

Ofcom broadcast bulletin

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Contents

Introduction	3
Standards cases	
Sanctions	4
In Breach	5
Resolved	10
Not in Breach	11
Fairness & Privacy cases	
Upheld	14
Not Upheld	79
Other programmes not in breach/outside remit	83

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).

Sanctions

Digital Television Production Company Limited

Xplicit XXX

On 8 December 2006, Ofcom published its decision:

- to impose a financial penalty of £35,000 (payable to HM Paymaster General) on Digital Television Production Company Ltd in respect of its service XplicitXXX.

The licensee was found to be in breach of Rule 1.25 of Ofcom's Broadcasting Code, Section One: Protecting the Under Eighteens on 13 December 2005. This states that:

“BBFC R18-rated films or their equivalent must not be broadcast.”

The full text of this decision can be found at:

http://www.ofcom.org.uk/tv/obb/ocsc_adjud/xplicitxxx.pdf

In Breach

Duisg and news

Isles FM (Western Isles Community Radio Limited), 14 March 2005, 16:30, 17:00, 17:30 and 18:00

Introduction

Isles FM is a commercial radio station providing news and information for the Western Isles of Scotland. On 14 March 2005 a news item was broadcast at 0730, 0800, 0830 and 0900. This item concerned a news report on an employment tribunal which involved Mr Donald John MacSween and An Comunn Gàidhealach.

An Comunn Gàidhealach (“An Comunn”) is a voluntary organisation, with charitable status, founded for the preservation and development of the Gaelic language. Its President is Angus MacDonald who is also Chairman of Isles FM. The item announced a further postponement of the employment tribunal, stating that the hearing was likely to be “highly critical” of Angus MacDonald. The item went on to state that the legal action would focus on An Comunn’s “massive cash deficit” caused by the chartering of a cruise liner needed for extra accommodation during the Royal National Mod (a Gaelic festival). After this item was broadcast, a complaint that the item was inaccurate was made directly to Isles FM.

On the same afternoon, at 1630, 1700, 1730 and 1800, Isles FM broadcast a retraction of, and an apology for, the news item. The retraction stated that the information contained in the earlier news item was “incorrect” and that neither An Comunn nor its president Angus MacDonald had been given an opportunity to respond to the item. In the retraction, Isles FM apologised to them unreservedly.

Ofcom received two complaints under the Fairness and Privacy sections of the Broadcasting Standards Code (“Fairness complaints”) about the retraction of the news item. One complaint was from the author of the news item, Mr Murdo Maclean and the other was from Mr Donald John MacSween (a party in the Employment Tribunal case). These complainants stated that the retraction of the news item resulted in unfairness to them (the adjudications on these complaints were published on 6 March 2006)¹. The complaints also raised issues concerning the role Angus MacDonald (Chairman of Isles FM) played in the broadcast of the retraction.

Isles FM was unable to supply recordings of the news item or the retraction. However, a script of the output was made available to Ofcom.

During the investigations of the Fairness complaints, it became apparent that certain issues relating to Standards had arisen which required further investigation. Therefore, once the consideration of the Fairness complaints was completed, Ofcom wrote to the broadcaster asking it to respond to the following standards issues raised under Ofcom’s (ex-Radio Authority’s) News and Current Affairs Code (“the Code”) in force at the time.

1. Due accuracy and due impartiality and opinions of the licensee

¹ Mr Murdo Maclean’s complaint of unfairness was upheld in part. Mr Donald MacSween’s complaint of unfairness was not upheld (see http://www.ofcom.org.uk/tv/obb/prog_cb/pcb40/).

Ofcom sought to establish the precise role, if any, played by Angus MacDonald – both the Chairman of the licensee and referred to in the news item - in the issuing of the on air retraction and whether this had led to a breach of the requirements of the Code for due accuracy and due impartiality in news (Rule 1.2) and the prohibition contained in Rule 1.5 of the expressions of the opinions of licence holders on matters of political or industrial controversy or matters relating to current public policy. To establish the exact nature of Mr MacDonald's role, Isles FM was asked to provide details and copies of minutes of all meetings of the Isles FM Board at which the original news item and retraction were discussed.

2. The Failure to Provide Recordings

During the investigation of the Fairness complaints, Isles FM did not provide recordings of its output for 14 March 2005. In the absence of these recordings, the broadcaster was asked to provide transcripts of the material which had been the subject of the complaints.

Subsequently Isles FM was also asked to provide a recording of the on air summary of adjudication which it had been directed to broadcast by Ofcom as a result of the one partially upheld Fairness complaint. Isles FM did not provide the recording.

Response

1. Due accuracy and due impartiality and opinions of the licensee

Isles FM said that when it had received a complaint about the news item from An Comunn it had felt duty bound to consider it. No Board meeting took place on the day of the broadcast – the policy of the broadcaster was for the Managing Director to deal with complaints. She decided to write the retraction for broadcast that afternoon and her fellow directors supported this. With hindsight the Managing Director acknowledged that the retraction should have been withheld until she had had an opportunity to consult the broadcaster's News Editor.

The broadcaster said it put great emphasis on due accuracy and due impartiality and said it was careful to ensure that there are no undue expressions of opinion by or on behalf of licence holders.

Ofcom considered that the information provided was insufficient and wrote on two further occasions to Isles FM. We asked who had made the complaint about the news item; what the nature of the complaint was; who authorised and decided on the wording of the retraction, and why it made reference to Angus MacDonald. We asked again for details of all meetings and discussions that took place about the news item and the retraction. We emphasised that we wished to understand the role of Angus MacDonald in the decision to issue the retraction.

In response to these further requests Isles FM informed us of a series of phone calls that had been made in relation to the news item and the on-air retraction:

- Angus Macdonald, the Chairman of Isles FM called the Managing Director to make the complaint;
- the Managing Director called two fellow directors to inform them of the complaint;
- the Managing Director called the news editor but could not contact him;
- the Managing Director took the decision to withdraw the item and subsequently called Angus Macdonald to inform him that she had withdrawn the item.

Isles FM reiterated that no Board meeting took place but the Managing Director did hold a brief meeting to update members on the action she had taken in relation to the complaint. As she had already taken the decision to issue a retraction, Angus MacDonald was invited to that meeting but in the role of a complainant. He was not involved in the process of deciding how to deal with the complaint. The Managing Editor decided on the retraction, she authorised it, she decided on its wording and decided on its scheduling. Reference was made to Angus MacDonald in the complaint in order to highlight the fact that Isles FM was not hiding the fact that the complaint involved its Chairman.

2. The Failure to Provide Recordings

The broadcaster said it was unable to provide a recording of the news item and retraction. Isles FM said that this was due to a technical fault as the machine did not record the items complained about. It provided transcripts/scripts of the output. The relevant parts of the transcript for the purposes of this standards investigation were agreed and accepted by Ofcom.

Subsequently Isles FM said that it was also unable to provide a recording of the on air summary of adjudication as severe interference had rendered this and the other recordings (which Isles FM did have) unintelligible. It provided a script.

Decision

1. Due accuracy and due impartiality and opinions of the licensee

Isles FM is a small radio station with limited resources. It is staffed largely by volunteers. Nevertheless, like all licensed services it is required by the terms of its licence to observe certain standards. In this respect one of the obligations under the Code in operation at the time was to ensure that all news in whatever form was presented with due accuracy and due impartiality. The fact that the station was broadcasting to a relatively small audience in a limited geographical area does not in any way diminish the requirement for due accuracy and due impartiality.

In the circumstances of this case, where the complainant is also the Chairman of the licensed service company, and where his company also sponsors a programme included in that service, the broadcaster should be alert to the sensitivity with which such a complaint should be handled. It should be particularly aware that the due impartiality and the due accuracy of the news on the service may be at risk. Similarly the serious implications of a breach of the rules concerning the expressions of the

opinions of licence holders² should inform the handling of the complaint. It is essential that the news is seen to be independent and that editorial control rests with the service and is not relinquished.

It is appropriate for the officers, in this case the Managing Director, of a broadcasting licensee to respond swiftly to a complaint about inaccuracy in news where the complaint suggests there are grounds for believing the news may have been inaccurate. Any such complaint should be investigated immediately and, if necessary, the item removed from air and, if the mistake is significant, corrected on air quickly in line with the requirements of the relevant standards code, currently Rule 5.2 of the current Ofcom Broadcasting Code.

However when considering such a complaint, it would be expected that in establishing the facts, the broadcaster would not rest on the word of one of the interested parties (in this case Mr MacDonald) but would also seek information from the journalist who wrote the item and, if necessary, through the news desk, the other party. In this case, as the broadcaster admits, these checks were not carried out. The result was that a retraction was aired on four occasions based on the representations of only one party, the Chairman of the Licensee.

In not seeking other views and in accepting and broadcasting one view only - that of Mr MacDonald (and An Comunn) - without such checks, the licensee failed to present the news with due impartiality. The retraction of the news story was only one-side of the issue (i.e. that the original item was inaccurate). This amounted to a breach of Rule 1.2 of The Code which required that all news be duly impartial.

We considered whether Mr MacDonald had inappropriately used his position and put undue pressure on the station to carry his understanding of the matter – resulting in the retraction and the failure to present the news with due impartiality. We also considered whether – if that has been the case – this amounted to an expression of the views of the licence holder on a matter of industrial controversy in breach of Rule 1.5 of The Code.

The involvement of Mr MacDonald as complainant, Chairman, and sponsor in this case indicated that he was in a position where he had significant conflicts of interest of which the station would have been aware. Having lodged the complaint himself it was incumbent upon Mr MacDonald and upon the Board and responsible officers at the station to ensure that Mr MacDonald was removed, and seen to be removed, from the deliberations of the company's directors and officers. This is particularly the case given that he was the Chairman of Isles FM and in normal circumstances had authority over other Board members and officers. We have been told that no Board meeting took place but that the Managing Director held a meeting with members of the Board to update them and discuss the retraction prior to its broadcast. The presence of Mr MacDonald at such a meeting - according to Isles FM, in his capacity as complainant - supports the suggestion that his unusual position had led to an extraordinary response by Isles FM. It is extraordinarily unusual for a broadcaster to invite a complainant to be briefed about a proposed retraction with members of the Board of a service prior to issuing a retraction. It is regrettable that there is a lack of proper minutes, or records of any kind to assist Isles FM in the presentation of their

² The ex-Radio Authority News and Current Affairs Code explains that the restrictions relating to matters of political or industrial controversy or matters relating to current public policy “apply to views expressed by licence holders i.e. the company or person holding the licence or its management or staff speaking on its behalf rather than employees/presenters speaking in a personal capacity in the normal course of programming”.

case. The presence of Mr MacDonald at the impromptu meeting of Board members, combined with the lack of checks to substantiate his complaint before the retraction was issued, leads us to conclude that the station's breach of Rule 1.2 of The Code sprung from a failure to maintain the editorial independence of the news in the face of the intervention by station's Chair in the role of complainant.

In considering the separate standards issue, whether there has been a breach of Rule 1.5 of the Code, we took into account that whilst it required that all expressions of the views and opinions of the Licensee on matters of industrial controversy be excluded from the service, this did not mean that the Licensee cannot give its views if it has itself, become part of the controversy. In this case, (while recording a breach of Rule 1.2 for a breach of due impartiality partly due to the intervention by the station's own Chair), we take the view that Mr Macdonald's opinion which was broadcast by the service, (namely, that the original news item was inaccurate), was not an expression of the Licensee's view, given Mr McDonald was involved in the dispute not as Chairman of the Licensee but by virtue of his presidency of An Comunn. We therefore find that Isles FM did not breach Rule 1.5.

2. Failure to Provide Recordings

Both TV and radio licences oblige licensees to "adopt procedures acceptable to Ofcom for the retention and production of recordings...of any programme which is the subject matter of a Standards Complaint..."

In particular, Radio Licensees are required by part 2 Section 8 of their licences to:

- (a) make and retain for a period of 42 days from the date of its inclusion therein, a recording of every programme included in the Licensed Service together with regular time reference checks; and
- (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction; and
- (c) at the request of Ofcom forthwith produce to Ofcom any script or transcript of a programme included in the Licensed Service which he is able to produce to it.

The broadcaster failed to provide recordings of its output as required by this section. We note that recordings were being made but that severe interference rendered them unintelligible. However it should have been apparent that satisfactory recordings were not being made and steps should have been taken to rectify the matter in order to comply with the license. This is a serious and significant breach of the licence and will therefore be recorded as such.

The broadcaster was in breach of section 1.2 (due accuracy and due impartiality in news) of the Ofcom Code (ex Radio Authority News and Current Affairs Code)

The broadcaster was also in breach of Part 2 Section 8 of its licence (provision of recordings)

Resolved

Hell's Kitchen USA

ITV2, 6 September 2006, 20:00

Introduction

Hell's Kitchen USA is the American version of the UK show which features selected members of the public working in a highly pressurised environment under the tutelage of Gordon Ramsay. The eventual winner of the series is given the opportunity to run their own kitchen in a top restaurant.

A viewer complained that the word "fucking" was used during a conversation between a contestant and a sous chef at approximately 20:30.

Response

ITV2 accepted that an error had been made and apologised unreservedly. This edition of the programme had undergone a lengthy editing process to remove 30 strong swear words and, unfortunately, this particular use of the f-word was overlooked. ITV2 confirmed that this episode had subsequently been re-edited.

Decision

We understand how this error occurred and welcome ITV2's apology and assurance that the programme was re-edited to remove the offending word. In the circumstances we consider the matter resolved.

Resolved

Not In Breach

Poker Face

ITV 1 (Channel Television), 12 and 16 July 2006, 20:00

Introduction

PokerFace is a quiz show, based on the bluffing aspect of poker, in which contestants competed for the chance to win a prize of one million pounds.

12 July 2006

25 viewers complained about the edition of the series shown on 12 July 2006. The majority were offended by the use of the word “bollocks” by a contestant. They considered the swearing unsuitable for use in a family programme, hosted by Ant McPartlin and Dec Donnelly, which attracted young children to view. As viewers were unsure if the programme was broadcast live or not, some said that the presenters should have apologised, others that the programme should have been edited to obscure the word.

A smaller number of viewers complained about the use of the word “smartarse” by both a presenter and a contestant. Others were offended by word play involving the word “shuttlecocks”.

16 July 2006

One viewer complained about the use of the word “bollocks” by a contestant.

Response

12 July 2006

Channel Television said that the contestant who said “bollocks”, Barbara, was persuaded to fold by the tactics of her fellow contestants, when in fact she was in a much better position than she had feared. When she was shown the leader board after her withdrawal from the game, she was so outraged that she expressed herself with the vulgar language complained of, remarking that she had been married three times and should have known better than to be fooled by men again.

All the shows were pre-recorded and transmitted ‘as live’ with as few edits as possible to retain the excitement and tension of the studio. When the producer alerted the compliance team to Barbara’s use of vulgar language, a discussion took place as to whether it might be better to edit out her comments. However, after some thought, it was decided to allow them to be retained because:

- This use of “bollocks” – defined in Ofcom’s own research as “mild language to most...” – would be shown at around 20:30, when it believed the youngest children would already be in bed – the series went out in term time. Additionally it did not believe that the programme would have been of interest to young children – the format was not one with an evident appeal for young viewers.

- Barbara did not use the word ‘bollocks’ to another contestant or to the presenters in an aggressive or abusive fashion, she was reprimanding herself for being bluffed into ‘folding’. She has a big personality – several viewers e-mailed after the show went out to suggest that she should be offered more television work – and her aggrieved yet good-natured delivery of the word “bollocks” was, in the broadcaster’s view, so funny as to minimise any potential offence.

16 July 2006

While the other qualifying shows in the series were free of any vulgarities, the Final was recorded on the day before transmission – the Saturday – and during the recording for this show, a contestant remarked ‘that’s bollocks’ in response to an attempt by another to claim to be doing very well.

As this was the Final show, with so much to play for and such an air of tension in the studio, this element of the contestants’ banter was retained – although other occasions of bad language were removed - as it helped to communicate the tension and atmosphere. The different tactics employed by the final six contestants - who were required to gamble their original winnings of £50,000 to compete for the top prize of £1,000,000 - and the banter between them, made compelling viewing.

Mindful of the upset caused to some viewers in the previous edition, the broadcaster arranged for a presentation announcement to be given immediately before the programme began “*With a million at stake, high tempers and harsh words in the Poker Face Final*” in the hope that this would alert viewers to the inclusion of some mild bad language. This would seem to be confirmed by the significant reduction in the number of complaints received about the language.

Decision

Ofcom’s Broadcasting Code states:

“**1.3** Children must also be protected by appropriate scheduling from material that is unsuitable for them.

Meaning of "children":

Children are people under the age of fifteen years.

Meaning of "appropriate scheduling":

Appropriate scheduling should be judged according to:

- the nature of the content;
- the likely number and age range of children in the audience, taking into account school time, weekends and holidays;
- the start time and finish time of the programme;
- the nature of the channel or station and the particular programme; and
- the likely expectations of the audience for a particular channel or station at a particular time and on a particular day.

1.16 Offensive language must not be broadcast before the watershed, or when children are particularly likely to be listening, unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed. “

Ofcom's research, *Language and Sexual Imagery in Broadcasting: A Contextual Investigation*, notes that both the terms "bollocks" and "arse" were considered mild swearing by the majority of respondents.

12 July 2006

While we recognise that some viewers would prefer not to hear any swearing or offensive language pre 21:00, the Guidance to Ofcom's Code which is based on extensive research recognises that "milder language in the early part of the evening may be acceptable, for example, if mitigated by a humorous context". Although vehement, Barbara's use of "bollocks" was isolated rather than repeated, and was uttered in outraged frustration instead of aggression. Her reaction when finding out that she had been 'bluffed' was so incredulous that it would have been amusing to the vast majority of viewers.

While we recognise that some children were on summer holiday by this point in July, children aged 4-9 made up just 2.8% of the audience for the programme of 12 July 2006. In the particular context of this quiz show, we consider that neither the word "bollocks", nor the childish taunt of "smartarse" were in breach of the Code. However broadcasters must continue to be sensitive to the expectations of their audiences. The fleeting play on words relating to "shuttlecocks" was not explicit and would have been missed by younger viewers.

16 July 2006

As noted above, research suggests that the term "bollocks" is considered to be mild swearing by the majority of viewers. In the context of the tense Final of this quiz show, which did not attract a large audience of young children and was preceded by information alerting viewers to the language, the use of the word "bollocks" was not in breach of the Code.

Not in Breach

Fairness and Privacy Cases

Upheld

Complaint by Mrs Susan Holland and Mr Marc Asquith

Y Byd ar Bedwar, S4C, 14 June 2005

Summary: Ofcom has upheld, with certain limited exceptions, these complaints of unfair treatment and unwarranted infringement of privacy.

Mrs Susan Holland and Mr Marc Asquith complained that they were treated unfairly and their privacy was unwarrantably infringed in an edition of the current affairs programme *Y Byd ar Bedwar* which featured them. Mrs Holland and Mr Asquith complained that the programme, which concerned a disputed grazing tenancy, portrayed them unfairly and included footage of them, and of Mrs Holland's property, which was recorded and broadcast without their consent. S4C responded that the programme's portrayal of Mrs Holland and Mr Asquith was fair and accurate, and that the footage broadcast did not unwarrantably infringe their privacy.

Ofcom found that the programme's portrayal of Mrs Holland and Mr Asquith was unfair, through both individual statements made about them and through the cumulative effect of the programme as a whole. Ofcom further found that material recorded and broadcast which specifically featured them, and that which featured Mrs Holland's house, unwarrantably infringed their privacy. Ofcom considered that the general footage of Mrs Holland's other property, as recorded and broadcast, did not unwarrantably infringe her privacy.

Introduction

This edition of the Welsh-language current affairs programme *Y Byd ar Bedwar* examined a dispute over a grazing tenancy. The dispute, which had been taken up by Cymuned, a Welsh pressure group which campaigns for the rights of Welsh-speaking communities, related to rented fields at Tyn y Coed, in Cwm Mynach, Meirionnydd. The fields belonged to Mrs Susan Holland and were grazed by a local farmer Mr Meirion Jones.

The programme explained that generations of Mr Jones's family have farmed land in Cwm Mynach and stated that only one Welsh person still lives and farms there, namely Mr Jones. The programme examined relations between Mr Jones on the one hand, and Mrs Holland and her partner Mr Marc Asquith on the other. It described disagreements between the parties, including the issue of dogs belonging to Mrs Holland and Mr Asquith running through land rented by Mr Jones during lambing. The programme discussed how Mrs Holland had given Mr Jones notice to leave the land and that further disagreements had ensued over the removal of Mr Jones's stock and over the locking of gates to prevent Mr Jones returning the stock to the land. Interviews with local farmers, who observed the movement of stock, were included.

The programme examined the involvement of Cymuned in attempts to resolve the dispute and included an interview with its Chief Executive, Mr Aran Jones. The programme explained that Mrs Holland obtained a court order to evict Mr Meirion

Jones from her land. Mr Asquith's home in England was discussed as were disagreements between the programme makers and Mr Asquith and Mrs Holland over filming on Mrs Holland's property, both on and off the public highway which runs through it. The programme ended with Mr Jones's distress at losing the tenancy.

Mrs Holland (whose face was obscured), and her partner Mr Marc Asquith were both featured in the programme.

Mrs Holland and Mr Asquith complained that their privacy was unwarrantably infringed in both the making and broadcast of the programme and that they were treated unfairly.

The Complaint

Mrs Holland's and Mr Asquith's cases

In summary, Mrs Holland complained that she was treated unfairly in that:

- a) The programme contained many factual inaccuracies and portrayed other facts in a wholly misleading fashion which resulted in unfairness to her, including the following:
 - i. The description, in the programme's commentary, of the farmer, Mr Jones, being "pushed out of the valley" was unfair. Mrs Holland's fields made up only eight acres of the valley and she had offered to let him remain on them for a further year.
 - ii. The programme's commentary reference to Mrs Holland as an "incomer", and Mr Jones's rhetorical question in interview "why buy a house in such a location?" were unfair. Mrs Holland has lived in the valley for in excess of forty years and full time for the last ten years.
 - iii. The commentary description that "most of the houses in this valley are holiday homes" and the suggestion that Mrs Holland was a second home owner were unfair as her home and land are her full time residence.
 - iv. The commentary reference to Mrs Holland "letting her dogs run off the leash" was unfair since this is not an offence. Indeed when the farmer, Mr Meirion Jones, brought a prosecution against her for sheep worrying, it was not upheld. The reference to Mrs Holland having given Mr Jones "final notice to cease the tenancy over a year ago" was also unfair, since the programme portrayed the notice to quit as following Mr Jones's court action against Mrs Holland regarding her dogs. In fact the reverse was true. Mr Jones brought the court case, regarding Mrs Holland's dogs, after the notice to quit.
 - v. The commentary reference that "She (Mrs Holland) argues that Meirion Jones doesn't really need her land" was unfair, as Mrs Holland accepts that morally, historically and culturally the Jones family should be grazing her land. It was Mr Jones's actions that have led to him being prevented from grazing it.
 - vi. The section of the programme regarding local farmers who allegedly observed Mr Asquith moving Mr Jones's sheep was also inaccurate, biased and unfair to Mrs Holland, in that it failed to mention that on the occasion referred to, Mrs Holland alone herded and removed sheep.

- vii. The commentary reference that “Meirion Jones went to court” was inaccurate and unfair to Mrs Holland since, in fact, it was she who instituted proceedings. The further commentary reference “In April she obtained a Court order to remove the farmer from her land” was inaccurate as it was not obtained until 8 July 2005. It was also unfair to Mrs Holland in that she did not force him off the land, it was he who had no entitlement to stay.
 - viii. The commentary reference to the road over her land being “a private road” was inaccurate and the programme unfairly attributed this inaccurate description of the road to Mrs Holland. In fact, it is not a private road but a public highway which passes over her land.
- b) Overall, the programme makers exhibited bias, chose to ignore the facts and unfairly portrayed Mrs Holland as an English holiday-home owner who had thrown a Welsh farmer off her land because she did not like his farming activities.

In spite of the complainant’s expressed wish not to appear in the programme she featured for around six minutes.

The programme makers also omitted to broadcast an interview recorded with a neighbour, Mr Mygind, which would have shown that Mr Jones behaved unreasonably with other neighbours and was the cause of his own difficulties. This omission resulted in unfairness to Mrs Holland.

In summary, Mrs Holland complained that her privacy was unwarrantably infringed in the making and broadcast of the programme in that:

- c) The programme makers entered her land without permission and recorded footage in spite of requests not to do so.
- d) The programme makers broadcast the footage recorded on her land in spite of requests not to do so. Further, the programme makers used the caption “she didn’t want to be filmed” over footage broadcast of Mrs Holland when she did not wish to participate in the film in any way.
- e) The programme makers included sufficient information within the film, including nearly all of her postal address, to identify her and her home, and thereby put her security at risk.

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

- f) The programme contained many factual inaccuracies and portrayed him inaccurately, which resulted in unfairness to him, including:
 - i. The commentary reference to the farmer, Mr Jones, saying he was “being pushed out of his native valley by a “barrister from England” was unfair since Mr Asquith is of Welsh extraction, only recently moved to England, and owns no land in the valley; further, the explanation of his “Welsh descent” was too far into the programme for viewers to gain a proper understanding of Mr Asquith’s background from the outset, resulting in unfairness to him.
 - ii. The commentary references to him as an “incomer” were unfair since the only sense in which he is an “incomer” to Wales was in respect of this particular valley, and this was clearly not what the programme makers intended to convey.

- iii. The reference, in Mr Jones's interview, to Mr Asquith sending his dogs to run through Tyn y Coed woodland was unfair since he was perfectly entitled to do this; further, other references to the dogs in the fields during lambing unfairly implied negligence.
 - iv. The reference, in commentary and in interviews with Mr Jones and with local farmers, to Mr Asquith "removing sheep" and "stock" was inaccurate and an unfair portrayal of him since, in fact, the sheep were moved by Mrs Holland alone at the expiry of the first notice to quit.
 - v. The reference, in interview with Mr Meirion Jones, to Mr Asquith "playing around with the gates" in order to prevent Mr Jones's sheep returning to the fields, was inaccurate and an unfair portrayal of Mr Asquith. In fact his actions were in response to Mr Jones leaving the gates open, which was confirmed by the Council as an offence under the Highways Act.
 - vi. Mr Jones's statement, in interview, "I'm the last Welshman in the Valley" was inaccurate, as there is another Welsh farmer just below the Tyn y Coed land, and added to the unfairly sympathetic portrayal of Mr Jones's side of the dispute.
 - vii. The programme attributed to Mr Asquith the opinion that Cymuned, the Welsh pressure group which campaigns for the rights of Welsh-speaking communities, was "sticking its nose" into the dispute. This was unfair since, in fact, he supported Cymuned's involvement in attempting to resolve the dispute and had expressed this opinion to the programme makers.
 - viii. The programme's reference, in commentary and in the reporter's piece to camera, to his home as near Manchester was biased; and, was intended to portray him, unfairly, as an evil rich English Tory barrister trampling the innocent Welsh farmer; further it was his mother's house that was shown not his own more modest house.
- g) The programme makers were biased in their making of the programme, inaccurately portraying him as the protagonist and as an evil English wealthy barrister in spite of information provided to them. Furthermore, small mitigating elements of commentary did not detract from the overall unfairness of the portrayal.

In spite of the complainant's wish not to appear in the programme, he featured for around six minutes.

The programme makers also omitted to broadcast an interview recorded with a neighbour, Mr Mygind, which would have shown that Mr Jones behaved unreasonably in other situations and was the cause of his own difficulties. This omission resulted in unfairness to Mr Asquith.

In summary, Mr Asquith complained that his privacy was unwarrantably infringed in the making and broadcast of the programme in that:

- h) The programme makers effectively door stepped him, filming and broadcasting his discussions with them in spite of his request not to do so.

S4C's case

In summary, the broadcaster responded to the fairness complaint by Mrs Holland that:

a) *Y Byd ar Bedwar* was a long-running current affairs series with a strong track record. In this edition, it investigated the wider issues of the case of farmer Meirion Jones which had been taken up by the pressure group Cymuned. The story was a microcosm of the tension between traditional ways of life and those of in-migrants who have little in common with the communities among whom they live. It was not a conflict between English and Welsh but between different ways of life. It was in the public interest to tell this story and it was told as a complex dispute which, it was hoped, would not be repeated. Any repeat of such a dispute would result in dire consequences for relations between the indigenous people and those they see as a threat to their way of life and for their language.

- i. The farmer, Mr Jones, felt "pushed out of the valley" because the eight acres he rented from Mrs Holland were sheltered, with good access to water and therefore crucial to him at lambing time when the sheep roamed between the rented field of Tyn y Coed and adjacent woodland. Without the Tyn y Coed land at lambing time, no matter how many acres the sheep could range over the rest of the time, he would be unable to continue working and living there.
- ii. According to the Concise Oxford Dictionary, Mrs Holland was an "incomer" since she had come to live in an area in which she has not grown up; the reference to incomer was part of a rhetorical question about the work of the pressure group Cymuned: "Tonight, is Cymuned defending Welsh people's interests or simply antagonising incomers" (programme subtitle).

Further, Mr Jones's subsequent reference "why buy a house in such a location?" was a reference to any incomer choosing to live in a rural environment.

- iii. It was correct to say most of the houses in this valley "Cwm" are holiday homes, as the reference to valley "Cwm" was a reference only to the small valley (Cwm Mynach) which included Mr Jones's farm, Mrs Holland's house and four holiday homes. The reference to a second home was Aran Jones of Cymuned's explanation of the wider implications of this type of dispute. S4C noted that Mrs Holland's business address is in Manchester where she spends about three nights a week.
- iv. The programme fairly summarised the prosecution and showed that Mr Jones's allegations against Mrs Holland were baseless. The complaint over the reference to Mrs Holland having given "final notice to cease the tenancy over a year ago" appeared to be a quibble over chronology and caused no unfairness. The programme made clear that the notice to quit followed a history of disputes.
- v. Mrs Holland accepted that Mr Jones does need her land which contradicted her earlier complaint that he did not need her eight acres. Further, the programme makers relied on what the complainants had told them when this statement was used in the programme and considered that most viewers would agree with Mrs Holland that Mr Jones's actions have not helped his case.

- vi. The description of local farmers helping Mr Jones with the stock was information from Mr Jones.
- vii. The commentary reference "Meirion Jones went to court" summarised the position, it mattered little who initiated the action. Further, the commentary line "In April she obtained a Court order" was the programme makers' understanding from Mr Jones, but in any case the complainants confirm he had no entitlement to be on the land from late March and was thus forced off.
- viii. Mrs Holland told the programme makers that the road over her land was a private road that she owned. It was the county council that confirmed it was a public highway.

b) The issue of bias was dealt with in the opening comments above at head a).

The length of time the complainant featured in the programme reflected the amount of time she spent approaching the camera crew. It was debatable whether Mrs Holland had departed from her stated wish not to appear but the programme makers erred on the side of caution by obscuring her face in the broadcast material.

The interview with the neighbour Mr Mygind was not used as it concerned a very different dispute over how the land should be farmed.

In summary, the broadcaster responded to the privacy complaint by Mrs Holland that:

- c) With regard to recording material on Mrs Holland's land, the programme makers believed they were entitled to film as they were on the edge of the public highway between the road surface and the field fence. It was debateable whether this strip of land to the side of the road was private property owned by Mrs Holland or part of the public highway. The programme makers believed it was part of the public highway and, therefore, they were entitled to film from there. However if they were wrong in this belief, they apologised. Other shots were taken from the highway itself from which they were entitled to film.
- d) With regard to the broadcast of material recorded on Mrs Holland's land, the programme makers denied that this amounted to an infringement of Mrs Holland's privacy. For the reasons given immediately above at head c) the programme makers believed they were entitled to film, and subsequently broadcast, material recorded on, or at the edge of, the public highway.

The programme makers understood that Mrs Holland did not wish to appear in the programme, and although the programme could not be made without referring to her, they set out to respect her wishes and obscured her face in the broadcast footage. The programme makers were justified in filming her in her car as they sought to show her dogs running along with the car and therefore not in her control.

- e) The programme did not give Mrs Holland's postal address. The complainants wilfully overstated safety concerns, but in deference to the insecurities of a woman living in an isolated setting, the programme makers did not show her face or vehicle registration and did their best not to show her home. Behind this complaint lurks the suggestion that she could have fallen prey to militant Welsh-language campaigners. However, the arson campaign targeting holiday homes ended in the

early 1990s. While the programme makers did not identify her home, they gave Mrs Holland no assurance that they would not film her house. They acted in accordance with her stated wish not to appear in the programme.

In summary, the broadcaster responded to the fairness complaint by Mr Asquith that:

- f) The opening comments, at head a) above, deal with general points raised by the complainant.
- i. The description of Mr Asquith was carefully worded. It was correct that he was a barrister from England: the point was the contrast between the indigenous farmer and the person he viewed as pushing him out. The programme reflected what it was told by Mr Asquith, namely that he was of Welsh descent, an important detail to avoid the impression that this was a Welsh versus English dispute and this was mentioned only one minute in to the programme.
 - ii. According to the Concise Oxford Dictionary, Mr Asquith was an “incomer” since he has come to live in an area in which he has not grown up; the reference to incomer was part of a rhetorical question about the work of Cymuned. The programme also reported Mr Jones’s not unreasonable perspective that Mr Asquith was an incomer.
 - iii. Mr Jones’s sheep could wander freely in the Tyn y Coed woodland; the programme referred to Mr Jones being happy for Mr Asquith to take his dogs through the fields during lambing in an attempt to achieve balance on this issue and advance Mr Asquith’s side of the story.
 - iv. The references to Mr Asquith “removing sheep” and “stock”, and to local farmers helping Mr Jones to return the sheep to the land, were quoting an allegation made by Mr Jones. Further Mr Asquith had admitted, in a phone conversation with the programme makers, to shutting out the sheep which made any inaccuracy immaterial.
 - v. The main gate below Mrs Holland’s home was always kept shut. The other gates were deliberately, and correctly, left open to allow sheep to roam.
 - vi. Mr Jones’s statement “I’m the last Welshman in the Valley” was accurate as a reference to the small valley of Cwm Mynach.
 - vii. The programme makers could not respond to the reference to an opinion regarding Cymuned without more details concerning the alleged inaccuracy.
 - viii. There was no intention to portray Mr Asquith as an evil rich English Tory barrister. The location of his home was relevant to the issue of how much understanding he could have of Mr Jones’s position as he lives, works and is a county councillor around Manchester. The information on his house was taken from the then current Cheshire County Council website.
- g) The issue of bias was dealt with above in the opening comments at head a).

The length of time the complainant featured reflected the amount of time he spent approaching the camera crew.

The interview with the neighbour, Mr Mygind, was not used as it concerned a very different dispute over how the land should be farmed.

In summary, the broadcaster responded to the privacy complaint by Mr Asquith that:

- h) Mr Asquith's first words to the programme makers were a command that the camera be switched off, however the programme makers carried on until it became clear why he wanted them to stop filming. His argument was not that they were filming him, but that they were filming on land where they had no right to film. On all other occasions, he approached the camera and clearly wanted them to film, for example an occasion when he clearly wanted a letter filmed. In contrast to Mrs Holland, who stated that she did not wish to appear in the programme, the same demand was not made by Mr Asquith.

Mrs Holland's and Mr Asquith's comments on S4C's response

In summary, Mrs Holland commented on the broadcaster's response to the fairness complaint that:

- a) The programme makers adopted Mr Jones's view as indisputable fact rather than viewing matters dispassionately, and in a small number of instances have been demonstrably dishonest.
 - i. The sheep could not wander over between Mrs Holland's Tyn y Coed fields and adjacent land, as described in the broadcaster's response, as it was separated by fences and gates. Indeed this was a finding made by magistrates in the court case brought by Mr Jones over Mrs Holland's dogs. Mrs Holland's land was not special or crucial to Mr Jones's sheep and he continued to run sheep and raise lambs.
 - ii. According to the programme makers' definition of the word "incomer", the farmer Mr Jones would be one, as he had lived outside the valley for many years. The use of the phrase was simply pejorative. Mr Jones's question "why buy a house in such a location?" ignored the fact that Mrs Holland had owned property and had close connections with Cwm Mynach for many decades. The programme makers adopted the premise that the dispute must be because incomers have not adapted to the rural way of life, and failed to challenge Mr Jones's views.
 - iii. The programme makers made a technical definition of the word valley (Cwm). The result was that the programme gave the misleading impression that the community was overrun by holiday homes. The editing of the comments of Aran Jones of Cymuned regarding second homes made it appear to be a comment on Mrs Holland. Mrs Holland was also unaware of the relevance of her business activities in Manchester. Tyn y Coed is her sole residential address. Furthermore, would the same point have been made about a Cardiff based business?
 - iv. The unfair impression was given that the courts let Mr Jones down in his prosecution over her dogs. Mrs Holland did not merely quibble over chronology. The impression was given that she gave Mr Jones notice to quit as a result of the court case over her dogs. By reversing the chronology the programme makers unfairly portrayed her as petty and small minded.
 - v. Mrs Holland was sensitive to Mr Jones's viewpoint but the practical reality was that he had no need for such a small patch of land.

- vi. The section concerning local farmers was an example of how once again the programme makers accepted Mr Jones's version without challenge.
 - vii. The reference "Meirion Jones went to court" presented Mr Jones as the aggrieved party when it was Mrs Holland. It does therefore matter who initiated the action. Further, the reference "In April she obtained a Court order" was taken, unconfirmed by the programme makers, from Mr Jones. There was no court order when the programme was made and Mr Jones could have remained until the order was made in July but he voluntarily vacated the land. Mrs Holland had made a formal offer to allow him to stay until March 2006 but he had not accepted it. The untransmitted material shows that Mrs Holland was not permanently excluding Mr Jones from her land.
 - viii. The untransmitted material showed that the status of the road was repeatedly explained, namely that it is a public highway passing over private land.
- b) In their response, the programme makers for the most part simply adopted Mr Jones's views as indisputable facts.

The programme makers used pressure techniques and underhand behaviour which were disproportionate to the investigation. Furthermore, the refusal of anyone to participate in a programme did not remove the programme makers' duty to be accurate and both complainants had provided information over the telephone.

The interview with Mr Mygind showed a pattern of behaviour by a farmer, Mr Jones, who made claims of rights to land to which he was not entitled and so alienated his neighbours. The material was not used as this was not the programme that the programme makers wanted to make.

In summary, Mrs Holland commented on the broadcaster's response to the privacy complaint that:

- c) Regarding the recording of material, prior to transmission Mrs Holland offered to refrain from legal proceedings as long as no footage was taken from her land and used in the programme; she owns all the land and can fence any area as long as she does not block the public highway. The programme makers should have taken proper legal advice over the issue of entitlement to be on her land. Mr Asquith and Mrs Holland were adamant, as shown in the untransmitted material, that the piece to camera should not be filmed on Mrs Holland's land and could not therefore show the house. The untransmitted material showed the programme makers whispering together in order to breach an agreement to film away from the house and land. The angle of other shots show they were not taken from the highway but from Mrs Holland's land.
- d) Regarding the broadcast of material, prior to transmission Mrs Holland offered to refrain from legal proceedings as long as no footage was taken from her land and used in the programme. As discussed at head c) immediately above, the programme makers were not entitled to film on her land or show the house.

The programme makers repeatedly intruded on Mrs Holland's privacy with blatant disregard for her requests not to; there was no justification in filming her car and dogs as they were under the appropriate control and if sheep are encountered were trained to progress close to the car.

- e) Mrs Holland's security concerns were well founded since there was an attack in the past.

In summary, Mr Asquith commented on the broadcaster's response to the fairness complaint that:

- f) The programme makers adopted Mr Jones's view as indisputable fact rather than viewing matters dispassionately, and in a small number of instances have been demonstrably dishonest.
- i. The description of Mr Asquith was carefully worded, but not to give the impression suggested; i.e. he was no more from England than any of the other Welsh people who have been forced by economics to work in England; Mr Asquith is half Welsh, his 'Englishness' is however established in the opening shots and by the Nimrod music over the footage of Alderley Edge. It was plain the programme makers sought to portray him as an evil English barrister bullying a poor Welsh farmer. It was unfair to suggest he is a foreigner and easy to use the term English as a pejorative term.
 - ii. According to the programme makers' definition of the word incomer, Mr Jones would be one as he had lived outside the valley for many years. The use of the phrase was simply pejorative.
 - iii. The programme also reported that, as an incomer, Mr Asquith had been frightening Mr Jones's sheep when there is no evidence for this. Mr Asquith's dogs only run in a fenced off area; further Mr Jones requested they be left out to deter foxes. Mr Jones's position was left unchallenged.
 - iv. The assertion that Mr Asquith removed sheep was not prefaced by "Mr Jones said that..." but asserted as a matter of fact. Mr Asquith shut the gate with the sheep in the fields as required by the Highways Act. The reference to "local farmers" was an example of how once again the programme makers accepted Mr Jones's version without challenge.
 - v. The reason Mr Asquith shut the gates to the fields was that Mr Jones had been committing an offence by allowing the sheep to run on the lane without a farming need (e.g. for shade and water). Furthermore, the programme implied through the reference to Mr Asquith "paragliding" that he visits the area just to play, when in fact his weekends are spent on woodland management.
 - vi. There is another Welshman farming in the small valley of Cwm Mynach although it is conceded that he no longer lives there.
 - vii. The programme makers put into Mr Asquith's mouth the comment that "he can't understand why Cymuned is sticking its nose into (this matter)", when in fact Mr Asquith, Mrs Holland and Cymuned together sought to broker a compromise.
 - viii. Mr Asquith admitted he was a visitor to Cym Mynach but questioned the relevance of the references to his home near Manchester, when Mrs Holland made all the decisions regarding her land and had the final say on filming. From the section regarding his home in Alderley Edge onwards, the programme seemed to be all about Mr Asquith and Mrs Holland objecting to filming, around half of the time broadcast. Mr Asquith's address details on the Cheshire County Council website were updated on 5 May 2005 and the

broadcast was 14 June 2005 with inaccurate information taken from a cutting dated January 2001.

- g) In their response, the programme makers for the most part simply adopted Mr Jones's view as indisputable fact.

The programme makers used pressure techniques and underhand behaviour which were disproportionate to the investigation. Further, the refusal of anyone to participate in a programme does not remove the programme makers' duty to be accurate and both complainants had provided information over the telephone.

The interview with Mr Mygind showed a pattern of behaviour by a farmer, Mr Jones, who made claims of rights to land to which he was not entitled and so alienated his neighbours; the material was not used as this was not the programme that the programme makers wanted to make.

In summary, Mr Asquith commented on the broadcaster's response to the privacy complaint that:

- h) He was door stepped by the programme makers and at no time did they cease filming, although he made very clear that he wished to discuss their presence without being filmed. He wanted to show the letter referred to, but not have it filmed. He was hounded by the crew. He had made it clear from the moment that he discovered he was being filmed that he did not wish to be filmed. He continued to try to negotiate with the programme makers to leave, while trying to block filming. The programme makers attempted to differentiate between Mr Asquith's position and that of Mrs Holland who wanted no part in the film, when his position was that he would act in concert with Mrs Holland and comply with her wishes.

The untransmitted material made clear that neither Mrs Holland nor Mr Asquith wished to be filmed, make comment or participate in the programme. Further it showed that the programme makers were intent on obtaining further footage of Mr Asquith.

S4C's second statement in response

In summary, S4C responded to Mrs Holland's comments on the fairness complaint that:

- a) The charge that programme makers adopted Mr Jones's views as indisputable facts rather than viewing matters dispassionately related to S4C's response rather than the programme as broadcast. The programme presented the views of both sides and the programme makers' response sought to justify the inclusion of the farmer's views in the programme, not to accept them as fact. The programme did justice to the complainants' position although they declined every opportunity to appear in the programme. In any event, the complainants failed to explain how the alleged inaccuracies resulted in unfairness to them.
- i. The complainants argued that Mrs Holland's land was not special or crucial to Mr Jones's sheep, but Mr Jones now has one hundred fewer sheep because of the loss of Tyn y Coed land and the margin between profit and loss is extremely narrow.
- ii. Mr Jones's view ("Why buy a house in such a location?") was challenged by the reporter's question "Don't you think it's hard for them, living in these houses

surrounded by land that you're farming?" The programme did not adopt the premise that the dispute must be because incomers have not adapted to the rural way of life. The programme reported Mr Jones's point of view and challenged him on whether he needed Mrs Holland's land, whether he sought to intimidate her, whether he was anti-English. The programme also put forward the complainants' views and made plain that they had won all the legal battles, showing they were in the right on these issues.

- iii. The programme makers used Cwm (valley) to refer to Cwm Mynach, a distinct area as understood by the locals. The remark by Aran Jones of Cymuned, concerning second homes, was talking about something that has not yet happened, and the possible consequences. Mrs Holland's business address served to dispel any impression that her entire life was spent at Cwm Mynach. Had her business been based in Cardiff, this would have been reported.
 - iv. No separate response was made regarding any impression given concerning Mr Jones's prosecution over Mrs Holland's dogs. The chronology was given to the programme makers by Mr Asquith, in a letter detailing the exact sequence of events.
 - v. Mrs Holland complained about the programme's commentary line "She [Mrs Holland] argues that Meirion Jones doesn't really need her land". This complaint was contradicted by the comment in her second submission that "the practical reality is that he has no need for such a small patch of land".
 - vi. No separate response was made regarding the section concerning local farmers.
 - vii. No separate response was made regarding the reference "Meirion Jones went to court". The programme makers were surprised that the complainants stated that Mr Jones could have remained on the land until a court order was made in July but that he voluntarily vacated it. The programme makers understood from Mr Asquith that Mr Jones had been trespassing since March 2005 and was only allowed to leave sheep there until the end of May for animal welfare reasons, because of recent lambing.
 - viii. No separate response was made regarding the status of the road.
- b) The programme exhibited no anti-English bias as alleged by the complainants, rather it reported facts, for example Mr Jones was the last Welshman who lives and farms in Cwm Mynach and Mr Asquith was of Welsh descent with close ties to Manchester.

No "pressure techniques" were used as stated in the complainants' second comments. The programme makers gave the complainants every opportunity to participate as required by good journalistic practice.

Had the programme makers been hell-bent on making an anti-English programme they would have included rather than excluded the interview with Mr Mygind (an English landowner who has also been in dispute with Mr Jones). They would also not have included the broadcast interview with a further English landowner, Mr Yoward, who came across as reasonable, likeable and perceptive.

In summary, S4C responded to Mrs Holland's comments on the privacy complaint that:

- c) Regarding the recording of footage, the programme did not unwarrantably infringe Mrs Holland's privacy. To do so would have meant intruding into an aspect of her life she was entitled to keep private and for that intrusion to have been unwarranted. Neither was the case.

The programme makers filmed on the Tyn y Coed land believing they were entitled to do so with Mr Jones's permission, and after they spoke to Mrs Holland they left the land. After obtaining legal advice, they filmed on or close to the road on the second day of filming, and parked at the nearest convenient spot. The filming that was conducted infringed no-one's privacy. There was no agreement to film away from the house and land. The footage did not support the complainants' conclusions over the whereabouts of the cameraman as he was filming from a high tripod.

- d) Regarding the broadcast of the footage, the same response was made as immediately above at head c).
- e) The complainants raised security issues, however Mrs Holland's name was uncommon in North Wales which made her phone number easy to trace. No earlier attack was mentioned at the time of making the programme. Had it been mentioned then the perceived risk would have been re-assessed.

In summary, S4C responded to Mr Asquith's comments on the fairness complaint that:

- f) The charge that programme makers have adopted Mr Jones's views as indisputable facts, rather than viewing matters dispassionately, related to S4C's response rather than the programme as broadcast. The programme presented the views of both sides and the programme makers' response sought to justify the inclusion of the farmer's views in the programme, not to accept them as fact. The programme did justice to the complainants' position although they declined every opportunity to appear in the programme. In any event, the complainants failed to explain how the alleged inaccuracies resulted in unfairness to them.
- i. There was nothing sinister in the use of a familiar piece of English music to accompany footage of Alderley Edge. There was no suggestion that Mr Asquith was a foreigner, only an incomer to the Cwm. The word "English" was not used to describe him.
 - ii. No separate response was made regarding further use of the word incomer.
 - iii. The evidence regarding Mr Asquith's dogs frightening Mr Jones's sheep was Mr Jones's account, which was put to Mr Asquith in a telephone conversation. His response, that Mr Jones was happy for his dogs to run through the sheep to deter foxes, was represented in the programme. The programme makers saw for themselves that there was no fence separating the woodland, where Mr Asquith's dogs can go, from the fields where the sheep grazed; Mr Jones's position on his sheep being disturbed was challenged by the programme putting forward Mr Asquith's stance.
 - iv. Mr Asquith did not deny removing a sheep by throwing it over a fence. No separate comment was made regarding the section, including contributions from local farmers.

- v. Mr Jones kept the gates to the field open in order that the sheep could have a supply of fresh water via the lane.
 - vi. No separate response was made regarding those living in Cwm Mynach.
 - vii. Mr Asquith's initial response to the involvement of the pressure group Cymuned was dismissive. The question put to Aran Jones ("he [Mr Asquith] can't understand why Cymuned is sticking its nose into [this matter]") was put as a perfectly legitimate point of view.
 - viii. On at least one occasion, when the crew were trying to film a piece to camera, Mr Asquith had the final say on filming, not Mrs Holland. It was incorrect to state that half the broadcast was about Mr Asquith and Mrs Holland objecting to filming; the section referred to was 4 minutes 16 seconds out of 24 minutes 45 seconds running time. The information on Mr Asquith's home, in Alderley Edge, was supported by the electoral roll and the landline number given by Mr Asquith which he explained was the phone number for a house shared with his mother.
- g) The programme exhibited no anti-English bias as alleged by the complainants, rather it reported facts, for example Mr Jones was the last Welshman who lives and farms in Cwm Mynach, Mr Asquith was of Welsh descent with close ties to Manchester.

Had the programme makers been hell-bent on making an anti-English programme, they would have included rather than excluded the interview with Mr Mygind (an English landowner who has also been in dispute with Mr Jones). And they would not have included the broadcast interview with a further English landowner, Mr Yoward, who came across as reasonable, likeable and perceptive in the programme.

No "pressure techniques" were used. The programme makers only gave the complainants every opportunity to participate, as required by good journalistic practice.

In summary, S4C responded to Mr Asquith's comments on the privacy complaint that:

- h) There was no doorstep. The programme makers were filming an interview when they were accosted by Mr Asquith who chose to stop and debate matters. The reporter put no questions to him about his relationship with the farmer. The letter referred to had already been shown to the producer at Mrs Holland's house; there was no need to show it in the presence of the crew if he was concerned about being filmed. He clearly enjoyed expounding his legal opinions in front of the camera. The footage showed Mr Asquith was not hounded.

Unlike Mrs Holland who did not wish any footage of herself or her property to be shown, Mr Asquith merely declined to provide an interview. He communicated Mrs Holland's position to the programme makers and it would have been simple to express it as a joint position. It was clear from the footage that the desire not to be filmed had far more to do with Mr Asquith's insistence on advancing his opinion about filming on the highway than with any desire to protect his privacy. The programme makers also ensured they obtained footage of Mr Asquith from the highway that did not cross Mrs Holland's land, in case an injunction was obtained concerning the footage filmed on her land.

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 and unwarranted infringements of privacy in and in connection with 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 view of the fact that these complaints related to a Welsh language programme, the Fairness Committee ("the Committee", Ofcom's most senior decision making body with respect to Fairness and Privacy complaints) included the Member for Wales who is a Welsh speaker. All references to the programme are given in Welsh as broadcast and as a full English translation agreed by the parties. The English language subtitle, as broadcast, is also given.

In the circumstances of this case, the Fairness Committee found the following:

a) The Fairness Committee first considered Mrs Holland's complaint that the programme contained many factual inaccuracies and portrayed other facts in a wholly misleading fashion, which resulted in unfairness to her. The ex-BSC Fairness Code ("the Fairness Code") was the applicable Code when this programme was broadcast. Broadcasters must avoid unfairness to individuals or organisations featured in programmes through the use of inaccurate information or distortion, for example by the unfair selection or juxtaposition of material (the Fairness Code paragraph 2). Furthermore, broadcasters should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations, and should take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible fairly presented (the Fairness Code Paragraph 7). Taking these requirements into account, the Committee addressed separately each of the individual complaints made by Mrs Holland concerning the programme's content.

i. The Fairness Committee considered Mrs Holland's complaint concerning the programme's reference in its opening commentary to:

"ma' ffarmwr yn deud bod o'n cael ei erlid o'i fro enedigol."

"a farmer is alleging that he is being victimised from the area of his birth" (agreed translation).

"a farmer who says he is being pushed out of his native valley" (programme subtitle).

The Committee considered Mrs Holland's complaint that this statement was unfair as her fields made up only eight acres of the nearly four hundred acres in the valley which the farmer, Mr Meirion Jones, grazed; and, further, that Mr Jones continues to run sheep and raise lambs. The Committee also took account of S4C's comments that these particular eight acres were crucial to Mr

Jones at lambing time due to their sheltered nature and access to water, and to his ability to continue working and living in the valley; that he now has one hundred fewer sheep because of the loss of the Tyn y Coed land; and, the fact that he felt pushed out of the valley.

The Committee considered that it was disproportionate to indicate that losing eight acres out of four hundred would result in Mr Jones "being victimised" or "pushed out". In the Committee's view, the commentary's description was therefore unfair, given the small proportion of the disputed acreage as compared to the rest of the acreage in the valley grazed by Mr Jones. The expression "erlid o'i ...", translated as "victimised from" in the agreed translation, and "pushed out" in the programme subtitles, was, in the Committee's view, emotive language in the context of the amount of acreage concerned and in the circumstances of this case which are considered at Decision head vii below. The Committee concluded that, although the description was attributed to the farmer, it served to introduce the dispute at the start of the programme in a way that was unfair to Mrs Holland. This resulted in unfairness to Mrs Holland in the programme as broadcast.

- ii. The Fairness Committee considered Mrs Holland's complaint concerning the programme's reference in its opening commentary to:

"mewnfudwyr"

"incomers" (agreed translation and programme subtitle)

The Committee noted Mrs Holland's complaint that this description was unfair because she has lived in the valley for over forty years, full time for the last ten. The Committee also considered S4C's submissions that the word referred to Mrs Holland having not grown up in the area as well as their response that the statement was part of a rhetorical question about the work of Cymuned.

The Committee noted the full reference in the programme:

"Heno: ydi mudiad Cymuned yn amddiffyn y Cymry neu'n cynddeiriogi mewnfudwyr?"

"Tonight, is Cymuned protecting the people of Wales or infuriating incomers?" (agreed translation).

"Tonight, is Cymuned defending Welsh people's interests or simply antagonising incomers" (programme subtitle).

In the Fairness Committee's view, the word "mewnfudwyr" (incomers) followed the commentary's description of the dispute with Mr Jones and clearly referred to Mrs Holland. The Committee considered that this reference was unfair in that it stretched the meaning of "mewnfudwyr" (incomers) too far given Mrs Holland's home in the valley and the length of time that she had spent there, as well as lived there. The Committee also considered that the use of the word held the connotation of a reference to someone who did not belong. The Committee found that this resulted in unfairness to Mrs Holland in the programme as broadcast. The cumulative effect of the presentation of Mrs Holland is considered at Decision head b).

Mrs Holland further complained about Mr Meirion Jones's interview, as broadcast, in which he asked:

"pam dod yma i brynu tŷ mewn fath le yn y cychwyn?"

"why buy a house in an area such as this in the first place?" (agreed translation).

"why buy a house in such a location?" (programme subtitle).

The Committee noted S4C's response that the reference was to any incomer choosing to live in a rural environment and that the comment followed the interviewer's question:

"Newyddiadurwr: 'Da chi'n meddwl bod hi'n anodd iddyn' nhw yn byw yn y tai 'na a'ch tir chi yn amlgychynu nhw? A chithau yno yn ffermio?"

"Do you think it is difficult for them to be living in those houses and being surrounded by your land? And you farming?" (agreed translation)

"Don't you imagine it's difficult for them living there with your farming land surrounding them?" (programme subtitles)

and did not adopt the premise that the dispute was the fault of the incomers.

The Committee found that the rhetorical question put by Mr Jones was a general one, did not refer to Mrs Holland and did not therefore result in unfairness to Mrs Holland in the programme as broadcast.

- iii. The Fairness Committee considered Mrs Holland's complaint concerning the commentary reference:

"Ma'r rhan fwy o dai'r Cwm yn dai haf."

"The majority of houses in Cwm Mynach are holiday homes" (agreed translation).

"Most of the houses in this valley are holiday homes" (programme subtitle).

The Committee noted Mrs Holland's complaint that her home and land were her full time residence and that this description was unfair to her. The Committee also noted S4C's response that the reference was only to the small valley Cwm Mynach. The Committee noted that Mrs Holland did not disagree with the reference within the narrow context of Cwm Mynach.

The Committee considered the programme's commentary which preceded this reference:

"Cwm Mynach ger Dolgellau ym mherfeddion Meirionnydd."

"Cwm Mynach near Dolgellau is in the heart of Meirionnydd" (agreed translation).

"Cwm Mynach, near Dolgellau, in the heart of Meirionnydd" (programme subtitles).

It appeared to the Committee that this preceding commentary sentence clearly placed the reference to holiday homes within Cwm Mynach and noted that Mrs Holland did not dispute the accuracy of the reference within this context. The Committee therefore concluded that the reference was accurate in the context of the immediate neighbourhood referred to, and on this basis did not result in unfairness to Mrs Holland in the programme as broadcast.

The Committee considered Mrs Holland's further complaint that the programme suggested she was a second home owner. This was a reference to an interview with Mr Aran Jones of Cymuned, broadcast in the programme, in which Mr Aran Jones stated:

"Mi fase fe'n sefydlu'r cydsyniad os ydi ffermwr yn torri ar draws rhywun sy'n defnyddio tŷ fel ail gartref bod y ffarmwr rhywsut ar fai."

"It would establish the concept that if a farmer impinges on someone who is using a home as a second home, that the farmer is somehow to blame" (agreed translation).

"The suggestion is that if a farmer disrupts the habits of somebody who uses the house as a second home then the farmer is somehow at fault" (programme subtitle).

The Committee noted S4C's response that Mr Aran Jones was explaining the wider implications of this dispute and also their reference to Mrs Holland's business address in Manchester.

However, the Committee considered that while Mr Aran Jones's comment was a general one, it was positioned following a line of commentary referring to the specific dispute concerning Mrs Holland and Mr Meirion Jones.

"Yng Nghwm Mynach, ma' Meirion Jones wedi ei amgylchynu gan dai mewnfudwyr. Mae o'n teimlo bod o'n cael ei wthio allan o'r Cwm ac ma hynny'n annheg yn ôl Cymuned."

"In Cwm Mynach, Meirion Jones is surrounded by incomers' houses. He feels that he is being pushed out of the Valley and that is unfair according to Cymuned". (agreed translation).

"Meirion Jones is surrounded by houses owned by incomers. He feels he is being pushed out of Cwm Mynach and Cymuned claims this is unfair." (programme subtitle).

In the context within which it was included the Committee felt that the reference to "rhywun sy'n defnyddio tŷ ..fel ail gartref" ("somebody who uses the house as a second home") could be taken to relate to Mrs Holland. It was equally clear to the Committee that, regardless of her business address, this was not her second home. The reference therefore resulted in unfairness to Mrs Holland in the programme as broadcast.

- iv. The Fairness Committee next considered Mrs Holland's complaint that the reference to her "letting her dogs run off the leash" was unfair as this was not an offence, and that when Mr Jones brought a prosecution for sheep worrying it was not upheld.

The Committee noted Mrs Holland's further complaint that the reference to her having given "final notice [for Mr Jones] to cease the tenancy over a year ago" gave the misleading impression that she was acting as a result of Mr Jones's court case regarding her dogs, and thus unfairly portrayed her as petty and small-minded. In fact Mr Jones brought the court case regarding Mrs Holland's dogs after the notice to quit was served.

The Committee noted S4C's response that the prosecution was fairly summarised, that the programme showed that Mr Jones's allegations against Mrs Holland, concerning the dogs, were baseless and that the chronology was unimportant and caused no unfairness.

The Committee considered the commentary as broadcast:

"Llynedd yn llys ynadon Dolgellau, mi nath Meirion Jones ddwyn achos yn erbyn Susan Holland am gerdded ei chŵn heb dennyn drwy'r defaid ar ei dir o. Ond mi nath y llys dderbyn bod ganddi ganiatâd y ffarmwr i wneud hynny... Mi nath perthynas y ffarmwr a Susan Holland waethygu ar ôl yr achos llys. Mi roth hi rybudd terfynol i ddod â'r denantiaeth i ben dros flwyddyn yn ôl."

"Last year at Dolgellau magistrates' court, Meirion Jones brought an action against Susan Holland for walking her dogs on his land without them being on a lead. But the court accepted that she had the farmer's permission to do so...The relationship between the farmer and Susan Holland deteriorated after the court case. She gave him a final notice to terminate the tenancy over a year ago" (agreed translation)."

"Last year at Dolgellau magistrates' court Meirion Jones brought a case against Susan Holland for letting her dogs run off the leash on his land. But the court accepted she had the farmer's permission to do so...The farmer's relationship with Susan Holland deteriorated following the court case. She gave final notice to cease the tenancy over a year ago (programme subtitle)."

The actual sequence of events was clear from Mrs Holland's submissions and had not been disputed by the programme makers. Whilst the commentary explained that the prosecution against Mrs Holland did not succeed, the Committee agreed that the chronology given in the programme was inaccurate, giving the erroneous impression that Mrs Holland had given final notice to Mr Meirion Jones to cease the tenancy as a result of Mr Meirion Jones bringing a court case concerning her dogs. The Committee found that this sequencing and juxtaposition of material resulted in unfairness to Mrs Holland in the programme as broadcast.

- v. The Fairness Committee next considered Mrs Holland's complaint concerning the commentary line:

"Ma' hi'n dadla' nad ydi Meirion Jones wir angen ei thir hi."

"She (Mrs Holland) argues that Meirion Jones doesn't really need her land" (agreed translation and programme subtitle).

The Committee noted Mrs Holland's complaint that this was unfair because she accepts that morally, historically and culturally the Jones family should be grazing her land, but that it was Mr Jones's actions that have led to him being prevented from grazing it and that in practical terms he has no need for it. The Committee also noted S4C's comments that Mrs Holland in this complaint contradicted her earlier complaint that Mr Jones did not need Mrs Holland's eight acres and that the programme makers relied on what the complainants had told them.

The Committee considered that the programme simply asserted "Ma' hi'n dadla" ("She argues...") without giving an explanation as to when, and under which circumstances, Mrs Holland had made this assertion. Without such context, the Committee considered that the assertion gave an incomplete impression of Mrs Holland's position and therefore found that its inclusion resulted in unfairness to Mrs Holland in the programme as broadcast.

- vi. The Committee next considered Mrs Holland's complaint regarding the section:

"Sylwebaith: Mi oedd ffermwyr lleol yno hefyd yn helpu Meirion Jones i droi'r sdoc yn ôl i'r caeau, ac mi o nhw'n dyst i ymateb Marc Asquith"
Cyfweliad: 'Mae e'n cydio yn y ddafad, wel, cydio yn ei asgwrn cefn – tu ôl i'w... chefn hi, ac yn ei... yn ei gwâr mewn ffordd ac yn usio'i benglin i luchio'i drosodd."

"Commentary: Local farmers were also there helping Merion Jones to turn the livestock back to the fields and they witnessed Marc Asquith's reaction.

Interview: He grabbed hold of a sheep by the rump and the scruff of the neck and then used his knee to throw it over" (agreed translation).

"Commentary: Some local farmers had come to help Meirion Jones with the sheep and they witnessed Marc Asquith's reaction.

Interview: He took hold of the sheep at the lower spine and by the scruff and using his knee he threw it over" (programme subtitle).

The Committee noted Mrs Holland's complaint that this was unfair since it was she who herded and removed the sheep alone. The Committee also noted S4C's response that this was information given by Mr Meirion Jones.

This section did not mention Mrs Holland and, in the Committee's view, would therefore have had little impact on a reasonable viewer with regard to Mrs Holland. The Committee concluded that the section did not therefore result in unfairness to her in the programme as broadcast.

- vii. The Committee next considered Mrs Holland's complaint concerning the commentary on court proceedings:

"Mi ath Meirion Jones i lys i drïo cael cytundeb tenantiaeth lawn ar dir Tyn y Coed. Ond unwaith eto Susan Holland nath ennill y dydd. Fis Ebrill mi gath hi orchymyn llys i hel y ffarmwr o 'na."

"Meirion Jones went to court to try to get a full tenancy agreement on the land of Tyn y Coed. But again, Susan Holland won the day. In April she

obtained a court order to evict the farmer from the land” (agreed translation).

“Meirion Jones went to court in an attempt to secure a full tenancy agreement on the land at Tyn y Coed. But once again Susan Holland came out the winner. In April she obtained a court order to remove the farmer from her land” (programme subtitles).

The Committee considered Mrs Holland’s complaint that the reference “Meirion Jones went to court” was inaccurate since it was she who instituted proceedings and that the reference “In April she obtained a Court order” was also inaccurate as it was not obtained until 8 July 2005, nor did she force him off the land; he had no entitlement to stay. The Committee also took into account S4C’s response that the programme fairly summarised the position and that it mattered little who initiated the action, further that the date was provided by Mr Jones and in any case the complainants confirmed that he was effectively forced from the land.

The Committee noted that the programme makers did not dispute the version of events given by the complainants, namely that it was Mrs Holland who initiated court proceedings. The Committee concluded that the accuracy of the final sentence, regarding the date of the court order, did not in itself result in unfairness to Mrs Holland. However, the Committee considered that, in light of the earlier finding concerning court proceedings dealt with above at Decision head a)(iv), it was relevant who instituted the proceedings. The Committee considered that the presentation of material in this section compounded the unfairness as outlined at Decision head a)(iv) above, and taken together with the earlier commentary this was likely to affect viewers’ interpretation of the issues and, consequently, adversely affect their impression of Mrs Holland and her actions in relation to Mr Jones. The Committee therefore concluded that the presentation and juxtaposition of material in relation to court proceedings, in this section of commentary, was unfair to Mrs Holland.

- viii. The Fairness Committee next considered Mrs Holland’s complaint concerning the programme’s reference to “a private road”.

The Committee noted that Mrs Holland complained that the reference to the road over her land being “a private road” was inaccurate since she owned the land, but the road which passed over it was a public highway.

The Committee noted S4C’s response that Mrs Holland had provided the information regarding it being a private road, but that it was the Council that had confirmed that it was a public highway.

The Committee considered the full section, the reporter’s spoken “piece to camera”, which stated that:

“Roedd hi’n deud nad oedd gennym ni’r hawl i’w ffilmio hi ar y ffordd yma gan ei bod hi, medde hi, yn ffordd preifat oedd yn pia iddi.”

“She (Mrs Holland) said that we did not have the right to film her on this road because, according to her, it was a private road which she owned” (agreed transcript).

“She (Mrs Holland) claimed we had no right to film on this road because it was a private road which belonged to her” (programme subtitle).

It is not within the Committee’s remit to determine the nature of this particular road and its ownership. Leaving aside the different interpretations of the legal status of the road, the Committee was able to consider whether any unfairness resulted to Mrs Holland from the use of the term “ffordd preifat” (“private road”) in the programme as broadcast. The Committee considered that the reporter’s summary of the disagreement between Mrs Holland and the programme makers over filming on the road did not give an unfair presentation of Mrs Holland or her views concerning the general principle of filming on her property, since Mrs Holland did not, in any event, wish S4C to film on her property. Therefore, the Committee concluded this had not caused any unfairness to Mrs Holland in the programme as broadcast.

- b) The Committee next considered Mrs Holland’s complaints that the programme makers exhibited bias; that they chose to ignore the facts and portrayed her as an English holiday-home owner who had thrown a Welsh farmer off her land because she did not like his farming activities; that in spite of her wish not to appear in the programme, the complainants featured for around six minutes; and, that the programme makers also omitted to broadcast an interview recorded with a neighbour, Mr Mygind, resulting in unfairness to Mrs Holland.

Mrs Holland’s complaint of bias appears to relate to the requirement for broadcasters to maintain “due impartiality” on matters of political or industrial controversy and matters relating to current public policy. This is a “standards objective” under Section 319 of the Communications Act 2003 and as such cannot be considered by the Fairness Committee. However, in considering whether Mrs Holland was treated unfairly in the programme, the Committee is able to consider whether overall the portrayal of Mrs Holland was unfair in its cumulative effect.

As discussed above, broadcasters have a responsibility to avoid unfairness to individuals or organisations featured in programmes through the use of inaccurate information or distortion, for example by the unfair selection or juxtaposition of material (the Fairness Code paragraph 2). Ofcom noted S4C’s response that the story was not a conflict between English and Welsh but between different ways of life. However, taking into consideration the overall findings at Decision head a), it was the Committee’s view that while the intent of the programme may have been to consider issues concerning differing ways of life, the cumulative effect of the presentation of Mrs Holland in the programme as broadcast resulted in an unfair portrayal of Mrs Holland, her actions and motivation.

In its consideration of Mrs Holland’s further complaint that she featured in the programme when she did not wish to appear at all, the Committee noted S4C’s response that the length of time the complainants featured in the programme reflected the amount of time they spent approaching the camera and that it was debatable whether Mrs Holland had departed from her stated wish not to appear. The Committee examined, in detail, the untransmitted material filmed with Mrs Holland. This material showed Mrs Holland repeatedly stating that she did not wish to appear in the programme at all and repeatedly asking for the camera to be turned off. Paragraph 12 of the Fairness Code is clear about the rights of any person to refuse to participate in a programme. Paragraphs 25, 26 and 27 of the Fairness Code detail programme makers’ responsibilities only to feature such a person if they reasonably believed that their inclusion in the programme would

serve an overriding public interest and where reasonable requests for a contribution by the person have met with refusal.

S4C provided no evidence that the programme makers had exhausted reasonable requests for Mrs Holland to provide an off-camera contribution whether by letter, phone or in face to face conversation. Indeed the Committee noted, from consideration of the untransmitted material, that both Mrs Holland and her partner Mr Asquith (whose complaints are considered below) requested opportunities to speak to the programme makers off-camera and explain their position. In these circumstances the Committee was not satisfied that there was any such justification for the inclusion of Mrs Holland, nor that obscuring her face complied with her demands not to feature in the programme. Mrs Holland's inclusion in a programme with which she did not wish to be associated, and without an overriding public interest justification as discussed above, therefore resulted in unfairness to her in the programme as broadcast.

Mrs Holland's final fairness complaint was that the programme makers recorded, but did not broadcast, an interview with a neighbour, Mr Mygind and that this resulted in unfairness to her. Programme makers have a responsibility to take all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible fairly presented (Paragraph 7 of the Fairness Code).

Taking account of S4C's response that the interview was not used because it concerned a very different dispute over the farming of the land, the Committee examined the untransmitted material of the interview recorded with Mr Mygind. It was apparent from this conversation that Mr Jones was a man who had disputes with other long-settled land owners in the area, and that Mrs Holland was not the only person who had found herself to be in disagreement with Mr Jones. Additionally, the interview could be taken to show the issues between Mrs Holland and Mr Jones in the context of a dispute in the agricultural community concerning Mr Jones's farming activities and use of land in the valley. Whilst it was a matter for the programme makers whether or not to include footage of this interview in the programme, the programme makers did have a duty to take all reasonable care to satisfy themselves that all material facts had been considered before transmission (Paragraph 7 of the Fairness Code). It was the view of the Committee that in failing to fully contextualise the dispute between Mr Jones and Mrs Holland by reference to what was said in the interview with Mr Mygind, the programme makers had omitted to include material facts in the programme which would have affected the viewers' understanding of Mrs Holland's dealings with Mr Jones, and therefore their perception of her portrayal in the programme. The Committee therefore found that this omission, of material facts, resulted in unfairness to Mrs Holland.

- c) The Fairness Committee then turned to Mrs Holland's privacy complaints. Mrs Holland complained that the programme makers entered her land without permission and recorded footage in spite of requests not to do so. The Committee noted S4C's response that the programme makers believed they were entitled to film as they were on, or on the edge of, a public highway.

The Committee first addressed the issue of whether Mrs Holland's privacy was infringed in the recording of footage on her land. In its consideration, the Committee viewed both the transmitted and untransmitted material recorded on Mrs Holland's land. The Committee made a distinction between the recording of general footage of her land and the recording of specific footage of Mrs Holland,

her house and car. The Committee had regard to the responsibility of programme makers in their use of cameras on both public and private property, when the subject is on private property, where such use must be appropriate to the importance or nature of the story and such recording should not intrude unnecessarily on private behaviour (Paragraph 18 (iii) of the Fairness Code). The Committee considered that the recording of general footage on Mrs Holland's land, although recorded without her permission, did not therefore infringe her privacy by, for example, intruding on her personal and family life. In terms of the recording of specific footage of Mrs Holland, her house, and car, it was clear from the gathered material that the programme makers had specifically set out to capture such shots. For example, at one point in the untransmitted footage the camera clearly focussed on a group of people standing outside the house. The Committee considered that the combination of filming, and insistence on continuing to film when Mrs Holland had made her wishes clear to the programme makers, was intrusive into the conduct of her personal and family life, and did infringe her privacy.

The Committee then considered whether the infringement of Mrs Holland's privacy, by the recording of specific footage of her and her home and car, was warranted. The Committee considered that there was no over riding public interest justification in recording the material, which persistently intruded on Mrs Holland's private life around her home and on her land despite her protestations. The Committee was not persuaded that such intrusion, in the recording of specific footage of Mrs Holland, her house and car, was warranted by the nature of the story. The Committee therefore found that Mrs Holland's privacy was unwarrantably infringed in the making of the programme.

- d) The Committee then considered Mrs Holland's complaint that the programme makers broadcast the footage recorded on her land in spite of requests not to do so. Also that the programme makers broadcast material of her, introduced by the caption "she didn't want to be filmed", when in fact she did not wish to participate in the film at all. The Committee noted S4C's response that the programme makers believed they were entitled to film as they were on, or on the edge of, a public highway; that they understood Mrs Holland's wish not to appear and set out to respect her wishes over filming; and, that filming of her in her car was to show that she was not in control of her dogs.

For the reasons given above at Decision c) the Committee considered that the broadcast of general footage of Mrs Holland's land did not infringe Mrs Holland's privacy but that the broadcast of specific footage of Mrs Holland, her house and car intruded on her private life and did infringe her privacy. The Committee then considered whether this infringement of Mrs Holland's privacy was warranted. In particular the Committee noted that the programme stated:

"Doedd hi ddim isho cael ei ffilmio."

"She didn't wish to be filmed" (agreed translation and programme subtitle).

The Committee also noted that the programme makers had obscured Mrs Holland's face. However, as discussed above at head b), it was clear from the untransmitted material that Mrs Holland did not wish to feature in the programme at all and repeatedly asked for the camera to be turned off. In certain circumstances such recording of material might be justified by an over-riding public interest, for example in exposing criminal activity. However, the Committee

considered that there was no over-riding public interest justification in featuring Mrs Holland in the programme, albeit with her face obscured, and were not persuaded that the material recorded of Mrs Holland's dogs running next to the car justified the inclusion of this additional material. The Committee concluded that the broadcast of specific footage of Mrs Holland, her house and car was not warranted by the nature of the story and that Mrs Holland's privacy was therefore unwarrantably infringed in the broadcast of the programme.

- e) The Committee considered Mrs Holland's further complaint that the programme makers included sufficient information within the film, including nearly all of her postal address, to identify her and her home, and thereby put her security at risk. The Committee noted S4C's response that the programme did not give Mrs Holland's postal address and that the programme makers gave Mrs Holland no assurance that they would not film her house.

The Committee considered the commentary references to the location of Mrs Holland's property which included:

"Cwm Mynach ger Dolgellau ym mherfeddion Meirionnydd."

"Cwm Mynach near Dolgellau is in the heart of Meirionnydd" (agreed translation).

"Cwm Mynach, near Dolgellau, in the heart of Meirionnydd" (programme subtitles).

The Committee noted that, while issues of security do not fall within Ofcom's remit, Paragraph 27 of the Fairness Code states that care must be taken not to make it easy to locate or identify the address of someone who has refused to give an interview, unless it is strictly relevant to the behaviour under investigation and there is an overriding public interest. The Committee considered that the material broadcast of Mrs Holland's home, as discussed above at head d), combined with the commentary lines referring to the location of her property, did make it easy to locate or identify her address. The Committee further considered that in view of her specific request not to participate in the film and the Decision discussed at head b) above, this material and commentary did infringe her privacy and this infringement was not warranted by the nature of the story. This resulted in an unwarrantable infringement of her privacy.

- f) The Fairness Committee next considered Mr Asquith's complaint that the programme contained many factual inaccuracies and portrayed other facts in a wholly misleading fashion which resulted in unfairness to him. The Committee had particular regard to Paragraph 2 of the Fairness Code concerning the responsibilities of broadcasters to avoid unfairness to individuals or organisations featured in programmes through the use of inaccurate information or distortion, for example by the unfair selection or juxtaposition of material. The Committee also took into account Paragraph 7 of the Fairness Code in relation to broadcasters' responsibilities in taking special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations, and in taking all reasonable care to satisfy themselves that all material facts have been considered before transmission and so far as possible fairly presented. Addressing separately each of the individual complaints made by Mr Asquith concerning the programme's content, the Committee's considerations were as follows:

- i. The Fairness Committee considered Mr Asquith's complaint that the reference:

"Ma' ffarmwr yn deud bod o'n cael ei erlid o'i fro enedigol gan fargyfreithiwr o Loegr."

"A farmer is alleging that he is being victimised from the area of his birth by a barrister from England" (agreed translation).

"A farmer who says he is being pushed out of his native valley by barrister from England" (programme subtitle).

was unfair as Mr Asquith is of Welsh extraction, only recently moved to England, and owns no land in the valley. And that the explanation:

"Ma' Marc Asquith yn fargyfreithiwr o dras Cymreig..."

"Marc Asquith, a barrister of Welsh ancestry..." (agreed translation)

"Marc Asquith is a barrister of Welsh descent..." (programme subtitle)

was too far into the programme for viewers to gain a proper understanding of Mr Asquith's background from the outset.

The Fairness Committee noted S4C's response that the description was correct, carefully worded, reflected the views of the farmer and information provided by Mr Asquith, and the description of Mr Asquith's ancestry was only one minute into the programme.

Although it was a view attributed to the farmer, the Fairness Committee considered that the first section complained of served to introduce the dispute at the start of the programme. This seemingly presented the dispute as one between the farmer, Meirion Jones, and Mr Asquith. However, the land was owned by Mrs Holland and Mr Jones's legal dispute was with her. The Fairness Committee considered that the focus on Mr Asquith in the opening description of the dispute was misleading. The emphasis on Mr Asquith set a particular tone which was unfair to him. The Committee therefore found that the reference resulted in unfairness to Mr Asquith in the programme as broadcast.

In relation to the positioning of the explanation of Mr Asquith's ancestry, the Committee did not accept that this was made too far into the programme, since it came on a few minutes after the opening, and this did not consequently result in any unfairness to Mr Asquith.

- ii. The Fairness Committee considered Mr Asquith's complaint concerning the programme's reference in its opening commentary to:

"mewnfudwyr"

"incomers" (agreed translation and programme subtitle).

The Committee noted Mr Asquith's complaint that this description was unfair as the only sense in which he is an "incomer" is in respect of this particular valley and this was clearly not what the programme makers intended to convey.

The Committee also considered S4C's response that Mr Asquith had come to live in an area in which he did not grow up; that the first reference was part of a rhetorical question; and, the second was reporting Mr Jones's perspective.

The Committee noted the two references in the programme's commentary:

"Heno: ydi mudiad Cymuned yn amddiffyn y Cymry neu'n cynddeiriogi mewnfudwyr?"

"Tonight is Cymuned protecting the people of Wales or infuriating incomers?" (agreed translation).

"Tonight, is Cymuned defending Welsh people's interests or simply antagonising incomers" (programme subtitle).

And,

"Ma' newydd-ddyfodiaid i'r Cwm wedi bod yn dychryn y defaid yno."

"Incomers to the Valley have been scaring the sheep here" (agreed translation).

"An incomer has been frightening his sheep in the valley" (programme subtitles).

The Fairness Committee considered that both uses of the word "mewnfudwyr" (incomers) were positioned close to commentary descriptions of the dispute with Mr Jones and therefore could be interpreted as a reference to Mr Asquith. Whilst the word might have been factually correct in relation to Mr Asquith's connection with the valley, it was not used neutrally as a statement of fact. On the contrary, the Committee considered that the context within which it was used on both occasions inferred pejorative connotations as a reference to someone who did not belong and had no right to be in the valley. The Committee found that this resulted in unfairness to Mr Asquith in the programme as broadcast.

- iii. The Fairness Committee considered Mr Asquith's complaint concerning two references, in an interview with the farmer Mr Jones and in commentary, to his control of his dogs:

Cyfeiriad 1: "Cyfweliad: Beth oedd e'n wneud wedyn oedd gyrru'r cŵn 'fyny trwy'r coed tra roedd o'n dreifio'r gweddill y ffordd i fyny at y tŷ .."

Cyfeiriad 2: "Sylwebaith: Mae o'n dadla' bod Meirion Jones yn hapus iddo fynd a'r cŵn drwy'r caea' adeg wyna, i gadw'r llwynogod draw."

First reference: "Interview: What he (Marc Asquith) was then doing, was letting the dogs run through the woods whilst he drove the rest of the way up to the house..."

Second Reference: "Commentary: He (Marc Asquith) contends that Meirion Jones is happy for him to take the dogs through the fields during the lambing season as this keeps the foxes away" (agreed translation).

First reference: "Interview: He (Marc Asquith) would send the dogs to run up through the woodland while he drove up to the house..."

Second reference: "Commentary: He (Marc Asquith) claims Meirion Jones is happy for him to take his dogs through the fields during lambing because they deter foxes" (programme subtitles).

The Committee noted Mr Asquith's complaint that he was entitled to send his dogs to run through Tyn y Coed woodland, and that the references in the programme implied negligence on his part. The Committee also considered S4C's response that the sheep wandered freely in the woodland and that the second reference was included in an attempt to achieve balance on this issue and to advance Mr Asquith's side of the story.

The Committee considered that the first reference, which was part of a list of complaints by Mr Jones, implied negligence and irresponsibility on the part of Mr Asquith, when in fact this was something, as agreed in S4C's submission, in respect of which Mr Asquith did not need Mr Jones' permission.

This was followed by the second reference which was a claim attributed to Mr Asquith in the programme's commentary and which S4C argued, advanced Mr Asquith's case. However, in the Committee's view, since this claim was simply asserted, without any explanation for the sourcing of the commentary line, it did not properly serve to advance Mr Asquith's side of the story and the viewer would have been left with an impression of negligence on the part of Mr Asquith. The Committee therefore considered the references resulted in unfairness to Mr Asquith in the programme as broadcast.

- iv. The Committee then considered Mr Asquith's complaints concerning references in the programme to the removal of stock:

Cyfeiriad 1 "Sylwebaith: ma' Marc Asquith wedi bod yn hel y defaid o Dyn y Coed."

Cyfeiriad 2 "Sylwebaith: nath Marc Asquith droi'r sdoc o gaeau Tyn y Coed."

Cyfeiriad 3 "Cyfweliad Meirion Jones: Ac fe ddaeth Marc Asquith i fan hyn ac roedd e'n lluchio stoc drosodd...yn y gornel pella.

Sylwebaith: Mi oedd ffermwyr lleol yno hefyd yn helpu Meirion Jones i droi'r sdoc yn ôl i'r caeau, ac mi o nhw'n dyst i ymateb Marc Asquith.

Cyfweliad: Mae e'n cydio yn y ddafad, wel, cydio yn ei asgwrn cefn – tu ôl i'w... chefn hi, ac yn ei..yn ei gwâr mewn ffordd ac yn usio'i benglin i luchio'i drosodd."

First reference: "Commentary: Marc Asquith has been driving the sheep from Tyn y Coed."

Second reference: "Commentary: Marc Asquith turned out the stock from the fields of Tyn y Coed."

Third reference: "Interview Mr Jones: Marc Asquith came here and he was throwing stock over in that far corner.

Commentary: Local farmers were also there helping Meirion Jones to turn the livestock back to the fields and they witnessed Marc Asquith's reaction.

Interview: He grabbed hold of a sheep by the rump and the scruff of the neck and then used his knee to throw it over” (agreed translation).

First reference: “Commentary: Marc Asquith has been removing sheep from Tyn y Coed.”

Second reference: “Commentary: Marc Asquith removed the stock from Tyn y Coed.”

Third reference: “Interview Mr Jones: Marc Asquith came here and he was throwing the stock over in that far corner.

Commentary: Some local farmers had come to help Meirion Jones with the sheep and they witnessed Marc Asquith’s reaction.

Interview: He took hold of the sheep at the lower spine and by the scruff and using his knee he threw it over” (programme subtitle).

The Committee noted Mr Asquith’s complaint that the references were inaccurate as the sheep were only moved by Mrs Holland alone at the expiry of the first notice to quit. The Committee also considered S4C’s response that the allegations were made by Mr Jones and admitted by Mr Asquith in a phone conversation.

The Fairness Committee noted that local farmers gave detailed, first hand accounts of the incident discussed, both in the third reference above, and in the full, untransmitted material. The Committee was persuaded that it was reasonable for the programme makers to include this testimony, from local eye witnesses, which supported the allegations concerning Mr Asquith’s actions made both in the commentary and in Mr Jones’s interview. The Committee therefore concluded that it was fair to include these references in the programme.

- v. The Committee considered Mr Asquith’s complaint regarding Mr Jones’s reference, in interview, to Mr Asquith turning the sheep out of the rented field and locking the gates to the field to prevent the sheep from returning:

“Cyfweliad: a gofyn iddo os ma’ fo oedd yn chwara’ gwmpas efo’r gatau ma. Ac mi ddwedodd ma’ fe oedd wrthi.”

“Interview: I asked him if it was he who had been playing about with these gates. And he said that he was doing it” (agreed translation).

“Interview: I asked if he was the one playing around with the gates and he told me he was” (programme subtitles).

The Committee noted Mr Asquith’s complaint that the reference was inaccurate because his actions were in response to Mr Jones leaving the gates open, which was itself an offence under the Highways Act, as confirmed by the local Council. The Committee considered S4C’s response that the main gate was kept shut but the other gates deliberately, and correctly, left open to allow the sheep to roam.

The Fairness Committee was unable to conclude who did what with which gates and the precise chronology of events here, but in order to determine whether or not unfairness had resulted in the programme to Mr Asquith, the

Committee considered it appropriate to examine the wider context of this reference in the broadcast interview with Meirion Jones:

“Cyfweliad: Mi ddaru i mi daro heibio'r tŷ i gael gair gyda Marc...a gofyn iddo os ma' fo oedd yn chwara' gwmpas efo'r gathiau 'ma. Ac mi ddwedodd ma' fe oedd wrthi. A'i eiriau oedd: 'From now on, I'll be telling you where you put your stock up this valley', medda fo wrtha'i. Ac 'ma fi'n dweud wrtho fo: 'No bloody way', medde fi. 'Born and bred here', medde fi wrtho. 'You're only down on weekends', medde fi. 'And you're causing us a lot of bother,' medde fi wrtho, 'by interfering with our way of life.'”

“Interview: I asked him [Marc Asquith] if it was he who had been playing about with these gates. And he said that he was doing it. And his words to me were: 'From now on, I'll be telling you where you put your stock in this valley'. So I told him: 'No bloody way, I was born and bred here. You're only down here at weekends. And you're causing us a lot of bother by interfering with our way of life” (agreed translation).

“Interview: I asked if he [Marc Asquith] was the one playing around with the gates and he told me he was. His words were, 'From now on I'll be telling you where you put your stock on this valley.' 'No bloody way,' I said to him. 'I was born and bred here; you're only down on weekends. You're causing us a lot of bother” (programme subtitles).

Within the wider context of this section, which included remarks attributed to Mr Asquith by Mr Jones, the implication was that Mr Asquith was acting improperly by preventing the movement of Mr Jones's stock back onto the land. However, this was Mrs Holland's land and the alleged removal of the sheep followed the termination of Mr Jones's tenancy. In the Committee's view, the programme unfairly inferred that Mr Asquith was doing something he had no right to do and this resulted in unfairness to him in the programme as broadcast.

The Committee also considered Mr Asquith's further complaint, clarified in his second submission, concerning the reference:

“Ar benwsnosa mae'n dod lawr i Gwm Mynach i weld ei gariad, Susan Holland, ac i baragleidio.”

“At weekends he [Marc Asquith] comes to Cwm Mynach to visit his girlfriend, Susan Holland, and to paraglide” (agreed translation).

“He [Marc Asquith] spends weekends in Cwm Mynach visiting his partner, Susan Holland, and paragliding” (programme subtitles).

The Committee noted Mr Asquith's complaint that this reference implied that he visits the area just to play, when in fact, his weekends are spent on woodland management. The Committee noted that S4C did not appear directly to respond to this complaint which was only clarified in the second submissions to Ofcom. The Committee found that the reference to paragliding itself, the accuracy of which was not contested by Mr Asquith, did not in itself result in unfairness to him in the programme as broadcast. However, the cumulative effect of the portrayal of Mr Asquith is dealt with at Decision head g).

- vi. The Committee considered Mr Asquith's complaint concerning Mr Jones's interview statement:

“Roeddwn i’n teimlo’r adeg hyny...ma’ fi oedd y cymro olaf yn y Cwm.”

“I felt at that time that I was the last Welshman in the Valley” (agreed translation).

“I’m the last Welshman in the Valley” (programme subtitles).

Mr Asquith complained that this was inaccurate as there was another Welsh farmer just below the Tyn y Coed land, and added to the unfairly sympathetic portrayal of Mr Jones’s side of the dispute. The Committee noted S4C’s response that this was accurate as a reference to the small valley of Cwm Mynach.

Whether or not this statement was accurate (which, accepting S4C’s definition of “Cwm”, the Committee considered it would be) it made no reference to Mr Asquith. Consequently, the Committee found that no unfairness resulted to Mr Asquith as a result of the inclusion of this statement in the programme as broadcast.

- vii. The Committee considered Mr Asquith’s complaint concerning a question put by the programme’s reporter to Mr Aran Jones of the Welsh campaigning group Cymuned:

“Gohebydd: Roedd Marc Asquith, ar ôl iddo cyfarfod â chi, yn dweud: ‘Mater i’r gyfraith ydy hwn. Ffrae rhwng dau gymydog. Dwi ddim yn deall beth mae Cymuned yn gwneud yn rhoi eu trwyn yn y busnes yma?’”

“Reporter: After he met with you, Marc Asquith said: ‘This is a legal matter. It is a dispute between two neighbours. I don’t understand what Cymuned is doing poking its nose into this matter’” (agreed translation).

“Reporter: Marc Asquith is of the opinion that a dispute between neighbours is a legal matter. He can’t understand why Cymuned is sticking its nose into it” (programme subtitles).

The Committee noted Mr Asquith’s complaint that the reference to the opinion that Cymuned was “sticking its nose” into the dispute was inaccurately attributed to him, when in fact he expressed to the programme makers his support for Cymuned’s involvement and when Cymuned agreed to broker a deal it was Meirion Jones who rejected this deal. The Committee noted S4C’s response that Mr Asquith’s initial response to Cymuned’s involvement was dismissive and the question was put as a perfectly legitimate point of view.

The Committee was unable to judge whether or not Mr Asquith did make this comment. However it noted that the broadcaster did not contest Mr Asquith’s claim that he supported Cymuned’s involvement, and the programme itself stated that Marc Asquith attended meetings with Aran Jones of Cymuned.

The Committee noted that Mr Aran Jones’s response suggested the question was inaccurate:

“Tasa fo mor syml â hynny, buasa ni ddim wedi mynd yn rhan ohono fe.”

“If it was as straightforward as that, we would not have become involved in it” (agreed translation).

“If it were that simple, Cymuned wouldn’t have become part of it” (programme subtitles).

The Committee concluded that the programme unfairly attributed direct opinions to Mr Asquith without giving an explanation as to the circumstances under which Mr Asquith had voiced them. Without such context, the Committee considered that the assertions gave an unfair impression of Mr Asquith’s position and therefore found that their inclusion resulted in unfairness to Mr Asquith in the programme as broadcast.

- viii. The Fairness Committee next considered Mr Asquith’s complaint that the reference to his home as near Manchester was biased, intended to portray him as an evil rich English Tory barrister trampling the innocent Welsh Farmer, and that it was his mother’s house that was shown not his own more modest house. The Committee also considered S4C’s response that the location was relevant to the issue of how much understanding he could have of Mr Jones’s position and that the information had been taken from the then current website for Cheshire County Council where he is a county councillor.

As discussed above at head b) the complaint of bias appears to relate to the requirement for broadcasters to maintain “due impartiality” on matters of political or industrial controversy and matters relating to current public policy. This is a “standards objective” under Section 319 of the Communications Act 2003 and as such cannot be considered by the Fairness Committee. However, in considering whether Mr Asquith was treated unfairly in the programme, the Committee is able to consider whether the reference to Mr Asquith’s home could result in unfairness to him in the programme as broadcast. In doing so, the Fairness Committee noted the full context of the reference:

“Sylwebaith: Alderley Edge ger Manceinion. Hon ydi un o ardaloedd cyfoethca’ Prydain efo mwy o filiwnyddion y filltir sgwar yma na bron nunlla. Fan hyn oedd David Beckham yn arfer byw tra’n chwarae i Manchester United. [Gohebydd i gamera] “Fan hyn hefyd mae Marc Asquith yn byw...yn y tŷ ‘ma tu cefn i mi.”

“Commentary: Alderley Edge near Manchester. This is one of the richest areas in Britain with more millionaires per square mile than almost anywhere else. It was here that David Beckham lived whilst he played for Manchester United. [Reporter to camera] This is also where Marc Asquith lives, in this house behind me” (agreed translation).

“Commentary: Alderley Edge, near Manchester is one of Britain’s richest regions with more millionaires per square mile than almost anywhere else. This is where David Beckham used to live when he played for Manchester United. [Reporter to camera] This is also where Marc Asquith lives, in the house behind me” (programme subtitles).

The Committee noted further submissions regarding the accuracy of the information on the Cheshire County Council website and concerning electoral roll information. However the Committee concluded that Mr Asquith had not provided evidence to persuade the Committee that the reference to, and footage of, the house shown resulted in any unfairness to him, for example by

demonstrating how viewers' perceptions and opinions of him would have been likely to have been significantly different or in any way materially diminished by the material included in this section of the programme. The Committee did not therefore find any unfairness to Mr Asquith in this respect.

- g) The Committee next considered Mr Asquith's complaints that the programme makers exhibited bias, inaccurately portraying him over all as the protagonist and "evil English wealthy barrister" despite information provided to them; that in spite of his wish not to appear in the programme the complainants featured for around six minutes; and, the programme makers also unfairly omitted to broadcast an interview recorded with a neighbour, Mr Mygind which would have shown that Mr Jones behaved unreasonably in other situations and was the cause of his own difficulties.

Again, as discussed above at head b) the complaint of bias appears to relate to the requirement for broadcasters to maintain "due impartiality" on matters of political or industrial controversy and matters relating to current public policy. This is a "standards objective" under Section 319 of the Communications Act 2003 and as such cannot be considered by the Fairness Committee. However, in considering whether Mr Asquith was treated unfairly in the programme, the Committee is able to consider whether overall the portrayal of Mr Asquith was unfair in its cumulative effect.

In its considerations, the Committee had particular regard to the responsibilities on broadcasters, discussed above, to avoid unfairness to individuals or organisations featured in programmes through the use of inaccurate information or distortion, for example by the unfair selection or juxtaposition of material (the Fairness Code paragraph 2). The Committee noted S4C's response that the story was not a conflict between English and Welsh but between different ways of life. However, taking into consideration the overall findings at Decision head f), it was the Committee's view that while the intent of the programme may have been to consider issues concerning differing ways of life, the cumulative effect of the presentation of Mr Asquith in the programme as broadcast resulted in an unfair portrayal of Mr Asquith, his actions and motivation.

In its consideration of Mr Asquith's further complaint that he featured in the programme when he did not wish to appear, the Committee noted S4C's response that the length of time the complainants featured in the programme reflected the amount of time they spent approaching the camera. The Committee examined, in detail, the untransmitted material filmed with Mr Asquith. This material showed Mr Asquith repeatedly stating that he did not wish his discussions with the camera crew to be filmed and repeatedly asking for the camera to be turned off.

Paragraph 12 of the Fairness Code clearly explains the rights of any person to refuse to participate in a programme. Paragraphs 25, 26 and 27 of the Fairness Code detail programme makers' responsibilities only to feature such a person if they reasonably believe that their inclusion in the programme would serve an overriding public interest and where reasonable requests for a contribution by the person have met with refusal. S4C provided no evidence that the programme makers had exhausted reasonable requests for Mr Asquith to provide an off-camera contribution whether by letter, phone or in face to face conversation. Indeed the Committee noted, from consideration of the untransmitted material, that both Mr Asquith and Mrs Holland requested opportunities to speak to the programme makers off-camera and explain their position. In these circumstances, the Committee was not satisfied that there was any such justification for the

inclusion of Mr Asquith in the programme. Mr Asquith's inclusion in the programme therefore resulted in unfairness to him in the programme as broadcast.

Mr Asquith's final fairness complaint was that the programme makers recorded, but did not broadcast, an interview with a neighbour, Mr Mygind, and that this resulted in unfairness to him. As discussed at head b) above in relation to Mrs Holland the interview recorded with Mr Mygind provided additional context which would have been relevant to understanding the dispute between Mrs Holland and Mr Jones. Whilst it was a matter for the programme makers whether or not to include footage of this interview in the programme, the programme makers did have a duty to take all reasonable care to satisfy themselves that all material facts had been considered before transmission (Paragraph 7 of the Fairness Code). The Committee therefore set out to consider whether the programme makers had omitted to include material facts in the programme which would have affected the viewers' understanding of Mr Asquith's dealings with Mr Jones, and therefore their perception of his portrayal in the programme.

Although Mr Asquith was mentioned in the interview with Mr Mygind (Mr Mygind described him as "*reasonable but determined*") it did not, as a whole, relate to Mr Jones's dealings with Mr Asquith. Indeed Mr Mygind commented on relations between Mr Jones and Mr Asquith "*I don't really know the facts so I don't want to comment on them*". The Committee considered that the interview showed Mr Jones to be a man who had disputes with other long-settled land owners in the area and that Mrs Holland was not the only land owner who had found herself in disagreement with Mr Jones. However, unlike Mrs Holland, Mr Asquith does not own the land in question and this recorded material, of an interview with a landowner, was not therefore relevant in assisting to contextualise relations between Mr Asquith and Mr Jones. The programme makers' decision not to include in the programme material facts arising from this interview did not therefore result in unfairness to Mr Asquith.

- h) Finally, the Fairness Committee considered Mr Asquith's complaint that his privacy was unwarrantably infringed in the making and broadcast of the programme and that the programme makers effectively door-stepped him, filming and broadcasting his discussions with them in spite of his request not to do so. The Committee also considered S4C's response that Mr Asquith's argument was not that the programme makers were filming him but that they were filming on land where they had no right to film; that on occasions he clearly wanted to be filmed; and, that he was not door-stepped as he chose to stop and debate matters with the film crew.

The Committee first addressed the issue of whether Mr Asquith's privacy was infringed in the recording and broadcast of material of him. In its consideration of the recording of the material, the Committee considered both the transmitted and untransmitted footage recorded of Mr Asquith. The Committee had regard to the responsibility of programme makers in their use of cameras on both public and private property, when the subject is on private property, under Paragraph 18 (iii) of the Fairness Code. This states that such use must be appropriate to the importance or nature of the story and such recording should not intrude unnecessarily on private behaviour. Mr Asquith made repeated requests for the camera to be turned off. The interview in relation to which Mr Asquith said he was doorstepped was clearly an impromptu one and had features of a doorstep (in that it was not pre-arranged and he said he did not want to be interviewed), but Mr Asquith was not doorstepped in the normal sense of the term. However, from the

footage of this particular incident it was clear that the programme makers were already filming as Mr Asquith drove towards them and that they continued to film him despite him asking them to stop filming. As discussed at Decision head g) above the gathering of material in such a way was not justified and consequently, the Committee considered that the recording of this footage did infringe Mr Asquith's privacy. The Committee further concluded that the broadcast of this material in the programme was also intrusive and infringed his privacy.

The Committee then moved on to consider whether the infringement of Mr Asquith's privacy, in the recording and broadcast of the material, was warranted. The Committee examined the untransmitted material filmed with Mr Asquith in detail as discussed above. This material showed Mr Asquith repeatedly stating that he did not wish his discussions with the camera crew to be filmed and repeatedly asking for the camera to be turned off. In certain circumstances such recording of material might be justified by an over-riding public interest, for example in exposing criminal activity, however the Committee was not satisfied that there was any public interest justification for either the recording or the broadcast of material featuring Mr Asquith, in the impromptu interview, or other material recorded with him. The recording and broadcast of footage of Mr Asquith therefore resulted in an unwarranted infringement of his privacy in the programme as broadcast.

The complaints of unfair treatment and unwarranted infringement of privacy were, with certain limited exceptions, upheld.

Cwyn gan Mrs Susan Holland a Mr Marc Asquith

Y Byd ar Bedwar, S4C, 14 Mehefin 2005

Crynodeb: Mae Ofcom wedi cynnal, gydag eithriadau cyfyngedig neilltuol, y cwynion hyn o driniaeth annheg a thorri ar breifatrwydd anesgusodol.

Cwynodd Mrs Susan Holland a Mr Marc Asquith eu bod wedi eu trin yn annheg a bod eu preifatrwydd wedi ei dorri yn anesgusodol mewn rhifyn o'r rhaglen materion cyfoes Y Byd ar Bedwar yr oeddent yn ymddangos arni. Cwynodd Mrs Holland a Mr Asquith bod y rhaglen, oedd yn ymwneud â thenantiaeth pori dadleuol, wedi eu portreadu yn annheg ac yn cynnwys lluniau ohonynt ac o eiddo Mrs Holland, a recordiwyd ac a ddarllledwyd heb eu caniatâd. Ymateb S4C oedd bod portread y rhaglen o Mrs Holland a Mr Asquith yn deg ac yn gywir ac nad oedd y lluniau a ddarllledwyd yn torri yn anesgusodol ar eu preifatrwydd.

Darganfu Ofcom bod portread y rhaglen o Mrs Holland a Mr Asquith yn annheg, trwy gyfrwng datganiadau unigol a wnaethpwyd amdanynt a thrwy effaith gronnol y rhaglen yn gyfan gwbl. Darganfu Ofcom ymhellach bod y deunydd a recordiwyd ac a ddarllledwyd oedd yn benodol yn eu ffilmio nhw, a'r hyn a ddangoswyd o dŷ Mrs Holland, yn torri yn anesgusodol ar eu preifatrwydd. Roedd Ofcom yn ystyried nad oedd y ffilmio cyffredinol o eiddo arall Mrs Holland, fel y'i recordiwyd ac y'i darllledwyd, yn torri yn anesgusodol ar ei phreifatrwydd.

Cyflwyniad

Roedd y rhifyn hwn o'r rhaglen materion cyfoes Y Byd ar Bedwar yn edrych ar anghydfod ynglŷn â thenantiaeth pori. Roedd yr anghydfod, a drafodwyd gan Cymuned, grŵp pwyso Cymreig sydd yn ymgyrchu dros hawliau cymunedau Cymraeg eu hiaith, yn ymwneud â chaeau wedi'u rhentu yn Tyn y Coed, yng Nghwm Mynach, Meirionnydd. Mae'r caeau yn eiddo i Mrs Susan Holland ac maent yn cael eu pori gan ffermwr lleol Mr Meirion Jones.

Esboniodd y rhaglen fod cenedlaethau o deulu Mr Jones wedi ffermio tir yng Nghwm Mynach a dywedwyd mai dim ond un person Cymraeg sydd yn dal i fyw a ffermio yno, sef Mr Jones. Edrychodd y rhaglen ar y berthynas rhwng Mr Jones ar un llaw a Mrs Holland a'i phartner Mr Marc Asquith ar y llaw arall. Roedd yn disgrifio anghydfod rhwng y partïon, yn cynnwys y mater o gŵn oedd yn perthyn i Mrs Holland a Mr Asquith yn rhedeg ar draws y tir yr oedd Mr Jones yn ei rentu yn ystod y tymor wyna. Trafododd y rhaglen sut yr oedd Mrs Holland wedi rhoi rhybudd i Mr Jones adael y tir a bod anghydfod pellach wedi codi oherwydd symud stoc Mr Jones a chloi'r clwydi i atal Mr Jones rhag dychwelyd y stoc ar y tir. Roedd cyfweiliadau hefyd gyda ffermwr lleol oedd wedi gweld y stoc yn cael ei symud.

Edrychodd y rhaglen ar rôl Cymuned yn yr ymdrech i ddatrys yr anghydfod ac roedd yn cynnwys cyfweiliad gyda'i Brif Weithredwr, Mr Aran Jones. Esboniodd y rhaglen bod Mrs Holland wedi cael gorchymyn llys i droi Mr Meirion Jones allan o'i thir. Trafodwyd cartref Mr Asquith yn Lloegr, yn ogystal â'r anghydfod rhwng gwneuthurwyr y rhaglen a Mr Asquith a Mrs Holland ynglŷn â ffilmio ar eiddo Mrs Holland ac oddi ar y ffordd gyhoeddus sydd yn rhedeg trwyddo. Gorffennodd y rhaglen trwy ddangos gofid Mr Jones dros golli'r denantiaeth.

Dangoswyd Mrs Holland (oedd â'i wyneb wedi ei guddio), a'i phartner Mr Marc Asquith yn y rhaglen.

Cwynodd Mrs Holland a Mr Asquith bod eu preifatrwydd wedi ei dorri yn anesgusodol wrth wneud ac wrth ddarlledu'r rhaglen a'u bod wedi eu trin yn annheg.

Y Gŵyn

Achosion Mrs Holland a Mr Asquith

I grynhoi, cynnodd Mrs Holland ei bod wedi ei thrin yn annheg oherwydd:

- w) Roedd nifer o anghywirdebau ffeithiol yn y rhaglen ac roedd yn portreadu ffeithiau eraill mewn dull hollol gamarweiniol oedd yn creu annhegwch iddi hi, yn cynnwys y canlynol:
- ix. Roedd y disgrifiad yn sylwebaeth y rhaglen o'r ffermwr Mr Jones, yn cael ei 'wthio allan o'r cwm' yn annheg. Dim ond wyth acer o'r cwm oedd yn eiddo i Mrs Holland o ran caeau ac roedd wedi cynnig iddo aros arnynt am flwyddyn arall.
 - x. Roedd y cyfeiriad yn sylwebaeth y rhaglen at Mrs Holland fel 'mewnfudwraig' a chwestiwn rhethregol Mr Jones mewn cyfweiliad 'pam prynu tŷ mewn lleoliad o'r fath?' yn annheg. Mae Mrs Holland wedi byw yn y Cwm am dros ddeugain mlynedd ac wedi byw yno yn llawn amser am y degawd diwethaf
 - xi. Roedd disgrifiad yn y sylwebaeth fod 'y rhan fwyaf o'r tai yn y Cwm hwn yn gartrefi gwyliau' a'r awgrym fod Mrs Holland yn berchennog ail gartref yn annheg gan mai'r cartref a'r tir yw ei phreswylfa llawn amser.
 - xii. Roedd y cyfeiriad yn y sylwebaeth at Mrs Holland yn 'gadael i'w chŵn redeg yn rhydd o'u tennyn' yn annheg gan nad yw hyn yn drosedd. Ac yn wir, pan ddaeth Mr Jones ag achos yn ei herbyn am boeni defaid ni chafodd yr achos ei gynnal. Roedd y cyfeiriad bod Mrs Holland wedi rhoi 'rhybudd terfynol' i Mr Jones 'ldio'r denantiaeth dros flwyddyn yn ôl' hefyd yn annheg gan fod y rhaglen wedi portreadu'r rhybudd i adael fel rhywbeth yn dilyn achos llys Mr Jones yn erbyn Mrs Holland mewn perthynas â'i chŵn. Mewn gwirionedd roedd y gwrthwyneb yn wir. Daeth Mr Jones â'r achos llys, ynglŷn â chŵn Mrs Holland, ar ôl y rhybudd i adael.
 - xiii. Roedd y cyfeiriad yn y sylwebaeth ei 'bod hi (Mrs Holland) yn dadlau nad yw Meirion Jones angen ei thir mewn gwirionedd' yn annheg gan fod Mrs Holland yn derbyn yn foisol, yn hanesyddol ac yn ddiwylliannol y dylai teulu'r Jones fod yn pori ei thir. Gweithrediadau Mr Jones arweiniodd at wrthod gadael iddo bori'r tir.
 - xiv. Roedd y rhan o'r rhaglen am ffermwyr lleol oedd yn honedig wedi gweld Mr Asquith yn symud defaid Mr Jones hefyd yn anghywir, yn rhagfarnlyd ac yn annheg i Mrs Holland oherwydd nad oedd wedi crybwyll mai Mrs Holland, ar yr achlysur y cyfeiriwyd ato, a gasglodd ac a symudodd y defaid.
 - xv. Roedd y cyfeiriad yn y sylwebaeth fod 'Meirion Jones wedi mynd i'r llys' yn anghywir ac yn annheg i Mrs Holland gan mai hi mewn gwirionedd a gychwynodd yr achos. Roedd y cyfeiriad sylwebaeth pellach 'yn Ebrill cafodd orchymyn Llys i symud y ffermwr oddi ar ei thir' yn anghywir gan na chafwyd hynny tan 8 Gorffennaf 2005. Roedd hefyd yn annheg i Mrs Holland gan nad oedd wedi ei orfodi oddi ar y tir; doedd ganddo ddim hawl i aros.

xvi. Roedd y cyfeiriad yn y sylwebaeth bod y ffordd dros ei thir yn 'ffordd breifat' yn anghywir a phriodolodd y rhaglen y disgrifiad anghywir hwn o'r ffordd yn annheg i Mrs Holland. Mewn gwirionedd, ffordd gyhoeddus yw'r ffordd sydd yn mynd dros ei thir ac nid ffordd breifat.

x) Yn gyffredinol dangosodd gwneuthurwyr y rhaglen ragfarn, a dewis anwybyddu'r ffeithiau gan bortreadu Mrs Holland yn annheg fel perchennog cartref gwyliau o Loegr oedd wedi taflu ffermwr Cymreig oddi ar ei thir oherwydd nad oedd yn hoffi ei weithgarwch ffermio.

Er gwaethaf dymuniad pendant yr achwynydd i beidio ag ymddangos ar y rhaglen, fe'i dangoswyd ar y rhaglen am tua chwe munud.

Ni ddarlledodd gwneuthurwyr y rhaglen gyfweiliad chwaith a recordiwyd gyda chymydog, Mr Mygind, a fyddai wedi dangos bod Mr Jones wedi ymddwyn yn afresymol gyda chymdogion eraill ac mai ef ei hun oedd achos ei anawsterau. Roedd gadael hyn allan yn creu annhegwch i Mrs Holland.

I grynhoi, cwynodd Mrs Holland bod ei phreifatwydd wedi ei dorri yn anesgusodol wrth wneud ac wrth ddarlledu'r rhaglen oherwydd:

- c) Daeth gwneuthurwyr y rhaglen ar ei thir heb ganiatâd gan recordio ffilm er gwaethaf ei cheisiadau i beidio â gwneud hynny.
- d) Darlledodd gwneuthurwyr y rhaglen y ffilm a recordiwyd ar ei thir er gwaethaf ei cheisiadau iddynt beidio â gwneud hynny. Ymhellach, defnyddiodd gwneuthurwyr y rhaglen y pennawd 'doedd hi ddim eisiau cael ei ffilmio' dros ddarn o ffilmio a ddarlledwyd o Mrs Holland pan nad oedd yn dymuno cymryd rhan yn y ffilm mewn unrhyw ffordd.
- e) Cynhwysodd gwneuthurwyr y ffilm ddigon o wybodaeth yn y ffilm, yn cynnwys bron y cyfan o'i chyfeiriad post, i'w hadnabod hi a'i chartref ac felly rhoi ei diogelwch mewn perygl.

I grynhoi, cwynodd Mr Asquith ei fod wedi ei drin yn annheg oherwydd:

- f) Roedd nifer o anghywirdebau ffeithiol yn y rhaglen ac roedd yn ei bortreadu yn anghywir, gan esgor ar annhegwch iddo ef, yn cynnwys:
 - viii. Roedd y cyfeiriad yn y sylwebaeth i'r ffermwr, Mr Jones, yn dweud ei fod yn 'cael ei wthio allan o'i gwm genedigol gan 'fargyfreithiwr o Loegr' yn annheg gan fod gan Mr Asquith wreiddiau Cymreig a dim ond yn ddiweddar wedi symud i Loegr ac nid yw'n berchen ar unrhyw dir yn y Cwm. Ymhellach roedd yr esboniad am ei 'wreiddiau Cymreig' yn rhy bell i mewn i'r rhaglen i wylwyr gael dealltwriaeth gywir o gefndir Mr Asquith o'r cychwyn gan esgor ar annhegwch iddo.
 - ix. Roedd y cyfeiriadau yn y sylwebaeth ato fel 'mewnfudwr' yn annheg gan mai dim ond mewn perthynas â'r Cwm neilltuol hwn y mae'n 'fewnfudwr', ac roedd yn amlwg nad hyn yr oedd gwneuthurwyr y rhaglen yn bwriadu ei gyfleu.
 - x. Roedd y cyfeiriad, yng nghyfweliad Mr Jones, at Mr Asquith yn anfon ei gŵn i redeg trwy goedlan Tyn y Coed yn annheg gan fod ganddo berffaith hawl i

wneud hyn; ymhellach roedd cyfeiriadau eraill at y cŵn yn y caeau yn ystod y tymor wyna yn rhoi awgrym annheg o esgeulustod.

- xi. Roedd y cyfeiriad yn y sylwebaeth ac mewn cyfweliadau gyda Mr Jones a gyda ffermwyr lleol at Mr Asquith 'yn symud defaid' a 'stoc' yn anghywir ac yn bortread annheg ohono gan mai Mrs Holland yn unig a symudodd y defaid ar adeg y cyfnod y daeth y rhybudd cyntaf i adael dirwyn i ben
- xii. Roedd y cyfeiriad mewn cyfweliad gyda Mr Meirion Jones at Mr Asquith yn 'chwarae o gwmpas gyda'r clwydi' i atal defaid Mr Jones rhag dychwelyd i'r caeau yn anghywir ac yn bortread annheg o Mr Asquith. Mewn gwirionedd roedd yn gweithredu mewn ymateb i'r ffaith bod Mr Jones wedi gadael y clwydi ar agor a chadarnhawyd hyn gan y Cyngor fel trosedd o dan y Ddeddf Priffyrdd.
- xiii. Roedd datganiad Mr Jones mewn cyfweliad 'fi yw'r Cymro olaf yn y Cwm' yn anghywir gan fod ffermwr Cymraeg arall yn byw islaw tir Tyn y Coed ac roedd hyn yn ychwanegu at y portread cydymdeimladol annheg o ochr Mr Jones o'r anghydfod.
- xiv. Roedd y rhaglen yn priodoli i Mr Asquith y farn fod Cymuned, y grŵp pwysau Cymreig sydd yn ymgychu dros hawliau cymunedau Cymraeg eu hiaith, yn 'gwthio'u trwynau' i'r anghydfod. Roedd hyn yn annheg gan ei fod mewn gwirionedd yn cefnogi cyfranogiad Cymuned yn yr ymdrech i ddatrys yr anghydfod ac wedi mynegi'r farn honno i wneuthurwyr y rhaglen.
- viii. Roedd cyfeiriad y rhaglen mewn sylwebaeth ac yng nghyfraniad y gohebydd i'r camera, at ei gartref ger Manceinion yn rhagfarnllyd; gyda'r bwriad o'i bortreadu, yn annheg, fel bargyfreithiwr Torïaidd Saesneg cyfoethog drwg oedd yn sathru ar ffermwr Cymraeg diniwed; hefyd tŷ ei fam a ddangoswyd ac nid ei dŷ mwy cyffredin ef ei hun.
- g) Roedd gwneuthurwyr y rhaglen yn rhagfarnllyd wrth wneud y rhaglen gan ei bortreadu yn anghywir fel y cefnogwr ac fel bargyfreithiwr cyfoethog dieflig er gwaethaf yr wybodaeth a roddwyd iddynt. Yn ychwanegol, nid oedd elfennau lliniarol bach o'r sylwebaeth yn tynnu oddi wrth annhegwch cyffredinol y portread.

Er gwaethaf dymuniad yr achwynydd i beidio ag ymddangos ar y rhaglen, mae'n ymddangos arni am tua chwe munud.

Ni ddarllodd gwneuthurwyr y rhaglen gyfweliad a recordiwyd gyda chymydog, Mr Mygind chwaith a fyddai wedi dangos fod Mr Jones wedi ymddwyn yn afresymol mewn sefyllfaoedd eraill ac mai ef oedd achos ei anawsterau ei hun. Roedd gadael hyn allan yn esgor ar annhegwch i Mr Asquith.

I grynhoi cwynodd Mr Asquith bod ei breifatrwydd wedi ei dorri yn anesgusodol wrth wneud ac wrth ddarlledu'r rhaglen oherwydd:

- h) I bob pwrpas roedd gwneuthurwyr y rhaglen wedi gwthio eu hunain arno gan ffilmio a darlledu ei drafodaethau gyda nhw er gwaethaf ei gais i beidio â gwneud hynny.

Achos S4C

I grynhoi ymatebodd y darlledwr i'r cwyn tegwch gan Mrs Holland trwy:

- a) Roedd *Y Byd ar Bedwar* yn gyfres materion cyfoes gydag enw da. Yn y rhifyn hwn, ymchwiliodd i faterion ehangach achos y ffermwr Mr Meirion Jones oedd wedi dwyn sylw'r grŵp pwysau Cymuned. Roedd yr hanes yn ficrocosm o'r tensiwn rhwng y dull traddodiadol o fyw a dull o fyw mewnfudwyr sydd ag ychydig yn gyffredin gyda'r cymunedau y maent yn byw yn eu mysg. Nid gwrthdaro rhwng y Saeson a'r Cymry ydoedd ond rhwng gwahanol ffyrdd o fyw. Yr oedd o fudd i'r cyhoedd i adrodd y stori hon ac fe'i hadroddwyd fel anghydfod cymhleth na fyddid gobeithio yn cael ei ailadrodd. Byddai ailadrodd anghydfod o'r fath yn esgor ar ganlyniadau difrifol i gysylltiadau rhwng y brodorion a'r rhai y maent yn eu gweld fel bygythiad i'w ffordd o fyw ac i'w hiaith.
- ii. Roedd y ffermwr Mr Jones yn teimlo ei fod yn 'cael ei wthio o'r cwm' oherwydd roedd yr wyth acer yr oedd yn eu rhentu gan Mrs Holland yn gysgodol gyda modd o ael gafael ar ddŵr ac felly yn hanfodol iddo yn y tymor wyna pan oedd y defaid yn crwydro rhwng cae rhent Tyn y Coed a'r goedlan gyfagos. Heb dir Tyn y Coed yn y tymor wyna, dim ots faint o aceri o dir y gallai'r defaid eu crwydro am weddill yr amser, ni fyddai'n gallu parhau i weithio a byw yno.
- ii. Yn ôl Geiriadur Cryno Rhydychen roedd Mrs Holland yn 'fewnfudwraig' gan ei bod wedi dod i fyw mewn ardal lle na chafodd ei magu ynddi; roedd y cyfeiriad at fewnfudwr yn rhan o gwestiwn rhethregol am waith y grŵp pwysau Cymuned: 'Heno, a yw Cymuned yn amddiffyn buddiannau pobl Cymru neu yn gelyniaethu mewnfudwyr yn unig' (is-deitl y rhaglen)).
- Hefyd roedd cyfeiriad dilynol Mr Jones 'pam prynu tŷ yn y fath leoliad?' yn gyfeiriad at unrhyw fewnfudwr yn dewis byw mewn amgylchedd gwledig.
- iii. Roedd yn gywir dweud bod y rhan fwyaf o'r tai yn y 'Cwm' hwn yn gartrefi gwyliau gan fod y cyfeiriad at y 'Cwm' yn gyfeiriad yn unig at y cwm bychan (Cwm Mynach) oedd yn cynnwys fferm Mr Jones, tŷ Ms Holland a phedwar cartref gwyliau. Y cyfeiriad at ail gartref oedd esboniad Mr Aran Jones o Gymuned, o oblygiadau ehangach y math hwn o anghydfod. Nododd S4C bod cyfeiriad busnes Mrs Holland ym Manceinion lle mae'n treulio tua thair noson yr wythnos.
- vi. Rhoddodd y rhaglen grynhoed teg o'r achos a dangosodd nad oedd sail i honiadau Mr Jones yn erbyn Mrs Holland. Roedd y gŵyn am y cyfeiriad at Mrs Holland wedi rhoi 'rhybudd terfynol i roi'r gorau i'r denantiaeth dros flwyddyn yn ôl' yn ymddangos i fod yn ddadl dros gronoleg ac ni achosodd unrhyw annhegwch. Roedd y rhaglen wedi nodi'n glir fod y rhybudd i adael yn dilyn hanes o anghydfodau.
- vii. Roedd Mrs Holland wedi derbyn fod Mr Jones angen ei thir oedd yn gwrthddweud ei chŵyn blaenorol nad oedd angen ei wyth acer. Ymhellach roedd gwneuthurwyr y rhaglen yn dibynnu ar yr hyn y dywedodd yr achwynydd wrthynt pan ddefnyddiwyd ei ddatganiad yn y rhaglen ac yn ystyried y byddai'r rhan fwyaf o wylwyr yn cytuno gyda Mrs Holland nad oedd gweithrediadau Mr Jones wedi helpu ei achos.
- vi. Roedd y disgrifiad o ffermwyr lleol yn helpu Mr Jones gyda'r stoc yn wybodaeth gan Mr Jones.
- ix. Roedd y cyfeiriad yn y sylwebaeth at 'aeth Meirion Jones i'r Llys' yn crynhoi'r sefyllfa; doedd dim ots pwy oedd wedi cychwyn yr achos. Ymhellach,

dealltwriaeth y gwneuthurwyr rhaglen oedd y llinell sylwebaeth 'Ym mis Ebrill cafod orchymyn Llys' o'r hyn a ddywedodd Mr Jones, ond beth bynnag, mae'r achwynwyr yn cadarnhau nad oedd hawl i fod ar y tir o ddyddiau olaf Mawrth ac felly fe'i gorfodwyd oddi ar y tir.

- x. Dywedodd Mrs Holland wrth wneuthurwyr y rhaglen mai ffordd breifat yr oedd yn berchen arni oedd y ffordd dros ei thir. Y cyngor sir a gadarnhaodd mai priffordd gyhoeddus oedd y ffordd.

b) Cafodd y mater o ragfarn ei drafod gyda'r sylwadau agoriadol uchod dan a).

Roedd y cyfnod o amser yr ymddangosodd yr achwynydd yn y rhaglen yn adlewyrchu'r amser a dreuliodd yn dod at y criw camera. Roedd yn amheus a oedd Mrs Holland wedi newid ei meddwl ynglŷn â'i dymuniad i beidio ag ymddangos ond penderfynodd gwneuthurwyr y rhaglen fod yn ofalus trwy guddio ei wyneb yn y deunydd a ddarledwyd.

Ni chafodd y cyfweiliad gyda'r cymydog Mr Mygind ei ddefnyddio gan ei fod yn ymwneud ag anghydfod gwahanol iawn ynglŷn â sut y dylid ffermio'r tir.

I grynhoi, ymatebodd y darlledwr i'r gŵyn preifatrwydd gan Mrs Holland trwy:

- f) O ran recordio deunydd ar dir Mrs Holland roedd gwneuthurwyr y rhaglen yn credu fod ganddynt hawl i ffilmio gan eu bod ar ochr priffordd gyhoeddus rhwng wyneb y ffordd a ffens y cae. Roedd yn ddadleuadwy a oedd y darn hwn o dir yn eiddo preifat i Mrs Holland neu yn rhan o'r briffordd gyhoeddus. Roedd gwneuthurwyr y rhaglen yn credu ei fod yn rhan o'r briffordd gyhoeddus ac felly roedd ganddynt hawl i ffilmio oddi yno. Ond os oeddent yn anghywir yn hyn o beth, roeddent yn ymddiheuro. Cafodd y lluniau eraill eu tynnu o'r briffordd ei hun lle roedd ganddynt hawl i ffilmio.

- g) O ran darlledu'r deunydd a recordiwyd ar dir Mrs Holland roedd gwneuthurwyr y rhaglen yn gwadu fod hyn yn torri ar breifatrwydd Mrs Holland. Am y rhesymau a roddwyd uchod yn c) roedd gwneuthurwyr y rhaglen yn credu fod ganddynt hawl i ffilmio ac felly darlledu'r deunydd a recordiwyd ar, neu wrth ymyl y briffordd gyhoeddus.

Roed gwneuthurwyr y rhaglen yn deall nad oedd Mrs Holland eisiau ymddangos yn y rhaglen ac er na ellid gwneud y rhaglen heb gyfeirio ati, fe barchwyd ei dymuniadau gan guddio ei wyneb yn y deunydd a ddarledwyd. Roedd gwneuthurwyr y rhaglen yn iawn i'w ffilmio yn ei char gan eu bod eisiau dangos y cŵn yn rhedeg wrth ymyl y car ac felly nid o dan ei rheolaeth.

- h) Ni chafodd cyfeiriad post Mrs Holland ei ddatgelu ar y rhaglen. Roedd yr achwynwyr yn fwriadol wedi gorddatgan pryderon am ddiogelwch ond o ran parch i ansicrwydd menyw yn byw mewn lleoliad unig ni ddangosodd gwneuthurwyr y rhaglen ei wyneb na rhif cofrestru'r car a gwnaethant eu gorau i beidio â dangos ei chartref. Y tu ôl i'r gŵyn hon mae'r awgrym y gallai fod wedi dod yn darged i ymgyrchwyr iaith Gymraeg milwriaethus. Ond daeth yr ymgyrch losgi yn targedu cartrefi gwyliau i ben yn gynnar yn yr 1990au. Er na wnaeth gwneuthurwyr y rhaglen enwi ei chartref ni wnaethant roi unrhyw sicrwydd i Mrs Holland na fuasent yn ffilmio ei thŷ. Roeddent wedi gweithredu yn unol â'i dymuniad i beidio ag ymddangos yn y rhaglen.

I grynhoi ymatebodd y darlledwr i'r gŵyn tegwch gan Mr Asquith trwy:

- f) Mae'r sylwadau agoriadol yn a) uchod yn delio â'r pwyntiau cyffredinol a godwyd gan yr achwynydd.
- ii. Roedd y disgrifiad o Mr Asquith wedi ei eirio'n ofalus. Roedd yn gywir i ddweud ei fod yn fargyfreithiwr o Loegr: y pwynt oedd y gwahaniaeth rhwng y ffermwr brodorol a'r person yr oedd ef yn ei ystyried oedd yn ei wthio allan. Roedd y rhaglen yn adlewyrchu'r hyn a ddywedwyd gan Mr Asquith, sef ei fod o dras Gymreig, manylyn pwysig i osgoi'r argraff mai anghydfod oedd hwn rhwng Cymry a Saeson a chafodd hyn ei grybwyll am un munud yn unig i mewn i'r rhaglen.
 - ix. Yn ôl Geiriadur Cryno Rhydychen roedd Mr Asquith yn 'fewnfudwr' oherwydd ei fod wedi dod i fyw i ardal lle nad oedd wedi ei fagu ynddi; roedd y cyfeiriad at fewnfudwr yn rhan o gwestiwn rhethregol am waith Cymuned. Adroddodd y rhaglen hefyd bersbectif nid afresymol Mr Jones fod Mr Asquith yn fewnfudwr
 - x. Gallai defaid Mr Jones grwydro'n rhydd yng nghoedlan Tyn y Coed; cyfeiriodd y rhaglen at fodlonrwydd Mr Jones i Mr Asquith fynd â'i gŵn trwy'r caeau yn ystod y tymor wyna mewn ymdrech i gael cydbwysedd ar y pwnc hwn a hyrwyddo ochr Mr Asquith o'r stori.
 - xi. Roedd y cyfeiriadau at Mr Asquith yn 'symud defaid' a 'stoc' ac at ffermwyr lleol yn helpu Mr Jones i ddychwelyd y defaid ar y tir yn dyfynnu honiad a wnaethpwyd gan Mr Jones. Ymhellach roedd Mr Asquith wedi cyfaddef mewn sgwrs ffôn gyda gwneuthurwyr y rhaglen ei fod wedi cau'r defaid allan gan wneud unrhyw anghywirdeb yn amherthnasol.
 - xii. Roedd y brif glwyd dan gartref Mrs Holland bob amser ar gau. Roedd y clwydi eraill wedi'u gadael ar agor yn fwriadol ac yn gywir er mwyn caniatáu i'r defaid grwydro.
 - xiii. Roedd datganiad Mr Jones 'fi yw'r Cymro olaf yn y Cwm' yn gywir fel cyfeiriad at gwm bychan Cwm Mynach.
 - xiv. Ni allai gwneuthurwyr y rhaglen ymateb i'r cyfeiriad at farn ynglŷn â Cymuned heb ragor o fanylion ynglŷn â'r anghywirdeb honedig.
 - xv. Nid oedd bwriad i bortreadu Mr Asquith fel bargyfreithiwr Torïaidd o Sais cyfoethog dieflig. Roedd lleoliad ei gartref yn berthnasol i'r mater o faint o ddealltwriaeth y gallai fod ganddo o sefyllfa Mr Jones gan ei fod yn byw, gweithio ac yn gynghorydd sir o gwmpas Manceinion. Cymerwyd y wybodaeth am ei gartref o wefan gyfredol ar y pryd Cyngor Sir Gaer.

g) Cafodd y mater o ragfarn ei drafod uchod yn y sylwadau agoriadol yn a).

Roedd yr amser yr oedd yr achwynydd yn ymddangos yn adlewyrchu'r amser a dreuliodd yn dod at y criw camera.

Ni chafodd y cyfweiliad gyda Mr Mygind ei defnyddio gan ei bod yn ymwneud ag anghydfod gwahanol iawn am sut y dylid ffermio'r tir.

I grynhoi ymatebodd y darlledwr i'r gŵyn preifatrwydd yn erbyn Mr Asquith trwy:

- h) Geiriau cyntaf Mr Asquith i wneuthurwyr y rhaglen oedd gorchymyn i ddiffodd y camera, ond parhaodd gwneuthurwyr y rhaglen i ffilmio hyd nes y daeth yn amlwg pam ei fod eisiau iddynt roi'r gorau i ffilmio. Ei ddadl oedd, nid eu bod yn ei ffilmio ef, ond eu bod yn ffilmio ar dir lle nad oedd ganddynt hawl i ffilmio. Ar bob achlysur arall, roedd yn dynesu at y camera ac roedd yn amlwg ei fod eisiau iddynt ei ffilmio, er enghraifft, ar achlysur lle roed yn amlwg ei fod eisiau ffilmio llythyr. Yn wahanol i Mrs Asquith a ddywedodd nad oedd yn dymuno ymddangos yn y rhaglen, ni chafwyd yr un datganiad gan Mr Asquith.

Sylwadau Mrs Holland a Mr Asquith ar ymateb S4C

I grynhoi sylwebodd Mrs Holland ar ymateb y darlledwr i'r gŵyn tegwch trwy:

- a) Mabwysiadodd gwneuthurwyr y rhaglen farn Mr Jones fel ffaith ddiamheuol yn hytrach nag edrych ar faterion yn ddiuedd, ac mewn nifer fechan o achosion maent wedi bod yn amlwg yn anonest.
- i. Ni allai'r defaid grwydro drosodd rhwng caeau Tyn y Coed Mrs Holland a'r tir cyfagos fel y disgrifiwyd yn ymateb y darlledwr gan eu bod wedi eu gwahanu gan ffensys a chlwydi. Mewn gwirionedd, canfuwyd hyn gan yr ynadon yn yr achos llys a ddechreuwyd gan Mr Jones ynglŷn â chŵn Mrs Holland. Nid oedd tir Mrs Holland yn arbennig nac yn hanfodol i ddefaid Mr Jones ac roedd yn parhau i gadw defaid a magu wyn.
 - ii. Yn ôl diffiniad gwneuthurwyr y rhaglen o'r gair 'mewnfudwr' byddai'r ffermwr Mr Jones yn fewnfudwr gan ei fod wedi byw y tu allan i'r cwm am nifer o flynyddoedd. Roedd y defnydd o'r ymadrodd yn ddifriol yn unig. Roedd cwestiwn Mr Jones 'pam prynu tŷ mewn lleoliad o'r fath?' yn anwybyddu'r ffaith fod Mrs Holland wedi bod yn berchen ar yr eiddo ac wedi bod â chysylltiadau agos â Chwm Mynach am nifer o ddegawdau. Mabwysiadodd gwneuthurwyr y rhaglen y rhagymadrodd mai'r rheswm dros yr anghydfod oedd bod mewnfudwyr wedi methu ag addasu i'r ffordd wledig o fyw ac roeddent wedi methu â herio barn Mr Jones.
 - iii. Gwnaeth gwneuthurwyr y rhaglen ddiffiniad technegol o'r gair 'cwm'. Canlyniad hynny oedd bod y rhaglen wedi rhoi argraff gamarweiniol bod y gymuned yn llawn cartrefi gwyliau. Roedd golygu sylwadau Aran Jones o Cymuned am ail gartrefi yn gwneud iddynt ymddangos fel sylw am Mrs Holland. Nid oedd Mrs Holland chwaith yn ymwybodol o berthnasedd ei gweithgarwch busnes ym Manceinion. Tyn y Coed yw ei hunig gyfeiriad preswyl. Ymhellach, a fyddai'r un pwynt wedi'i wneud am fusnes wedi'i leoli yng Nghaerdydd?
 - iv. Rhoddwyd yr argraff annheg fod y llysoedd wedi siomi Mr Jones yn ei erlyniad o'r cŵn. Nid dadlau yn unig dros gronoleg a wnaeth Mrs Holland. Rhoddwyd yr argraff ei bod wedi rhoi rhybudd i Mr Jones adael oherwydd yr achos llys ynglŷn â'i chŵn. Trwy newid y gronoleg portreadodd gwneuthurwyr y rhaglen hi yn annheg fel rhywun bach ei meddwl.
 - v. Roedd Mrs Holland yn sensitif i safbwynt Mr Jones ond y realiti ymarferol oedd nad oedd angen darn mor fychan o dir .
 - vi. Roedd y darn gyda ffermwyr lleol yn enghraifft unwaith eto o'r modd y derbyniodd gwneuthurwyr y rhaglen fersiwn Mr Jones heb ei herio.

- vii. Roedd y cyfeiriad 'aeth Meirion Jones' i'r llys' yn cyflwyno Mr Jones fel y parti oedd wedi cael cam pan mai Mrs Holland oedd honno. Mae'n cyfrif felly pwy gychwynnodd yr achos. Ymhellach cymerwyd y cyfeiriad 'ym mis Ebrill cafodd Orchymyn Llys' heb ei gadarnhau gan wneuthurwyr y rhaglen gan Mr Jones. Nid oedd gorchymyn llys pan gafodd y rhaglen ei gwneud a gallai Mr Jones fod wedi aros hyd nes y cafodd y gorchymyn ei wneud ym mis Gorffennaf ond gadawodd y tir yn wirfoddol. Roedd Mrs Holland wedi gwneud cynnig ffurfiol iddo aros tan Fawrth 2006 ond nid oedd wedi ei dderbyn. Mae'r deunydd na chafodd ei ddarlledu yn dangos nad oedd Mrs Holland yn cadw Mr Jones oddi ar ei thir yn barhaol.
- viii. Roedd y deunydd na chafodd ei ddarlledu yn dangos bod statws y ffordd wedi ei esbonio sawl tro, sef mai priffordd gyhoeddus ydyw yn mynd dros dir preifat.
- b) Yn eu hymateb yn gyffredinol mabwysiadodd gwneuthurwyr y rhaglen farn Mr Jones fel ffeithiau di-ddadl.

Defnyddiodd gwneuthurwyr y rhaglen dechnegau pwysau ac ymddygiad twyllodrus oedd yn anghymesur â'r ymchwiliad. Ymhellach nid oedd y ffaith bod unrhyw un wedi gwrthod cymryd rhan yn y rhaglen yn cael gwared â dyletswydd gwneuthurwyr y rhaglen i fod yn gywir ac roedd y ddau achwynydd wedi darparu gwybodaeth ar y ffôn.

Roedd y cyfweiliad gyda Mr Mygind yn dangos patrwm o ymddygiad gan ffermwr, Mr Jones, oedd yn gwneud hawliadau o hawl ar dir nad oedd ganddo hawl arno ac felly yn gelyniaethu ei gymdogion. Ni chafodd y deunydd ei ddefnyddio a gan nad dyma'r rhaglen yr oedd gwneuthurwyr y rhaglen eisiau ei gwneud.

I grynhoi sylwebodd Mrs Holland ar ymateb y darlledwr i'r gŵyn preifatrwydd trwy,:

- c) O ran recordio deunydd cyn darlledu, cynigiodd Mrs Holland beidio â chychwyn achos cyfreithiol cyn belled â bod dim lluniau'n cael eu cymryd o'i thir a'u defnyddio yn y rhaglen; mae'n berchen ar yr holl dir a gall ffensio unrhyw ardal cyn belled â'r briffordd gyhoeddus. Dylai gwneuthurwyr y rhaglen fod wedi cymryd cyngor cyfreithiol cywir dros y mater o hawl i fod ar ei thir. Roedd Mr Asquith a Mrs Holland yn bendant, fel y dangosir yn y deunydd nas darlledwyd, na ddylid ffilmio'r darn i gamera ar dir Mrs Holland ac na ellid felly dangos y tŷ. Roedd y deunydd nas darlledwyd yn dangos gwneuthurwyr y rhaglen yn sibrwd gyda'i gilydd er mwyn torri cytundeb i ffilmio oddi wrth y tŷ a'r tir. Mae ongl y lluniau yn dangos na chawsant eu tynnu o'r briffordd ond o dir Mrs Holland.
- d) O ran darlledu deunydd, cyn darlledu cynigiodd Mrs Holland i beidio â chychwyn achos cyfreithiol cyn belled nad oedd dim lluniau yn cael eu tynnu o'i thir a'u defnyddio yn y rhaglen. Fel y trafodwyd yn c) uchod, nid oedd gan wneuthurwyr y rhaglen hawl i ffilmio ar ei thir nac i ddangos ei thŷ.

Torrodd gwneuthurwyr y rhaglen ar breifatrwydd Mrs Holland dro ar ôl tro gan anwybyddu yn llwyr ei cheisiadau i beidio â gwneud hynny; doedd dim cyfiawnhad dros ffilmio ei char a'i chŵn gan eu bod dan reolaeth briodol ac os oeddent yn dod ar draws defaid roeddent wedi eu hyfforddi i ddod yn nes at y car .

- e) Roedd pryderon Mrs Holland am ddiogelwch yn deg gan fod ymosodiad wedi bod yn y gorffennol.

I grynhoi sylwebodd Mr Asquith ar ymateb y darlledwr i'r gŵyn tegwch trwy:

- f) Mabwysiadodd gwneuthurwyr y rhaglen farn Mr Jones fel ffaith ddiamheuol yn hytrach nag edrych ar faterion yn ddiuedd, ac mewn nifer fechan o achosion maent wedi bod yn amlwg yn anonest.
- i. Roedd y disgrifiad o Mr Asquith wedi ei eirio yn ofalus, ond nid i roi'r argraff a awgrymwyd h.y. nid oedd o Loegr yn fwy nag unrhyw Gymry eraill sydd wedi eu gorfodi, oherwydd economeg, i weithio yn Lloegr; mae Mr Asquith yn hanner Cymro, ond sefydlir ei 'Seisnigrwydd' yn y lluniau agoriadol a chan y gerddoriaeth Nimrod dros y lluniau o Alderley Edge. Roedd yn amlwg fod gwneuthurwyr y rhaglen eisiau ei bortreadu fel bargyfreithiwr dieflig o Sais oedd yn bwlio ffermwr tlawd Cymreig. Roedd yn annheg i awgrymu ei fod yn dramorwr ac yn hawdd defnyddio'r term Saesneg fel term difriol.
 - ii. Yn ôl diffiniad gwneuthurwyr y rhaglen o'r gair mewnfudwr byddai Mr Jones yn un gan ei fod wedi byw y tu allan i'r cwm am sawl blwyddyn. Roedd y defnydd o'r ymadrodd yn ddiffiniad difriol gwneuthurwyr y rhaglen o'r gair mewnfudwr, a byddai Mr Jones yn un gan ei fod wedi byw y tu allan i'r cwm am sawl blwyddyn. Roedd y defnydd o'r ymadrodd yn ddifriol.
 - iii. Adroddodd y rhaglen hefyd fod Mr Asquith fel mewnfudwr wedi bod yn dychryn defaid Mr Asquith pan nad oes tystiolaeth o hyn. Dim ond mewn lle wedi ei ffensio y mae cŵn Mr Asquith yn rhedeg; ymhellach roedd Mr Jones wedi gofyn iddynt gael eu gadael allan i ddychryn llwynogod. Ni heriwyd sefyllfa Mr Jones.
 - iv. Ni ddywedwyd 'dywedodd Mr Jones fod...' cyn yr honiad fod Mr Asquith wedi symud y defaid, ond yn hytrach fe'i dywedwyd fel mater o ffaith. Caeodd Mr Asquith y glwyd gyda'r defaid yn y caeau yn ôl gofyniad y Ddeddf Priffyrdd. Roedd y cyfeiriad at 'ffermwyr lleol' yn enghraifft o sut unwaith eto roedd gwneuthurwyr y rhaglen wedi derbyn fersiwn Mr Jones heb sialens.
 - v. Y rheswm pam fod Mr Asquith wedi cau'r clwydi i'r caeau oedd bod Mr Jones wedi bod yn cyflawni trosedd trwy ganiatáu i'r defaid redeg ar y ffordd heb angen ffermio (e.e. cysgod a dŵr). Ymhellach roedd y rhaglen yn awgrymu trwy'r cyfeiriad at Mr Asquith yn 'paragleidio' ei fod yn ymweld â'r ardal i chwarae yn unig pan, mewn gwirionedd, mae'n treulio ei benwythnosau yn rheoli'r goedlan.
 - vi. Mae Cymro arall yn ffermio yng nghwm bychan Cwm Mynach er y cydnabyddir nad yw bellach yn byw yno.
 - vii. Rhoddodd gwneuthurwyr y rhaglen y sylw yng ngheg Mr Asquith 'nad yw'n deall pam fod Cymuned yn gwthio eu trwynau i mewn (i'r mater hwn)' pan, mewn gwirionedd, ceisiodd Mr Asquith, Mrs Holland a Cymuned ddod i gyfaddawd.
 - viii. Cyfaddefodd Mr Asquith mai ymwelydd oedd â Chwm Mynach ond cwestiynodd berthnasedd y cyfeiriadau at ei gartref ger Manceinion pan mai Mrs Holland oedd yn gwneud yr holl benderfyniadau ynglŷn â'i thir ac mai hi oedd â'r gair olaf am y ffilmio. O'r darn am ei gartref yn Alderley Edge ymlaen, roedd y rhaglen fel pe bai i gyd am Mr Asquith a Mrs Holland yn gwrthwynebu ffilmio. Tua hanner yr amser a ddarledwyd. Diweddarwyd manylion cyfeiriad Mr Asquith ar wefan Cyngor Sir Gaer ar 5 Mai 2005 ac roedd y darllediad ar 14 Mehefin 2005 gyda gwybodaeth anghywir wedi'i gymryd o doriad dyddiedig Ionawr 2001.

- g) Yn eu hymateb mabwysiadodd gwneuthurwyr y rhaglen farn Mr Jones yn bennaf fel ffaith ddi-ddadl.

Defnyddiodd gwneuthurwyr y rhaglen dechnegau pwysu ac ymddygiad twyllodrus oedd yn anghymesur â'r ymchwiliad. Ymhellach nid yw gwrthodiad unrhyw un i gymryd rhan mewn rhaglen yn cael gwared â dyletswydd gwneuthurwyr rhaglen i fod yn gywir ac roedd y ddau achwynydd wedi darparu gwybodaeth ar y ffôn.

Roedd y cyfweiliad gyda Mr Mygind yn dangos patrwm o ymddygiad gan ffermwr, Mr Jones, oedd yn gwneud hawliadau i dir nad oedd ganddo hawliau iddo ac felly'n gelyniaethu ei gymdogion; nis defnyddiwyd y deunydd gan nad dyma'r rhaglen yr oedd gwneuthurwyr y rhaglen eisiau ei gwneud.

I grynhoi sylwebodd Mr Asquith ar ymateb y darlledwr i'r gŵyn preifatrwydd trwy:

- h) Roedd gwneuthurwyr y rhaglen yn ymwithio arno ac ni wnaethant roi'r gorau i ffilmio ar unrhyw adeg er ei fod wedi'i gwneud yn amlwg ei fod yn dymuno trafod eu presenoldeb heb gael ei ffilmio. Roedd eisiau dangos y llythyr y cyfeiriwyd ato ond dim ei ffilmio. Roedd yn cael ei erlid gan y criw. Roedd wedi ei gwneud yn amlwg o'r funud y darganfu ei fod yn cael ei ffilmio nad oedd yn dymuno cael ei ffilmio. Parhaodd i geisio trafod gyda'r gwneuthurwyr ffilm eu bod yn gadael, wrth geisio blocio'r ffilmio. Ceisiodd gwneuthurwyr y ffilm wahaniaethu rhwng sefyllfa Mr Asquith a sefyllfa Mrs Holland nad oedd eisiau unrhyw ran yn y ffilm, pan, mewn gwirionedd, ei sefyllfa oedd y byddai'n gweithredu yn gytûn gyda Mrs Holland ac yn cydymffurfio gyda'i dymuniadau.

Roedd y deunydd na chafodd ei ddarlledu yn ei gwneud yn glir nad oedd Mrs Holland na Mr Asquith yn dymuno cael eu ffilmio, gwneud sylw na chymryd rhan yn y rhaglen. Ymhellach roedd yn dangos fod gwneuthurwyr y rhaglen yn benderfynol o gael lluniau pellach o Mr Asquith.

Ail ddatganiad S4C mewn ymateb

I grynhoi, ymatebodd S4C i sylwadau Mrs Holland ar y gŵyn tegwch trwy:

- a) Roedd y cyhuddiad fod gwneuthurwyr y rhaglen wedi mabwysiadu barn Mr Jones fel ffeithiau di-ddadl yn hytrach nag edrych ar bethau yn ddiuedd yn berthynol i ymateb S4C yn hytrach nag i'r rhaglen fel y'i darlledwyd. Cyflwynodd y rhaglen farn y ddwy ochr ac roedd ymateb gwneuthurwyr y rhaglen yn ceisio cyfiawnhau cynnwys barn y ffermwr yn y rhaglen, ac nid yw'n derbyn fel ffaith. Gwnaeth y rhaglen gyfiawnder â sefyllfa'r achwynwyr er eu bod wedi gwrthod pob cyfle i ymddangos yn y rhaglen. Beth bynnag, methodd yr achwynwyr ag esbonio sut yr esgorodd yr anghywirdebau honedig ar annhegwch iddynt hwy.
- i. Roedd yr achwynwyr yn dadlau nad oedd tir Mrs Holland yn arbennig nac yn hanfodol i ddefaid Mr Jones, ond mae gan Mr Jones bellach gant yn llai o ddefaid oherwydd iddo golli tir Tyn y Coed ac mae'r ffin rhwng elw a cholled yn hynod o gul.
 - ii. Heriwyd barn Mr Jones (pam prynu tŷ mewn lleoliad o'r fath?) gan gwestiwn y gohebydd 'ydych chi ddim yn meddwl ei bod yn galed arnyn nhw, yn byw yn y tai hyn wedi'u hamgylchynu gan dir yr ydych chi yn ei ffermio?' Ni fabwysiadodd y rhaglen y rhagymadrodd mai'r rheswm dros yr anghydfod hwn

oedd oherwydd nad yw mewnfudwyr wedi addasu i'r ffordd wledig o fyw. Adroddodd y rhaglen safbwynt Mr Jones a'i herio a oedd angen tir Mrs Holland, a oedd yn ceisio ei dychryn, a oedd yn wrth Seisnig. Cyflwynodd y rhaglen hefyd farn yr achwynwyr gan wneud yn amlwg eu bod wedi ennill pob brwydr gyfreithiol, yn dangos eu bod yn iawn ar y materion hyn.

- iii. Defnyddiodd gwneuthurwyr y rhaglen y gair Cwm i gyfeirio at Gwm Mynach, ardal neilltuol fel y'i hadnabyddir gan bobl leol. Roedd sylw Aran Jones o Cymuned, yn ymwneud ag ail gartrefi, yn siarad am rywbeth nad yw wedi digwydd eto, a'r canlyniadau posibl. Roedd cyfeiriad post Mrs Holland yn cael gwared ag unrhyw argraff bod ei holl fywyd yn cael ei dreulio yng Nghwm Mynach. Pe bai ei busnes wedi bod yng Nghaerdydd byddai hynny wedi ei adrodd.
- iv. Ni wnaethpwyd unrhyw ymateb ar wahân ynglŷn ag unrhyw argraff a roddwyd ynglŷn ag achos Mr Jones ynglŷn â chŵn Mrs Holland. Rhoddwyd y gronoleg i wneuthurwyr y rhaglen gan Mr Asquith mewn llythyr yn rhoi manylion am union ddilyniant digwyddiadau.
- v. Cwynodd Mrs Holland am linell sylwebaeth y rhaglen 'mae hi (Mrs Holland) yn dadlau nad yw Meirion Jones angen ei thir mewn gwirionedd'. Cafodd y gŵyn hon ei gwrthdweud gan y sylw yn ei hail gyflwyniad 'y realiti ymarferol yw nad yw angen darn mor fach o dir'.
- vi. Ni wnaethpwyd ymateb ar wahân ynglŷn â'r cyfeiriad 'aeth Meirion Jones i'r llys'. Roedd gwneuthurwyr y rhaglen wedi synnu bod yr achwynwyr wedi datgan y gallai Mr Jones fod wedi aros ar y tir hyd nes y byddai gorchymyn llys yn cael ei wneud ym mis Gorffennaf ond ei fod wedi gadael y tir yn wirfoddol. Roedd gwneuthurwyr y rhaglen wedi cael ar ddeall gan Mr Asquith fod Mr Jones wedi bod yn tresmasu ers mis Mawrth 2005 a'i fod yn cael gadael defaid yno tan ddiwedd Mai am resymau lles anifeiliaid, oherwydd y tymor wyna diweddar.
- vii. Ni wnaethpwyd ymateb ar wahân ynglŷn â statws y ffordd.

b) Nid oedd y rhaglen yn arddangos unrhyw ragfarn wrth-Seisnig fel yr honnwyd gan yr achwynwyr, ond yn hytrach roedd yn adrodd ffeithiau, er enghraifft Mr Jones oedd y Cymro olaf i fyw a ffermio yng Nghwm Mynach ac roedd Mr Asquith o dras Gymreig gyda chysylltiadau agos â Manceinion.

Ni ddefnyddiwyd unrhyw 'dechnegau pwysau' fel y datganwyd yn ail sylwadau'r achwynwyr. Rhoddodd gwneuthurwyr y rhaglen bob cyfle i'r achwynwyr gymryd rhan fel ag sy'n ofynnol yn ôl ymarfer gohebu da.

Pe bai gwneuthurwyr y rhaglen wedi bod yn benderfynol o wneud rhaglen wrth-Seisnig byddent wedi cynnwys yn hytrach nag eithrio'r cyfweiliad gyda Mr Mygind (perchennog tir Saesneg sydd hefyd wedi bod mewn anghydfod â Mr Jones). Ni fyddent chwaith wedi cynnwys y cyfweiliad a ddarlledwyd gyda pherchennog tir Saesneg arall, Mr Yoward, a ddaeth drosodd fel rhywun rhesymol, hoffus a chraff.

I grynhoi, ymatebodd S4C i sylwadau Mrs Holland ar y gŵyn preifatrwydd trwy:

c) O ran recordio'r lluniau, ni wnaeth y rhaglen dorri ar breifatrwydd Mrs Holland yn anesgusodol. I wneud hynny byddai wedi golygu torri i mewn ar agwedd o'i bywyd

yr oedd hawl ganddi i'w gadw'n breifat ac i'r torri i mewn hwnnw fod yn anesgusodol. Nid oedd yr un yn wir.

Ffilmiodd gwneuthurwyr y rhaglen ar dir Tyn y Coed gan gredu fod ganddynt hawl i wneud hynny gyda chaniatâd Mr Jones ac ar ôl siarad gyda Mrs Holland aethant oddi ar y tir. Ar ôl cael cyngor cyfreithiol, buont yn ffilmio ar neu yn agos at y ffordd ar yr ail ddiwrnod o ffilmio a pharcio wrth y man agosaf cyfleus. Ni wnaeth y ffilmio a wnaethpwyd torri ar breifatrwydd unrhywun. Nid oedd unrhyw gytundeb i ffilmio oddi wrth y tŷ a'r tir. Nid oedd y lluniau yn cefnogi casgliadau'r achwynwyr dros leoliad y dyn camera gan ei fod yn ffilmio o dreipod uchel.

- d) O ran darlledu'r lluniau, gwnaethpwyd yr un ymateb ag uchod ym mhwynt c).
- e) Cododd yr achwynwyr faterion diogelwch ond nid oedd enw Mrs Holland yn gyffredin yng Ngogledd Cymru ac roedd hynny yn ei gwneud yn hawdd i olrhain ei rhif ffôn. Ni chrybwyllwyd ymosodiad cynharach ar adeg gwneud y rhaglen. Pe bai wedi ei grybwyll yna bydda'r risg canfyddedig wedi ei ail asesu.

I grynhoi ymatebodd S4C i sylwadau Mr Asquith ar y gŵyn tegwch trwy:

- f) Roedd y cyhuddiad fod gwneuthurwyr y rhaglen wedi mabwysiadu barn Mr Jones fel ffeithiau di-ddadl yn hytrach nag edrych ar faterion yn ddiuedd yn berthynol i ymateb S4C yn hytrach na'r rhaglen fel y'i darlledwyd. Cyflwynodd y rhaglen farn y ddwy ochr ac roedd ymateb gwneuthurwyr y rhaglen yn ceisio cyfiawnhau cynnwys barn y ffermwr yn y rhaglen, dim i'w derbyn fel ffaith. Gwnaeth y rhaglen gyfiawnder â sefyllfa'r achwynwyr er eu bod wedi gwrthod pob cyfle i ymddangos yn y rhaglen. Beth bynnag, methodd yr achwynwyr ag esbonio sut yr esgorodd yr anghywirdebau honedig ar annhegwch iddynt hwy.
 - i. Doedd dim bygythiol yn y defnydd o ddarn cyfarwydd o gerddoriaeth Saesneg i gyd-fynd â lluniau o Alderley Edge. Doedd dim awgrym mai tramorwr oedd Mr Asquith, dim ond mewnfudwr i'r Cwm. Ni ddefnyddiwyd y gair 'Saesneg' i'w ddisgrifio.
 - ii. Ni wnaethpwyd ymateb ar wahân ynglŷn â'r defnydd pellach o'r gair mewnfudwr.
 - iii. Adroddiad Mr Jones oedd y dystiolaeth am gŵn Mr Asquith yn dychryn defaid Mr Jones a chyflwynwyd hyn i Mr Asquith mewn sgwrs ar y ffôn. Cynrychiolwyd ei ymateb fod Mr Jones yn hapus i'w gŵn redeg trwy'r defaid i ddychryn llwynogod wedi'i gynrychioli yn y rhaglen. Gwelodd gwneuthurwyr y rhaglen drostynt eu hunain nad oedd ffens yn gwahanu'r goedlan lle y gall cŵn Mr Asquith fynd o'r caeau lle roedd y defaid yn pori; heriwyd safbwynt Mr Jones ynglŷn â'i ddefaid yn cael eu styrbio gan y rhaglen yn cyflwyno safbwynt Mr Asquith.
 - iv. Nid oedd Mr Asquith yn gwadu symud dafad trwy ei thafu dros ffens. Ni wnaethpwyd sylw ar wahân ynglŷn â'r darn, yn cynnwys cyfraniadau gan ffermwyr lleol.
 - v. Cadwodd Mr Jones y glwyd i'r cae ar agor fel bod y defaid yn gallu cael cyflenwad o ddŵr ffres trwy'r ffordd.
 - vi. Ni chafwyd ymateb ar wahân ynglŷn â'r rhai sydd yn byw yng Nghwm Mynach.
 - vii. Roedd Mr Asquith yn ddiystyriol yn ei ymateb cyntaf i gyfranogiad y grŵp pwysau Cymuned. Cyflwynwyd y cwestiwn i Aran Jones 'roedd ef [Mr Asquith]

yn methu deall pam fod Cymuned yn gwthio eu trwynau i'r [mater hwn]) fel safbwynt cwbl gyfiawn'.

- viii. Ar un achlysur o leiaf pan oedd y criw yn ceisio ffilmio darn i gamera, Mr Asquith a gafodd y gair olaf am y ffilmio, nid Mrs Holland. Roedd yn anghywir datgan bod hanner y darllediad am Mr Asquith a Mrs Holland yn gwrthwynebu ffilmio' roedd y darn y cyfeiriwyd ato yn 4 munud 16 eiliad allan o 25 munud 45 eiliad o amser rhedeg. Cefnogwyd y wybodaeth am gartref Mr Asquith, yn Alderley Edge, gan y gofrestr etholiadol a'r rhif ffôn a roddwyd gan Mr Asquith, yr esboniodd mai dyma'r rhif ffôn ar gyfer tŷ yr oedd yn ei rannu gyda'i fam.

- g) Nid oedd y rhaglen yn arddangos unrhyw ragfarn wrth-Seisnig fel yr honnir gan yr achwynwyr, yn hytrach roedd yn adrodd ffeithiau, er enghraifft Mr Jones oedd y dyn olaf oedd yn byw ac yn ffermio yng Nghwm Mynach, roedd Mr Asquith o dras Gymreig gyda chysylltiadau agos â Manceinion.

Pe bai gwneuthurwyr y rhaglen wedi bod yn benderfynol o wneud rhaglen wrth-Seisnig byddent wedi cynnwys, yn hytrach nag eithrio'r cyfweiliad gyda Mr Mygind (perchennog tir Seisnig sydd hefyd wedi bod mewn anghydfod â Mr Jones). Ni fyddent chwaith wedi cynnwys y cyfweiliad a ddarlledwyd gyda pherchennog tir Seisnig arall, Mr Yoward, a ddaeth drosodd fel rhywun rhesymol, hoffus a chraff.

Ni ddefnyddiwyd unrhyw 'dechnegau pwysau' fel y datganwyd yn ail sylwadau'r achwynwyr. Rhoddodd gwneuthurwyr y rhaglen bob cyfle i'r achwynwyr gymryd rhan fel ag sy'n ofynnol yn ôl ymarfer gohebu da.

I grynhoi ymatebodd S4C i sylwadau Mr Asquith ar y gŵyn preifatrwydd trwy:

- h) Nid oedd unrhyw ymwithio. Roedd gwneuthurwyr y rhaglen yn ffilmio cyfweiliad pan ddaeth Mr Asquith atynt, oedd wedi dewis stopio a thrafod materion. Ni holodd y gohebydd ef am ei berthynas gyda'r ffermwr. Roedd y llythyr y cyfeiriwyd ato eisoes wedi ei ddangos i'r cynhyrchydd yn nhŷ Mrs Holland; doedd dim angen ei ddangos ym mhresenoldeb y criw os oedd yn bryderus ynglŷn â'i ffilmio. Roedd yn amlwg yn mwynhau mynegi ei farn gyfreithiol gerbron y camera. Dangosodd y lluniau nad oedd Mr Asquith yn cael ei erlid.

Yn wahanol i Mrs Holland nad oedd yn dymuno bod unrhyw luniau ohoni hi na'i heiddo yn cael eu dangos, gwrthod darparu cyfweiliad yn unig a wnaeth Mr Asquith. Cyfathrebodd sefyllfa Mrs Holland i wneuthurwyr y rhaglen a byddai wedi bod yn syml ei fynegi fel cydsefylla. Roedd yn amlwg o'r lluniau fod gan yr awydd i beidio cael eu ffilmio lawer mwy i'w wneud gyda thaerineb Mr Asquith i hyrwyddo ei farn am ffilmio ar y briffordd na gydag unrhyw awydd i ddiogelu ei breifatrwydd. Roedd gwneuthurwyr y rhaglen hefyd wedi sicrhau eu bod yn cael lluniau o Mr Asquith o'r briffordd nad oedd yn croesi tir Mrs Holland rhag ofn i orchymyn llys gael ei roi ynglŷn â'r lluniau a ffilmwyd ar ei thir.

Penderfyniad

Mae dyletswydd statudol Ofcom yn cynnwys defnyddio, yn achos pob gwasanaeth teledu a radio, safonau sydd yn darparu diogelwch digonol i aelodau o'r cyhoedd a phob person arall rhag triniaeth annheg mewn rhaglenni a thorri preifatrwydd yn anesgusodol mewn ac mewn cysylltiad â rhaglenni sy'n gynwysedig mewn gwasanaethau o'r fath.

Wrth gyflawni ei ddyletswyddau, mae Ofcom yn talu sylw i'r angen i wneud yn siŵr bod y safonau hyn yn cael eu defnyddio mewn dull sydd yn gwarantu orau'r lefel priodol o ryddid mynegiant. Mae Ofcom hefyd yn rhwymedig i dalu sylw ym mhob achos at yr egwyddorion y dylai gweithgarwch rheoleiddiol fod yn dryloyw, atebol, cymesur, cyson ac wedi'u targedu yn unig ac achosion lle y mae angen gweithredu.

Yng ngoleuni'r ffaith bod y cwynion hyn yn ymwneud â rhaglen Gymraeg ei hiaith roedd y Pwyllgor Tegwch ('Y Pwyllgor', corff gwneud penderfyniadau mwyaf uchel Ofcom o ran cwynion Tegwch a Phreifatrwydd) wedi cynnwys yr Aelod o Gymru sydd yn siaradwr Cymraeg. Rhoddir yr holl gyfeiriadau i'r rhaglen yn Gymraeg fel y'u darlledwyd a chyfieithiad Saesneg llawn y cytunwyd arno gan yr holl bartion. Rhoddir hefyd yr is-deitlo Saesneg fel y'u darlledwyd.

Yn yr amgylchiadau yn yr achos hwn, darganfu'r Pwyllgor Tegwch y canlynol:

- c) I ddechrau ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland fod nifer o anghywirdebau ffeithiol yn y rhaglen a'i bod yn portreadu ffeithiau eraill mewn dull hollol gamarweiniol oedd yn esgor ar annhegwch iddi hi. Y cyn Côd Tegwch BSC ('y Côt Tegwch') oedd y Côt perthnasol pan ddarlledwyd y rhaglen hon. Rhaid i ddarlledwyr osgoi annhegwch i unigolion neu gyrff sydd yn ymddangos mewn rhaglenni trwy'r defnydd o wybodaeth anghywir neu wyrddroi gwybodaeth, er enghraifft trwy ddethol neu gyfosod deunydd yn anghywir (Côt Tegwch, paragraff 2). Ymhellach dylai ddarlledwyr gymryd gofal arbennig pan fo'u rhaglenni yn gallu effeithio enw da unigolion, cwmnïau neu gyrff eraill yn niweidiol a dylent gymryd pob gofal rhesymol i fodloni eu hunain bod yr holl ffeithiau perthnasol wedi eu hystyried cyn darlledu a chyn belled â phosibl wedi eu cyflwyno'n deg (Côt Tegwch, paragraff 7). Gan gymryd y gofynion hyn i ystyriaeth deliodd y pwyllgor â phob un o'r cwynion unigol a wnaethpwyd gan Mrs Holland yn ymwneud â chynnwys y rhaglen ar wahân.
- i. Ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland am gyfeiriad y rhaglen yn ei sylwebaeth agoriadol at:

"ma' ffermwr yn deud bod o'n cael ei erlid o'i fro enedigol."

Ystyriodd y Pwyllgor gŵyn Mrs Holland bod y datganiad hwn yn annheg gan mai dim ond wyth acer y mae ei chaeau hi yn ei gynnwys allan o bedwar can acer yn y cwm yr oedd y ffermwr Mr Jones yn eu pori, ac ymhellach bod Mr Jones yn dal i gadw defaid a magu ŵyn. Cymrodd y Pwyllgor ystyriaeth hefyd o sylwadau S4C bod yr wyth acer neilltuol hyn yn hanfodol i Mr Jones yn ystod y tymor wyna oherwydd eu natur gysgodol a modd o gael gafael ar ddŵr a'i allu i barhau i weithio a byw yn y cwm nawr fod ganddo gant yn llai o ddefaid oherwydd iddo golli tir Tyn y Coed a'r ffaith ei fod yn teimlo ei fod wedi cael ei wthio o'r cwm.

Roedd y Pwyllgor yn teimlo ei bod yn anghymesur nodi y byddai colli wyth acer allan o bedwar can acer yn esgor ar Mr Jones yn 'cael ei erlid' neu 'ei wthio allan'. Ym marn y Pwyllgor roedd disgrifiad y sylwebaeth felly yn annheg o dderbyn y canran bychan o aceri mewn anghydfod o'i gymharu â gweddill yr aceri yn y cwm yr oedd Mr Jones yn eu pori. Roedd y mynegiant o 'erlid o'i...' a'i 'wthio allan' yn is-deitlau'r rhaglen ym marn y Pwyllgor yn iaith emosiynol yng nghyd-destun y nifer o aceri dan sylw ac yn amgylchiadau'r achos hwn sy'n cael eu hystyried ym mhenderfyniad pwynt vii isod. Daeth y Pwyllgor i'r casgliad, er bod y disgrifiad wedi'i briodoli i'r ffermwr, roedd yn gwasanaethu i gyflwyno'r anghydfod ar ddechrau'r rhaglen mewn modd oed yn annheg â Mrs

Holland. Esgorodd hyn ar annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

- ii. Ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland am gyfeiriad y rhaglen yn ei sylwebaeth agoriadol at :

"mewnfudwyr"

Nododd y Pwyllgor gŵyn Mrs Holland bod y disgrifiad hwn yn annheg oherwydd ei bod wedi byw yn y cwm am dros ddeugain mlynedd, yn llawn amser am y deng mlynedd diwethaf. Ystyriodd y Pwyllgor gyflwyniadau S4C hefyd bod y gair yn cyfeirio at y ffaith nad oedd Mrs Holland wedi'i magu yn yr ardal yn ogystal â'u hymateb bod y datganiad yn rhan o gwestiwn rhethregol am waith Cymuned.

Nododd y Pwyllgor y cyfeiriad llawn yn y rhaglen:

"Heno: ydi mudiad Cymuned yn amddiffyn y Cymry neu'n cynddeirioi mewnfudwyr?"

Ym marn y Pwyllgor Tegwch, roedd y gair "mewnfudwyr" yn dilyn disgrifiad y sylwebaeth o'r anghydfod gyda Mr Jones ac yn amlwg yn cyfeirio at Mrs Holland. Ystyriodd y Pwyllgor bod y cyfeiriad hwn yn annheg am ei fod yn ymestyn ystyr "mewnfudwyr" yn rhy bell o ystyried bod cartref Mrs Holland yn y cwm ac o ystyried faint o amser y mae wedi ei wario yno, yn ogystal â byw yno. Roedd y Pwyllgor hefyd yn ystyried bod y defnydd o'r gair yn awgrymu cyfeiriad at rywun oedd ddim yn perthyn. Darganfu'r Pwyllgor bod hyn yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd. Ystyrir effaith cronus y cyflwyniad o Mrs Holland yn mhenderfyniad b).

Cwynodd Mrs Holland ymhellach ynglŷn â chyfweliad Mr Meirion Jones, fel y'i darlledwyd, ble y gofynnodd:

"pam dod yma i brynu tŷ mewn math le yn y cychwyn?"

Nododd y Pwyllgor ymateb S4C bod y cyfeiriad at unrhyw fewnfudwr yn dewis byw mewn amgylchedd gwledig a bod y sylwadau'n dilyn cwestiwn y newyddiadurwr:

"Newyddiadurwr: 'Da chi'n meddwl bod hi'n anodd iddyn' nhw yn byw yn y tai 'na a'ch tir chi yn amgylchynu nhw? A chithau yno yn ffermio?"

ac nid oedd yn mabwysiadu'r cynsail mai bai'r mewnfudwyr oedd yr anghydfod.

Darganfu'r Pwyllgor bod y cwestiwn rhethregol a ofynnwyd gan Mr Jones yn un cyffredinol, nad oedd yn cyfeirio at Mrs Holland ac felly nad oedd yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

- iii. Ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland ynglŷn â chyfeiriad y sylwebaeth:

"Ma'r rhan fwyaf o dai'r Cwm yn dai haf."

Nododd y Pwyllgor gŵyn Mrs Holland mai ei chartref a'i thir oedd ei chartref parhaol a bod y disgrifiad hwn yn annheg iddi hi. Nododd y Pwyllgor hefyd

ymateb S4C mai cyfeiriad at y cwm bach Cwm Mynach yn unig ydoedd. Nododd y Pwyllgor nad oedd Mrs Holland yn anghytuno gyda'r cyfeiriad o fewn cyd-destun cul Cwm Mynach.

Ystyriodd y Pwyllgor sylwebaeth y rhaglen a ragflaenodd y cyfeiriad hwn:

"Cwm Mynach ger Dolgellau ym mherfeddion Meirionnydd."

Ymddangosodd i'r Pwyllgor bod y frawddeg hon o sylwebaeth ragflaenol yn gosod y cyfeiriad at dai haf yn glir o fewn Cwm Mynach a nododd nad oedd Mrs Holland yn dadlau gyda chywirdeb y cyfeiriad o fewn y cyd-destun hwn. Casglodd y Pwyllgor felly bod y cyfeiriad yn gywir yng nghyd-destun y gymdogaeth uniongyrchol y cyfeiriwyd ato, ac ar sail hyn nid oedd yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

Ystyriodd y Pwyllgor gŵyn pellach Mrs Holland bod y rhaglen yn awgrymu ei bod yn berchennog ail gartref. Roedd hyn yn gyfeiriad at gyfweiliad gyda Mr Aran Jones o Cymuned, a ddarlledwyd yn y rhaglen, ble gwnaeth y datganiad:

"Mi fase fe'n sefydlu'r cydsyniad os ydi ffermwr yn torri ar draws rhywun sy'n defnyddio tŷ fel ail gartref bod y ffarmwr rhywsut ar fai."

Nododd y Pwyllgor ymateb S4C bod Mr Aran Jones yn egluro goblygiadau ehangach yr anghydfod hwn a'u cyfeiriad at gyfeiriad busnes Mrs Holland ym Manceinion.

Fodd bynnag, ystyriodd y Pwyllgor bod sylw Mr Aran Jones, er yn gyffredinol, wedi ei osod yn dilyn llinell o sylwebaeth oedd yn cyfeirio at yr anghydfod penodol parthed Mrs Holland a Mr Meirion Jones.

"Yng Nghwm Mynach, ma' Meirion Jones wedi ei amgylchynu gan dai mewnfudwyr. Mae o'n teimlo bod o'n cael ei wthio allan o'r Cwm a ma' hynny'n annheg yn ôl Cymuned."

O fewn cyd-destun y cafodd ei gynnwys teimlai'r Pwyllgor y gallai'r cyfeiriad at "rhywun sy'n defnyddio tŷ ..fel ail gartref" gael ei ddehongli fel bod yn berthnasol i Mrs Holland. Roedd yr un mor eglur i'r Pwyllgor, er gwaethaf ei chyfeiriad busnes, nad hwn oedd ei hail gartref. Roedd y cyfeiriad felly yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

- iv. Nesaf fe ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland bod y cyfeiriad ati yn "gadael i'w chŵn redeg o gwmpas heb dennyn" yn annheg gan nad oedd hyn yn drosedd, ac na chafodd erlyniad gan Mr Jones yn ei herbyn am achosi gofid i ddefaid ei gynnal.

Nododd y Pwyllgor gŵyn pellach Mrs Holland bod y cyfeiriad ei bod wedi rhoi "rhybudd terfynol [i Mr Jones] i ddarfod y denantiaeth dros flwyddyn yn ôl" yn rhoi'r argraff gamarweiniol ei bod yn gweithredu o ganlyniad i achos llys Mr Jones ynghylch ei chŵn, ac o ganlyniad yn ei phortreadu fel person dibwys a bychan ei meddwl. Mewn gwirionedd, daeth Mr Jones â'r achos llys yn erbyn Mrs Holland wedi i'r rhybudd i ymadael cael ei gyflwyno.

Nododd y Pwyllgor ymateb S4C bod yr erlyniaeth wedi ei grynhoi yn deg, bod y rhaglen wedi dangos bod honiadau Mr Jones yn erbyn Mrs Holland, ynglŷn â'r

cŵn, yn ddi-sail a bod y gronoleg yn ddibwys ac nad oedd yn achosi annhegwch.

Ystyriodd y Pwyllgor y sylwebaeth fel y'i darlledwyd:

“Llynedd yn llys ynadon Dolgellau, mi nath Meirion Jones ddwyn achos yn erbyn Susan Holland am gerdded ei chŵn heb dennyn drwy'r defaid ar ei dir o. Ond mi nath y llys dderbyn bod ganddi ganiatâd y ffarmwr i wneud hynny... Mi nath perthynas y ffarmwr a Susan Holland waethygu ar ôl yr achos llys. Mi roth hi rybudd terfynol i ddod â'r denantiaeth i ben dros flwyddyn yn ôl.”

Roedd gwir ddilyniant y digwyddiadau yn glir o gyflwyniadau Mrs Holland ac nid oedd gwneuthurwyr y rhaglen yn dadlau gyda nhw. Tra bod y sylwebaeth yn egluro na lwyddodd yr erlyniad yn erbyn Mrs Holland, cytunodd y Pwyllgor bod y gronoleg a gafwyd yn y rhaglen yn anghywir, ac yn rhoi'r argraff wallus bod Mrs Holland wedi rhoi rhybudd terfynol i Mr Meirion Jones i ddarod y denantiaeth o ganlyniad i'r achos llys a ddwynodd Mr Meirion Jones yn ei herbyn ynglŷn â'i chŵn. Darganfu'r Pwyllgor bod y dilyniant hwn a chyfosodiad deunydd yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

- v. Nesaf, ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland ynghylch y llinell o sylwebaeth:

“Ma' hi'n dadlau' nad ydi Meirion Jones wir angen ei thir hi.”

Nododd y Pwyllgor gŵyn Mrs Holland bod hyn yn annheg gan ei bod yn derbyn y dylai'r teulu Jones yn foisol, hanesyddol a diwylliannol fod yn pori ar ei thir, ond mai gweithredoedd Mr Jones sydd wedi arwain iddo gael ei wahardd rhag pori yno ac mewn termau ymarferol does dim angen y tir arno. Nododd y Pwyllgor hefyd sylwadau S4C bod Mrs Holland, gyda'r gŵyn hon, yn gwrthddweud ei chŵyn cynharach nad oedd angen wyth acer Mrs Holland ar Mr Jones a bod gwneuthurwyr y rhaglen wedi dibynnu ar yr hyn a ddywedodd yr achwynwyr wrthynt.

Ystyriodd y Pwyllgor bod y rhaglen yn syml yn honni “Ma' hi'n dadla” heb gynnig eglurhad ynglŷn â phryd, ac o dan ba amgylchiadau y gwnaeth Mrs Holland yr honiad hwn. Heb y fath gyd-destun, ystyriodd y Pwyllgor bod yr honiad yn rhoi argraff anghyflawn o safbwynt Mrs Holland ac felly'n canfod bod ei gynhwysiad yn golygu annhegwch i Mrs Holland yn y rhaglen fel y'i darlledwyd.

- vi. Nesaf ystyriodd y Pwyllgor gŵyn Mrs Holland am y darn:

*“Sylwebaeth: Mi oedd ffermwyr lleol yno hefyd yn helpu Meirion Jones i droi'r sdoc yn ôl i'r caeau, ac mi o nhw'n dyst i ymateb Marc Asquith”
Cyfweiliad: ‘Mae e'n cydio yn y ddafad, wel, cydio yn ei asgwrn cefn - tu ôl i'w... chefn hi, ac yn ei...yn ei gwâr mewn ffordd ac yn usio'i ben-glin i luchio'i drosodd.’”*

Nododd y Pwyllgor gŵyn Mrs Holland bod hyn yn annheg gan mai hi yrrodd a symud y defaid ar ben ei hun. Nododd y Pwyllgor hefyd ymateb S4C mai gwybodaeth a gafwyd gan Mr Meirion Jones oedd hwn.

Nid oedd y darn hwn yn crybwyll Mrs Holland ac, ym marn y Pwyllgor, ychydig o argraff a fyddai wedi ei wneud ar wylwr rhesymol parthed Mrs Holland. Casglodd y Pwyllgor nad oedd y darn felly yn golygu annhegwch iddi hi yn y rhaglen fel y'i darlledwyd.

- vii. Nesaf ystyriodd y Pwyllgor gŵyn Mrs Holland parthed y sylwebaeth ar yr achos llys:

“Mi ath Meirion Jones i lys i drïo cael cytundeb tenantiaeth lawn ar dir Tyn y Coed. Ond unwaith eto Susan Holland nath ennill y dydd. Fis Ebrill mi gath hi orchymyn llys i hel y ffarmwr o ‘na.’”

Ystyriodd y Pwyllgor gŵyn Mrs Holland bod y cyfeiriad “mi ath Meirion Jones i lys” yn anghywir gan mai hi gychwynnodd yr achos a bod y cyfeiriad “fis Ebrill mi gath hi orchymyn llys i hel y ffarmwr o ‘na’, hefyd yn anghywir, gan na gafwyd y gorchymyn nes 8 Gorffennaf 2005, ac na wnaeth ei orfodi oddi ar y tir; nid oedd ganddo hawl i aros. Fe ystyriodd y Pwyllgor hefyd ymateb S4C bod y rhaglen yn crynhoi'r sefyllfa yn deg ac nad oedd fawr o bwys pwy gychwynnodd yr achos, na chwaith mai Mr Jones a ddarparodd y dyddiad a, fodd bynnag, fe gadarnhaodd yr achwynwyr ei fod i bob pwrpas wedi ei orfodi oddi ar y tir.

Nododd y Pwyllgor nad oedd gwneuthurwyr y rhaglen yn dadlau gyda fersiwn yr achwynwyr o'r hyn ddigwyddodd, sef mai Mrs Holland gychwynnodd yr achos llys. Casglodd y Pwyllgor nad oedd cywirdeb y frawddeg olaf, ynghylch dyddiad y gorchymyn llys, ynddo'i hun yn golygu annhegwch i Mrs Holland. Fodd bynnag, ystyriodd y Pwyllgor, yng ngoleuni'r darganfyddiad cynharach ynghylch yr achos llys a ddeliwyd gydag ef uchod ym mhenderfyniad a)(iv), bod pwy gychwynnodd yr achos yn berthnasol. Ystyriodd y Pwyllgor bod cyflwyniad deunydd yn y rhan hwn yn dwysau'r annhegwch fel yr amlinellwyd ym menderfyniad a) iv) uchod, ac o'i gymryd gyda'r sylwebaeth gynharach roedd hyn yn debygol o effeithio ar ddadansoddiad gwylwyr o'r digwyddiadau ac, yn sgil hynny, gael effaith anffafriol ar eu hargraff o Mrs Holland a'i gweithredoedd parthed Mr Jones. Casglodd y Pwyllgor felly bod cyflwyniad a chyfosodiad deunydd yn ymwneud â'r achos llys, yn y ran yma o'r sylwebaeth, yn annheg ar Mrs Holland.

- viii. Nesaf ystyriodd y Pwyllgor Tegwch gŵyn Mrs Holland ynglŷn â chyfeiriad y rhaglen at “ffordd breifat”.

Nododd y Pwyllgor bod Mrs Holland wedi cwyno bod y cyfeiriad at y ffordd dros ei thir fel “ffordd breifat” yn anghywir gan mai hi oedd piau'r tir, ond bod y ffordd oedd yn mynd drosto yn briffordd gyhoeddus .

Nododd y Pwyllgor ymateb S4C mai Mrs Holland roddodd yr wybodaeth iddynt fod y ffordd yn breifat, ond mai'r Cyngor a gadarnhaodd ei fod yn briffordd gyhoeddus.

Ystyriodd y Pwyllgor y rhan yn llawn, “darn i gamera” llafar y newyddiadurwr oedd yn datgan:

“Roedd hi'n deud nad oedd gennym ni'r hawl i'w ffilmio hi ar y ffordd yma gan ei bod hi, medde hi, yn ffordd preifat oedd yn pia iddi.”

Nid yw o fewn cylch gwaith y Pwyllgor i benderfynu natur y ffordd arbennig hon a'i berchnogaeth. Gan roi gwahanol ddadansoddiadau o statws cyfreithiol y ffordd o'r neilltu, roedd y Pwyllgor yn gallu ystyried a achoswyd unrhyw annhegwch i Mrs Holland o ddefnyddio'r term "ffordd breifat" yn y rhaglen fel y'i darlledwyd. Ystyriodd y Pwyllgor nad oedd crynodeb y newyddiadurwr o'r anghydfod rhwng Mrs Holland a gwneuthurwyr y rhaglen ynglŷn â ffilmio ar y ffordd yn rhoi cyflwyniad annheg o Mrs Holland na'i barn ynglŷn ag egwyddor gyffredinol ffilmio ar ei heiddo, gan nad oedd Mrs Holland yn dymuno i S4C ffilmio ar ei heiddo beth bynnag. Casglodd y Pwyllgor felly nad oedd hyn wedi achosi unrhyw annhegwch i Mrs Holland yn y rhaglen fel y'i darlledir.

- d) Nesaf, ystyriodd y Pwyllgor gwynion Mrs Holland bod gwneuthurwyr y rhaglen wedi arddangos rhagfarn; eu bod wedi dewis anwybyddu'r ffeithiau a'i phortreadu fel perchennog tŷ haf Saesneg oedd wedi taflu ffermwr Cymraeg oddi ar ei thir am nad oedd hi'n hoffi ei weithgareddau ffermio; bod yr achwynwyr wedi ymddangos yn y rhaglen am tua chwe munud; er gwaetha'i dymuniad hi i beidio ag ymddangos; a bod y gwneuthurwyr rhaglenni hefyd wedi peidio â chynnwys cyfweiliad a recordiwyd gyda chymydog, Mr Mygind, oedd yn golygu annhegwch i Mrs Holland.

Ymddengys bod cŵyn Mrs Holland am ragfarn yn ymwneud â'r angen i ddarlledwyr gadw "amhleidioldeb dyledus" ar faterion o anghydfod gwleidyddol neu ddiwydiannol a materion yn ymwneud â pholisi cyhoeddus cyfredol. Mae hwn yn "nod safonol" o dan Adran 319 o Ddeddf Cyfathrebiadau 2003 ac fel y cyfryw ni ellir ei ystyried gan y Pwyllgor Tegwch. Fodd bynnag, wrth ystyried a gafodd Mrs Holland ei thrin yn annheg yn y rhaglen, mae'r Pwyllgor yn gallu ystyried a oedd y portread o Mrs Holland yn gyffredinol yn annheg yn ei effaith cronus.

Fel y trafodwyd uchod, mae gan ddarlledwyr ddyletswydd i osgoi annhegwch i unigolion neu sefydliadau sy'n ymddangos mewn rhaglenni trwy ddefnydd o wybodaeth anghywir neu afluniad, er enghraifft trwy ddewis deunydd annheg neu gyfosod deunydd yn annheg (y Côt Tegwch paragraff 2). Nododd Ofcom ymateb S4C nad gwrthdrawiad rhwng Saesneg a Chymraeg mo'r stori ond gwrthdrawiad rhwng gwahanol ffyrdd o fyw. Fodd bynnag, o ystyried y casgliadau cyffredinol ym mhenderfyniad a), barn y Pwyllgor oedd, er mai bwriad y rhaglen efallai oedd ystyried materion ynglŷn â gwahanol ffyrdd o fyw, bod effaith cronus y cyflwyniad o Mrs Holland yn y rhaglen yn bortread annheg o Mrs Holland, ei gweithredoedd a'i chymhelliad.

Yn ei ystyriaeth o gŵyn pellach Mrs Holland ei bod wedi ymddangos yn y rhaglen pan nad oedd yn dymuno ymddangos o gwbl, nododd y Pwyllgor ymateb S4C bod y cyfnod o amser yr oedd yr achwynwyr yn ymddangos yn y rhaglen yn adlewyrchu faint o amser y gwnaethant ei wario yn mynd at y camera a'i bod yn ddadleuol a oedd Mrs Holland wedi gwyrto o'i datganiad nad oedd yn dymuno. Archwiliodd y Pwyllgor yn fanwl y deunydd heb ei ddarlledu a ffilmwyd gyda Mrs Holland. Roedd y deunydd hwn yn dangos Mrs Holland yn datgan drachefn nad oedd yn dymuno ymddangos yn y rhaglen o gwbl ac yn gofyn drachefn i'r camera gael ei ddiffodd. Mae paragraff 12 o'r Côt Tegwch yn eglur ynglŷn â hawliau unrhyw berson i wrthod cymryd rhan mewn rhaglen. Mae paragraffau 25, 26 a 27 o'r Côt Tegwch yn manylu ar ddyletswyddau'r gwneuthurwyr rhaglenni na ddylent ddangos person o'r fath oni bai eu bod yn credu'n rhesymol bod eu cynhwysiad yn y rhaglen er budd hollbwysig i'r cyhoedd a ble bo ceisiadau rhesymol am gyfraniad gan y person wedi eu gwrthod.

Ni chafwyd tystiolaeth gab S4C bod gwneuthurwyr y rhaglen wedi disbyddu ceisiadau rhesymol i Mrs Holland ddarparu cyfraniad oddi ar gamera naill ai trwy lythyr, ffôn neu sgwrs wyneb yn wyneb. Yn wir, nododd y Pwyllgor, o ystyried y deunydd na chafodd ei ddarlledu, bod Mrs Holland a'i phartner Mr Asquith (ystyried ei gwynion isod) wedi ceisio cyfleoedd i siarad gyda gwneuthurwyr y rhaglen oddi ar gamera ac egluro'u sefyllfa. Yn yr amgylchiadau hyn nid oedd y Pwyllgor yn fodlon bod yna unrhyw fath o gyfiawnhad i gynnwys Mrs Holland, na bod cuddio'i hwyneb yn cydymffurfio gyda'i hawliau i beidio ag ymddangos yn y rhaglen. Roedd cynhwysiad Mrs Holland mewn rhaglen nad oedd hi eisiau bod yn rhan ohono, a heb gyfiawnhad budd hollbwysig i'r cyhoedd fel y trafodwyd uchod, felly yn golygu annhegwch iddi hi yn y rhaglen fel y'i darlledwyd.

Cŵyn olaf Mrs Holland ynglŷn â thegwch oedd bod gwneuthurwyr y rhaglen wedi recordio, ond heb ddarlledu, cyfweiliad gyda chymydog, Mr Mygind a bod hyn wedi golygu annhegwch iddi hi. Mae gan wneuthurwyr rhaglenni dyletswydd i gymryd pob gofal rhesymol i fodloni eu hunain bod holl ffeithiau perthnasol wedi eu hystyried cyn darlledu a chyn belled a bo'n bosib yn cael eu cyflwyno'n deg (Paragraff 7 o'r Côd Tegwch).

Gan ystyried ymateb S4C na ddefnyddiwyd y cyfweiliad gan ei fod yn cynnwys anghydfod gwahanol iawn ynghylch ffermio'r tir, archwiliodd y Pwyllgor y defnydd na chafodd ei ddarlledu o'r cyfweiliad gyda Mr Mygind. Roedd hi'n amlwg o'r sgwrs hwn bod Mr Jones yn ddyn a chanddo ddadleuon gyda pherchnogion tir eraill oedd wedi hen setlo yn yr ardal, ac nad Mrs Holland oedd yr unig berson i gael ei hun mewn anghytundeb gydag ef. Yn ogystal, fe allai'r cyfweiliad gael ei gymryd i fod yn dangos y materion rhwng Mrs Holland a Mr Jones yng nghyd-destun anghydfod yn y gymuned amaethyddol ynghylch gweithgareddau ffermio Mr Jones a defnydd o'r tir yn y dyffryn. Er mai mater i wneuthurwyr y rhaglen yw penderfynu a ddylid cynnwys deunydd o'r cyfweiliad hwn yn y rhaglen ai peidio, roedd gan wneuthurwyr y rhaglen ddyletswydd i gymryd pob gofal rhesymol i fodloni eu hunain bod yr holl ffeithiau perthnasol wedi eu hystyried cyn darlledu (Paragraff 7 o'r Côd Tegwch). Barn y Pwyllgor yw, oherwydd bod gwneuthurwyr y rhaglen wedi methu a gosod yr anghydfod rhwng Mrs Holland a Mr Jones yn ei gyd-destun llawn trwy gyfeirio at yr hyn a ddywedwyd yn y cyfweiliad gyda Mr Mygind, roedd gwneuthurwyr y rhaglen wedi peidio â chynnwys ffeithiau perthnasol yn y rhaglen a fyddai'n effeithio ar ddealltwriaeth y gwylwyr o ddeliad Mrs Holland gyda Mr Jones, ac felly'n effeithio eu cysyniad o'i phortread yn y rhaglen. Darganfu'r Pwyllgor felly bod yr hepgori hwn, o ffeithiau perthnasol, yn golygu annhegwch i Mrs Holland.

- c) Fe drodd y Pwyllgor Tegwch wedyn at gwynion Mrs Holland ynglŷn â phreifatrwydd. Cwynodd Mrs Holland bod gwneuthurwyr y rhaglen wedi mynd ar ei thir heb ganiatâd a recordio deunydd er gwaethaf ceisiadau i beidio â gwneud hynny. Nododd y Pwyllgor ymateb S4C bod gwneuthurwyr y rhaglen yn credu bod ganddynt hawl i ffilio gan eu bod ar, neu ar gyrion, priffordd gyhoeddus.

Deliodd y Pwyllgor yn gyntaf gyda'r mater o p'un ai cafodd preifatrwydd Mrs Holland ei dorri wrth recordio'r deunydd ar ei thir. Yn ei ystyriaeth, fe edrychodd y Pwyllgor ar y deunydd a recordiwyd ar dir Mrs Holland a gafodd ei ddarlledu ac na chafodd ei ddarlledu. Gwahaniaethodd y Pwyllgor rhwng recordio deunydd cyffredinol o'i thir a recordio deunydd penodol o Mrs Holland, ei thŷ a'i char. Roedd gan y Pwyllgor ystyriaeth i ddyletswydd gwneuthurwyr y rhaglen yn eu defnydd o gamerâu ar eiddo cyhoeddus a phreifat, ble bo'n rhaid i'r fath ddefnydd fod yn addas i bwysigrwydd neu natur y stori ac na ddylai'r fath recordio dorri'n ddiangen ar ymddygiad preifat (Paragraff 18 (iii) o'r Côd Tegwch). Ystyriodd y

Pwyllgor felly nad oedd y recordiad o ddeunydd cyffredinol ar dir Mrs Holland, er ei fod wedi ei recordio heb ganiatâd, yn torri ar ei phreifatrwydd trwy, er enghraifft, amharu ar ei bywyd personol a'i bywyd teuluol. Yn nhermau'r recordiad o ddeunydd penodol o Mrs Holland, ei thŷ, a'i char, roedd yn glir o'r deunydd a gasglwyd bod gwneuthurwyr y rhaglen wedi bwriadu recordio'r fath siots. Er enghraifft, ar un pwynt yn y deunydd na chafodd ei ddarlledu roedd y camera'n amlwg yn ffocysu ar grŵp o bobl oedd yn sefyll y tu allan i'r tŷ. Ystyriodd y Pwyllgor bod y cyfuniad o ffilmio, a mynnu parhau i ffilmio pan oedd Mrs Holland wedi gwneud ei dymuniadau'n eglur i wneuthurwyr y rhaglen, yn amharu ar ei bywyd personol a theuluol, ac yn torri ar ei phreifatrwydd.

Yna ystyriodd y Pwyllgor p'un ai oedd y toriad ar breifatrwydd Mrs Holland, trwy recordio deunydd penodol ohoni hi, ei thŷ, a'i char, yn gyfiawn. Ystyriodd y Pwyllgor nad oedd unrhyw gyfiawnhad ar sail budd hollbwysig i'r cyhoedd wrth recordio'r deunydd, oedd yn barhaus yn amharu ar fywyd preifat Mrs Holland o gwmpas ei chartref ac ar ei thir, er gwaetha'i phrotestiadau. Nid pherswadiwyd y Pwyllgor bod y fath amhariad, wrth recordio deunydd o Mrs Holland, ei thŷ, a'i char, yn cael ei gyfiawnhau gan natur y stori. Darganfu'r Pwyllgor felly bod preifatrwydd Mrs Holland wedi ei dorri heb gyfiawnhad wrth wneud y rhaglen.

- e) Yna ystyriodd y Pwyllgor gŵyn Mrs Holland bod gwneuthurwyr y rhaglen wedi darlledu'r deunydd a recordiwyd ar ei thir er gwaetha'i cheisiadau i beidio â gwneud hynny. Hefyd bod gwneuthurwyr y rhaglen wedi darlledu deunydd ohoni, wedi ei chyflwyno gan bennawd "doedd hi ddim isho cael ei ffilmio" pan, mewn gwirionedd nid oedd eisiau cymryd rhan yn y ffilm o gwbl. Nododd y Pwyllgor ymateb S4C bod gwneuthurwyr y rhaglen yn credu bod ganddynt hawl i ffilmio am eu bod ar, neu ar gyrion, priffordd gyhoeddus; eu bod yn deall dymuniad Mrs Holland i beidio ag ymddangos ac wedi mynd ati i barchu eu dymuniadau parthed ffilmio a, bod ei ffilmio yn y car er mwyn dangos nad oedd hi mewn rheolaeth o'i chŵn.

Am y rhesymau a roddir uchod ym mhenderfyniad c) ystyriodd y Pwyllgor nad oedd darlledu deunydd cyffredinol o dir Mrs Holland yn torri ar breifatrwydd Mrs Holland ond bod darlledu deunydd penodol o Mrs Holland, ei thŷ a'i char, yn amharu ar ei bywyd preifat ac yn torri ar ei phreifatrwydd. Yna ystyriodd y Pwyllgor a oedd y toriad hwn ar breifatrwydd Mrs Holland yn gyfiawn. Fe nododd y Pwyllgor yn arbennig bod y rhaglen yn datgan:

"Doedd hi ddim isho cael ei ffilmio."

Nododd y Pwyllgor hefyd bod gwneuthurwyr y rhaglen wedi cuddio wyneb Mrs Holland. Fodd bynnag, fel y trafodwyd uchod yn b), roedd hi'n amlwg oddi wrth y deunydd na ddarlledwyd nad oedd Mrs Holland yn dymuno i ymddangos yn y rhaglen o gwbl ac wedi gofyn dro ar ôl tro i'r camera gael ei ddiffodd. Mewn rhai amgylchiadau fe ellid cyfiawnhau recordio'r fath ddeunydd ar sail budd hollbwysig i'r cyhoedd, er enghraifft yn dadorchuddio gweithgaredd troseddol. Fodd bynnag, ystyriodd y Pwyllgor nad oedd budd hollbwysig i'r cyhoedd o ddangos Mrs Holland yn y rhaglen, er bod ei hwyneb wedi ei guddio, ac ni chawsant eu perswadio bod y deunydd a recordiwyd o gŵn Mrs Holland yn rhedeg wrth ochr y car yn cyfiawnhau cynnwys y deunydd ychwanegol hwn. Casglodd y Pwyllgor nad oedd natur y stori yn cyfiawnhau darlledu deunydd penodol o Mrs Holland, ei thŷ a'i char, a bod preifatrwydd Mrs Holland felly wedi ei dorri'n anghyfiawnadwy yn narllediad y rhaglen.

- e) Ystyriodd y Pwyllgor gŵyn pellach Mrs Holland bod gwneuthurwyr y rhaglen wedi cynnwys gwybodaeth ddigonol o fewn y ffilm, gan gynnwys ei chyfeiriad post bron yn gyflawn, i'w hadnabod hi a'i chartref, a thrwy hynny yn peryglu ei diogelwch. Nododd y Pwyllgor ymateb S4C na wnaeth y rhaglen roi cyfeiriad post Mrs Holland ac na roddodd gwneuthurwyr y rhaglen unrhyw sicrwydd i Mrs Holland na fyddent yn ffilmio'i thŷ.

Ystyriodd y Pwyllgor y cyfeiriadau yn y sylwebaeth i leoliad eiddo Mrs Holland oedd yn cynnwys:

"Cwm Mynach ger Dolgellau ym mherfeddion Meirionnydd."

Nododd y Pwyllgor, er nad yw materion diogelwch yn rhan o gylch gwaith Ofcom, mae Paragraff 27 o'r Côd Tegwch yn datgan bod yn rhaid cymryd gofal i beidio â'i gwneud hi'n hawdd dod o hyd i neu adnabod cyfeiriad rhywun sydd wedi gwrthod cyfweiliad, oni bai ei fod yn fanwl berthnasol i'r ymddygiad dan archwiliad a bod budd hollbwysig i'r cyhoedd. Ystyriodd y Pwyllgor bod y deunydd a ddarledwyd o gartref Mrs Holland, fel y trafodwyd uchod yn d), wedi ei gyfuno gyda'r llinellau sylwebaeth yn cyfeirio at leoliad ei heiddo, yn ei gwneud hi'n hawdd dod o hyd i neu adnabod ei chyfeiriad. Ystyriodd y Pwyllgor ymhellach, oherwydd ei chais penodol i beidio â chymryd rhan yn y ffilm a'r penderfyniad a drafodwyd uchod yn b), bod y deunydd a'r sylwebaeth hwn yn torri ar ei phreifatrwydd ac nad oedd natur y stori yn cyfiawnhau'r toriad hwn. Canlyniad hyn oedd toriad anghyfiawnadwy o'i phreifatrwydd.

- f) Nesaf ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith bod y rhaglen yn cynnwys nifer o anghywirdebau ffeithiol ac yn portreadu ffeithiau eraill mewn modd hollol gamarweiniol oedd yn golygu annhegwch iddo ef. Roedd gan y Pwyllgor ystyriaeth arbennig i Baragraff 2 o'r Côd Tegwch ynghylch dyletswyddau darlledwyr i osgoi annhegwch i unigolion neu sefydliadau'n ymddangos mewn rhaglenni trwy ddefnydd o wybodaeth anghywir neu afluniad, er enghraifft trwy ddewis annheg o ddeunydd neu gyfosodiad annheg o ddeunydd. Ystyriodd y Pwyllgor hefyd Baragraff 7 o'r Côd Tegwch parthed dyletswyddau darlledwyr i gymryd gofal arbennig pan fo'u rhaglenni'n gallu effeithio'n anffafriol ar enw da unigolion, cwmnïau neu sefydliadau eraill, ac i gymryd pob gofal rhesymol i fodloni eu hunain bod yr holl ffeithiau perthnasol wedi eu hystyried cyn darlledu a, chyn belled â phosib wedi eu cyflwyno'n deg. Gan ddelio'n unigol â phob cwyn gan Mr Asquith parthed cynnwys y rhaglen, roedd ystyriaethau'r Pwyllgor fel a ganlyn:

- i. Ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith bod y cyfeiriad:

"Ma' ffarmwr yn deud bod o'n cael ei erlid o'i fro enedigol gan fargyfreithiwr o Loegr."

Yn annheg gan fod Mr Asquith o dras Cymraeg, wedi symud yn ddiweddar i Loegr, ac nid yw'n berchen ar unrhyw dir yn y dyffryn. A bod yr eglurhad:

"Ma' Marc Asquith yn fargyfreithiwr o dras Gymreig..."

yn rhy bell i mewn i'r rhaglen i wylwyr gael dealltwriaeth iawn o gefndir Mr Asquith o'r cychwyn.

Nododd y Pwyllgor Tegwch ymateb S4C bod y disgrifiad yn gywir, wedi ei eirio'n ofalus, yn adlewyrchu barn y ffarmwr a'r wybodaeth a gafwyd gan Mr Asquith, a bod y disgrifiad o dras Mr Asquith ond munud i mewn i'r rhaglen.

Er ei fod yn farn a briodolwyd i'r ffarmwr, ystyriodd y Pwyllgor Tegwch bod rhan gyntaf a gwynwyd amdano yn fodd o gyflwyno'r anghydfod ar ddechrau'r rhaglen. Roedd hwn yn ymddangos ei fod yn cyflwyno'r anghydfod fel un rhwng y ffarmwr, Meirion Jones, a Mr Asquith. Fodd bynnag Mrs Holland oedd yn berchen y tir a gyda hi roedd dadl Mr Jones. Ystyriodd y Pwyllgor Tegwch bod y ffocws ar Mr Asquith yn nisgrifiad agoriadol yr anghydfod yn gamarweiniol. Roedd y pwyslais ar Mr Asquith yn gosod tŷon arbennig oedd yn annheg arno ef. Darganfu'r Pwyllgor felly bod y cyfeiriad yn achosi annhegwch i Mr Asquith yn y rhaglen fel y'i darlledwyd.

Parthed lleoli'r eglurhad o dras Mr Asquith, nid oedd y Pwyllgor yn derbyn bod hyn wedi ei wneud yn rhy bell i mewn i'r rhaglen, gan iddo ddod ychydig funudau wedi'r agoriad, ac felly nid oedd yn golygu unrhyw annhegwch i Mr Asquith.

- ii. Ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith ynglŷn â chyfeiriad yn sylwebaeth agoriadol y rhaglen i:

"mewnfudwyr"

Nododd y Pwyllgor gŵyn Mr Asquith bod y disgrifiad hwn yn annheg gan ei fod ond yn "fewnfudwr" yn yr ystyr ei fod yn "fewnfudwr" i'r dyffryn arbennig hwn ac roedd hi'n glir nad dyma oedd y rhaglen yn ceisio ei gyfleu.

Ystyriodd y Pwyllgor hefyd ymateb S4C bod Mr Asquith wedi dod i fyw mewn ardal na chafodd ei fagu ynddi; bod y cyfeiriad cyntaf yn rhan o gwestiwn rhethregol; a'r ail yn adrodd safbwynt Mr Jones.

Nododd y Pwyllgor y ddau gyfeiriad yn sylwebaeth y rhaglen:

"Heno: ydi mudiad Cymuned yn amddiffyn y Cymry neu'n cynddeiriogi mewnfudwyr?"

Ac,

"Ma' newydd-ddyfodiaid i'r Cwm wedi bod yn dychryn y defaid yno."

Ystyriodd y Pwyllgor Tegwch bod y ddau ddefnydd o'r gair "mewnfudwyr" wedi eu lleoli yn agos at ddisgrifiadau yn y sylwebaeth o'r anghydfod gyda Mr Jones ac y gallant felly gael eu dehongli fel cyfeiriad at Mr Asquith. Er bod y geirio yn ffeithiol gywir parthed cysylltiad Mr Asquith gyda'r dyffryn, nid oedd yn cael ei ddefnyddio'n niwtral fel datganiad o ffaith. I'r gwrthwyneb, ystyriodd y Pwyllgor fod y cyd-destun yr oedd wedi ei osod ynddo'r dwywaith yn awgrymu arwyddocâd difrifol fel cyfeiriad at rywun nad oedd yn perthyn ac nad oedd ganddo hawl i fod yn y dyffryn. Darganfu'r Pwyllgor bod hyn yn golygu annhegwch i Mr Asquith yn y rhaglen fel y'i darlledwyd.

- iii. Ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith ynglŷn â dau gyfeiriad, mewn cyfweiliad gyda'r ffarmwr Mr Jones ac yn y sylwebaeth, at ei reolaeth o'i gŵn:

Cyfeiriad 1: "Cyfweiliad: Beth oedd e'n wneud wedyn oedd gyrru'r cŵn 'fyny trwy'r coed tra roedd o'n dreifio'r gweddill y ffordd i fyny at y tŷ .."

Cyfeiriad 2: "Sylwebaeth: Mae o'n dadla' bod Meirion Jones yn hapus iddo fynd a'r cŵn drwy'r caea' adeg wyna, i gadw'r llwynogod draw."

Nododd y Pwyllgor gŵyn Mr Asquith bod ganddo hawl i yrru ei gŵn i redeg trwy goetir Tyn y Coed, a bod y cyfeiriad yn y rhaglen yn awgrymu esgeulustod ar ei ran. Ystyriodd y Pwyllgor hefyd ymateb S4C bod y defaid yn crwydro'n rhydd yn y coetir a bod yr ail gyfeiriad wedi ei gynnwys i geisio cynnal cydbwysedd ar y mater hwn ac i gyflwyno ochr Mr Asquith o'r stori.

Ystyriodd y Pwyllgor bod y cyfeiriad cyntaf, oedd yn rhan o restr o gwynion gan Mr Jones, yn awgrymu esgeulustod a diffyg cyfrifoldeb ar ran Mr Asquith, pan oedd hyn, mewn ffaith yn rhywbeth, fel y cytunwyd yng nghyflwyniad S4C, nad oedd Mr Asquith eisiau ganiatâd gan Mr Jones i'w wneud.

Dilynwyd hyn gan yr ail gyfeiriad oedd yn honiad a briodolwyd i Mr Asquith yn sylwebaeth y rhaglen ac yr oedd S4C yn dadlau oedd yn cyflwyno achos Mr Asquith. Fodd bynnag, ym marn y Pwyllgor, gan fod yr honiad hwn wedi ei honni'n syml, heb unrhyw eglurhad am ffynhonnell y llinell yn y sylwebaeth, nid oedd yn ateb y diben o gyflwyno ochr Mr Asquith o'r stori'n iawn ac fe allai'r gwyliwr fod wedi ei adael gydag argraff o esgeulustod ar ran Mr Asquith. Roedd y Pwyllgor felly'n ystyried bod y cyfeiriadau yn golygu annhegwch i Mr Asquith yn y rhaglen fel y'i darlledwyd.

- iv. Yna ystyriodd y Pwyllgor gwynion Mr Asquith ynglŷn â'r cyfeiriadau yn y rhaglen at symud y stoc:

Cyfeiriad 1 "Sylwebaeth: ma' Marc Asquith wedi bod yn hel y defaid o Dyn y Coed."

Cyfeiriad 2 "Sylwebaeth: nath Marc Asquith droi'r sdoc o gaeau Tyn y Coed."

*Cyfeiriad 3 "Cyfweliad Meirion Jones: Ac fe ddaeth Marc Asquith i fan hyn ac roedd e'n lluchio stoc drosodd...yn y gornel pella.
Sylwebaeth: Mi oedd ffermwyr lleol yno hefyd yn helpu Meirion Jones i droi'r sdoc yn ôl i'r caeau, ac mi o nhw'n dyst i ymateb Marc Asquith.
Cyfweliad: Mae e'n cydio yn y ddafad, wel, cydio yn ei asgwrn cefn - tu ôl i'w... chefn hi, ac yn ei...yn ei gwâr mewn ffordd ac yn usio'i ben-glin i luchio'i drosodd."*

Nododd y Pwyllgor gŵyn Mr Asquith bod y cyfeiriadau yn anghywir gan fod y defaid ond wedi cael eu symud gan Mrs Holland ei hun pan ddaeth y rhybudd i ymadael cyntaf i ben. Ystyriodd y Pwyllgor hefyd ymateb S4C bod yr honiadau wedi eu gwneud gan Mr Jones ac wedi eu cyfaddef gan Mr Asquith mewn sgwrs ffôn.

Nododd y Pwyllgor Tegwch bod ffermwyr lleol wedi rhoi adroddiad manwl, o lygad y ffynnon o'r digwyddiad a drafodwyd, yn y drydydd cyfeiriad uchod ac yn y deunydd llawn oedd heb ei ddarlledu. Perswadiwyd y Pwyllgor ei bod yn rhesymol i wneuthurwyr y rhaglen gynnwys y dystiolaeth hon, gan lygad dystion lleol, oedd yn cefnogi'r honiadau parthed gweithredoedd Mr Asquith a wnaed yn y sylwebaeth ac yng nghyfweliad Mr Jones. Casglodd y Pwyllgor felly ei bod yn deg i gynnwys y cyfeiriadau hyn yn y rhaglen.

- v. Ystyriodd y Pwyllgor gŵyn Mr Asquith am gyfeiriad Mr Jones, mewn cyfweiliad, at Mr Asquith yn troi'r defaid allan o'r cae rhent a chloi'r giatiau i'r cae i rwystro'r defaid rhag dychwelyd:

“Cyfweiliad: a gofyn iddo os ma’ fo oedd yn chwara’ gwmpas efo’r giatiau ‘ma. Ac mi ddwedodd ma’ fe oedd wrthi.”

Nododd y Pwyllgor gŵyn Mr Asquith bod y cyfeiriad yn anghywir gan fod ei weithredoedd yn ymateb i'r ffaith bod Mr Jones wedi gadael y giatiau ar agor, oedd yn drosedd ynddo'i hun dan Ddeddf Priffyrdd, fel y cadarnhawyd gan y cyngor lleol. Ystyriodd y Pwyllgor ymateb S4C bod y brif giât yn cael ei chadw ynghau ond bod giatiau eraill yn bwrpasol, ac yn gywir, yn cael eu gadael ar agor er mwyn i'r defaid grwydro.

Methodd y Pwyllgor Tegwch a chasglu pwy wnaeth beth gyda pha giatiau a chronoleg union y digwyddiadau hyn, ond er mwyn diffinio a oedd y rhaglen wedi golygu annhegwch i Mr Asquith, ystyriodd y Pwyllgor ei bod yn addas i archwilio cyd-destun ehangach y cyfeiriad hwn yn y cyfweiliad a ddarledwyd gyda Meirion Jones:

“Cyfweiliad: Mi ddaru i mi daro heibio’r tŷ i gael gair gyda Marc...a gofyn iddo os ma’ fo oedd yn chwara’ gwmpas efo’r giatiau ‘ma. Ac mi ddwedodd ma’ fe oedd wrthi. A’i eiriau oedd: ‘From now on, I’ll be telling you where you put your stock up this valley’, medda fo wrtha’i. Ac ‘ma fi’n dweud wrtho fo: ‘No bloody way’, medde fi. ‘Born and bred here’, medde fi wrtho. ‘You’re only down on weekends’, medde fi. ‘And you’re causing us a lot of bother,’ medde fi wrtho, ‘by interfering with our way of life.’”

O fewn cyd-destun ehangach y rhan hwn, oedd yn cynnwys sylwadau a briodolwyd i Mr Asquith gan Mr Jones, yr awgrym oedd bod Mr Asquith yn gweithredu'n amhriodol trwy rwystro symud stoc Mr Jones yn ôl ar y tir. Fodd bynnag, Mrs Holland oedd yn berchen y tir ac roedd symud honedig y stoc oddi ar y tir yn dilyn terfyniad tenantiaeth Mr Jones. Ym marn y Pwyllgor, fe awgrymodd y rhaglen yn annheg bod Mr Asquith yn gwneud rhywbeth nad oedd ganddo hawl i'w wneud a bod hyn yn golygu annhegwch iddo ef yn y rhaglen fel y'i darledwyd.

Ystyriodd y Pwyllgor hefyd gŵyn pellach Mr Asquith, a eglurwyd yn ei ail gyflwyniad, ynglŷn â'r cyfeiriad:

“Ar benwsnosa mae’n dod lawr i Gwm Mynach i weld ei gariad, Susan Holland, ac i baragleidio.”

Nododd y Pwyllgor gŵyn Mr Asquith bod y cyfeiriad hwn yn honni ei fod ond yn ymweld â'r ardal er mwyn chwarae pan, mewn gwirionedd, mae'n gwario ei benwythnosau yn reoli coetir. Nododd y Pwyllgor nad oedd S4C i'w weld yn ymateb yn uniongyrchol i'r cŵyn hwn na chafodd ei egluro nes yr ail gyflwyniad i Ofcom. Darganfu'r Pwyllgor nad oedd y cyfeiriad at baragleidio ei hun, na wnaeth Mr Asquith ddadlau ei gywirdeb, ynddo'i hun yn golygu annhegwch iddo yn y rhaglen fel y'i darledwyd. Fodd bynnag, fe ddelir gydag effaith cronus y portread o Mr Asquith ym mhenderfyniad g).

- vi. Ystyriodd y Pwyllgor gŵyn Mr Asquith ynglŷn â datganiad Mr Jones yn ei gyfweiliad:

“Roeddwn i'n teimlo'r adeg hyny...ma' fi oedd y Cymro olaf yn y Cwm.”

Cwynodd Mr Asquith bod hyn yn anghywir gan fod ffermwr Cymraeg arall ychydig islaw tir Tyn y Coed, ac yn ychwanegu at bortread cydymdeimladol annheg ochr Mr Jones o'r anghydfod. Nododd y Pwyllgor ymateb S4C bod hyn yn gywir fel cyfeiriad i'r dyffryn bychan Cwm Mynach.

P'un ai oedd y datganiad hwn yn gywir ai peidio (gan dderbyn diffiniad S4C o "Cwm", roedd y Pwyllgor yn ystyried y byddai'n gywir) nid oedd yn gwneud unrhyw gyfeiriad at Mr Asquith. O ganlyniad, darganfu'r Pwyllgor na chafwyd unrhyw annhegwch i Mr Asquith o ganlyniad i gynnwys y datganiad hwn yn y rhaglen fel y'i darlledwyd.

- vii. Ystyriodd y Pwyllgor gŵyn Mr Asquith ynglŷn â chwestiwn a ofynnwyd gan newyddiadurwr y rhaglen i Mr Aran Jones o'r grŵp ymgyrchol Cymraeg Cymuned:

“Gohebydd: Roedd Marc Asquith, ar ôl iddo gyfarfod â chi, yn dweud: 'Mater i'r gyfraith ydy hwn. Ffrae rhwng dau gymydog. Dwi ddim yn deall beth mae Cymuned yn gwneud yn rhoi eu trwyn yn y busnes yma?'”

Nododd y Pwyllgor gŵyn Mr Asquith bod y cyfeiriad at y farn bod Cymuned yn "rhoi eu trwyn" yn yr anghydfod wedi ei briodoli'n anghywir iddo ef pan, mewn gwirionedd fe fynegodd ei gefnogaeth i ymglymiad Cymuned wrth wneuthurwyr y rhaglen a phan geisiodd Cymuned gynnig dêl Meirion Jones a wrthododd y dêl hwn. Nododd y Pwyllgor ymateb S4C bod ymateb cychwynol Mr Asquith i Cymuned yn ddiystyriol a bod y cwestiwn wedi ei ofyn fel safbwynt hollol ddilys.

Methodd y Pwyllgor a barnu a wnaeth Mr Asquith y sylwadau hyn ai peidio. Fodd bynnag fe nododd na wnaeth y darlledwr herio hawliad Mr Asquith ei fod yn cefnogi ymglymiad Cymuned, a bod y rhaglen ei hun yn datgan bod Marc Asquith wedi mynychu cyfarfodydd gyda Aran Jones o Cymuned.

Nododd y Pwyllgor bod ymateb Mr Aran Jones yn awgrymu bod y cwestiwn yn anghywir:

“Tasa fo mor syml â hynny, buasa ni ddim wedi mynd yn rhan ohono fe.”

Casglodd y Pwyllgor bod y rhaglen wedi priodoli barn uniongyrchol i Mr Asquith yn annheg heb egluro dan ba amgylchiadau y lleisiodd Mr Asquith y farn honno. Heb y fath cyd-destun, roedd y Pwyllgor yn ystyried bod y gosodiadau yn rhoi argraff annheg o sefyllfa Mr Asquith ac felly darganfu bod eu cynnwys yn golygu annhegwch i Mr Asquith yn y rhaglen fel y'i darlledwyd.

- viii. Nesaf fe ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith bod y cyfeiriad at ei gartref ger Manceinion yn rhagfarnllyd, ac wedi ei fwriadu i'w bortreadu fel Tori o Fargyfreithiwr Saesneg aflan oedd yn sathru ar y ffermwr Cymraeg diniwed, ac mai tŷ ei fam a ddangoswyd ac nid ei dŷ mwy diymhongar ef. Ystyriodd y Pwyllgor hefyd ymateb S4C bod y lleoliad yn berthnasol i'r mater o faint o ddealltwriaeth allai ef ei gael o safle Mr Jones a bod yr wybodaeth wedi ei gymryd o wefan Cyngor Sir Caer, ble mae'n gynghorydd sir, oedd yn gyfredol ar y pryd.

Fel y trafodwyd uchod yn b) mae'n ymddangos bod y gŵyn o ragfarn yn berthnasol i'r angen i ddarlledwyr gynnal "amhleidioldeb dyledus" ar faterion o

anghydfod gwleidyddol neu ddiwydiannol a materion sy'n ymwneud â pholisi cyhoeddus cyfredol. Mae hwn yn "nod safonol" o dan Adran 319 o'r Ddeddf Cyfathrebiadau 2003 ac fel y cyfryw ni ellir ei ystyried gan y Pwyllgor Tegwch. Fodd bynnag, wrth ystyried a gafodd Mr Asquith ei drin yn annheg yn y rhaglen, fe all y Pwyllgor ystyried a allai'r cyfeiriad at gartref Mr Asquith olygu annhegwch iddo ef yn y rhaglen fel y'i darlledwyd. Wrth wneud hynny, nododd y Pwyllgor Tegwch gyd-destun llawn y cyfeiriad:

"Sylwebaith: Alderley Edge ger Manceinion. Hon ydi un o ardaloedd cyfoethca' Prydain efo mwy o filiwnyddion y filltir sgwâr yma na bron nunlla. Fan hyn oedd David Beckham yn arfer byw tra'n chwarae i Manchester United. [Gohebydd i gamera] "Fan hyn hefyd mae Marc Asquith yn byw...yn y tŷ 'ma tu cefn i mi."

Nododd y Pwyllgor gyflwyniadau pellach ynglŷn â chywirdeb yr wybodaeth ar wefan Cyngor Sir Caer ac ynglŷn â gwybodaeth y gofrestr etholiadol. Casglodd y Pwyllgor fodd bynnag nad oedd Mr Asquith wedi darparu tystiolaeth i berswadio'r Pwyllgor bod y cyfeiriad at, a'r deunydd a ddangoswyd o'r tŷ wedi golygu unrhyw annhegwch iddo ef, er enghraifft trwy ddangos sut y byddai cysyniadau a barn gwylwyr gartref amdano wedi bod yn arwyddocaol o wahanol neu wedi eu lleihau'n sylweddol gan y deunydd a gynhwyswyd yn y rhan hwn o'r rhaglen. Ni ddarganfu'r Pwyllgor felly bod unrhyw annhegwch wedi ei ddangos tuag at Mr Asquith yn hyn o beth.

- g) Nesaf fe ystyriodd y Pwyllgor gwynion Mr Asquith bod gwneuthurwyr y rhaglen wedi dangos rhagfarn, yn ei bortreadu yn anghywir fel y prif gymeriad yn gyffredinol ac fel "bargyfreithiwr Saesneg gyfoethog aflan" er gwaetha'r wybodaeth a roddwyd iddynt; bod yr achwynwyr wedi ymddangos yn y rhaglen am tua chwe munud, er gwaethaf ei ddymuniad i beidio ag ymddangos yn y rhaglen; a bod gwneuthurwyr y rhaglen hefyd, yn annheg, wedi hepgor darlledu cyfweiliad a recordiwyd gyda chymydog, Mr Mygind a fyddai wedi dangos bod Mr Jones wedi ymddwyn yn afresymol mewn sefyllfaoedd eraill ac mai ef oedd achos ei anawsterau ei hun.

Eto, fel y trafodwyd uchod yn b) fe ymddengys bod y ragfarn yn berthnasol i'r angen gan ddarlledwyr i gynnal "amhleidioldeb dyledus" ar faterion o anghydfod gwleidyddol neu ddiwydiannol a materion yn berthnasol i bolisi cyhoeddus cyfredol. Mae hyn yn "nod safonol" dan Adran 319 o Ddeddf Cyfathrebiadau 2003 ac fel y cyfryw ni ellir ei ystyried gan y Pwyllgor Tegwch. Fodd bynnag, wrth ystyried a gafodd Mr Asquith ei drin yn annheg yn y rhaglen, fe all y Pwyllgor ystyried a oedd y portread cyffredinol o Mr Asquith yn annheg o ran ei effaith cronrus.

Yn ei ystyriaethau, roedd gan y Pwyllgor ystyriaeth arbennig tuag at ddyletswyddau ar ddarlledwyr, a drafodwyd uchod, i osgoi annhegwch i unigolion neu sefydliadau sy'n ymddangos mewn rhaglenni trwy ddefnydd o wybodaeth anghywir neu afluniad, er enghraifft trwy ddewis annheg o ddeunydd neu gyfosodiad annheg o ddeunydd (Côd Tegwch paragraff 2). Nododd y Pwyllgor ymateb S4C nad oedd y stori yn wrthdrawiad rhwng Saesneg a Chymraeg ond yn hytrach rhwng dwy ffordd wahanol o fyw. Fodd bynnag, o ystyried y casgliadau cyffredinol ym mhenderfyniad f), barn y Pwyllgor oedd, er efallai mai bwriad y rhaglen oedd ystyried materion ynghylch dwy ffordd o fyw gwahanol, roedd effaith cronrus y cyflwyniad o Mr Asquith yn y rhaglen fel y'i darlledwyd yn golygu portread annheg o Mr Asquith, ei weithredoedd a'i gymhellion.

Yn ei ystyriaeth o gŵyn pellach Mr Asquith ei fod wedi ymddangos yn y rhaglen pan nad oedd yn dymuno gwneud hynny, nododd y Pwyllgor ymateb S4C bod y cyfnod o amser yr oedd yr achwynwyr yn ymddangos yn y rhaglen yn adlewyrchu faint o amser y gwnaethant ei dreulio yn nesáu at y camera. Archwiliodd y Pwyllgor, mewn peth manylder, y deunydd a ffilmiwyd gyda Mr Asquith ac na chafodd ei ddarlledu. Dangosodd y deunydd hwn Mr Asquith yn datgan dro ar ôl tro nad oedd yn dymuno i'w sgwrs gyda'r criw camera gael ei ffilmio ac yn gofyn dro ar ôl tro i'r camera gael ei ddiffodd.

Mae Paragraff 12 o'r Côd Tegwch yn egluro'n glir hawliau unrhyw berson i wrthod cymryd rhan mewn rhaglen. Mae Paragraffau 25, 26 a 27 o'r Côd Tegwch yn manylu ar ddyletswyddau gwneuthurwyr rhaglenni ond i gynnwys person o'r fath os ydynt yn credu'n rhesymol y byddai eu cynnwys yn y rhaglen er budd hollbwysig i'r cyhoedd a phan fo ceisiadau rhesymol am gyfraniad gan y person wedi cael eu gwrthod. Ni ddarparodd S4C unrhyw dystiolaeth bod gwneuthurwyr y rhaglen wedi disbyddu ceisiadau rhesymol i Mr Asquith i wneud cyfraniad oddi ar gamera p'un ai trwy lythyr, ffôn neu mewn sgwrs wyneb yn wyneb. Yn wir, nododd y Pwyllgor, o ystyried y deunydd na chafodd ei ddarlledu, bod Mr Asquith a Mrs Holland wedi ceisio cyfleoedd i siarad gyda gwneuthurwyr y rhaglen oddi ar gamera ac egluro eu safbwynt. Yn yr amgylchiadau hyn, nid oedd y Pwyllgor yn fodlon bod unrhyw gyfiawnhad o'r fath dros gynnwys Mr Asquith yn y rhaglen. Roedd cynhwysiad Mr Asquith yn y rhaglen felly'n golygu annhegwch iddo ef yn y rhaglen fel y'i darlledwyd.

Cŵyn ar sail tegwch terfynol Mr Asquith oedd bod gwneuthurwyr y rhaglen wedi recordio, ond heb ddarlledu, cyfweiliad gyda chymydog, Mr Mygind, a bod hyn yn golygu annhegwch iddo. Fel y trafodwyd yn b) uchod parthed Mrs Holland roedd y cyfweiliad a recordiwyd gyda Mr Mygind yn cynnig cyd-destun ychwanegol a fyddai wedi bod yn berthnasol i ddeall yr anghydfod rhwng Mrs Holland a Mr Jones. Tra mai mater i wneuthurwyr y rhaglen yw cynnwys deunydd o'r cyfweiliad hwn ai peidio yn y rhaglen, roedd gan wneuthurwyr y rhaglen ddyletswydd i gymryd pob gofal rhesymol i fodloni eu hunain bod yr holl ffeithiau perthnasol wedi eu hystyried cyn darllediad (Paragraff 7 o'r Côd Tegwch). Aeth y Pwyllgor ati felly i ystyried a oedd gwneuthurwyr y rhaglen wedi hepgor ffeithiau perthnasol yn y rhaglen a fyddai wedi effeithio ar ddealltwriaeth y gwylwyr o ddeliau Mr Asquith gyda Mr Jones, ac felly effeithio ar eu cysyniad o'i bortread yn y rhaglen.

Er i Mr Asquith gael ei grybwyll yn y cyfweiliad gyda Mr Mygind (disgrifiodd Mr Mygind ef fel "*rhesymol ond penderfynol*") nid oedd, ar y cyfan, yn berthnasol i ddeliau Mr Jones gyda Mr Asquith. Yn wir fe soniodd Mr Mygind am y berthynas rhwng Mr Jones a Mr Asquith "*Dwi ddim wir yn gwybod y ffeithiau felly dwi ddim eisiau gwneud sylwadau amdanynt*". Ystyriodd y Pwyllgor bod y cyfweiliad yn dangos Mr Jones i fod yn ddyn oedd gyda dadlau gyda pherchnogion tir eraill oedd wedi hen setlo yn yr ardal ac nad Mrs Holland oedd yr unig berchennog tir oedd wedi ei chael ei hun mewn anghydfod gyda Mr Jones. Fodd bynnag, yn wahanol i Mrs Holland, nid yw Mr Asquith yn berchen ar y tir dan sylw ac nid oedd y deunydd hwn a recordiwyd, o gyfweiliad gyda pherchennog tir, yn berthnasol i gynorthwyo i roi perthynas Mr Asquith a Mr Jones yn ei gyd-destun. Felly nid oedd penderfyniad gwneuthurwyr y rhaglen i beidio â chynnwys ffeithiau'n codi o'r cyfweiliad hwn yn y rhaglen yn golygu annhegwch i Mr Asquith.

- h) I gloi, ystyriodd y Pwyllgor Tegwch gŵyn Mr Asquith bod ei breifatrwydd wedi dioddef toriad anghyfiawndwy wrth wneud a darlledu'r rhaglen a bod gwneuthurwyr y rhaglen fwy neu lai wedi gorfodi eu hunain arno ar drothwy'r drws, yn ffilmio ac yn darlledu ei drafodaethau gyda nhw er gwaethaf ei gais iddynt

beidio â gwneud hynny. Ystyriodd y Pwyllgor hefyd ymateb S4C mai dadl Mr Asquith oedd bod gwneuthurwyr y rhaglen yn ffilmio ar dir ble nad oedd ganddynt unrhyw hawl i ffilmio, ac nid eu bod yn ei ffilmio ef; ei fod weithiau yn amlwg eisiau cael ei ffilmio; ac na orfododd gwneuthurwyr y rhaglen eu hunain arno ar drothwy'r drws gan ei fod yn dewis oedi a thrafod materion gyda'r criw ffilmio.

Deliodd y Pwyllgor yn gyntaf gyda'r mater o p'un ai y torrwyd ar breifatrwydd Mr Asquith wrth recordio a darlledu deunydd ohono. Yn ei ystyriaeth o'r recordiad o'r deunydd, ystyriodd y Pwyllgor y deunydd o Mr Asquith gafodd ei ddarlledu ac na chafodd ei ddarlledu. Roedd gan y Pwyllgor ystyriaeth i ddyletswydd gwneuthurwyr y rhaglen yn eu defnydd o gamerâu ar eiddo cyhoeddus neu breifat, pan fo'r testun ar eiddo preifat, dan Baragraff 18 (iii) o'r Côt Tegwch. Mae hwn yn datgan bod yn rhaid i'r fath ddefnydd fod yn addas i bwysigrwydd neu natur y stori ac na ddylai'r fath recordiad amharu'n ddiangen ar ymddygiad preifat. Gofynnodd Mr Asquith dro ar ôl tro i'r camera gael ei ddiffodd. Roedd y cyfweiliad y mae Mr Asquith yn dweud iddo gael ei orfodi ar drothwy'r drws yn amlwg yn un nad oedd wedi ei drefnu ac roedd ganddo nodweddion gorfodi ar drothwy'r drws (yn y ffaith nad oedd wedi ei drefnu o flaen llaw a'i fod wedi dweud nad oedd eisiau cael ei gyfweled), ond ni chafodd Mr Asquith ei orfodi ar drothwy'r drws yn ystyr normal y term. Fodd bynnag, o'r deunydd o'r digwyddiad arbennig hwn roedd hi'n amlwg bod gwneuthurwyr y rhaglen eisoes yn ffilmio wrth i Mr Asquith yrru tuag atynt a'u bod wedi parhau i ffilmio er gwaethaf ei geisiadau iddynt beidio â gwneud. Fel y trafodwyd ym mhenderfyniad g) uchod nid oedd casglu deunydd yn y fath fodd yn gyfiawn ac o ganlyniad ystyriodd y Pwyllgor bod y recordiad o'r deunydd hwn yn torri ar breifatrwydd Mr Asquith. Casglodd y Pwyllgor ymhellach bod darllediad y deunydd hwn yn y rhaglen hefyd yn amharu ac yn torri ar ei breifatrwydd.

Symudodd y Pwyllgor ymlaen i ystyried a oedd y toriad ar breifatrwydd Mr Asquith, yn recordiad a darllediad y deunydd hwn, yn gyfiawnadwy. Archwiliodd y Pwyllgor y deunydd na chafodd ei ddarlledu a ffilmwyd gyda Mr Asquith yn fanwl fel y trafodwyd uchod. Dangosodd y deunydd Mr Asquith yn dweud dro ar ôl tro nad oedd eisiau i'r trafodaethau gyda'r criw camera gael eu ffilmio ac yn gofyn dro ar ôl tro i'r camera gael ei ddiffodd. Mewn amgylchiadau arbennig fe all recordio deunydd o'r fath gael ei gyfiawnhau ar sail budd hollbwysig i'r cyhoedd, er enghraifft wrth ddadorchuddio gweithredu troseddol, fodd bynnag nid oedd y Pwyllgor yn fodlon bod unrhyw gyfiawnhad ar sail budd hollbwysig i'r cyhoedd am y recordiad na darllediad o'r deunydd gyda Mr Asquith, yn y cyfweiliad byrffyr, na deunydd arall a recordiwyd gydag ef. Roedd recordio a darlledu deunydd o Mr Asquith felly'n golygu toriad anghyfiawnadwy ar ei breifatrwydd yn y rhaglen fel y'i darlledwyd.

Gyda rhai eithriadau cyfyng, cafodd y cwynion o driniaeth annheg a thorri anghyfiawnadwy ar breifatrwydd eu cynnal.

Not Upheld

Complaint by Mr Andreas Tambourides

Athenorama, London Greek Radio, 3 March 2006

Summary: Ofcom has not upheld this complaint of unfair treatment by Mr Andreas Tambourides.

During this programme, the presenter played a song called *Baby, shhh!*, which contained the main refrain “Baby shut up”. While playing the song, the presenter made the following dedication to Mr Tambourides:

“Baby shut up! I should dedicate this to Andreas Tambourides who, the day before yesterday, was telling me how much he likes it. Well Andreas, I dedicate this to you with much love. Many kisses to you”

Mr Tambourides complained of unfair treatment in that: it was untrue for the presenter to state that he had told her that he liked the song; and, the playing of the song in such a way was personally insulting and offensive, and was an attempt to ridicule him. Mr Tambourides said that as Mayor of Barnet at the time, and a happily married man, the dedication of such a song caused immense embarrassment.

Ofcom found as follows:

- a) Ofcom found the false statement that Mr Tambourides had told the presenter he liked the song *Baby, shhh!* did not result in unfairness to the complainant. In reaching this decision Ofcom considered that the song was not of a particularly objectionable or offensive nature (e.g. racist or overtly sexual). Ofcom considered that the presenter’s statement, that Mr Tambourides had told her he liked the song, was unlikely to have left listeners with a negative impression of Mr Tambourides himself or raise questions in the listeners’ mind about his character.
- b) Ofcom found the playing of *Baby, shhh!* in conjunction with the presenter’s dedication did not result in unfairness to Mr Tambourides. In Ofcom’s opinion, the programme did not allege any wrongdoing on the part of Mr Tambourides or make any other type of significant allegation. In the circumstances Ofcom found the programme was unlikely to have materially affected listeners’ understanding of Mr Tambourides in a significant or unfair way. Accordingly Ofcom has not upheld Mr Tambourides’ complaint of unfair treatment.

Introduction

During this edition of *Athenorama*, the radio presenter Katia David played a song by the Greek artist Elli Kokkinou entitled *Baby Shhh!*. The main refrain of the song was “Baby shut up”.

Half way through the song Ms David interrupted and said:

“*Baby shut up! I should dedicate this to Andreas Tambourides who, the day before yesterday, was telling me how much he likes it. Well Andreas, I dedicate this to you with much love. Many kisses to you.*”

Mr Andreas Tambourides, who until 16 May 2006 was the Mayor of Barnet, made a complaint of unfair treatment in the programme as broadcast.

The Complaint

Mr Tambourides' case

In summary, Mr Tambourides complained he had been treated unfairly in the programme as broadcast in that:

- a) It was untrue to state that he had told the presenter that he liked the song. Mr Tambourides said that he had not spoken to the presenter for at least four years and never encouraged her to behave in such a way;
- b) Playing the song in such a way was personally insulting and offensive, and was an attempt to ridicule him. Mr Tambourides said that as Mayor of Barnet at the time, and a happily married man, the dedication of such a song caused immense embarrassment.

London Greek Radio's case

In summary, London Greek Radio ("LGR") responded to the complaint as follows:

a) & b) The Executive Director interviewed the presenter about the incident and was assured that the dedication was done in a light-hearted manner and not in response to a request by Mr Tambourides. LGR advised Ofcom that it had decided to suspend the presenter after the station received a complaint about the incident from Mr Tambourides. LGR provided Ofcom with a copy of Mr Tambourides letter of complaint, dated 17 May 2006, and a response from LGR to Mr Tambourides informing him of the suspension, dated 25 May 2006.

As regards Mr Tambourides' complaint of unfair treatment LGR said that, while the song on its own may not be insulting, the question of whether the broadcast was offensive and insulting would depend on the personal circumstances between the listener and the presenter.

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 and unwarrantable infringement of privacy in and in the making of 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 reaching a decision about this complaint Ofcom considered the written submissions of both parties, a recording of the programme and a transcript of the programme (in both Greek and English).

Ofcom's findings in relation to Mr Tambourides' specific heads of complaint are outlined below:

- a) Mr Tambourides complained that it was untrue for the presenter to state he liked the song *Baby, shhh!* during the programme as broadcast.

Programmes should not portray facts, events, individuals or organisations in a way which is unfair to an individual or organisation. It is important to note, however, that an inaccuracy in a programme will not automatically result in unfairness. In relation to this complaint, Ofcom was required to determine whether the false statement - as admitted by the licensee - that Mr Tambourides had told the presenter that he liked the song, resulted in unfairness to him in the programme as broadcast.

In reaching a decision Ofcom considered the song *Baby, shhh!*, its lyrics and the connection, if any, between it and the complainant. The lyrics in Ofcom's view were not of a particularly objectionable or offensive nature (e.g. racist or overtly sexual): the song was about a woman telling her partner to stop talking or "shut up". Given the trivial nature of the song Ofcom considered that the presenter's comment, that Mr Tambourides liked the song, was unlikely to have left listeners with a negative impression of Mr Tambourides himself or raise any questions about his character.

In the circumstances, Ofcom found that while it was untrue to state that Mr Tambourides had told the presenter that he liked the song *Baby, shhh!*, the programme did not result in unfairness to him as listeners were unlikely to have gained a negative impression of him as a result of the presenter's comment.

- b) Mr Tambourides complained the playing of *Baby, shhh!* in conjunction with the presenter's dedication was personally insulting and offensive, and was an attempt to ridicule him. Mr Tambourides said that as Mayor of Barnet at the time, and a happily married man the dedication of such a song caused immense embarrassment.

In its submission to Ofcom, LGR did not elaborate on why the presenter had chosen to make the dedication to Mr Tambourides. The broadcaster simply explained that the presenter had made the comments in a light-hearted manner and confirmed that the complainant had not requested the song.

In considering this complaint Ofcom was required to assess listeners' likely understanding of Mr Tambourides as a result of the programme with a view to determining whether the programme's portrayal of the complainant resulted in unfairness.

After listening to the programme, Ofcom considered that listeners may have developed two different interpretations about the presenter's comments. The first was a literal interpretation that the presenter was on good terms with Mr Tambourides and was playing him a song that he had told her he liked. The other interpretation was that listeners may have understood the presenter's comments were sarcastic and the playing of the song for Mr Tambourides was done as a joke or as an opportunity to voice her opinion that she would like Mr Tambourides to "shut up". Ofcom considered these interpretations separately to determine whether either of them resulted in unfairness to Mr Tambourides.

As noted above (finding (a)) Ofcom found the implication that Mr Tambourides might like the song *Baby, shhh!* did not result in unfairness. Ofcom found the song itself was not of such a nature that liking it would cause listeners to significantly question Mr Tambourides' character. Ofcom next considered the implication that the presenter was on good terms with Mr Tambourides. It was Ofcom's understanding from reading Mr Tambourides complaint that he believed the programme insinuated a level of familiarity between the presenter and himself which resulted in unfairness. After listening to the programme Ofcom acknowledged that the statement, "Well Andreas, I dedicate this to you with much love. Many kisses to you" suggested a degree of familiarity between the presenter and the complainant. However Ofcom did not agree with Mr Tambourides that the comment would have led listeners to believe that Mr Tambourides' relations with the presenter were inappropriate for either a married man or as the Mayor of Barnet. In Ofcom's view listeners who interpreted the comment in the literal sense, were likely to have understood that the presenter's comment was no more than a song dedication in response to a request from a friend. Given this likely interpretation, Ofcom found no unfairness to Mr Tambourides.

Ofcom next considered the possibility that the presenter's dedication had been made in a sarcastic manner: specifically that some listeners might have understood the presenter, when dedicating the song to Mr Tambourides, was either making a joke about Mr Tambourides liking such a song, or that the presenter was voicing her opinion that Mr Tambourides should "shut up".

In reaching a decision Ofcom noted that by his own estimation, Mr Tambourides was a "prominent figure" within the Greek Cypriot community. He had a certain level of local public prominence as the Mayor of Barnet. Ofcom therefore considered that Mr Tambourides could reasonably expect to be the topic of public opinion and discussion. In Ofcom's opinion the nature of the dedication, whether interpreted as a joke (about Mr Tambourides liking such a trivial song as *Baby, shhh!*) or an indication by the presenter that she would wish for him to stop talking would not have resulted in unfairness to Mr Tambourides. Ofcom considered that the opinion of the presenter, voiced in this way, did not allege wrong doing on the part of Mr Tambourides or make any other type of significant allegation that Mr Tambourides would be entitled to respond to.

Ofcom found the playing of the song in conjunction with the presenter's dedication did not result in unfairness to Mr Tambourides.

Ofcom has not upheld Mr Tambourides' complaint of unfair treatment.

Other Programmes Not in Breach/Out of Remit

8 November - 21 November 2006

Programme	Trans Date	Channel	Categories	No of Complaints
100% English	07/11/2006	Channel 4	General Acceptance Standards	1
100% English	08/11/2006	Channel 4	Offensive Language	1
8 Out Of 10 Cats		Channel 4	Other	1
A Girl's Guide to 21st Century Sex	06/11/2006	Five	Commercial References	1
A Girl's Guide to 21st Century Sex	06/11/2006	Five	Inaccuracy/Misleading General Acceptance Standards	1
A Touch of Frost	05/11/2006	ITV1	Standards	1
Alien 3 trailer	13/11/2006	Five	Scheduling	2
Americas Funniest Home Videos	18/10/2006	Kanal 5	General Acceptance Standards	1
BBC News	10/11/2006	BBC1	Violence	1
BBC News 24		BBC News 24	Undue Prominence	1
Bad Girls	03/08/2006	ITV1	Substance Abuse	1
Blue Murder	03/11/2006	ITV1	Animal Welfare	1
Bon Voyage	25/10/2006	ITV1	Animal Welfare	1
Borat's Television Programme	01/11/2006	Channel 4	General Acceptance Standards	2
Bratz	11/03/2006	CITV	Due Impartiality/Bias	1
Central Tonight (News) (West)		ITV1 Central	Other	1
Channel 4 News	04/11/2006	Channel 4	Crime (incite/encourage)	1
Coronation Street	11/09/2006	ITV1	Substance Abuse	1
Crimewatch	01/11/2006	BBC1	Inaccuracy/Misleading	1
Crimewatch	01/11/2006	BBC1	General Acceptance Standards	3
Doctors	07/11/2006	BBC1	Sex/Nudity	1
Dream Team	29/10/2006	Sky One	Commercial References	1
Emmerdale	26/10/2006	ITV1	Crime (incite/encourage)	1
Emmerdale	09/11/2006	ITV1	General Acceptance Standards	1
Entourage	05/11/2006	ITV1	Scheduling	1
Futurama	04/11/2006	Channel 4	Offensive Language	1
GMTV	27/10/2006	ITV1	Crime (incite/encourage)	1
Gamestar	20/07/2006	Gamestar		1
George Galloway	08/07/2006	Talksport	General Acceptance Standards	1
Gothika	05/11/2006	Five	General Acceptance Standards	1
Graham Norton's Bigger Picture	06/11/2006	BBC1	General Acceptance Standards	1
Guns are Cool		Channel 4	Offensive Language	1
Hell's Kitchen	03/11/2006	ITV1	Advertising	1
Hell's Kitchen USA	06/10/2006	ITV2	General Acceptance Standards	1
I'm A Celebrity, Get Me Out of Here!	13/11/2006	ITV1	Sex/Nudity	1
ITV News	02/11/2006	ITV1	Due Impartiality/Bias	1
ITV News	04/10/2006	ITV1	General Acceptance Standards	1

ITV News	27/10/2006	ITV1	Inaccuracy/Misleading	1
ITV News	31/10/2006	ITV1	Animal Welfare	1
ITV News	09/11/2006	ITV1	Violence	5
ITV News trailer	10/11/2006	ITV1	Violence	1
It's My Life	24/07/2006	ITV1	General Acceptance Standards	1
Jade's PA	05/11/2006	Living TV	General Acceptance Standards	1
Jimmy Hill's Sunday Supplement	15/10/2006	Sky Sports 1	General Acceptance Standards	1
Loose Women	02/11/2006	ITV1	Sex/Nudity	1
Lost		Sky One	Other	1
Made	06/11/2006	TMF	Sex/Nudity	1
Make Me a Supermodel	03/11/2006	Five	Animal Welfare	4
Match of the Day	30/09/2006	BBC1	General Acceptance Standards	1
Megastructures	20/10/2006	National Geographic	Dangerous Behaviour	1
Never Mind the Buzzcocks	26/10/2006	BBC2	Offensive Language	1
Newsnight	25/10/2006	BBC2	Dangerous Behaviour	1
One TV	18/08/2006	One TV	Advertising	1
Panorama Special - Exposed: The Bail Hostel Scandal	08/11/2006	BBC1	U18 - Coverage of Sexual/ other offences	2
Peaches music video	14/10/2006	MTV	Sex/Nudity	1
Popworld	28/10/2006	Channel 4	Offensive Language	1
Premiership Plus	12/08/2006	Sky Sports	Other	1
Quiz Call	15/10/2006	Quiz Call	Competitions	1
Quiz Call	21/10/2006	Five	Competitions	1
Quiz Call	20/10/2006	Five	Competitions	1
Racing UK	18/08/2006	Racing UK	General Acceptance Standards	1
Ramsay's Kitchen Nightmares	14/11/2006	Channel 4	Offensive Language	2
Real Story With Fiona Bruce	12/08/2004	BBC1		1
Roar	06/11/2006	BBC2	Dangerous Behaviour	1
Rory Peck Awards 2006	02/11/2006	Channel 4	General Acceptance Standards	1
Rugby Union	29/10/2006	Sky Sports 2	General Acceptance Standards	1
Scott Mills	25/09/2006	BBC Radio 1	Exorcism/Occult/Paranormal	1
Spooks	30/10/2006	BBC1	Religious Offence	2
Static Shock	06/10/2006	Toonami	Dangerous Behaviour	1
Strictly Confidential trailer	10/11/2006	ITV1	Sex/Nudity	1
T4: Sugababes Special	11/11/2006	Channel 4	Other	1
TMi	11/11/2006	BBC2	General Acceptance Standards	1
Tax The Fat	09/11/2006	More4	General Acceptance Standards	3
The Bill	09/11/2006	ITV1	Offensive Language	1
The Catherine Tate Show	26/10/2006	BBC2	General Acceptance Standards	1
The Catherine Tate Show	02/11/2006	BBC2	General Acceptance Standards	1
The F Word	16/11/2006	More4	Animal Welfare	1
The Four-Year-Old Who Ran 40 Miles	13/11/2006	Five Life	U18's in Programmes	1
The Jeremy Kyle Show	07/11/2006	ITV1	General Acceptance	1

				Standards	
The Prize Fight	09/09/2006	Sumo TV	Violence		1
The Race	07/11/2006	Sky Two	Offensive Language		1
The River Cottage Treatment	09/11/2006	Channel 4	Animal Welfare		1
The Secret Policeman's Ball	31/10/2006	Channel 4	General Acceptance Standards		2
The X Factor	04/11/2006	ITV1	General Acceptance Standards		3
Too Big To Walk?		Channel 4	Offensive Language		1
Torchwood trailer	04/11/2006	BBC1	Scheduling		1
Tour de France	14/07/2006	ITV4	Offensive Language		1
Unanimous	27/10/2006	Channel 4	General Acceptance Standards		1
Watchdog	31/10/2006	BBC1	General Acceptance Standards		1
Welcome to Collingwood	21/10/2006	BBC2	Offensive Language		1
West Eye View	15/10/2004	ITV1			1
What Makes Us Human	19/08/2006	Channel 4	Inaccuracy/Misleading		1
Wild Thing I Love You	05/11/2006	Channel 4	Commercial References		1
Will & Grace	09/11/2006	Channel 4	Sex/Nudity		1