster's and the audience's Article 10 rights.

Under section 149 of the Equality Act 2010, Ofcom has also had due regard in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as sex, and those who do not.

[Rule 2.3](#)

The Code does not prohibit the broadcasting of offensive material – to do so would be an inappropriate restriction on broadcasters' and audiences' freedom of expression. However, Rule 2.3 of the Code requires broadcasters to ensure that the broadcast of potentially offensive content is justified by the context. Context includes, for example, the editorial content of the programme, the service on which the material was broadcast, the degree of offence likely to be caused; and the likely expectations of the audience.

Ofcom first considered whether the comments included in the programme had the potential to cause offence.

As set out above in the Programme Summaries section, Mr Wootton introduced Mr Fox to deliver "The Fox Report". Mr Fox gave his view on current news stories before discussing the comments that had been made by Ms Evans on the BBC's *Politics Live* programme broadcast the previous day. A clip from the BBC's *Politics Live* programme was shown which included a brief exchange between Geoff Norcott and Ms Evans regarding whether a 'Minister for Men' should be introduced to help tackle male mental health.

We took into account that Mr Fox's response to this clip was to refer to feminism and then say "show me a single self-respecting man that would like to climb into bed with that woman [Ms Evans],

ever, who wasn't an incel. Who wasn't a cucked little incel". He also referred to her as "that little woman". In addition, he said "... if I met you in a bar and that was like sentence three, chances of me walking away are just huge... we don't need this sort of feminist 4.0. They are pathetic and embarrassing, who'd want to shag that?". This was met with laughter by Mr Wootton who then attempted to interject before Mr Fox laughed and said "Sorry, it's true though".

In our view, Mr Fox's comments about Ms Evans and Mr Wootton's reaction to them, had the clear potential to cause offence. Mr Fox's comments constituted a highly personal attack directed at an individual. They reduced Ms Evans' contribution to a broadcast discussion on mental health, in her professional capacity as a political journalist, to a judgment on whether she or women like her who publicly expressed their political opinions were sexually desirable to men – *"who'd want to shag that?"* Mr Fox also made further comments about Ms Evans and any woman whose views aligned with hers, saying: *"if you can turn away and walk away from that beautiful a woman just because she is so fundamentally irritating, it goes to show that women are not attractive to men in that way. Those sort of women, men are repulsed by, we find them disgusting",* before adding *"women like that need to go and do one and they need to be told to do one as well. You wanted equality, let's treat you like men. We find you boring. Do one!"*. We considered that Mr Fox's comments were degrading and demeaning to Ms Evans and women generally and were clearly and unambiguously misogynistic.

We also took into account Mr Wootton's comments about Ms Evans' appearance, stating *"... she is a very beautiful woman Laurence, very beautiful woman, there you go"*. We also acknowledged the clarification provided by Mr Wootton's solicitors regarding his reaction, namely that he did not find Mr Fox's comments funny, felt "considerable discomfort and embarrassment" and that he hurried to provide balance and followed this up by complimenting Ms Evans "on her beauty". However, in our view, this did not mitigate the potential for offence but rather was likely to have exacerbated the potential level of offence, by contributing to the narrative in which a woman's value was judged by her physical appearance. Further, Mr Wootton's attempt to provide balance, which Mr Wootton's representatives said Ofcom had overlooked, in our view simply summarised Ms Evans' position in respect of the comments which Mr Fox had criticised and also did not mitigate the potential for offence.

Ofcom then considered whether the broadcast of these potentially highly offensive comments was justified by the context.

As set out above, Ofcom recognises that, in accordance with the broadcaster's right to freedom of expression and the audience's right to receive information and ideas without undue interference, it is essential that broadcasters have the editorial freedom to debate topics of public interest. In line with this right, we also recognise that a range of opinions and views can be expressed, including those which may be provocative, controversial and offensive. In instances where such viewpoints carry the potential for offence, it is the responsibility of the Licensee to ensure that sufficient context is provided. The way such context is provided in a programme is an editorial matter for the Licensee.

We took into account GB News' submissions, reiterated in its response to the Preliminary View, that while it considered the programme "was unacceptable and incompatible with the channel's values and ethos and not in alignment with its Editorial Charter", it did not consider the programme to have breached the Code. It said it did not seek to defend or justify the comments, but that Ofcom should take into account various contextual factors and find the programme not in breach of the Code. Ofcom acknowledged that Mr Wootton's representatives said he also did not consider that the

programme was in breach of the Code for the same reasons as GB News.

GB News said one relevant factor was that the word “shag” does not feature as the most offensive language in [Ofcom’s audience research](#). However, our concern was not the use of the particular word “shag” but that demeaning and misogynistic comments were made during this programme and that these were directed at an individual. These comments were met with limited challenge by the presenter, and no other forms of challenge or context in the programme itself.

Ofcom acknowledged the Licensee’s submissions that the format of this programme was “live, fast moving and largely unscripted and is often provocatively humorous, irreverent, controversial in the subjects it covers, and robust in its language”. We accepted that regular viewers would have been familiar with this format which included Mr Wootton and guests discussing and debating recent news stories and that, given the time of the programme which started at 21:00, they would expect controversial and challenging content. Ofcom also acknowledged that Mr Fox was a well-known GB News presenter, recognised by viewers to be opinionated and adversarial and that viewers had come to expect divisive and often provocative views from him. We further took into account that this was a live and mostly reactive discussion about an earlier exchange between Ms Evans and Mr Norcott on the BBC’s *Politics Live* programme. However, we noted that GB News itself accepted that the comments were unacceptable and did not align with its own values and ethos. Given all these factors, we considered that the comments were likely to have exceeded audience expectations for the programme on this channel at this time.

We recognised that while the Licensee said it was aware in advance that Mr Fox was going to criticise Ms Evans, this was a live programme and it was “not aware that Mr Fox would use language that was personally offensive towards her”. We also acknowledged that Mr Wootton said he was not made aware that Mr Fox would be making such comments prior to broadcast. However, Ofcom is aware that after broadcast Mr Fox posted a series of tweets, which included screenshots of his messages to the production team, where he alleged that the production team knew beforehand what he had intended to say in the programme. This included that he would make a reference to women who express certain views as being “deeply unattractive” and also that he would say “what man would ever want to be in a relationship with a woman unless they were a self-hating simp”. We note that in its representations on Ofcom’s Preliminary View, GB News did not comment further on whether anyone in the production team knew what Mr Fox intended to say.

We recognised that Mr Fox’s comments in the programme went further than what he had allegedly set out in the messages. However, if the production team had been made aware of the general tenor of what Mr Fox intended to say, even if Mr Wootton had not, then the Licensee should have been prepared to respond to them in order to ensure that the programme complied with the Code. In any event, even if it was not aware, the Licensee is required to ensure that broadcast content which may cause offence is justified by the context.

We acknowledged that the Licensee said that instructions from senior production and editorial staff to apologise during “an” advertising break were ignored by Mr Wootton. In our Preliminary View, Ofcom understood these events to have taken place during an advertising break shortly after the incident, rather than in the final advertising break, as clarified by the Licensee and Mr Wootton’s solicitors in their respective representations on the Preliminary View.

We noted Mr Wootton's account of why the apology was not read out differed from the Licensee's. The Licensee maintained that “the only reason that an on-air apology was not broadcast (during the programme) was because when asked to read out the text of the apology, Mr Wootton outright refused”. However, in the circumstances, we did not consider it necessary to explore these accounts

any further. Our role is to consider whether the broadcast content was potentially offensive and if so whether the Licensee ensured that it was justified by the context.⁴

We accepted that the Licensee had intended to issue an on-air apology during the final part of the programme. However, we noted that after the interview with Mr Fox, which ended 45 minutes into the two-hour programme, the Licensee did not use any other editorial techniques to address the potentially highly offensive comments in the remainder of the programme, indicating that there was ineffective management of the gallery during this live programme. In circumstances where the Licensee accepted it knew in advance Mr Fox would criticise Ms Evans and it was familiar with his provocative style, the fact that an apology was not broadcast in some form during this live programme indicated that the Licensee's editorial control had been inadequate.

We had careful regard to the right to freedom of expression. We also carefully considered all of the relevant contextual factors. However, in our view, they did not justify the inclusion of the potentially highly offensive comments made about Ms Evans. Ofcom was particularly concerned that these demeaning and degrading comments were directed at an individual and were largely unchallenged or contextualised in any other way.

Therefore, we considered that the potentially highly offensive comments were not justified by the context.

We took into account the Licensee's submission that Ofcom should resolve the matter in light of the steps it had taken. Ofcom acknowledged these steps, namely: alerting Ofcom to the incident the following morning; the suspension of Mr Wootton pending investigation; the investigation and subsequent removal of Mr Fox as a GB News presenter; the various statements including an apology made on social media; the personal apology made directly to Ms Evans; and the changes it told us it was making to its approach to compliance as well as the introduction of a new series of compliance training and refresher sessions.

However, there was no immediate apology in the programme, which the Licensee accepted "should have been made", nor was an apology made later in the programme. This meant that the potentially high level of offence caused to the programme's viewers was not mitigated.

⁴ Following our published Procedures, Ofcom sent an embargoed copy of the Decision to the Licensee on the morning of Friday 1 March 2024. At 5:20pm the same day, solicitors on behalf of the Licensee sent Ofcom new evidence which it said it had been unable to send previously due to an internal employment process. The material was excerpts of mobile phone screenshots of various Whatsapp exchanges sent during the broadcast between the production team and Mr Wootton. It also included an image of a scripted apology on a production screen during the broadcast. The solicitors said this information supported the Licensee's position that it had asked Mr Wootton to read out an apology and he refused, but it had been unable to give Ofcom this information until this point as "it was considered unfair to Mr Wootton... during an employment process". The Licensee asked Ofcom to delay publication of the Decision so that Ofcom could consider the information.

We had already accepted that the Licensee intended an apology to be broadcast during the programme. In our view, the additional information did not alter the fact that the Licensee was required by the Code to ensure that any potentially offensive content was justified by the context. In particular, we noted that the Licensee did not use any other editorial techniques during this live broadcast to justify the potentially highly offensive content. We did not delay publication of this Decision.

Ofcom recognised that a statement was broadcast the following day during *Mark Dolan Tonight*, which was broadcast in the usual *Dan Wootton Tonight* slot. Mark Dolan referred to the ongoing GB News investigation and that his view was that the comments were “*sexist, [and] misogynistic*”. However, given the potentially high level of offence arising from the comments broadcast the previous evening, we did not consider the statement mitigated them sufficiently.

Given our statutory duties in relation to standards in broadcast services and taking into account the potentially highly offensive comments in this programme, in our view a finding of breach is necessary and proportionate in all the circumstances of this case.

For the reasons set out above, our Decision is that the programme was in breach of Rule 2.3.

Breach of Rule 2.3

In light of the circumstances of this case, Ofcom has significant concerns about GB News’ editorial control of its live output. We are requiring GB News to provide further detailed information about its compliance practices in this area for Ofcom’s consideration, and requesting it attends a meeting at our offices to discuss this.