

# **Ofcom broadcast bulletin**

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## Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

The Communications Act 2003 allowed for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. While Ofcom has now published its Broadcasting Code, the following legacy Codes apply to content broadcast before 25 July 2005.

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Distribution of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

## Standards cases

### In Breach

#### The Rugby Club

*Sky Sports 1, 9 March 2006, 22:30*

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#### Introduction

*The Rugby Club* is a magazine-style programme about rugby union.

In this particular edition, three members of the England team were interviewed while being shaved at an exclusive men's grooming salon. Each wore an England rugby shirt bearing the Gillette logo, and Gillette-branded towels and what appeared to be Gillette shaving products were clearly visible.

A viewer complained that it was "quite clear that this was done for promotional purposes".

Section 10 of the Broadcasting Code is intended to ensure that:

- the independence of editorial control over programme content is maintained and that programmes are not distorted for commercial purposes; and
- the advertising and programme elements of a service are clearly separated.

#### Response

Sky said that the interview took place at a crucial time during England's Six Nations campaign following the team's defeat by Scotland. The interview provided insight into the players' thoughts on the games played and those to come.

It advised that Gillette was the "*official Male Grooming Partner of England Rugby*" and one of a large number of sponsors of the England rugby team. The venue for the interview was arranged by the players' representatives and was accepted by the Sky Sports production team as a 'fun' and unusual location for the interviews to take place. Gillette shaving products were used during the interview. The production team was not responsible for the location or equipment used, which were secondary to the objective of the item (which was to interview the England players about recent games and the remainder of the Six Nations tournament).

Sky said that the production team was, at all times, in control of the editorial content of the programme and, in particular, of the player interviews. At no time during those interviews did the players refer to any product or service relevant to this complaint.

In addition, the production team took steps to minimise the appearance of any branding during the interview; for example branding on any shaving products being used or available in the salon was not shown and care was taken to minimise the appearance on screen of the Gillette logo on the players' rugby shirts.

Sky acknowledged, however, that some branding - in particular, branding on towels used in the salon - may have appeared to be unduly prominent and that more could have been done to reduce the prominence of this branding during the interview. This was an error of judgement. Production staff had been reminded of the need to ensure that brand references were not unduly prominent and of the importance of ensuring that all broadcast material was properly complied. Further training on this issue would be provided to production staff to avoid a recurrence.

## **Decision**

Rule 10.4 of the Broadcasting Code states: "No undue prominence may be given in any programme to a product or service.

Note: "*Undue prominence*" may result from:

- *the presence of, or reference to, a product or service (including company names, brand names, logos) in a programme where there is no editorial justification; or*
- *the manner in which a product or service (including company names, brand names, logos) appears or is referred to in a programme."*

The ways in which the branded rugby shirts and the Gillette razors and other shaving items appeared on screen were not, in themselves, unduly prominent.

We were concerned that, in a number of camera shots, branded towels draped around the players' shoulders appeared to have been deliberately arranged to display the Gillette logo as clearly as possible. We considered these brand references to be unduly prominent.

Rule 10.1 of the Broadcasting Code states: "Broadcasters must maintain the independence of editorial control over programme content." We have no concerns regarding the verbal content of the actual interviews. Sky claims that it did retain editorial control and Ofcom has no evidence that it failed to do this.

However, Ofcom found that, in particular, the prominence of Gillette branded towels and the use of Gillette disposable razors (rather than traditional 'cut-throat' razors usually favoured by exclusive grooming salons) suggest that the broadcaster failed to apply editorial control adequately on this occasion.

While we welcome both Sky's acknowledgement that the feature included unduly prominent brand references and the subsequent action it has taken, we were concerned by such an error of judgement.

## **Breach of Rule 10.4**

**An element of the original decision to find this trail in breach was appealed by the broadcaster, leading to a review. This finding is the result of that review.**

## **London Greek Radio**

*London Greek Radio, various dates and times including March 2006*

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### **Introduction**

London Greek Radio is a local station which is targeted at the London Greek community. Ofcom was notified that news programmes on the station were being presented by Andreas Tambourides. Mr Tambourides is a Conservative councillor in the London Borough of Barnet. At the time of the broadcasts he was the outgoing mayor of the Borough and was facing re-election as a councillor for the Brunswick Park Ward in the local elections being held on 4 May 2006.

We asked the station to comment in relation to Rule 5.3 which fundamentally prohibits politicians being used as newsreaders. As this was during the pending period of an election, Ofcom also requested the broadcaster's comments in relation to Rule 6.6 which states that candidates in UK elections must not act as news presenters.

### **Response**

London Greek Radio said that Andreas Tambourides was employed simply as a newsreader and only presented news bulletins that were prepared by properly qualified journalistic staff. During his employment Mr Tambourides did not carry out interviews and was instructed not to read any items that related to the local elections in which he was a candidate.

The station also pointed out that most of its news consisted of news stories from Greece, Cyprus or the relevant local community.

Mr Tambourides ceased reading the news on 1 April 2006, before Ofcom's inquiry, and he no longer had any involvement in the news output of the station.

### **Decision**

Rule 5.3 states:

"No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience."

This is to ensure that the news is presented, and is perceived to be presented, with due impartiality as required by the Communications Act 2003. In the guidance notes to this rule we make clear that a politician is likely to include a councillor or a candidate. At that time Mr Tambourides fell into both categories.

The presentation of news with due impartiality is especially important at the time of elections. Furthermore it is important that no candidate or party gains an electoral advantage due to either the candidate being seen to be the face or voice of the news or by the insertion of the candidate's own political views into the news. Rule 6.6 therefore states:

"Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during the election period."

We asked the station to provide copies of all programmes presented by Mr Tambourides during the local election period (which began on 25 March 2006). From this output it was clear that Mr Tambourides was reading the news. The station did not dispute the fact that Mr Tambourides was a politician under the terms of the Broadcasting Code. Nor did it dispute the fact that he presented the news before and during the election period.

We were reassured by the steps the station had put in place to ensure that the news did not reflect the views of the newsreader. Nevertheless, although Mr Tambourides ceased presenting news programmes for the station on 1 April 2006, this was one week into the election period for the 2006 local elections, which began on 25 March 2006.

We sampled the material provided. In that sample, as London Greek Radio had assured us, Mr Tambourides did not conduct interviews or express his personal opinions on any issues. According to the station this was the case throughout the period he was employed by it.

We saw no evidence therefore that, except in relation to the newsreader being an active politician, the presentation of the news was other than duly impartial.

In relation to the presentation of news by a politician during the critical election period (prohibited by Rule 6.6) the material we sampled revealed no evidence that Mr Tambourides referred to the forthcoming elections in which he was a candidate, or to the policies of any particular party in any specific electoral area.

However Rules 5.3 and 6.6 are concerned not just with preventing electoral issues from being reported in a partial matter but also to ensure that politicians or candidates do not obtain an unfair electoral advantage through their appearance on licensed services. Reading the news may confer authority and gravitas upon a politician. Importantly newsreading gives the politician many hours of exposure to the electorate which are not matched by equivalent exposure given to other candidates.

The clear breaches of these Code rules which, during an election period are particularly designed to ensure that broadcasters do not give any party an electoral advantage led us to consider whether statutory sanctions should be considered in this case. However, having considered the matter at length, we decided that sanctions would not be appropriate in this case. In reaching this decision we took into account that:

- Mt Tambourides had stopped reading the news before Ofcom contacted London Greek Radio;
- London Greek Radio assured us that Mr Tambourides had read scripts prepared by professional journalists and had not interpolated his own opinions or carried out any interviews and had not read any item regarding the local elections;
- our sampling concurred with the assurances given to us by London Greek Radio;
- having had the rule breaches put to them London Greek Radio ceased using Mr Tambourides as a newsreader;

- any perceived electoral advantage in the recent local election would have been limited to those members of the electorate in Mr Tambourides' borough who spoke Greek, listened to London Greek Radio and had not already made up their minds as to how they would cast their vote in the recent local election;

In this case, although the rule breaches are clear and not disputed, for the reasons outlined above we were persuaded that while serious, in this particular instance, the potential for electoral advantage was minimal.

**Breach of Rules 5.3 and 6.6**

## **Good Music Bingo**

*GWR FM (Bristol and Bath), 1 December 2005*

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### **Introduction**

GWR FM (Bristol and Bath) ran a bingo-based competition, in which listeners were invited to cross off the names of music artists, listed on individual game cards, as they were announced by the station.

A listener called the station, believing that each of the artists listed on her game card had been announced. She provided the station with the identity number of her personal game card and was then taken to air. On air, she read out each artist listed on her card and was announced by the presenter as the winner of £10,000.

The next day, this listener was contacted by the broadcaster and told that she had not won the competition, as three of the artists listed on her game card had not actually been announced by the station. She then contacted Ofcom.

### **Response**

GCap, which owns GWR FM, confirmed that the complainant had not had a winning card. It said that the listener had been told before she was taken to air that the award of the prize was subject to checking that her game card had been correctly completed. However, it acknowledged that it should have had in place “a more robust process for checking whether a claimed “winner” was in fact a winner before taking him/her to air.”

The broadcaster said that it had taken the decision not to refer subsequently on air to the complainant having not won the competition. It believed the original announcement of her winning would have resulted in most other players discarding their game cards. The station therefore decided that, “to have resuscitated the competition in such circumstances would have been impractical and unfair” and, instead, it elected to run a further competition with a prize of £10,000, at a later date.

Nevertheless, GCap maintained that the original competition had been conducted fairly, with prizes that had been described accurately and rules that had been clear and appropriately made known.

### **Decision**

Undoubtedly, the complainant was subjected to an unfortunate and upsetting situation, having been told that she had won a large sum of money and having been left to believe that for the rest of the day. However, under its statutory remit, it is not for Ofcom to determine whether the complainant was ultimately entitled to the prize of £10,000. Nor, in cases such as this, does Ofcom have a remit to consider the resulting distress caused to the participant. However we would urge all services running competitions to ensure systems are in place to avoid such an eventuality.

From Ofcom’s perspective, this left the question of whether the competition had been conducted fairly. Rule 2.11 of the Broadcasting Code requires that: “Competitions should be conducted fairly, prizes should be described accurately and rules should be clear and appropriately made known”.

Transparency is an important aspect of running a competition fairly and, when a competition ends, we believe that participants should know whether a prize has been won or rolled over to a subsequent competition.

We appreciate why GWR FM decided not to resurrect this competition. After it had checked the game card, the station found itself in the unfortunate position of having announced erroneously, on-air, that a winner had been identified.

However, listeners who had participated were entitled to know:

- that the main prize had not been won;
- why it had not been won; and
- that the station had decided to resolve the matter by running another competition with the same prize.

In failing to announce these, the broadcast of the competition breached Rule 2.11 of the Broadcasting Code.

### **Breach of Rule 2.11**

## **Beyoncé Knowles – ‘Check On It’**

*Chart Show TV, 14 January 2006, various times*

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### **Introduction**

A viewer complained to Ofcom that this music video contained flashing images, and as a result he had a seizure while watching it.

Certain types of flashing images present a danger of triggering seizures in viewers who are susceptible to photosensitive epilepsy (PSE). Ofcom’s Broadcasting Code therefore contains rules aimed at minimising the risk to viewers who have photosensitive epilepsy.

### **Response**

Chart Show TV outlined its compliance procedures for material which contains flashing images, which are intended to ensure consistency with the technical guidance criteria in Ofcom’s Guidance Note on Flashing Images<sup>1</sup>. The Beyoncé video was subjected to these procedures as a matter of course.

When Chart Show TV was informed that Ofcom had received a viewer complaint, the video was removed from the channel’s playlist and replaced with a re-edited version. Additionally, Chart Show TV subsequently re-trained its compliance staff in PSE issues.

### **Decision**

Our technical assessment found that several rapid scene cuts in the video presented a risk of triggering PSE seizures. Some flashing sequences also contained saturated red, which is considered a particularly provocative stimulus for PSE sufferers.

The channel’s failure to identify the fact that this video contained material which presented a risk of triggering PSE seizures is a serious matter. However, from the information provided, it appears that Chart Show operates a generally robust regime for PSE issues. While its normal PSE compliance procedures were not effective in this case, we welcome its prompt action to remove the video from its playlist, and the staff re-training it has subsequently undertaken.

In view of the potential harm which certain material can cause to PSE sufferers, broadcasters must exercise care when dealing with sequences which contain flashing images. Content which contains rapid scene cuts, where there is a change in screen brightness between cuts, should be considered especially carefully.

### **Breach of Rule 2.13**

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<sup>1</sup> Ofcom Guidance Note on Flashing Images and Regular Patterns in Television’, Annex 1, Broadcasting Guidance Notes: Section 2  
(<http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/guidance2.pdf>)

## **Cobra sponsorship of *Mary Poppins***

*ITV 3, 14 May 2006, 12:55*

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### **Introduction**

A viewer complained that ITV3's broadcast of the Disney film *Mary Poppins* had been inappropriately sponsored by Cobra, a beer company.

Rule 9.4 of the Broadcasting Code states:

"Sponsorship on radio and television must comply with both the advertising content and scheduling rules that apply to that medium."

Under the Broadcast Committee of Advertising Practice ('BCAP') rules on the scheduling of television advertisements, alcoholic drinks containing 1.2 per cent alcohol or more by volume must not be advertised in or adjacent to children's programmes or programmes commissioned for, principally directed at or likely to appeal particularly to audiences below the age of 18.

### **Response**

ITV said that Cobra had sponsored much of ITV's feature film broadcasting over several seasons. The Cobra credits were tailored to closely reflect the culture and nature of feature films without making any product claim about beer or brand. While the credits included a shot of the Cobra beer bottle, this was a brief and secondary product reference: the focus of the sponsor credit was the identification of the sponsorship arrangement, rather than promotion of the beer.

ITV also argued that that *Mary Poppins* should be regarded as a family film rather than a children's programme.

For the above reasons, it regarded the sponsorship by Cobra as acceptable.

### **Decision**

We considered that the Disney version of *Mary Poppins* was a film likely to appeal particularly to an audience aged under eighteen. The film is rated 'U' by the British Board of Film Classification, and is widely recognised as a classic children's film.

The broadcast of the film on ITV3 was sponsored by Cobra. The credits clearly related to Cobra beer – showing a bottle of Cobra beer twice within each bumper and featuring the brand's website. In this context, it is irrelevant how the beer was actually presented within the sponsorship credits. The sponsorship of the film by Cobra was in breach of Rule 9.4.

### **Breach of Rule 9.4**

## Resolved

### **Futurama**

*Sky Two, 19 March 2006, 14:00*

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#### **Introduction**

*Futurama* is an animated science-fiction comedy series from the creator of *The Simpsons*. In this episode, two friends are forced to fight to the death. During the course of the fight, one animated character's arm is sliced off. Amazed, the character twice calls his friend a "bastard".

One viewer felt that this language was inappropriate for the time of day.

#### **Response**

Sky said that the series is targeted at a broad family audience and that occasionally the series contained language that was not appropriate for broadcast at times when young children were likely to be watching. Sky therefore edited out such language to produce a programme that could be broadcast at these times.

Unfortunately, on this occasion, the wrong version of the episode was broadcast due to a software fault in the system. As soon as Sky was made aware of the problem, an investigation into the software error was carried out. A manual system was also introduced to double-check all scheduled programme versions before transmission. The software that failed was then updated and the problem resolved.

#### **Decision**

In the light of the above explanation and the action taken, we do not feel that further intervention is necessary on this occasion.

#### **Resolved**

## **Channel 4 Racing**

*Channel 4, 17 May 2006, 13:45*

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### **Introduction**

In a live interview after a race, the trainer of the winning racehorse related an anecdote in which he used the word “cunt” twice. Two viewers complained to Ofcom about the inclusion of offensive language in a programme at this time of day.

### **Response**

Channel 4 apologised for any offence caused. It said that the programme presenter had ended the interview immediately after the exchange in question and the broadcast crossed back to the commentary team for another race. On the instructions of a Network Director from Channel 4 Operations, an apology for the language was made about a minute after the interview, before the advertisement break. After the break, the presenter made a further, fuller apology and this was followed a few minutes later by an apology made by the Continuity Announcer over a Channel 4 graphic and the title “*Channel 4 Racing*”.

Channel 4’s Viewers Enquiries Department were alerted to the incident and advised to apologise to any viewers who contacted the Channel to complain.

Channel 4 explained that post-race interviews with trainers, owners or jockeys were impromptu and congratulatory, usually lasting only a minute or two. It was not practical, or usually necessary, to brief interviewees on Channel 4’s broadcasting obligations. However both Channel 4 and the production team ensured procedures were in place to address any incident that might occur during a live broadcast, such as the inadvertent inclusion of strong language.

Channel 4 pointed out that the offensive language was not used as a term of direct insult or abuse, or in an aggressive or disrespectful manner. The banter between the presenter and the trainer was light-hearted and the trainer’s use of the language was completely unexpected.

However, the production company had decided that it would not again interview the trainer live on *Channel 4 Racing*, and Channel 4 supported this decision.

Furthermore, Channel 4 said that it would ensure that production teams of this and similar programmes were re-briefed appropriately.

### **Decision**

Rule 1.14 of the Broadcasting Code states that the most offensive language must not be broadcast before the watershed. The strength of this language was unacceptable for broadcast in this programme, even though it was clear that the interviewee had not intended any offence and the child audience for the programme was minimal.

However, we consider that Channel 4 acted swiftly and responsibly, with three separate on-air apologies. It also appeared to have appropriate processes in place. In these particular circumstances, we considered the matter resolved.

### **Resolved**

## **Emmerdale**

*ITV 1, 13 April 2006, 19:00*

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### **Introduction**

The start of this episode portrayed the outcome of an extended storyline involving a long and bitter relationship. In this scene one character killed another by hitting him twice with a fire extinguisher.

Eleven viewers complained that this scene was too violent to be shown at this time of day.

### **Response**

ITV believed that the portrayal of violence was sufficiently inexplicit to be acceptable in the context. However, it had prepared an announcement to inform viewers that this scene was going to appear. Unfortunately, due to human error, the announcement was transmitted the night before. This was because the wrong episode number was entered against the transmission play-out tape.

### **Decision**

In this specific context, the material was not too violent to be shown at this time of night. This serial occasionally contains stronger than usual material where the storyline requires it. By careful staging and editing, the overall impact is not as graphic as in programmes broadcast slightly later in the evening.

However an information announcement would have assisted viewers to make a decision of whether to continue watching the outcome of the storyline. We believe that the broadcaster had made every effort to inform viewers of the likely content of the programme. However due to human error, this information was not transmitted – although it had plainly been prepared for transmission.

In the light of this, we do not feel we need to intervene further on this occasion.

### **Resolved**

## **The Boat Race**

*ITV, 2 April 2006, 16:30*

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### **Introduction**

During the coverage of this year's Oxford and Cambridge University Boat Race, a cox was shown exhorting his crew and used the word "fucking".

Nine viewers complained that this language was broadcast in the afternoon when they were watching with their families. Some of the complainants questioned why ITV had not put in place a contingency plan, given the possibility that such language could have occurred in such a live event and in the heat of the moment.

### **Response**

ITV decided to mic-up and film the coxes on the basis that the coxes were carefully briefed about swearing, with a reminder that this was live television broadcast on a Saturday afternoon; that the production team would dip or cut sound if it appeared necessary; and in the event of unacceptable language presenters would explain and appropriately apologise. ITV therefore judged that the risk of offensive language being broadcast was low.

ITV explained that this extension of coverage was considered very carefully - precisely because of the risk of one of the coxes using unacceptable language under stress. The other relatively recent technological advance - a safeguarding "delay" sufficiently robust for OB/satellite use simply could not be applied in the context of a real-time continuous live broadcast of a sporting event like the Boat Race.

In the event, ITV admitted that there were two sets of regrettable lapses. Firstly the Oxford cox did momentarily forget his briefing and swore. Secondly, in the noise and pressure of an OB gallery with talkback added to sound actuality, the swearing was not picked up by the director or producer. The presentation team also did not pick up the swear word and as a result no apology was given.

ITV said the situation was most regrettable and there was no intention of allowing the broadcast of such language at this time, without any explanation or apology. The experience had made ITV consider how to approach similar ventures in future. A case by case assessment would be made as to whether to deploy this kind of "close up" broadcasting in live events, with reinforced briefing of participants and an underlining of the extreme vigilance required of the production and presentation teams to guard against offence being caused. In addition, ITV Sport would add an additional assistant producer to the team in the OB gallery, whose dedicated role will be to listen through headphones to the sound feed to air to ensure that no unacceptable language goes unnoticed. This member of staff would be specifically tasked with alerting the director and programme editor to any swearing immediately, in order that the swiftest remedial action can be taken.

### **Decision**

We acknowledge that being able to hear the coxes in this race adds to the enjoyment of the audience.

Given ITV's decision to mic-up the coxes, the possibility of swearing in such a live

sporting event could have been anticipated. Although ITV had put procedures in place to be implemented should offensive language occur, these proved not to be sufficient on the day.

The cox's swearing was inappropriate for broadcast when children were likely to be watching. However, we welcome the action taken by ITV to try to avoid similar future occurrences, and consider the matter resolved.

**Resolved**

## Fairness and Privacy Cases

### Upheld in Part

#### Complaint by Mr and Mrs Hodgson

*Calendar News: ITV Yorkshire, 22 July 2004*

**Summary:** Mr and Mrs Hodgson complained that footage of them and their two children attending the court hearing of Mrs Hodgson's mother, Mrs Shirley Capp, was unfair and infringed the family's privacy.

Ofcom's Executive Fairness Group considered Mr and Mrs Hodgson's original complaint in October 2005 and found that the complaint should not be upheld.

The complainants requested a review. The Fairness Committee, Ofcom's most senior decision making body, reconsidered part of the complaint described at (c) below.

Following its reconsideration, Ofcom's findings are as follows:

- a & b) Mr and Mrs Hodgson's inclusion in the programme and the programme's presentation of footage was fair. The item had simply explained that Mrs Hodgson was the daughter of Mrs Capp and that she and her family were at the court to see her mother sentenced. Ofcom considered that it was unlikely that viewers would have reacted critically to the Hodgson family or have believed that they had something to hide.
- c) The report did not infringe the privacy of Mrs and Mrs Hodgson. The actions of Mr and Mrs Hodgson were sufficiently in the public domain to justify broadcast without consent from the complainants for their participation.

The privacy of the Hodgson children was unwarrantably infringed in the programme as broadcast. The programme makers did not sufficiently consider the vulnerability of the children when they broadcast readily identifiable images of them without parental consent. Ofcom considered that this infringement of privacy was unwarranted as there was no over-riding public interest in disclosing the identity of the children.

#### Introduction

This edition of *Calendar News*, a regional news bulletin in the Yorkshire area, included an item reporting the conviction and sentencing of Mrs Shirley Capp for intimidating a witness during the prosecution of her daughter, Ms Maxine Carr. Maxine Carr was convicted of conspiring to pervert the course of justice in December 2003, in connection with the murder, by Mr Ian Huntley, of schoolgirls Jessica Chapman and Holly Wells ("the Soham murder trial").

Mrs Capp's other daughter Mrs Hayley Hodgson was filmed, along with her husband Mr Graham Hodgson and their two daughters (both young children), when entering and later leaving court following her mother's sentencing. The footage was included in the programme as broadcast.

Mr and Mrs Hodgson complained that the family had been treated unfairly, and that

their privacy and that of their two children was unwarrantably infringed in the programme as broadcast.

Ofcom's Executive Fairness Group originally considered and provisionally adjudicated on this complaint, finding that Mr and Mrs Hodgson's complaint should not be upheld. Mr and Mrs Hodgson requested a review of the provisional finding.

Ofcom considered this request and took the view that the complainants had made an arguable case that the provisional finding in respect of one element of head (c) was flawed. In keeping with its published procedures for handling fairness and privacy complaints, Ofcom referred the complaint to its most senior decision making body with regard to fairness and privacy complaints, the Fairness Committee.

The Fairness Committee met to consider afresh head (c) of Mr and Mrs Hodgson's complaint in so far as the programme as broadcast unwarrantably infringed the privacy of their children. The Committee did not reconsider the remainder of Mr and Mrs Hodgson's complaint.

## **The Complaint**

### **The Mr and Mrs Hodgson's case**

Mr and Mrs Hodgson complained that the family had been treated unfairly in the programme as broadcast in that:

- a) Images of their family were shown in conjunction with stories indirectly connected to the Soham murder trial. It was unfair to include images of the family in the programme at a time when it had been reported that threats had been made against the personal safety of the defendants in that case and those associated with them;
- b) The manner in which the family had been filmed leaving the court suggested that they had something to hide;
- c) In summary Mr and Mrs Hodgson complained that their privacy and that of their children was unwarrantably infringed in the programme as broadcast because the programme had included images of the family and clearly identifiable footage of at least one of their daughters. This was despite the fact that they had requested not to be filmed; specifically asking for privacy.

### **ITV's case**

In summary ITV responded to the complaint as follows:

- a) ITV said it was clear that the Hodgson family was attending court because of the family's relationship to Mrs Capp and it was not unfair to report this. The broadcaster said that there was nothing undignified about the Hodgson's appearance in the report.

ITV said they were not aware of any reported threats against the personal safety of those associated with the defendants in the Soham murder trial. ITV noted that no evidence had been presented by the complainants of threats made against the Hodgson family in the wake of the Soham murder trial, nor of security problems caused by the Calendar News programme;

- b) The programme's brief references to the Hodgson family were not pejorative. The broadcaster could see no substance in the claim that the manner in which the Hodgson family were included in the report suggested that they had something to hide;
- c) The activities of the Hodgson family were simply depicted and filmed outside court in a public place. The family would not have had any reasonable expectation of privacy particularly when Mrs Capp's case was connected with a case of such serious public concern as the Soham murder trial. Furthermore, the Hodgson family were not engaged in any private activity and the report contained no private information about them. ITV said the Hodgson family made no attempt to avoid being filmed, nor did they request that they not be filmed. Although the camera turned to follow Mr and Mrs Hodgson in vision when they left court, the camera itself stayed in a static position throughout. ITV said that even if the report infringed the Hodgson's privacy, which they did not accept, the inclusion of the shots of the family was in a manner proportionate to a court report that was warranted as a matter of important public interest.

ITV said that they did not consider the report breached the privacy of the Hodgson children as they were not interviewed and the pictures of them were not of an embarrassing or inherently private nature. Pixilation of the children's faces in these circumstances would not be necessary as it was not an intrusion into the children's privacy to show that their parents had taken them to court to support their grandmother. ITV said the children were not the focus of the shot but were included incidentally. The Hodgson family made no attempt to hide their identities or the identities of their children when entering and leaving court.

### **Mr and Mrs Hodgson's additional comments**

As part of Ofcom's review proceedings, additional comments relating to the complaint that the programme as broadcast unwarrantably infringed the Hodgson children's privacy were admitted to the Committee for consideration.

Mr and Mrs Hodgson said that when deciding whether the family had a reasonable expectation of privacy, Ofcom was required to consider the position of Mr and Mrs Hodgson (on the one hand) and their children (on the other). The complainants also referred to ITV's claim that the camera had remained static while filming the family leaving the court house. Mr and Mrs Hodgson said that this was untrue and said that they had been pursued by the ITV News cameraman.

### **ITV's comments in response**

In summary, ITV responded that there had been no intrusion of the children's privacy. ITV said that the shots of the children were brief and incidental and taken whilst filming their parents arriving and leaving a court hearing on a matter of important public interest. The Hodgson family did not attempt to stop their children from being filmed or hide the children's identities. Even if there had been an intrusion of privacy, the inclusion of the shots of the family in the report (including the children) was in a manner proportionate to a court report and was warranted as forming part of a report on a matter of important public interest. ITV said they had already acknowledged that there was slight movement of the camera towards the end of the shot, but did not accept that this proved the cameraman followed the family down the street. ITV said the cameraman and news reporter were adamant that they did not pursue the Hodgson family when they left court.

## 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 unfair treatment in programmes included in such services and unwarrantable infringement of privacy in and in the making of programmes included 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 this case Ofcom found as follows:

- a & b) The item's presentation of events was straightforward and factual. The item simply explained that Mrs Hodgson was the daughter of Mrs Capp and that she and her family were at the court to see her mother sentenced. At the conclusion of sentencing the programme showed Mrs Hodgson and her family leaving court and explained that she made no comment to the awaiting media. There was no suggestion that they had any connection with the convictions of Mrs Capp and Maxine Carr or with the conviction of Ian Huntley. In these circumstances, Ofcom considered that it was unlikely that viewers would have reacted critically to the Hodgson family or have believed that they had something to hide. Ofcom therefore found no unfairness to Mr and Mrs Hodgson in the inclusion or presentation of the footage.
- c) The line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. When considering and adjudicating on a complaint of unwarranted infringement of privacy, Ofcom must therefore address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

When broadcasters are covering events in public places, they should ensure that the words spoken or the images shown are sufficiently in the public domain to justify their broadcast without the consent of the individuals concerned (unless it is warranted to do so - for example by an overriding public interest in disclosure of the information).

Ofcom understood that the events on the day of Mrs Capp's sentencing might have been distressing for Mr and Mrs Hodgson and their children. However Ofcom also had regard to the decision taken by Mr and Mrs Hodgson to bring their children to court. In Ofcom's opinion it was reasonable to expect Mr and Mrs Hodgson to understand that a court hearing in connection with the Soham murder trial would be attended by a large media contingent, and be highly publicised. Ofcom considered that it is normally legitimate for programme makers to attend and film outside court. In the particular circumstances of this case, where there had been significant developments in this story of major public interest, it was clearly justifiable for the programme makers to attend and film outside court.

The broadcaster claimed that the footage of the Hodgson family leaving the court had been filmed from a static position. In Ofcom's view, having examined the transmitted material, it was clearly apparent that the pictures had not been taken from a fixed position. However, while the camera may have followed the family,

the Committee did not consider that the family had been harassed or pursued. So the actions of the cameraman did not play a role in the alleged infringement of the family's privacy in the programme as broadcast.

In determining whether the programme as broadcast unwarrantably infringed the privacy of the family, Ofcom considered separately the broadcast of images of Mr and Mrs Hodgson, and those of their children.

Ofcom noted that the programme included images of the Hodgson family without first obtaining consent from them. In reaching a decision about whether or not this led to an infringement of privacy, Ofcom was required to determine whether the actions of Mr and Mrs Hodgson were sufficiently in the public domain to justify being included in the programme without the programme makers first seeking consent from the complainants. Whether an event, action or information is in the public domain must be considered on a case by case basis according to all the relevant facts. The fact that it occurs in a public place is not always sufficient itself to determine that it is in the public domain and there may be circumstances where people can reasonably expect privacy even in a public place. In relation to Mr and Mrs Hodgson, Ofcom considered that their attendance of Mrs Capp's court proceedings was sufficiently in the public domain to justify broadcast without consent being required. As a result Ofcom found that the inclusion of images of Mr and Mrs Hodgson in the programme, did not infringe their privacy.

In relation to the privacy of the Hodgson children, Ofcom considered that Mr and Mrs Hodgson's decision to bring their children to court brought them into the public domain. However, notwithstanding this, the broadcaster's prime concern should have been the vulnerability of these young children. The programme as broadcast included readily identifiable images of the children, then aged five and two, as they left court. They were transmitted without the consent of the parents. It was not clear that the programme makers had taken sufficient, if any, consideration of the ages of the children (particularly the younger of the two) nor allowed for this. Given the particularly sensitive and high profile nature of this case, additional care was owed to the children. Ofcom found that the broadcast of these images infringed the privacy of the Hodgson children. This was unwarranted as, in Ofcom's view, there was no over-riding public interest in disclosing the identity of the children.

In conclusion Ofcom found that the programme as broadcast did not infringe the privacy of Mr and Mrs Hodgson, but did unwarrantably infringe the privacy of the Hodgson children.

**Ofcom has not upheld Mr and Mrs Hodgson's complaint of unfair treatment, but has upheld part of their complaint of unwarranted infringement of privacy.**

## **Complaint by Mr Gordon Montgomery**

*Prison Undercover: The Real Story, BBC1, 9 March 2005*

**Summary:** Ofcom has upheld part of this complaint of unfair treatment and unwarranted infringement of privacy.

Mr Gordon Montgomery complained that he was unfairly treated in the programme as broadcast and that his privacy was unwarrantably infringed both in the making and broadcast of the programme. The item was an investigation into the prison HMP Kilmarnock, and included material covertly recorded at the prison by an undercover reporter. Mr Montgomery, a prison officer at HMP Kilmarnock, complained that the programme makers failed to give him advance warning that he was to feature in the programme and unfairly alleged that he was negligent in his duties towards prisoners on suicide watch when it was the BBC undercover reporter who was negligent. He further complained that his privacy was unwarrantably infringed in the making and the broadcast of the programme in that he was covertly filmed and the footage broadcast without prior warning and without concealing his identity.

Ofcom concluded that the programme makers' failure to give Mr Montgomery advance warning that he was to feature in the programme meant that he was not given an appropriate opportunity to respond to the allegations in the programme and this resulted in unfairness to him. Ofcom noted the responsibilities of the undercover reporter, in his role as a prison officer, in relation to the conduct of suicide watches, but found that the programme was accurate in its reporting of how Mr Montgomery conducted his duties towards prisoners on suicide watch. On the issue of privacy Ofcom found that Mr Montgomery's privacy was infringed but that this was justified by the public interest in revealing extremely serious failings at the prison. Ofcom therefore concluded that Mr Montgomery's privacy was not unwarrantably infringed.

### **Introduction**

This documentary used secretly filmed footage to investigate the prison HMP Kilmarnock. An undercover reporter gained a job as an officer at the prison and filmed his daily work and observations. The programme criticised practices at the prison including those which, the programme claimed, put vulnerable prisoners at risk and failed to deal with hard drug use.

Mr Gordon Montgomery, a prison officer at HMP Kilmarnock, featured in the programme. The undercover reporter secretly filmed Mr Montgomery filling in, and making observations about, forms relating to the monitoring of vulnerable prisoners at risk of committing suicide.

### **The Complaint**

#### **Mr Montgomery's case**

In summary, Mr Montgomery complained that he was treated unfairly in that:

- a) He was not given advance warning that he was to appear in the programme, in contrast to others who were featured.
- b) Allegations were made against him that he was negligent in his duties towards prisoners on suicide watches and guilty of falsifying 'watch logs' when the times he entered on the logs were genuine.

It was the BBC reporter, Mr Allen, who was negligent: failing to check the prisoners and failing to complete important paperwork in order to try to entrap Mr Montgomery into failing in his duties.

The programme portrayed Mr Allen as working alone when this was not the case.

In summary, Mr Montgomery complained that his privacy was unwarrantably infringed in that:

- c) He was secretly filmed and the footage broadcast without either Mr Montgomery or his employer being given prior notice. His identity was not protected in the broadcast of the programme by hiding or pixilating his face, nor by altering his voice, making him easily identifiable.

### **The BBC's case**

In summary the BBC responded to Mr Montgomery's fairness complaint as follows:

- a) The programme exposed worrying failures in the system at HMP Kilmarnock including failings in the monitoring of prisoners on "suicide watch". Prior to covert filming the programme makers had established prima facie evidence of failings in observing suicide watches and paperwork for suicide watches being falsified.

The undercover reporter, Mr Allen, did not have the opportunity to establish Mr Montgomery's identity due to the pressure of filming, his duties as an officer and the nature of the prison environment. Mr Montgomery's conduct warranted inclusion in the programme. Further, the allegation regarding suicide watch was communicated to the prison so that any officer who had not followed the correct procedures had an opportunity to make comment which would be passed on to the BBC in the prison's final statement

- b) The programme makers stood by the claim that Mr Montgomery was negligent in his duties. As senior officer he was responsible for suicide watches, but he made no mention of them to Mr Allen when he left him in charge. When, on his return, Mr Allen told him the suicide watches had not been done, Mr Montgomery filled out the forms to suggest they had been.

Mr Montgomery also revealed his opinions about suicide watches:

"See, it shouldn't be our fucking job to do this. Since when did we become psychologists and all that?"

and

"If you miss one, go and check on them as soon as you can and fill it up to date. These things are more for the night shift you know".

This is contradicted by the vital importance attached to them by HM Inspector of Prisons Clive Fairweather in his interview.

Mr Allen did not hide paperwork, he alerted Mr Montgomery to it. Mr Allen did not complete paperwork, but this is because he could not perform the suicide watches while left in sole charge. He alerted Mr Montgomery to this at the first opportunity.

The fact that Mr Allen was left alone in charge of the wing is supported by the BBC recordings. Mr Montgomery handed Mr Allen his 'cut down knife' (a knife to cut down prisoners who have attempted to hang themselves) but gave no specific instructions regarding suicide watches. During the 3.40pm 'handover' he also told Mr Montgomery to lock the doors to the exercise yard if he had not returned by 4.20pm.

In summary, the broadcaster responded to the privacy complaint by Mr Montgomery in the following terms:

- c) The issue of giving Mr Montgomery prior notice of the programme was dealt with at head a) of the BBC's case above. The programme makers were unable to identify Mr Montgomery and so the question of whether to conceal his face was raised. It was decided not to conceal his face, as to do so would have opened up his colleagues who were discharging their duties properly to unfair suspicion.

Mr Montgomery's comments on the BBC's response

In summary Mr Montgomery commented that:

- a) He did not understand why his circumstances were so unusual that the undercover reporter, Mr Allen, did not have the opportunity to establish his identity. He worked regularly with Mr Allen for months wearing his name badge at all times, his name was also signed on the 'watch logs' and other prison paperwork including roster boards which Mr Allen would have checked every day. His photo was also on the wall of the wing for prisoners to access. He was also shown chatting to Mr Allen on the tape of untransmitted material.

In no part of the correspondence between the BBC and the prison authorities, prior to transmission, was he personally mentioned and, despite repeated requests from his employers, an advance screening of the programme was not allowed, so that he could not be identified. The correspondence showed that he was given no opportunity to challenge any of the allegations made against him.

- b) The times Mr Montgomery entered on the 'watch logs' were consistent with the times he observed prisoners at risk. The untransmitted material proved he was present on the wing and able to make the checks at the time stated on the 'watch logs', the only reason they were logged at a later time was because Mr Allen was in possession of them.

His comments on the suicide watch process were personal views and would never interfere with his duties

The programme featured the former chief inspector of prisons Mr Clive Fairweather commenting on footage of Mr Montgomery. He was labelled "a criminal" with "blood on (his) hands" which has caused anguish and embarrassment. Mr Fairweather gave personal views but it was made to appear that he spoke on behalf of the prison authorities.

Mr Montgomery stood by his allegation that it was actually Mr Allen who was guilty of negligence and breaking prison rules. The untransmitted material shows Mr Allen was in possession of the suicide 'watch logs' and so should have been observing the prisoners too but made no attempt to do so. It seems that Mr Allen

had this paperwork in his pocket for the duration of the filming which was why Mr Montgomery and Mr Callaghan, who was also on duty, could not enter the times that they did observations. The BBC's statement admitted that Mr Allen failed to complete important paperwork. Mr Allen had not made a single observation and had left the wing without notifying his colleagues. Mr Allen attended a two day course on this process and would have been aware of his responsibilities.

The commentary stated that Mr Allen was left "in sole charge" when he was not left for any considerable time, this statement was also contradicted by the reference to Mr Montgomery as "the senior member of staff on duty". The BBC statement referred to the untransmitted material of him and Mr Allen on several occasions during their shift but the officer referred to was not him but Mr Callaghan. The BBC misidentified him and lied about not being able to establish his identity. The commentary went on to state that officers featured in the programme have been suspended/sacked when only one officer is no longer working there as a result of the programme.

### **BBC's second statement in response**

In summary the BBC responded that:

- a) The BBC accepted that Mr Montgomery should have been contacted ahead of transmission and offered a right of reply. The BBC apologised for this omission. But in view of Mr Montgomery's response stated that this would not have made a material difference to the programme as broadcast.
- b) The BBC continued to believe that Mr Montgomery's inclusion in the programme was greatly in the public interest. There was clear evidence in the material covertly recorded that: he was negligent in making observations of highly vulnerable prisoners on suicide watch; he falsified forms; he connived at leaving a highly inexperienced trainee officer alone and unsupervised; and, he expressed views which represented bad practice and encouraged a junior colleague for whom he had some responsibility to be similarly negligent.

Mr Montgomery stated that suicide watches were:

"more for the nightwatch"

this is untrue and it was very dangerous to tell this to a brand new officer.

Mr Montgomery stated that Mr Allen had the 'watch log' paperwork in his pocket for the duration of the filming which was why Mr Montgomery and Mr Callaghan, who was also on duty, could not enter the times that they did observations. This is incorrect. The untransmitted material shows that the forms were handed to Steve Allen at 3.35pm by PCO Callaghan when he left the wing. Mr Allen recorded the fact that at that point they had not been filled in for the previous sixty-five minutes. Mr Allan spoke into the microphone as follows:

"Well, that's me on G-Wing with remand prisoners, young offenders, very vulnerable prisoners and as you can see, the forms I've got are suicide watch forms – should be filled in every half hour. The last entry is 2.30 and its now ten to four. I'm on my own. I can't do them, because I'm supervising the prisoners."

The untransmitted material also shows that when Mr Montgomery returned and Mr Allen explained that the 'watch logs' have not been filled in since half past

two, Mr Montgomery took the forms and signed them as if the checks had been done at the required intervals when in fact they had not. He also asked how many prisoners were on suicide watch. Had he been diligent in his observations during the afternoon he would have known this. Mr Montgomery's claim that the only reason the watches were logged at a later time was because Mr Allen was in possession of them was incorrect.

There was no contradiction in the BBC's earlier response that Mr Allen was left in sole charge while Mr Montgomery was the senior member of staff on duty. He was on duty but absent for considerable time as shown in the untransmitted material. Mr Montgomery claimed no officers were suspended from duty following the programme when Premier Prisons have told the BBC that three officers were removed from duty.

## **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 unfair treatment in programmes included 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, consistent and targeted only at cases in which action is needed.

In the circumstances of this case Ofcom found the following:

- a) Ofcom first considered Mr Montgomery's complaint that he was not given advance warning that he was to appear in the programme and that this resulted in unfairness to him in the programme as broadcast. Where a programme alleges wrongdoing or incompetence, or contains a damaging critique of an individual or organisation, those criticised should normally be given an appropriate and timely opportunity to respond to, or comment on, the arguments and evidence contained within that programme. Ofcom found that the programme did contain a damaging critique of Mr Montgomery in a section of the programme which was highly critical of his conduct and attitudes in relation to monitoring prisoners at risk of committing suicide.

Ofcom therefore examined the background correspondence between the programme-makers and the prison authorities prior to transmission. Ofcom noted that the letter from the BBC of 23 February 2005, in which the prison's director was informed of the forthcoming programme and its covertly recorded evidence, was extremely detailed. The letter mentioned a number of officers by name and detailed allegations to be made in the programme. However, Ofcom noted with concern that at no point did this letter mention Mr Montgomery. Ofcom further noted that in a letter of 3 March 2005 the BBC stated that "the only Premier employee we will be identifying that we have not already named is the (prison) Director".

Ofcom noted that the BBC's submission in response to Mr Montgomery's complaint stated that:

"We accept that once we had taken the decision to identify (Mr) Montgomery we should have contacted him ahead of transmission

and offered him a specific right to reply. For this omission we apologise. But we would add that, having now had the opportunity to consider his response, it would not have made a material difference to the programme as broadcast.”

Ofcom welcomed the BBC's apology, but concluded that as the programme was highly critical of Mr Montgomery's conduct and attitudes he should have been provided with an appropriate opportunity to respond. In Ofcom's view, the failure to do so resulted in unfairness to Mr Montgomery.

- b) Ofcom next considered Mr Montgomery's complaint that the programme alleged that he was negligent in his duties towards prisoners on suicide watch and that this resulted in unfairness to him.

Ofcom examined the section of the programme which featured Mr Montgomery. The section stated:

Commentary: Steve [the undercover reporter] is on shift again – he's been left in sole charge of a wing. He discovers that some suicide watches have already been missed. Three prisoners haven't been checked for nearly an hour and a half. They should be done every half hour.

Reporter (speaking into camera): Well that's me on G wing with remand prisoners - young offenders, very vulnerable prisoners and as you can see the form I've got are suicide watch forms - should be filled out every half hour. The last entry is two thirty and its now ten to four. I'm on my own. I can't do them, because I'm supervising the prisoners.

Reporter: Could I just check – err what's the deal with these?

Mr Montgomery: Aye watches?

Reporter: Yeah, it should be every half hour shouldn't it I think? It was half two last time it was done – it should be done really but errr...

Mr Montgomery: It's alright...

Commentary: The officer [Mr Montgomery] has just come onto the wing. Instead of going to check on the prisoners immediately, he falsifies the forms to suggest the checks have been done.

Reporter (speaking into camera): Right – as you can see, I've just had the officer filling out the suicide watch forms without going to see them. It wasn't until I mentioned it to him that he's actually gone off to check...

Reporter: I get paranoid, we got told in training about someone who actually topped themselves, so I always get a little bit...

Mr Montgomery: See, it shouldn't be our fucking job to do this. Since when did we become psychologists and all that?

Reporter: So what's the best way of doing it?

Mr Montgomery: Just keep an eye on them, it's best just to keep an eye on them. If you miss one go and check on them as soon as you can and fill

it up to date. These things are more for the night shift you know.

Commentary: Of course, he's wrong. Prisoners can commit suicide at any time of the day.

In its consideration of this complaint Ofcom noted that Mr Montgomery argued in his submission that, when given the forms by Mr Allen, he had entered times on the 'watch log' which were consistent with the times he had observed prisoners at risk. The BBC argued that when Mr Allen informed Mr Montgomery that the suicide watches had not been done, Mr Montgomery filled out the forms to suggest they had been.

Ofcom also noted Mr Montgomery's observations on filling in suicide watches:

"See, it shouldn't be our fucking job to do this. Since when did we become psychologists and all that?"

and

"Just keep an eye on them, it's best just to keep an eye on them. If you miss one go and check on them as soon as you can and fill it up to date. These things are more for the night shift you know."

Ofcom noted that such observations were made to a new and impressionable officer seeking guidance, when, as the senior officer, Mr Montgomery was in a position of considerable trust. Ofcom further considered that these observations supported the BBC's contention that Mr Montgomery did not fill in the watch logs with a contemporaneous record of checks made.

Ofcom examined the full untransmitted material covertly recorded and found it to be consistent with the broadcast material. Ofcom concluded that this section of the programme accurately reported Mr Montgomery's actions and did not result in unfairness to him.

Ofcom then considered Mr Montgomery's further complaint that it was the BBC's undercover reporter Mr Allen who was negligent in his duties, and that Mr Allen had failed in those duties in order to try to entrap Mr Montgomery, resulting in unfairness to Mr Montgomery.

In its consideration of this complaint Ofcom was mindful of the difficulties, and responsibilities, to be negotiated by programme makers when producing a covertly filmed programme of this nature. Ofcom noted that in order to gather material covertly at the prison, the programme makers had placed Mr Allen, the undercover reporter, in a position of considerable trust and great responsibility in a particularly sensitive environment, namely a prison wing which included prisoners on suicide watch.

In such circumstances broadcasters should ensure that the undercover reporter fulfils a dual role. In this case the undercover reporter had a responsibility, as a prison officer, to ensure the security and safety of the prisoners. He was also responsible, as an undercover reporter, for the recording of covert material.

Ofcom noted that, during the filming process, the suicide watch forms were in Mr Allen's possession which raised serious questions over his own responsibilities in relation to monitoring prisoners on suicide watch. In addition, time spent in

recording material, including pieces spoken privately to camera, was time which the reporter could not devote to prison duties including suicide watches.

Mindful of the broadcaster's obligations, Ofcom then considered whether Mr Allen's conduct could have resulted in unfairness to Mr Montgomery. Ofcom considered that throughout the filming Mr Montgomery retained final responsibility, as senior officer, for the overall conduct of duties in relation to suicide watch. Ofcom therefore found that no unfairness to Mr Montgomery resulted, in the programme as broadcast, from the reporter's presence on the wing.

Ofcom then considered Mr Montgomery's complaint that the programme portrayed Mr Allen as working alone when this was not the case, and this resulted in unfairness to Mr Montgomery. Ofcom noted that the untransmitted material showed a handover to Mr Allen, and while the BBC's first submission mis-identified the officer who conducted the handover, the programme accurately portrayed Mr Allen's role on the wing. Ofcom therefore concluded that this element of the portrayal of Mr Allen did not result in unfairness to Mr Montgomery.

- c) Ofcom then turned to Mr Montgomery's complaint that his privacy was unwarrantably infringed in the making and broadcast of the programme in that he was secretly filmed, and the footage broadcast, without either Mr Montgomery or his employer being given prior notice.

In considering complaints about the unwarranted infringement of privacy, Ofcom will, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

Ofcom noted the obligations on broadcasters to justify the decision to gather material covertly, the actual recording of the material, and the broadcast of covertly recorded material on grounds that this would serve an overriding public interest.

Ofcom found that the BBC had given due consideration to the decision to gather, record and broadcast the covert material, having established concerns regarding the observation of suicide watches, which merited further investigation, recording and broadcast.

With regard to the making of the programme, Ofcom noted that Mr Montgomery was secretly filmed in his work place without his knowledge or consent. Ofcom took the view that Mr Montgomery could have reasonably expected not to be filmed surreptitiously while performing his role and in Ofcom's view the covert recording of his actions infringed Mr Montgomery's privacy in the making of the programme.

With regard to the programme as broadcast, Ofcom noted that the covertly recorded footage was subsequently broadcast in the programme (which was highly critical of his conduct and attitudes) in a way that, in Ofcom's view, rendered him easily identifiable (his face was shown un-obscured and his voice was unaltered and clearly audible). Further, as noted at Finding a) above, the footage was included without Mr Montgomery's knowledge or consent.

Ofcom was not persuaded that the programme makers did not have the opportunity to establish Mr Montgomery's identity. The undercover reporter

would have had the opportunity to check Mr Montgomery's identity during his time at the prison, and subsequently the programme makers could have established Mr Montgomery's identity through correspondence with the prison authorities.

Ofcom took the view that the broadcast of the covertly recorded footage infringed Mr Montgomery's privacy.

Ofcom then proceeded to consider whether the infringement on both the making and broadcast of the programme was warranted. In order to justify an infringement of privacy a broadcaster should be able to demonstrate why it is warranted, in this case the BBC argued that it was in the public interest to reveal significant failings at the prison in the conduct and recording of suicide watches and that this outweighed Mr Montgomery's right to privacy.

Ofcom concluded that the public interest in revealing extremely serious failings at the prison, in connection with the security of such vulnerable prisoners, justified the infringement of Mr Montgomery's privacy. Ofcom therefore found that Mr Montgomery's privacy was not unwarrantably infringed.

**Accordingly, part of the complaint of unfair treatment was upheld. The complaint of unwarranted infringement of privacy was not upheld.**

## Not Upheld

### Complaint by Ms Janet Gill

*How To Be A Property Developer, Five, 7 February 2006*

**Summary:** Ofcom has not upheld this complaint of unwarranted infringement of privacy. The programme featured two couples who competed against each other by buying and selling property in order to make as much money as they could. One of the couples (two women), were shown discussing the possible reasons for the lack of interest in one of their properties. The women commented on the area where the property was situated and referred to the details of a murder that had occurred in the neighbourhood. Both women were shown laughing at these comments. The murdered man was Ms Janet Gill's son, Mr Brown.

Ms Gill complained that her privacy was unwarrantably infringed in the broadcast of the programme in that the comments made by the women and their laughter was upsetting and reminded her of her son's murder.

Ofcom considered that although the contributor's reference to the murder in the programme related to her son and was undoubtedly upsetting for Ms Gill, no private information about Ms Gill or her son was disclosed. The details of her son's murder were already in the public domain through the extensive media coverage it had attracted. Ofcom accepted that neither Mr Brown nor Ms Gill were identified in the programme, but noted that the street and area in which the murder occurred was clearly identified in the programme. In these circumstances, Ofcom considered that it was not incumbent on the programme makers to have informed Ms Gill about the plans for the programme. Ofcom concluded that the comments made in the programme about Mr Brown's murder did not amount to an infringement of privacy in the broadcast of the programme.

### Introduction

On 7 February 2006, Five broadcast *How To Be A Property Developer*, a programme that featured two couples who competed against each other by buying and selling property in order to make as much money as they could. In this final episode, the couples met to review and discuss the properties they had bought and sold and the problems they had encountered along the way. One of the couples (two women), who were best friends, had made a net loss of £2,000 on two properties in Liverpool and a third property, also in Liverpool, had been on the market for three weeks and had not attracted a single viewer. Both women were shown discussing the possible reasons for the lack of interest in the third property. One of the women said that she had not heard any bad reports about the area where the third property was situated, but her friend responded, "Except that murder around the corner. And the gardener found the dead man on his path. But nothing major". Both women were shown laughing at these comments.

Mr Kevin Brown was the murdered man referred to in the programme. He was murdered on 22 August 2004. Although Mr Brown was not named in the programme, specific details of his murder, namely that he was found in a pathway, were included. Ms Janet Gill is Mr Brown's mother. She was not named or otherwise identified in the programme.

Ms Gill complained to Ofcom that her privacy was unwarrantably infringed in the broadcast of the programme.

## **The Complaint**

### **Ms Gill's case**

In summary, Ms Gill complained that her privacy was unwarrantably infringed in the broadcast of the programme in that the comments made by the two women and their laughter in the programme was upsetting and reminded her of her son's murder when she was "just getting over the trial" which concluded in December 2005.

### **Five's Case**

In summary, Five responded that:

The footage of the two women was recorded on 14 September 2005, over a year after Mr Brown's death. The programme itself was broadcast on 7 February 2006, eighteen months after he died. Neither Mr Brown nor Ms Gill were identified in the programme. The programme did not examine Mr Brown's death and it did not feature the experience of Ms Gill. Five said that it was not, therefore, incumbent on the programme makers to have contacted Ms Gill to inform her of the plans for the programme.

Five said that the programme makers had not made enquires into the contributor's comments regarding the murder. They believed that the comments were made as a reference to the area in general and not to Mr Brown's murder in particular, he was not identified. The programme makers took the view that the comments were just a passing reference not intended to be taken particularly seriously.

Five said that Mr Brown's murder was reported widely by both the national and local press at the time of his death and during the subsequent trial. Copies of articles were published in the Liverpool Echo, Daily Post, and on the BBC News website.

Five said that reference to a murder does not infringe the privacy of those closely associated with the victim. If it did it would lead to the situation where any mention of the commission of a criminal offence which could lead to the identification of the victim would risk infringing their privacy. This is not and has never been the case (apart from cases involving sexual offences). Nor is it a breach of the provisions of the Ofcom Broadcasting Code on privacy. Privacy relates to the protection of information which is private, and the right to respect for a person's private and family life, home, and correspondence. Mr Brown's death and the circumstances surrounding it had been reported in the press as recently as eleven days prior to the broadcast of the programme. The mention of it again in this programme cannot, therefore, amount to an infringement of privacy.

Five recognised the upset the comments and the subsequent laughter caused to Ms Gill. The comments made were not intended to be insensitive or offensive to Ms Gill or any other person. However, Five appreciated the tragedy suffered by Ms Gill and apologised for the distress the programme caused her. Five said that it would ensure that any repeat of the programme was edited to remove the comments complained about.

## 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 unfair treatment in programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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 Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

This case was considered by Ofcom's Executive Fairness Group. The Group's decision is set out below.

Ms Gill complained that her privacy was unwarrantably infringed in the broadcast of the programme in that the comments made by the women and their laughter was upsetting and reminded her of her son's murder when she was "just getting over the trial" which concluded in December 2005.

Ofcom requires broadcasters, so far as it is reasonably practicable, to inform immediate families of those whose experience is to feature in a programme of the plans for the programme and its intended broadcast, even if the events or material to be broadcast have been in the public domain in the past.

By examining a recording of the programme and reading the transcript of it, Ofcom considered that although the contributor's reference to the murder in the programme related to her son and was undoubtedly upsetting for Ms Gill, no private information about her or her son was disclosed. The details of Mr Brown's death and the subsequent trial and sentence of those found guilty of his murder had been reported in both the national and local press and media (examples of which were provided to Ofcom) and, as such, were already in the public domain. Ofcom considered that, in these circumstances, it was not incumbent on the programme makers to have contacted Ms Gill to inform her of the plans for the programme.

Although Ofcom accepted that neither Mr Brown nor Ms Gill were identified in the programme, it noted that the comments made by one of the women in the programme were a specific reference to an incident that had occurred in a specific area. The name of the street in which the women had bought the house and where Mr Brown was murdered was clearly visible from footage taken of the estate agent's window and the area where it was situated was clearly identified in the programme.

Having taken all these factors referred to above into consideration, Ofcom concluded that the comments made in the programme about Mr Brown's murder did not amount to an infringement of privacy in the circumstances of this particular case. It was not therefore necessary to determine whether broadcasting the comments was

warranted.

In the circumstances, it was Ofcom's view that it was not incumbent on the programme makers to have informed Ms Gill about the plans for the programme. However, Ofcom considered that it would have been preferable for the programme makers to have researched the background to the comments made in the programme before it was broadcast. By not doing so, the programme makers and broadcaster were unaware at the time of broadcast whether or not the murder referred to was, for example, the subject of an ongoing police investigation or legal proceedings and had no way of knowing whether or not the inclusion of the comments could have caused distress and upset to those related to the murder victim.

Ofcom welcomed the broadcaster's undertaking that the comments made in the programme will not be broadcast again. We considered this a reasonable and responsible approach to take.

**Accordingly, the complaint of unwarranted infringement of privacy in the broadcast of the programme was not upheld.**

## **Complaint by Ms Marilyn Howell** *Blame the Parents, BBC2, 24 & 31 April 2005*

**Summary:** Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy in the making of the programme. Marilyn Howell complained that she was treated unfairly and that her privacy was unwarrantably infringed in the making of two programmes in this series of four. The series followed the progress of a group of families attending a parenting course. The aim of the series was to show the benefits that can result from parenting support and to see how family relationships were changed by the help and support they received. One of the parents on the course was Ms Howell. She featured in the series with her 13 year old son and her young daughter. Two of the programmes, those broadcast on 24 and 31 April 2005, looked in detail at her relationship with her son. The programmes focused, in particular, on her problems in getting him to attend school and their difficulties in communication. The programme featured interviews with Ms Howell and her son, as well as footage of the parenting group meetings.

### **Ofcom concluded that:**

- a) No unfairness was found in relation to Ms Howell's complaint that she was misled as to the nature or the title of the series. The programme makers gave Ms Howell a detailed briefing note for potential participants in advance of filming. While there may have been some misunderstanding by Ms Howell during the course of filming as to how she and her family would be portrayed, the programme makers did not deliberately mislead her.
- b) No unfairness arose to Ms Howell as a result of the editing of footage in which she discussed her son's truancy. The problems she was having getting her son to school would have been evident to viewers, as would the efforts she was making to get him to school and her fear that, if he continued not to attend, it would be Ms Howell herself who would get into trouble. There was nothing in the rushes that was omitted from the programme that would have thrown any more light on the situation.
- c) There was no unfairness to Ms Howell arising from the portrayal of her family in the programme. Although the problems faced by some of the other families were more serious than those of Ms Howell, the programme clearly and fairly conveyed what the problems were for Ms Howell. The programme gave a straightforward and fair portrayal of the family as one with problems that she was trying to address.
- d) It was not unfair for the programme to include footage of Ms Howell to illustrate a point about communication that was raised in the parenting group. There was a conflict between Ms Howell and the BBC as to whether she told the programme makers before the filming on the relevant occasion that she was feeling unwell and was reluctant to take part in filming. Nor could Ms Howell or the programme makers recall whether this filming took place before or after a discussion at the parenting group about communication with, and finding time for, children. Ofcom could not resolve these issues, but found that the use of the footage to illustrate a pertinent point from the group was not unfair to Ms Howell.

- e) There was no infringement of Ms Howell's privacy in the making of the programmes. Ms Howell was not misled about the making of the programme and she gave properly informed consent to participating in the series. Having been provided with detailed information about the programme, she allowed filming to take place and discussed her situation openly with the programme makers.

## **Introduction**

This four-part series followed the progress of a group of families attending a parenting course. The aim of the series was to show the benefits that can result from parenting support and to see how family relationships were changed by the help and support they received. One of the parents on the course was Marilyn Howell. She featured in the four programmes with her 13 year old son and her young daughter. Two of the programmes, those broadcast on 24 and 31 April 2005, looked in detail at her relationship with her son. The programmes focused, in particular, on her problems in getting him to attend school and their difficulties in communication. The programme featured interviews with Ms Howell and her son, as well as footage of the parenting group meetings.

Ofcom's Fairness Committee held a hearing which both parties attended.

## **Complaint**

### **Ms Howell's case**

In summary, Ms Howell complained that she was treated unfairly in that:

- a) She was misled about the nature of the programmes and the title of the series. The series, as broadcast, was not what she had agreed to take part in. She was not given all relevant information to enable her to make an informed decision as to whether to take part in the programme and allow the BBC access to her and her family's life. Prior to her taking part in the series, the programme makers explained that the premise of the programme was to support families with difficulties. She thought that the aim of the programme was to help by showing that all families have problems of some type at some point. However it was clear from an edition of *Points of View* in which *Blame the Parents* was discussed that the programme was pursuing a different agenda from the beginning, regardless of what she was being told. The Executive Producer of *Blame the Parents* said on *Points of View* "Maybe parents aren't being particularly good parents but they can be taught those skills". Ms Howell was portrayed as a bad parent and the programme suggested that this was the reason for her attending the parenting course. The programme makers built up her trust and lulled her into a false sense of security before damning her in front of viewers, both in relation to the format and the title of the programme. At the hearing Ms Howell said that she had not attended the parenting course because she felt she had problems with her parenting, but because she wanted to take advantage of the support being offered. This was at a time when her son was in danger of "going off the rails" and she felt that, apart from this group, help would only be available if he got into trouble. In naming the series *Blame the Parents*, the BBC immediately put the parents included in a negative light. She would not have agreed to take part if she had been told the title would portray such a negative image. She mentioned her concerns about the title to the programme makers.
- b) At one point during filming when her son's truancy was under discussion, Ms

Howell asked how she could be responsible for this when she was sending him to school. This comment was edited out, although it was crucial to understanding her family's problems.

- c) Contrary to what she had been led to believe would be the aim of the programme, it focused on showing the family as dysfunctional rather than supporting them and discussing what steps could be taken to improve their situation.
- d) A scene was included showing Ms Howell lying on the sofa with a quilt, due to her not being well. She told the programme makers that she had come home from work early feeling unwell and wanted to reschedule that evening's appointment. Although she was reluctant, they were adamant they wanted to film and she felt obliged to agree to the filming taking place that evening. The scene was then used to illustrate a point from the parenting group about spending time with teenagers. The use of this footage and the accompanying narration almost questioned outright whether she was going to give her son her full attention, despite the fact that they had not discussed anything about the amount of quality time she spent with her children at that point. She could not recall for certain but thought that they may not even have had that discussion at the parenting group at the time of the filming. The programme makers knew she was ill, that her son was late in that evening and that this footage was not representative. The programme makers used her to prove a point and in doing so misrepresented her. When she raised concerns with the programme makers she was told not to worry and that everything would be all right. Ms Howell said at the hearing that her relationship with the programme makers was such that she had not felt it necessary to put her concerns in writing to them.
- e) In summary, Ms Howell complained that her privacy was infringed in the making of the programme in that, as a result of being misled, she spoke to the programme makers about personal and private matters. She would never have agreed to take part if she had realised what the premise of the programme was.

### **The BBC's case**

In response to the complaint of unfair treatment, the BBC said in summary:

- a) The series set out to show the benefits that can result from parenting support. In the information sheet given to all contributors, the aims of the series were explained, as were the ways in which the material would be recorded and used. Contributors were told that editorial control would rest with the BBC, but that they would have an opportunity to view the programmes before transmission and to discuss any comments or suggestions they might have with the programme team. The title of a programme or series is often one of the last things to be decided. The information leaflet was headed "BBC Series 'Parenting' (working title)". This showed that a title for the series had still to be confirmed. Essentially, the finished programmes adhered to the original premise, as set out in the leaflet, with each programme showing some of the problems faced by parents, in recordings made in their own environment, followed by a discussion of these issues in the parenting classes. Ms Howell was introduced as a single working mum with two children. Through the use of footage of Ms Howell and her son and narration, the family's problems were explained. It was clear that communication was a problem but that the most difficult subject was school. The narrator explained how, despite Ms Howell spending a great deal of time trying to get her son up in the morning, she might be in danger of being taken to court because of

his constant truancy. Ms Howell wondered whether she should listen to her son a bit more and one of the counsellors running the parenting course asked whether she sets time aside for him in the evening when her young daughter was in bed. Ms Howell admitted that she did not do so. In a scenario typical for the series, the problem was shown and discussed during the parenting classes. The counsellor tried to suggest a solution and to help the parent identify for him or herself causes and a possible way forward. This was in keeping with the original brief for the programme. Ms Howell was shown the completed programmes on two occasions before they were broadcast. On the first occasion she made no objection to either the title of the series or any aspect of the programmes. On the second occasion, she watched the sequences with her son and, with the programme makers, tried to reassure him that there was nothing in the programmes he should feel embarrassed about. The title of the series was fair, as the aim of the course was to say that parents could do something about their children's behaviour. The programme makers said at the hearing that they had no record or recollection of Ms Howell having concerns about the title of the series. What the Executive Producer said on *Points of View* was not essentially different from what Ms Howell was told.

- b) It was made clear through the commentary in both programmes that Ms Howell was facing enormous problems with her son's truancy. One of the programmes included a scene showing Ms Howell making great efforts to get him to go to school. She described how stressful it was trying to get herself to work whilst facing an uphill battle to get her son off to school. The narrator explained how, despite her efforts, she could be penalised for her son's truancy. It was clear in the programme that Ms Howell's life was made far more stressful by her son's truancy and that his attendance at school would alleviate much of the pressure on her. There are no comments in the rushes that would explain the situation more clearly.
- c) The series did not show the family as dysfunctional. The programmes revolved around the parenting groups, which were run by members of the Southampton Youth Offending Team ("YOT") for parents whose children were either offending or at risk of offending. Ms Howell had already been invited to attend a parent support group by Southampton YOT because of her son's truancy and other behaviour. It was clear from the programme content that the two counsellors, both of whom worked for Southampton YOT, made every effort to help parents improve their understanding of their role and responsibilities as parents and encouraged them to take steps to improve their relationships with their children. Overall, while the series did not underestimate the difficulties faced by the parents, it focused on the help offered by the parenting groups and the counsellors.
- d) As regards the scene of Ms Howell lying on the sofa, the programme makers had no recollection of her saying she was unwell on this occasion. There was no mention in the rushes of her feeling ill or wanting to postpone the session. She had one or two exchanges with her son and the production team thought she appeared much as normal. The sequence was used to illustrate her relationship with her son and the communication difficulties between them. Each was often impatient with the other and the scene showed this. The discussion in the parenting group intercut with this sequence makes it clear that the opportunities for meaningful discussion between parents and teenagers do not always present themselves at convenient times. The sequence was used fairly in that context. At the hearing the BBC said that Ms Howell had not expressed any concerns about this scene when she viewed the programmes prior to broadcast.

- e) In response to the complaint of unwarranted infringement of privacy in the making of the programme, the BBC said, in summary, that Ms Howell was informed fully of the remit of the series, as well as the way in which the programmes were to be made. The finished programmes reflected those intentions. At no time during filming or when she viewed the finished programmes did Ms Howell indicate she was unhappy. The team always asked permission to film and did not film if permission was withheld. There were no occasions on which Ms Howell voiced concern over revealing anything that she thought to be of an especially private nature or complained of any intrusion into her privacy.

## **Decision**

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from unfair treatment and unwarranted infringements of privacy in programmes included in such services.

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

This case was referred to Ofcom's Fairness Committee ("the Committee") for consideration. The Committee held a hearing to consider the complaint, which both parties attended.

The Committee's decision is set out below, by reference to each of Ms Howell's heads of complaint. As a preliminary point, the Committee noted that documentary making is important in investigating matters of public concern. At the time the series was broadcast, the issue of the role of parents in influencing the behaviour of their children was both topical and of clear public interest. These are appropriate subjects for broadcasters to address in programmes (subject to the conditions of the Ofcom Broadcasting Code). It is, however, essential that programmes are accurate in all material respects so that no unfairness is caused and unwarranted infringements of privacy are avoided. This is necessary both for participants and listeners and viewers.

## **Fairness**

- a) Ms Howell complained that she was misled both as to the nature and the title of the series. The Committee noted that the programme makers gave Ms Howell a detailed briefing note for potential participants in advance of filming. This made it clear that filming would take place at the parenting group meetings and in the participants' homes. It was also clear that potentially difficult conversations would be filmed. Having heard the parties' oral submissions, it was evident to the Committee that Ms Howell's understanding and expectation of the programme had been shaped, through no fault of either party, by her focus on the help and support she was hoping to get from the parenting group as a result of her participation in the programmes. As a result, the Committee felt that she had not necessarily fully appreciated the implications of agreeing to be filmed, what the programme makers had told her about the series and how she and her family would be portrayed. The Committee felt that it was unfortunate that the briefing note said that participants would not be judged, since in the Committee's view,

the programmes would inevitably need to reflect any criticism that was made in the group discussions in order to achieve their purpose, namely showing that “parenting support can make a significant contribution towards reducing domestic conflict, repairing family relationships and improving the self-esteem of parents and young people”. Nonetheless, it did not appear to the Committee from the evidence that was provided in both the written and the oral submissions that Ms Howell was misled by the programme makers as to the nature of the series.

In cases where there are varied accounts of events between the complainant and broadcaster, it may not be possible for Ofcom to resolve the conflicts and Ofcom cannot act as a fact finding tribunal. Rather, Ofcom is responsible for determining whether a particular broadcast has resulted in unfairness to an individual or organisation. As regards the title, although *Blame the Parents* was a more emotive title than the working title, the Committee considered that it was clear from the briefing note that Parenting was only a working title. Although there was a conflict between the parties as to whether Ms Howell raised her concerns about the title, it was also clear that Ms Howell was informed, before the broadcasts, of the final title of the series.

The Committee found no unfairness to Ms Howell in these respects in the programme as broadcast.

- b) In considering the complainant’s claim that her conversation about her son’s truancy was not edited fairly, the Committee viewed the relevant rushes, noting that Ms Howell discussed the truancy problem at length in interview with the programme makers. Looking at the footage that was used in the final cut of the programme, the Committee considered that this was a fair representation of what Ms Howell had said about her son’s truancy and that her situation was clearly and accurately reflected in the programme. The Committee also felt that the problems Ms Howell was having getting her son to go to school would have been evident to viewers, as well as the efforts she was making and her fear that, if he continued not to attend, she would be the one who would be in trouble with the authorities. The Committee noted that viewers were likely to have watched this scene with sympathy for Ms Howell and an appreciation of the efforts she was making. The Committee did not consider that there was anything in the rushes that was omitted from the programme that would have thrown any more light on the situation.

The Committee therefore did not find that Ms Howell was treated unfairly in this respect in the programme as broadcast.

- c) The complainant felt that the programmes showed her family as dysfunctional, rather than focusing on the support that was being offered in the parenting group meetings. Having viewed the programmes, the Committee considered that the parenting support group was very much at the heart of the series and that the focus on improving parenting skills very clearly came across. The programmes showed the problems being experienced by each family and then, through showing the group meetings, focused on the issues around the way the parenting had been done and showed how each family was supported by the rest of the group. The Committee noted that the problems faced by some of the other families were more serious than those of Ms Howell and her family. This may have led Ms Howell to feel that her family was being portrayed as having problems of the same order. However, in the Committee’s view, the programme did no more than show the families, including Ms Howell’s family, simply as they were and in so doing, the problems Ms Howell was facing and the discussions at

the parenting group came across clearly and fairly. The portrayal of her family, as a family with problems that she was endeavouring to address, was straightforward and fair.

The Committee found that Ms Howell was not treated unfairly in this respect in the programme as broadcast.

- d) Ms Howell complained that a scene in which she was lying on the sofa was not representative of her parenting and was used unfairly to illustrate a point made in the parenting group. It was clear from both the written and the oral submissions that there was a conflict between Ms Howell and the BBC as to whether she told the programme makers before the filming began on this occasion that she was feeling unwell and was reluctant to take part in filming.

As set out in a) above, it may not be possible for Ofcom to resolve conflicts between parties and Ofcom cannot act as a fact finding tribunal. Rather, Ofcom is responsible for determining whether a particular broadcast has resulted in unfairness to an individual or organisation.

The Committee noted, however, from viewing the relevant rushes that Ms Howell did not mention feeling ill or not wishing to film at any point during this sequence and it did not appear that the film makers were under any impression that she was reluctant to film. At the hearing, neither Ms Howell nor the programme makers were sure whether this filming took place before or after a discussion at the parenting group about communication with, and finding time for, children. It was in the light of this discussion that Ms Howell's concerns had arisen about the use of the footage. However, leaving aside the lack of clarity about whether the filming was before or after the discussion, in all the circumstances the Committee considered that it was legitimate to include the footage to illustrate a pertinent point such as this that had come up in the parenting group.

The Committee found no unfairness resulted in this respect to Ms Howell in the programme as broadcast.

### Privacy

The line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. When considering and adjudicating on a complaint of unwarranted infringement of privacy, Ofcom must therefore address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

- e) With regard to the complaint that Ms Howell's privacy was unwarrantably infringed in the making of the programme, the Committee considered that Ms Howell was not misled about the making of the programme (see a) above) and it was clear that she gave properly informed consent to participating in the series. Having been provided with detailed information about the programme, she allowed filming to take place at her invitation at agreed times and discussed her situation openly with the programme makers.

Having found that there was no infringement of privacy, it was not necessary for the Committee to consider the second question referred to above.

The Committee found no infringement of Ms Howell's privacy in the making of the programme.

**Accordingly, the complaint of unfair treatment and unwarranted infringement of privacy was not upheld.**

## **Complaint by Ms Andrea Mullings**

*The Stephen Rhodes Consumer Programme, BBC Three Counties Radio, 27 September 2005*

**Summary:** Ofcom has not upheld this complaint of unwarranted infringement of privacy. The programme included an item on wills and Ms Andrea Mullings' mother had a (pre-arranged) conversation with the presenter about the validity of a will in which her daughter was identified as beneficiary. During the on-air conversation Ms Mullings' full name was disclosed twice and her first name, "Andrea" was referred to several times. Also Ms Mullings' mother said that she did not currently have a good relationship with her daughter and that they were not speaking.

Ms Mullings complained to Ofcom that her privacy was unwarrantably infringed in the programme as broadcast in that personal information about her was transmitted without her knowledge or consent.

Ofcom considered that the nature and tone of the conversation between the presenter and Mrs Shirley Mullings suggested that the programme makers had assumed, albeit incorrectly, at the outset of the programme that Mrs Shirley Mullings was acting for (and in the interests of) her daughter. It was only later in the conversation (and after the complainant had been identified by her full name as the beneficiary of the will) that it became apparent to the presenter that the relationship between mother and daughter had broken down.

Ofcom considered that this was an unfortunate case where private and potentially sensitive or embarrassing information had been disclosed in the programme without the complainant's consent. However, it was clear to Ofcom that the programme makers were acting in good faith and that any infringement of the complainant's privacy was obviously unintentional. The BBC were clearly unaware that Andrea Mullings had not given consent and it was understandable, if not highly regrettable, that the broadcaster believed that consent had been obtained.

In the circumstances and on balance, Ofcom concluded that the programme as broadcast did not result in an unwarranted infringement of Ms Andrea Mullings' privacy.

### **Introduction**

On 27 September 2005, BBC Three Counties Radio broadcast an edition of *The Stephen Rhodes Consumer Programme* which included an item on wills. Ms Shirley Mullings had a (pre-arranged) conversation with the presenter about the validity of a will in which her daughter Ms Andrea Mullings was identified as beneficiary.

The presenter and Mrs Shirley Mullings spoke about her family history and the relationship she had had with the deceased relative whose will was the subject of the discussion.

The programme also featured a pre-recorded interview with Mr Richard Grossberg, a will expert. Mr Grossberg had been asked to address the issues raised (prior to the programme) by Ms Shirley Mullings about the validity of the will, namely that Ms Andrea Mullings had been incorrectly identified in the will as the deceased grand-daughter. This pre-recorded interview was played 'as-live' during the programme.

During the on-air conversation Mrs Shirley Mullings asked the presenter not to "name

names". The presenter referred to Ms Andrea Mullings as "Andrea". During his pre-recorded interview Mr Grossberg twice referred to Ms Andrea Mullings by her full name, Andrea Marie Mullings. This was broadcast during the programme.

Later during the conversation (after Mr Grossberg's interview had been broadcast 'as-live') it became clear that Mrs Shirley Mullings was considering contesting the will and that her relationship with her daughter had become strained. Mr Rhodes asked "I assume that you have a good relationship with your daughter?" to which she answered, "Not at the moment ...we are all arguing..."

Ms Andrea Mullings complained to Ofcom that her privacy was unwarrantably infringed in the programme as broadcast.

## **The Complaint**

### **Andrea Mullings' case**

In summary, Ms Andrea Mullings complained that her privacy was unwarrantably infringed in the programme as broadcast in that she was named a number of times resulting in embarrassment and distress. It also damaged her reputation. She said that at no time during the programme did the presenter attempt to stop her name from being used or give a warning about its use after it was first mentioned. Instead the presenter allowed her full name to be used a second time.

### **The BBC's Case**

In summary, the BBC responded by saying that there was no serious infringement of Ms Andrea Mullings' privacy in the programme and that naming her in this context would have been unlikely to have had any negative impact on her reputation.

The incident arose after Ms Shirley Mullings contacted the programme to establish the validity of a will and whether or not her daughter's status as beneficiary was threatened. From the information given by her before the broadcast, the programme makers believed that she was acting in her daughter's best interests. It was to this end and in this context that Mr Grossberg twice disclosed Ms Andrea Mullings' full name to establish a legal point concerning identification and confirming her as being the beneficiary of the will.

The BBC said that at no time prior to the broadcast was any request or agreement made by or with Ms Shirley Mullings or Ms Andrea Mullings for anyone's identity to be withheld. Also, at no point was Mr Grossberg instructed or requested not to use names. However, shortly before the interview with Mr Grossberg was broadcast, Mr Rhodes asked Ms Shirley Mullings on-air whether she minded him "reading a little from [the] will". She replied "yeah, but don't name names". Mr Rhodes complied with this request by not reading out her daughter's name in full. Mr Grossberg, however, could not have been aware of this request and could therefore not reasonably have been expected to have complied with it. The interview with him was pre-recorded and was played "as live" during the item. The use of Ms Andrea Mullings' full name, occurred in circumstances beyond the presenter's or programme makers' control. There was insufficient time between Ms Shirley Mullings' request for names not to be used and the start of the interview with Mr Grossberg for the material to be edited.

Following the interview, Ms Shirley Mullings made no objection to the fact that her daughter had been named. Had she done so, Mr Rhodes would have undoubtedly have apologised and explained the unintentional contravention of her wishes. For

him to have done so unprompted would have drawn arguably the attention of the listeners to something which they might have ignored or missed.

The BBC said that Ms Andrea Mullings' name would have meant nothing to listeners who did not know her and the use of her full name would not have caused the general audience to draw any inference or conclusion about her. Nor was it likely that the mere use of her name in this context would have enabled anyone who did not already know her to identify her.

## **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 unfair treatment in programmes included 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 Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore, where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

This case was considered by Ofcom's Executive Fairness Group.

Ms Andrea Mullings complained that her privacy was unwarrantably infringed in the programme as broadcast in that she was named several times in the programme and the programme's presenter made no attempt to stop it happening.

In considering this case Ofcom examined the information that was disclosed during the programme as broadcast; the context in which it was disclosed and the circumstances which led to its disclosure in order to determine whether Ms Andrea Mullings' privacy had been unwarrantably infringed.

Ofcom noted that the complainant was clearly identified in the programme as broadcast (her full name was disclosed on two occasions during the programme and her first name on numerous occasions). Ofcom considers that an individual's identity is not necessarily in itself information of an inherently private nature. In the circumstances, Ofcom examined the context in which the individual was identified and any other information which was disclosed during the course of the programme.

Ofcom noted that the programme revealed that the complainant had been named as the beneficiary of the deceased relative's will and that subsequently she and her mother had been arguing. The programme also included claims by Mrs Shirley Mullings that the complainant and her father were not refunding money spent by Mrs Shirley Mullings on the deceased's funeral (contrary to the terms of the will). These were matters which could justifiably be described by the complainant as "private family details" which were unlikely to have been widely known. In Ofcom's view, she could reasonably have expected this information (for which she could have expected a degree of privacy) not to have been disclosed to such a wide audience.

Ofcom therefore went on to examine the circumstances which led to the disclosure of this information. It was clear from the information before Ofcom (specifically the programme as broadcast and the BBC's statement) that Mrs Shirley Mullings had been corresponding with the programme makers prior to transmission. However, there was no evidence to suggest that she had made it clear to the programme makers prior to broadcast that the information she was providing was in any sense private and not to be disclosed. In particular, at no point prior to the broadcast of the programme had she requested that the individuals involved not be named.

The first request of this nature was made during the live programme when she asked that the programme's presenter not "name names".

As the request was made without prior notification; during a live programme and after the pre-recorded interview with Mr Grossberg had been recorded it was impracticable, if not impossible, for the programme makers to have fully complied with the request. Importantly, Mr Grossberg was unaware of any such request prior to providing his pre-recorded interview and could not have been expected to comply with it.

Having examined the recording of the programme and read the transcript of it, it was clear to Ofcom that the nature and tone of the conversation between the presenter and Mrs Shirley Mullings suggested that the programme makers had assumed, albeit incorrectly, at the outset of the programme that Mrs Shirley Mullings was acting for (and in the interests of) her daughter. She had contacted the programme to clarify whether or not her daughter would be barred from inheriting from the will in question due to a legal technicality and she seemingly had her daughter's interests in mind. It was only later in the conversation (and after the complainant had been identified by her full name as the beneficiary of the will) that it became apparent to the presenter that the relationship between Ms Shirley Mullings and her daughter had broken down. Programme makers should be alert to the risks associated with live programmes in which matters are discussed which are personal to or potentially embarrassing for a third party. In particular, programme makers should not simply assume that any contributor has the consent of a third party.

Nevertheless, taking all the above factors into account Ofcom considered that this was an unfortunate case where private and potentially sensitive or embarrassing information had been disclosed in the programme without the complainant's consent. However, it was clear to Ofcom that the programme makers were acting in good faith and that any infringement of the complainant's privacy was obviously unintentional. The BBC were clearly unaware that Andrea Mullings had not given consent and under the circumstances (as described above) it was understandable, although highly regrettable, that the broadcaster believed that consent had been obtained.

In the circumstances and on balance, Ofcom concluded that the programme as broadcast did not result in an unwarranted infringement of Ms Andrea Mulling's privacy.

**Accordingly, the complaint of unwarranted infringement of privacy was not upheld.**

## Other programmes not in breach/out of remit

21 June – 4 July 2006

Programme	Trans Date	Channel	Category	No of complaints
8 Out of 10 Cats	16/06/2006	Channel 4	Generally Accepted Standards	1
Alan Brazil Sports Breakfast	26/05/2006	Talksport	Sex/Nudity	1
Alex Zane Show	16/06/2006	XFM	Generally Accepted Standards	1
Autopsy: Life and Death	21/06/2006	More4	Generally Accepted Standards	1
BBC Breakfast News	06/06/2006	BBC1	Generally Accepted Standards	1
BBC London News	25/05/2006	BBC1	Generally Accepted Standards	1
BBC Radio 1 News	25/05/2006	BBC Radio 1	Offensive language	1
BBC Radio 4 News	25/04/2006	BBC Radio 4	Crime Incitement/Encouragement	1
Becker	21/06/2006	Five	Sex/Nudity	1
Best World Cup Goals Ever	02/06/2006	BBC3	Generally Accepted Standards	2
Best World Cup Goals Ever	01/06/2006	BBC3	Generally Accepted Standards	1
Best World Cup Goals Ever	08/06/2006	BBC3	Generally Accepted Standards	1
Big Brother 7	22/05/2006	Channel 4	Offensive language	1
Big Brother 7	24/05/2006	Channel 4	Offensive language	1
Big Brother 7	30/05/2006	Channel 4	Offensive language	1
Big Brother 7	02/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	04/06/2006	E4	Generally Accepted Standards	1
Big Brother 7	05/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	08/06/2006	Channel 4	Other	1
Big Brother 7	07/06/2006	Channel 4	Offensive language	1
Big Brother 7	09/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	13/06/2006	E4	Generally Accepted Standards	1
Big Brother 7	09/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	15/06/2006	Channel 4	Dangerous behaviour	1
Big Brother 7	13/06/2006	Channel 4	Offensive language	1
Big Brother 7	13/06/2006	Channel 4	Crime Incitement/Encouragement	1
Big Brother 7	17/06/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	19/06/2006	Channel 4	Sex/Nudity	1
Big Brother 7	21/06/2006	Channel 4	Generally Accepted Standards	3
Big Brother 7	14/06/2006	Channel 4	Offensive language	1
Big Brother 7	22/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	20/06/2006	Channel 4	Offensive language	2
Big Brother 7	23/06/2006	E4	Flashing images	1
Big Brother 7	24/06/2006	Channel 4	Offensive language	1
Big Brother 7	23/06/2006	Channel 4	Offensive language	3
Big Brother 7	26/06/2006	Channel 4	Generally Accepted Standards	3
Big Brother 7	28/06/2006	Channel 4	Offensive language	1
Big Brother 7	28/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	03/07/2006	Channel 4	Hypnosis/Subliminal	1
Big Brother Diary Room Uncut	24/06/2006	Channel 4	Offensive language	1

Big Brother's Big Mouth	16/06/2006	E4	Religious Offence	1
Big Brother's Big Mouth	16/06/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	22/06/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	29/06/2006	E4	Generally Accepted Standards	1
Big Brother's Little Brother	18/06/2006	Channel 4	Offensive language	1
Big Brother's Little Brother	20/06/2006	E4	Generally Accepted Standards	4
Big Brother's Little Brother	21/06/2006	E4	Generally Accepted Standards	1
Big Brother's Little Brother	25/06/2006	Channel 4	Offensive language	1
Big Love	12/06/2006	Five	Religious Offence	1
Booze Britain	18/06/2006	Bravo	Crime Incitement/Encouragement	1
Bratz	22/05/2006	ITV1	Offensive language	1
Casualty	13/05/2006	BBC1	Religious Offence	1
Casualty	10/06/2006	BBC1	Generally Accepted Standards	1
Casualty	10/06/2006	BBC1	Animal welfare	1
Catherine Tate Show	19/06/2006	BBC2	Generally Accepted Standards	2
Channel U	07/12/2005	Channel U	Generally Accepted Standards	1
Chappelle's Show	15/06/2006	F/X Channel	Animal welfare	1
Children's Party at the Palace	25/06/2006	BBC1	Generally Accepted Standards	4
Chris Evans	12/05/2006	BBC Radio 2	Offensive language	1
Christian O'Connel	08/06/2006	Virgin Radio	Substance Abuse	1
Classic FM	12/06/2006	Classic FM	Sex/Nudity	1
CNN News	24/05/2006	Sky Movies	Due Impartiality/Bias	1
Confessions of a pop performer	10/06/2006	Paramount Comedy	Other	1
Coronation Street	19/06/2006	ITV1	Undue Prominence	1
Countdown	09/06/2006	Channel 4	Due Impartiality/Bias	1
Countdown	05/06/2006	Channel 4	Due Impartiality/Bias	1
Dispatches - Mad About Animals	15/05/2006	Channel 4	Due Impartiality/Bias	1
Don't Get Done, Get Dom	19/06/2006	BBC1	Other	1
Down the Line	23/05/2006	BBC Radio 4	Generally Accepted Standards	1
Dr Who	17/06/2006	BBC1	Sex/Nudity	1
EastEnders	08/06/2006	BBC1	Offensive language	3
Emmerdale	03/07/2006	ITV1	Offensive language	1
Feedback on Chris Moyles ruling	15/06/2006	BBC Radio 1	Offensive language	2
First Wave	22/03/2006	ITV4	Violence	1
Fizz Music	29/03/2006	Fizz	Sex/Nudity	1
Friday Night With Jonathan Ross	09/06/2006	BBC1	Generally Accepted Standards	1
Friday Night With Jonathan Ross	23/06/2006	BBC1	Offensive language	1
FTN - Quiz Night Live	09/04/2006	FTN	Competitions	1
FTN - Quiz Night Live	23/06/2006	FTN	Competitions	1
GMTV	25/05/2006	ITV1	Due Impartiality/Bias	1
GMTV	07/06/2006	ITV1	Generally Accepted Standards	1
GMTV	15/06/2006	ITV1	Generally Accepted Standards	2
GMTV	16/06/2006	ITV1	Generally Accepted Standards	1
GMTV	20/06/2006	ITV1	Generally Accepted Standards	1
GMTV	19/06/2006	ITV1	Offensive language	1
GMTV	24/06/2006	ITV1	Offensive language	1

Good Evening Wales	02/06/2006	BBC Radio Wales	Offensive language	1
Great British Menu	02/06/2006	BBC2	Competitions	1
Grumpy Old Men	14/04/2006	BBC2	Generally Accepted Standards	1
Heaven and Earth with Gloria Hunniford	28/05/2006	BBC1	Due Impartiality/Bias	1
Heresy	15/06/2006	BBC Radio 4	Generally Accepted Standards	1
Hollyoaks	16/06/2006	E4	Inaccuracy/Misleading	1
Hollyoaks	21/06/2006	E4	Scheduling	1
House of Horrors	02/05/2006	ITV1	Generally Accepted Standards	1
Human Trafficking	15/06/2006	Sky Two	Generally Accepted Standards	1
I Want It Now!	14/06/2006	BBC1	Crime Incitement/Encouragement	1
Iain Lee	14/06/2006	LBC97.3	Offensive language	1
Ian Collins	26/05/2006	Talksport	Generally Accepted Standards	1
ITV News	25/05/2006	ITV1	Generally Accepted Standards	2
ITV News	26/05/2006	ITV1	Generally Accepted Standards	1
ITV News	09/06/2006	ITV1	Due Impartiality/Bias	1
ITV News	14/06/2006	ITV1	Generally Accepted Standards	1
ITV News	18/06/2006	ITV1	Due Impartiality/Bias	1
ITV News	20/06/2006	ITV1	Inaccuracy/Misleading	2
ITV West News	14/06/2006	ITV1	Inaccuracy/Misleading	1
James O'Brien	27/04/2006	LBC97.3	Generally Accepted Standards	1
James Whale Show	03/07/2006	Talksport	Generally Accepted Standards	1
JK and Joel	19/04/2006	BBC Radio 1	Offensive language	1
John Turner	10/05/2006	BBC Radio Bristol	Generally Accepted Standards	1
Key103FM	07/02/2006	Key 103	Competitions	1
Kill or Cure?	08/12/2005	Channel 4	Inaccuracy/Misleading	1
LBC Programme	21/05/2006	LBC 97.3	Generally Accepted Standards	1
Live at Five	05/06/2006	Sky News	Religious Offence	1
Live football	29/01/2006	Sky Sports	Offensive language	1
LK Today	13/06/2006	ITV1	Religious Offence	1
London Tonight	23/06/2006	ITV1	Violence	2
Mighty Truck of Stuff	17/06/2006	BBC2	Generally Accepted Standards	1
My Parents Are Aliens	06/06/2006	CITV	Sex/Nudity	1
My Super Sweet 16	30/05/2006	MTV	Offensive language	1
Neighbours	21/06/2006	BBC1	Offensive language	1
New Tricks	05/07/2006	BBC1	Generally Accepted Standards	1
Nice House, Shame About the Garden	09/06/2006	Five	Offensive language	1
No Girls Allowed	10/06/2006	Five	Dangerous behaviour	1
No Girls Allowed	24/06/2006	Five	Violence	2
Patrick Kinghorn	28/05/2006	Talksport	Generally Accepted Standards	1
QI	10/06/2006	BBC2	Generally Accepted Standards	1
Question Time	08/06/2006	BBC1	Generally Accepted Standards	1
Question Time	22/06/2006	BBC1	Offensive language	1
Quizmania	04/06/2006	ITV1	Competitions	1
Ramsay's F Word	21/06/2006	Channel 4	Generally Accepted Standards	2
Ramsay's F Word	28/06/2006	Channel 4	Offensive language	4
Ramsay's F Word	03/07/2006	Channel 4	Offensive language	1
Richard and Judy	23/02/2006	Channel 4	Crime Incitement/Encouragement	1
Richard and Judy	22/06/2006	Channel 4	Generally Accepted Standards	2

Richard and Judy	27/06/2006	Channel 4	Generally Accepted Standards	1
Rick Stein's French Odyssey	21/06/2006	UKTV Food	Animal welfare	1
Rio Ferdinand's World Cup Windups	10/06/2006	ITV1	Generally Accepted Standards	2
Sky News	21/05/2006	Sky News	Undue Prominence	1
Sky News	25/05/2006	Sky News	Generally Accepted Standards	2
Sky News	08/06/2006	Sky News	Generally Accepted Standards	1
Sky News	10/06/2006	Sky News	Generally Accepted Standards	1
Tax the Fat	06/06/2006	More4	Generally Accepted Standards	1
The Archers	27/06/2006	BBC Radio 4	Sex/Nudity	1
The Chris Moyles Show	16/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Chris Moyles Show	21/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Chris Moyles Show	22/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Family Man	23/04/2006	BBC1	Generally Accepted Standards	1
The Friday Night Project	16/06/2006	Channel 4	Generally Accepted Standards	3
The Now Show	20/05/2006	BBC Radio 4	Generally Accepted Standards	1
The Simpsons	23/06/2006	Channel 4	Generally Accepted Standards	2
The Sunday Programme	09/04/2006	ITV1	Due Impartiality/Bias	1
The Wrestling Channel	27/05/2006	TWC	Violence	1
The Wright Stuff	02/06/2006	Five	Generally Accepted Standards	2
Transmission	16/06/2006	Channel 4	Generally Accepted Standards	1
Tricks From The Bible	02/06/2006	Channel 4	Religious Offence	1
Watch	12/06/2006	BBC2	Generally Accepted Standards	1
Weakest Link	23/06/2006	BBC2	Religious Offence	1
Wife Swap	17/06/2006	Channel 4	Offensive language	1
World Cup 2006	09/06/2006	Talksport	Sex/Nudity	1
World Cup 2006	11/06/2006	ITV1	Generally Accepted Standards	2
World Cup 2006	14/06/2006	ITV1	Generally Accepted Standards	1
World Cup 2006	15/06/2006	ITV1	Scheduling	1
World Cup 2006	16/06/2006	UK Gold	Generally Accepted Standards	1
World Cup 2006	17/06/2006	ITV1	Generally Accepted Standards	1
World Cup 2006	25/06/2006	ITV1	Generally Accepted Standards	3
World Cup Highlights	13/06/2006	ITV1	Generally Accepted Standards	1
Young Black Farmers	25/06/2006	CH4	Generally Accepted Standards	1