

Complaint by Dr Mahmoud Abdual Rahman Al-Jaidah, made on his behalf by Mr Rodney Dixon QC, about *A documentary about Mahmoud Al Jaidah and the secret organisation in the UAE*

Type of case Fairness and Privacy

Outcome Upheld

Service Abu Dhabi Channel

Date & time 28 June 2017¹

Category Fairness and Privacy

Summary We have upheld this complaint of unjust or unfair treatment in the programme as broadcast and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme, and in the programme as broadcast.

Ofcom also considers that the breaches of Rules 7.1 and 8.1 of the Code are serious. We are therefore putting the Licensee on notice that we intend to consider the breaches for the imposition of a statutory sanction.

Case summary

The programme reported on Qatar’s alleged support for the Muslim brotherhood, which the programme described as a terrorist organisation, and included footage of Dr Al-Jaidah (the complainant) discussing his alleged involvement in terrorist activities.

Dr Al-Jaidah, who was arrested by the authorities in the United Arab Emirates (“UAE”) in 2013, subsequently brought a complaint to Ofcom, saying that he was interviewed under duress while he

¹ The complaint was submitted to Ofcom on 16 March 2018.

was in custody and the footage was broadcast by Abu Dhabi Channel without his knowledge or consent.

Ofcom found that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast and that his privacy was unwarrantably infringed both in the obtaining of the footage of him and in its broadcast.

Programme summary

Abu Dhabi Channel is a global news and current affairs television channel produced in Abu Dhabi and funded by Abu Dhabi Media, the official media organisation of the Government of Abu Dhabi. Abu Dhabi is one of the seven emirates that make up the UAE. In the UK, the channel is broadcast on the satellite platform. The Licence for the service is held by Abu Dhabi Media Company PJSC (“ADMC”). As the programme was broadcast in Arabic, an English translation was obtained by Ofcom and provided to the complainant and the broadcaster for comment. The broadcaster submitted comments on the translation to Ofcom, however, the complainant made no comments on the translation. The broadcaster’s comments were assessed by Ofcom and, where appropriate, amendments were made to the translation. A revised and final version of the translation was then provided to the parties who were informed that Ofcom would use this translation for the purposes of this investigation.

On 28 June 2017, Abu Dhabi Channel broadcast the programme *A documentary about Mahmoud Al Jaidah and the secret organisation in the UAE*.

The programme was introduced by the presenter:

“It is no secret that Istanbul hosts the annual meetings of the international terrorist organisation’s leaders, of the Muslim Brotherhood². A meeting attended by leaders of the secret organisation, the military and security wing of the terrorist organisation.

However, what some do not know is that Qatar has for some time been the primary supporter of the terrorist organisation, given its close ties with it. Several years ago, Istanbul was home to a unique meeting with representatives of the Qatari Muslim Brotherhood, a member organisation of the Muslim Brotherhood who fled the UAE. What is the purpose of these meetings? Is it simply to get acquainted with one another? Or is it a step in a series of conspiracies targeting the Gulf in general and the UAE in particular?

Early in 2013, the Emirati security services monitored suspect Mahmoud Al-Jaidah, a member of the Muslim Brotherhood, a terrorist organisation, as he sneaks across Dubai International Airport. Who is Mahmoud Al-Jaidah? And what was his intent?”

² The Muslim Brotherhood is an Islamic group, which is considered a terrorist organisation by the UAE government.

A caption read:

“Mahmoud Abdurrahman Al-Jaidah.

One of the primary financial supporters of the fugitive terrorists who have been sentenced by the courts of the United Arab Emirates”.

A photograph of Dr Al-Jaidah was shown.

The presenter said:

“Qatari citizen Mahmoud Al-Jaidah is one of the leaders of the Qatari terrorist organisation, the Muslim Brotherhood. He is responsible for illegally providing funds to members of the secret Emirati organisation. Mahmoud Al-Jaidah is also responsible for collecting funds from countries and other supporters of the organisation and then bringing them inside the country. He is further responsible for communicating with members of the secret Emirati organisation who have fled to Turkey and other countries”.

A caption read:

“Illegally providing funds to members of the secret Emirati organisation. Also responsible for collecting funds from countries and other supporters of the organisation and then bringing them inside the country”.

The presenter said:

“Since the advent of the Arab Spring, Al-Jaidah has been a member of the Gulf Coordination Office of the terrorist organisation, the Muslim Brotherhood. He has overseen a number of meetings within the UAE, for the purpose of inciting people through coordination between members of the terrorist organisation inside the UAE, with support from and in coordination with the terrorist Qatari organisation, the Muslim Brotherhood”.

A caption read:

“Mahmoud Al-Jaidah was a member of the Gulf Coordination Office of the Muslim Brotherhood during the Arab Spring.

Oversaw meetings within the UAE with the goal of incitement through coordination between members of organisation inside the UAE, with support/coordination with the Qatari Muslim Brotherhood”.

After saying that Qatar harboured financiers of Al-Qaeda, who were also members of the Muslim Brotherhood, the presenter continued:

“...Mahmoud Al-Jaidah confessed details on the terrorist Qatari organisation and its structure”.

Another photograph of Dr Al-Jaidah and then footage of him speaking were shown:

“There was, uh, the overall Director, the Inspector as we called him, Dr Jassim Sultan, then there was the Executive Committee, consists of thirty people, then there were groups of people distributed across specialised groups. There was a group, for example, doctors would be all joined together in a single group, those in the Ministry of Education in a group, those in the Ministry of Energy in a group. Those who worked together, met together”.

An organisational chart of the Muslim Brotherhood was shown.

The presenter said:

“All members of the Qatari Muslim Brotherhood, the terrorist organisation, are subject to strict organisational hierarchy, led by the ‘Executive Office’ and the Consultative Assembly”.

Further footage of Dr Al-Jaidah speaking was shown:

“We chose a group to lead us, headed by Eissa Al-Ansari, Muhammad Thani Asbai as an assistant, as well as Nasser Muhammad Eissa, Ibrahim Al-Ibrahim, Abdelhamid Mahmoud, Khamis Al-Muhannadi, and myself”.

As Dr Al-Jaidah was speaking, a photograph of Mr Eissa Al-Ansari was shown, and a caption underneath read:

“Eissa Ali Hussein Al-Ansari

Qatari national

Leader of the Qatari Muslim Brotherhood

Head of the Executive Office of the Brotherhood in Qatar [text cut off] escaped Emirati members and the international organisation”.

After explaining how the UAE had been the focus of what it called the Muslim Brotherhood's terrorist organisation, the presenter said:

“...The leaders of the terrorist Muslim Brotherhood in Qatar decided to exploit the situation. They began contacting the dissolved terrorist organisation members inside and outside of the Emirates. The state of Qatar opened up its doors and allowed the terrorist Emirati Muslim Brotherhood to use its land to meet international members of the organisation in Doha hotels, through the Gulf Coordination Office”.

Footage of Dr Al-Jaidah speaking was then shown:

“The relationship began when Khalid Al-Sheiba visited us. That was how the relationship started. It was a friendly relationship, to tell the truth, and mainly had to do with the Gulf Coordination Office”.

A photograph of Mr Al-Sheiba was shown and a caption underneath read:

*“Khalid Muhammad Al-Sheiba
Accused in the secret organisation case
Sentenced to 10 years in prison”.*

The presenter said:

“The Gulf Coordination Office was founded by the terrorist Brotherhood organisations of the Gulf to be their umbrella organisation, under the leadership of accused Khalid Al-Sheiba...Mahmoud Al-Jaidah is closely linked to Hakem Al-Muteiri, a Kuwaiti, who was the head of the so called Ummah Party, which links the Brotherhood organisations of Kuwait, the Emirates and Saudi Arabia. Hakem Al-Muteiri mostly attends the meetings carried out in Istanbul as part of the Gulf Coordination Office, along with two of the accused individuals, Muhammad Saqr al-Zaabi and Saeed Nasser Al-Tunaiji. He is also involved in financing terrorist organisations in Syria, Yemen and Libya. Qatar intended to radicalise and mobilise citizens of the Gulf Cooperation Council and pay them to carry out terrorist operations inside and outside of the states of the Gulf region...”.

Footage was then shown of Dr Al-Jaidah saying:

“When the Emirati Brotherhood organisation crisis surfaced, they had a connection in Qatar whose name was Muhammad Saqr. After a period of time, a meeting was held in Qatar attended by all the GCC Brotherhood leaders to support the UAE Muslim Brotherhood crisis”.

Underneath a photograph of Mr Muhammad Saqr Al-Zuabi, a caption stated:

*“Muhammad Saqr Al-Zuabi
His name is on the list of those accused of founding a secret Muslim Brotherhood organisation in the UAE. He continues to escape justice”.*

Dr Al-Jaidah continued:

“The main topic was media support...Kuwait, Wasfi Abdurrahim, from Bahrain, Abdulaziz Al-Mir accompanied by Salman Ali, from Qatar,

Muhammad Thani Asbai, or Eissa, and from the Emirates, Muhammad Saqr”.

The presenter said:

“Matters were not limited to external meetings but extended at a later date to attempts by the Qatari Brotherhood to infiltrate the Emirates to rally members of the UAE dissolved terrorist organisation against the State, as well as transfer for funds to the international terrorist organisation and the fleeing members”.

Dr Al-Jaidah said:

“In September, I went to the book exhibition in Sharjah. Eissa told me, Muhammad Saqr says that if you go to the Emirates, someone will give you money from my side. He told me, just tell me where you would be staying. I told him where I was living; I said that I had reserved a room at the al-Rayan Hotel in Sharjah.

After the Friday prayers, he told me to wait for him in the lobby and that he would meet me there. It was a small hotel. I waited in the lobby. A person came down and spoke to the reception, and then he turned to me and looked at me, then asked if I was Abdurrahman. I said yes. He asked where I was coming from, and who sent me? I said, from Muhammad Saqr. He said, good, I have some things for you to give to him. So, he gave me an envelope”.

The presenter said:

“No one knows what Muhammad Saqr Al-Zaabi does with this money. What is certain is that he currently lives in Britain, and that his involvement with the international terrorist organisation, the Muslim Brotherhood, and with other extremist organisations, has led to these funds going to persons aiming to carry out terrorist operations. Among them is Saeed Dasseral-Thonaiyy, who fled the Emirates and currently lives in Istanbul. At the time, Youssef Al-Qaradawi³ issued a fatwa⁴, authorising members of the terrorist Muslim Brotherhood to collect money and funds for the benefit of the terrorist Emirati Muslim Brotherhood organisation”.

³ Mr Youssef Al-Qaradawi, an Islamic scholar associated with the Muslim Brotherhood.

⁴ An Islamic edict issued by a religious leader or Islamic authority.

Footage was then shown of Dr Al-Jaidah saying:

“A fatwa was issued stating that it was permissible to help those who had left the Emirates because they don’t have any source of income, to use alms and charitable donations on their behalf. So, in Qatar, a sum of money was collected during Ramadan for them, and a sum of money was given to them, the Emiratis outside of their country”.

The presenter said:

“What Mahmoud Al-Jaidah failed to mention was that Youssef Al-Qaradawi, who issued the fatwa authorising the collection of money for the Emirati Brotherhood, also publicly issued a fatwa permitting suicide bombings in Syria, Iraq and others”.

Footage of Mr Youssef Al-Qaradawi being interviewed was shown, he said:

“If a group needs someone to blow themselves up to attack others, and this is necessary, the group must carefully prepare how to do this in a manner to reduce casualties, and this person should not be left on their own. Don’t act alone. You must act in compliance with the wishes of your group, you must submit yourself to the group”.

The presenter said:

“In addition to publicly inciting attacks, he also incited the people of the Emirates against their leaders, especially the President and Abu Dhabi’s Crown Prince”.

Later, the presenter said:

“During the interrogation, Mahmoud Al-Jaidah revealed the extent of the Muslim Brotherhood terrorist organisation influence in Qatar, where they didn’t just enjoy the permission of the Government, but also its support, and they used many names, particularly in the form of charitable organisations”.

Dr Al-Jaidah said:

“They control Sheikh Eid bin Muhammad organisation, and the Rahf organisation. They have strong control over those organisations, and have a very active programme of social activities, both during Ramadan and outside of Ramadan. They also have control over the Ministry of Religious Endowments. They are present in the Ministry of Religious Endowments. They are active domestically”.

The presenter said:

“In 2014, the Federal Court issued a ruling condemning Mahmoud Al-Jaidah to seven years imprisonment, followed by expulsion, after he was found guilty of cooperating with and participating in the secret and illegal organisation in the Emirates that was ordered to be dissolved”.

A letter was shown which ordered the release of Dr Al-Jaidah.

The presenter continued:

“However, his Excellency, the President, later issued a decree releasing Mahmoud Al-Jaidah and expelling him from the country”.

A news article was shown, in which highlighted text stated:

“Sheikh Khalifa bin Zayed Al Nahyan⁵ has ordered the release of the Qatari nationals who were previously sentenced by the State Security Court on the charge of ‘publishing information, rumours and pictures on websites and social media networks with the goal of ridiculing the symbols of the Emirates and damaging its reputation, respect and standing’”.

The presenter said:

“Mahmoud Al-Jaidah claims that the terrorist organisation, the Muslim Brotherhood in Qatar, is not connected to the leaders of Hamas who live in Qatar”.

Dr Al-Jaidah said:

“The truth is that even if they [Hamas leaders] offered to be loyal to us, we would turn them down. A decision was made at the beginning, it was decided that they would not be welcomed or coordinated with. Particularly, because the State did not offer them any support”.

The presenter said:

“However, as soon as he returned to Doha, all of those who he had denied knowing gathered around him, starting with Youssef Al-Qaradawi, and finishing with the head of Hamas, Khalid Meshaal. Mahmoud Al-Jaidah claims that he was denied of his visitation rights by his relatives during the interrogation. Yet, his daughter, Fatima Al-Jaidah, stated in a tweet on Twitter in April 2013 that her brothers had visited their father and verified that he was in good health”.

A caption read:

⁵ Sheikh Khalifa bin Zayed Al Nahyan is the Emir of Abu Dhabi and President of the UAE.

“During the visit by my brothers

To my father #prisoner_Mahmoud_al-Jaidah

They verified that he was in good health

And told us that everything was fine

They did not discuss the reason for his arrest or when he would be released”.

Footage of Dr Al-Jaidah being interviewed by the media was shown, he said:

“I still haven’t spoken to my family, no one told them to expect me at the airport or how I was doing”.

The presenter said:

“In an interview on the official Qatari TV channel, Mahmoud Al-Jaidah claimed that during the investigation he was deprived of medical care. However, hospital reports prove that he himself refused to receive medical attention or to even go to hospital”.

A document was shown entitled *“United Arab Emirates Ministry of Interior Abu Dhabi Police G.H.Q. Medical Services Dept.”*, in which highlighted text read:

“I do not want to go to hospital since I do not suffer from any pain at the moment. I would like the meeting to be deferred until my next meeting with the doctor.

[The second section of highlighted text was illegible]

The named patient declined to take medications to regulate his blood pressure”.

The document was dated 7 April 2014.

The remainder of the programme focussed on Qatar’s alleged role as an intermediary for terrorist organisations and made no further reference to Dr Al-Jaidah, apart from the presenter’s comment that:

“The secret Qatari files point to the existence of hundreds of people like Mahmoud Al-Jaidah within the GCC countries. Qatar works to mobilise them and train them for one single goal: to destroy the Gulf Cooperation Council, the sole Arab example of unification that works in the interest of the people...”.

Summary of the complaint and broadcaster's response

Complaint

A complaint about the programme was submitted on Dr Al-Jaidah's behalf by Mr Rodney Dixon QC. By way of background, Mr Dixon said that Dr Al-Jaidah, a Qatari national, was arrested by UAE authorities on 26 February 2013 and was detained incommunicado in a "secret prison" where he was interrogated and tortured. Mr Dixon said that Dr Al-Jaidah was forced under threat of torture to provide a confession on 13 March 2013 that was filmed by the UAE authorities. He was told what to say, which he repeated for fear of retribution. He was told that the recording would never be made available to the media and the public. He was told that he would be released if he recorded the confession. On 26 May 2013, Dr Al-Jaidah was charged, based on the false confession, for helping and funding an illegal secret organisation. He was convicted on 3 March 2014. On 22 May 2015, Dr Al-Jaidah was released on account of an agreement made between the Qatari and UAE governments.

Unjust or unfair treatment

- a) Mr Dixon complained that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast because:
 - i) The programme included information and allegations about him "in an attempt to smear his character and associate him with terrorism and terrorist activities". In particular, the programme included footage from Dr Al-Jaidah's confession to the UAE authorities on 13 March 2013, during which he confessed to crimes relating to terrorism. The programme did not explain that the confession had been obtained under the threat of torture. Mr Dixon said that the footage showed Dr Al-Jaidah apparently speaking openly. Mr Dixon said that this would give viewers the reasonable impression that Dr Al-Jaidah had willingly provided a first-hand account of the events that led to his arrest and subsequent conviction. Mr Dixon said that Dr Al-Jaidah appeared to be "genuinely admitting to having committed the crimes of which he was (wrongly) accused and found guilty".
 - ii) Dr Al-Jaidah was not given an opportunity to contribute or comment on the programme before it was broadcast. Mr Dixon said that the programme makers took no action at any time to confirm with Dr Al-Jaidah the veracity or accuracy of the footage broadcast.

Unwarranted infringement of privacy

- b) Mr Dixon complained that Dr Al-Jaidah's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme.

Mr Dixon said that the footage of Dr Al-Jaidah, which was broadcast, was filmed in a private room within the facility where he was imprisoned. It showed him making a confession, which was "obtained through duress, torture and false promises while he was being arbitrarily detained". The footage broadcast concerned matters of a highly sensitive and confidential nature, in particular, about Dr Al-Jaidah's alleged involvement with the Muslim Brotherhood for which he could be convicted of criminal conduct. Mr Dixon said that Dr Al-Jaidah did not make the confession voluntarily, nor did he give his consent to be filmed. Mr Dixon said that the broadcaster was aware, or should have been aware, of the circumstances in which Dr Al-Jaidah was filmed before the material was broadcast.

- c) Mr Dixon complained that Dr Al-Jaidah's privacy was unwarrantably infringed in the programme as broadcast because the footage of his confession was broadcast without his knowledge or consent.

Mr Dixon said that no public interest could justify broadcasting this footage obtained under duress while in a "secret prison" without first taking measures to validate and substantiate the circumstances of the interview and the information obtained, and to ensure that Dr Al-Jaidah was content for it to be publicised.

Broadcaster's response

Unjust or unfair treatment

ADMC said that it "had no reason to believe that Dr Al-Jaidah had any credible complaints surrounding the footage broadcast in the Programme". It said that following Dr Al-Jaidah's release from prison in the UAE for the crimes for which he had been convicted, Dr Al-Jaidah did not appear to have made any immediate public statements or given any interviews which suggested that he gave the interview in question under pressure. It said that Dr Al-Jaidah did not appear to confirm any suggestions of this in the Amnesty International press release, that he referred to in his complaint to Ofcom⁶. ADMC said that despite the assertions that Dr Al-Jaidah had consistently maintained that his written and recorded confessions obtained under torture were false, Dr Al-Jaidah's first public complaint to non-Qatari press with respect to the footage in question appeared to have been made in or around September 2017, two months after the programme was broadcast. ADMC said that, as such, at the time of broadcast, there was no reason for ADMC to believe that the footage of the interview was "anything other than freely obtained and an accurate reflection of the circumstances surrounding Dr Al-Jaidah's arrest and conviction for crimes against the UAE". ADMC said that although it was true that Dr Al-Jaidah had given an interview to the state Qatari television channel four days before the broadcast of the programme (which was referred to in the programme complained of), ADMC did not consider this to be a reliable source, not least, it said because it was seemingly broadcast as a reaction to a programme broadcast by ADMC on the Abu Dhabi Channel, on 22 June 2017, which related to another individual⁷.

ADMC said that it "did not consider itself to be aware of any 'material facts'" which could have impacted its decision to broadcast the footage", and that therefore it had not breached the Ofcom Broadcasting Code ("the Code"). It said that Dr Al-Jaidah was portrayed as someone admitting to criminal conduct against the UAE, because it said that this is what the footage showed and that this is what Dr Al-Jaidah was convicted of. ADMC said that it was not aware of any factors which were likely to have made this portrayal unfair or of any 'material facts' surrounding the footage which may have required elaboration.

⁶ Mr Dixon said that Dr Al-Jaidah was released from prison on 22 May 2015 as the result of an agreement between the Governments of Qatar and the UAE. He said that this was widely publicised at the time, including a public statement by Amnesty International (dated 15 June 2015), in which it noted that Dr Al-Jaidah was forced to video record a confession on the promise of being released from prison. A copy of this press release was provided to Ofcom: [Amnesty International Press Release](#).

⁷ *Confessions of Qatari intelligence agent to damage the reputation of the UAE*, Abu Dhabi Channel, 22 June 2017. This programme is the subject of a separate Ofcom investigation.

ADMC said that Amnesty International press releases were insufficient in themselves to support a contention of widespread media coverage of the circumstances surrounding the obtaining of the footage of Dr Al-Jaidah confessing to having committed crimes. It said that the press releases provided, seemingly only published in English, were not widely reported, would likely not have been widely read in the UAE, and were not read by ADMC. ADMC said that the Code states that the broadcaster must take “reasonable care” to satisfy itself that the material it presents is not unfair. It added that it was not incumbent on the broadcaster to conduct an exhaustive search for press releases. It further added that the same applied to a UN Working Group opinion provided by the complainant, which it said made no reference to Dr Al-Jaidah having to make any forced video confession.

ADMC said that the footage showed Dr Al-Jaidah in a “relaxed environment, with no suggestion that he was in a prison, as alleged”. It said that it was unaware of any credible suggestion that Dr Al-Jaidah was being filmed under duress as alleged.

ADMC further said that, even if it had considered it necessary to seek comment from Dr Al-Jaidah prior to the broadcast of the programme, it could not have done so because his whereabouts and address at the time of the broadcast were unknown to it. It said that, in the circumstances, the immediate public interest in broadcasting the programme, at a time when it was closely linked to contemporaneous political events in the Middle East, took precedence.

Unwarranted infringement of privacy

ADMC said that, as above, it was not aware of the allegations made by Dr Al-Jaidah surrounding the interview because these were not widely known at the time the programme was broadcast. ADMC said that there was no reason to suspect that the footage of Dr Al-Jaidah had been obtained involuntarily. It said that: “Dr Al-Jaidah was not visibly uncomfortable or distressed, nor does Dr Al-Jaidah appear to have been in a ‘secret prison’ or similar”. It further said that: “Nothing indicated that Dr Al-Jaidah was in a ‘private room’ or that the circumstances were otherwise private and not for broadcast”.

ADMC said that, in respect of obtaining consent to the broadcast of the footage, as set out above, it was unaware of Dr Al-Jaidah’s contact details at the time of the broadcast. It also said that it had no reason to believe that the footage of Dr Al-Jaidah had been filmed in a prison. ADMC said that Dr Al-Jaidah had no right to privacy with regard to the material, and if there had been, any infringement would have been warranted because it “did not know and could not have been aware that the material might be ‘private’”.

ADMC said that it also disagreed that any breach of privacy would outweigh the public interest in broadcasting the interview. It said that, at the time the programme was broadcast, the UAE and Qatar (and other Middle Eastern nations) were “embroiled in the height of the Qatar diplomatic crisis”. It said that the crisis had been triggered by Qatar’s alleged support and financing of terrorist groups including Hamas, and Qatar’s alleged violation of its obligations as a member of the Gulf Cooperation

Council⁸. It said that public interest in broadcasting information concerning matters relating to Qatar's conduct in the region was therefore very high. As such, it said that the public interest in broadcasting the programme contemporaneously with the crisis outweighed any claims that Dr Al-Jaidah may have seen to invoke in relation to his own privacy.

ADMC also said that its right to broadcast the footage of Dr Al-Jaidah at a time when public interest in the contents was manifestly high outweighed any competing rights Dr Al-Jaidah might claim to have in the circumstances.

Additional material

Following receipt of the broadcaster's response to the complaint, Ofcom requested that ADMC provide it with further information about the circumstances in which it obtained the footage of Dr Al-Jaidah. ADMC provided the further following information:

- ADMC was not involved in the filming of the footage of Dr Al-Jaidah. The footage was filmed and provided to ADMC by a "confidential third party source". It was this source that alerted ADMC to the existence of the footage. ADMC was not aware of the intention to conduct the filmed interview of Dr Al-Jaidah in advance.
- No discussions took place between ADMC and the source who provided the footage as to the circumstances in which the material had been filmed, including, for example, details as to where the footage was filmed.
- ADMC could not provide details about when it first became aware of the filmed interview with Dr Al-Jaidah or the existence of the footage because of "...the long delay between broadcast and the complaint...being made [to Ofcom]", however, it said that this "...is likely to have been shortly before broadcasting the footage".
- ADMC could also not provide the date on which it received a copy of the footage "...as a result of the long delay between broadcast and the complaint...being made [to Ofcom]", however, it said that "it would likely have been shortly before broadcast in June 2017".
- ADMC could not provide details of when and where the interview had taken place because of "the length of time between the date the programme was aired and the complaint... [made to Ofcom]", however it said that "...the filming appeared to have taken place in a relaxed environment".
- ADMC understood the footage to be "...a factual account given by the individual...of the circumstances surrounding the conviction of the...individual...".
- ADMC took no specific steps to ascertain the circumstances in which the footage of Dr Al-Jaidah had been filmed or to verify the accuracy of the statements that Dr Al-Jaidah made in the footage, given that it said that "ADMC was not aware of any facts which gave it reason to question the footage". In addition, ADMC said that it was public knowledge that Dr Al-Jaidah had been convicted by the UAE courts in respect of the matters which he discussed in the footage, and so it said that ADMC had no reason to question the footage.
- ADMC said that it could not provide any information about when it had first decided to produce the programme complained about or what editorial decisions it had taken before broadcasting the

⁸ The Gulf Cooperation Council ("GCC"), a political and economic alliance of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, and the UAE.

programme containing the footage of Dr Al-Jaidah “...as a result of the long delay between broadcast and the complaint...being made [to Ofcom]”, however, it said that the decision to produce the programme was “...likely to have been [made] shortly before broadcasting the programme...”. ADMC also said that: “ADMC broadcast the unedited footage that shows the individual...in a relaxed environment, with no suggestion that...[he was] in prison, as alleged, [or] that... [he was] subject to any duress or that there were any concerns relating to the time or duration of the interview...”.

- With regard to the interview given by Dr Al-Jaidah to Qatari TV before the programme complained of was broadcast, ADMC said that it no longer had a record of the steps taken in deciding that this interview was not reliable. It said that this was because of “...the long delay between broadcast and the complaint...being made [to Ofcom]. However, it said that: “We believe that the Dr Al-Jaidah interview to Qatari TV was not considered to be reliable on the basis that it was a reaction to the programme broadcast [by ADMC on the Abu Dhabi Channel on] 22 June 2017 which related to...[another individual]”⁹¹⁰.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Dr Al-Jaidah’s complaint should be upheld. Both parties were given opportunities to make representations on the Preliminary View, and while the complainant chose not to do so, the broadcaster did make representations which, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

Broadcaster’s representations

ADMC said that the complaint was filed 184 working days late, which it said, had unduly prejudiced ADMC in responding to the complaint (and that it continues to do so). This issue of delay in bringing a complaint was considered and rejected in Ofcom’s decision to entertain the complaint. We reconsidered in the light of ADMC’s subsequent representations whether there were any grounds to believe that it had been unduly prejudiced by the time which elapsed between the broadcast and Dr Al-Jaidah’s complaint. We were satisfied that there were not and so this point is not addressed further in this Decision.

ADMC said that Ofcom’s reasoning in relation to Rule 7.1 of the Code was based to a significant extent on its assessment of whether ADMC followed Practice 7.3 of the Code. It said that the Preliminary View made a finding that this Practice was not followed by ADMC, and then considered whether the failure to follow the Practice resulted in unfairness. ADMC said that it considered Practice 7.3 only applied where “a person is invited to make a contribution to a programme” and that in the present case, Dr Al-Jaidah alleged that he was told that the recording would never be made available to the media or the public. It added that Dr Al-Jaidah did not complain that he was “invited to make a

⁹ See footnote 4.

¹⁰ On 7 October 2019, Ofcom found that ADMC had breached its licence conditions by failing to provide information in response to requests made by Ofcom about: when ADMC became aware of certain footage which had been broadcast in the programmes which were the subject of the complaint; and the steps that ADMC had taken to ascertain the circumstances in which the footage had been filmed. See [Issue 388 of Ofcom’s Broadcast and On Demand Bulletin](#), published on 7 October 2019.

contribution” to the programme. It said that in those circumstances Practice 7.3 did not apply. ADMC said that, accordingly, Ofcom’s reasoning based on a finding that Practice 7.3 was not followed by the broadcaster was flawed. ADMC said that it follows that Ofcom’s Preliminary View on unfairness, relying as it does on the finding that Practice 7.3 was not followed, could not stand.

ADMC said that, when considering whether there was an unwarranted infringement of privacy in connection with the obtaining of the footage, Ofcom reiterated the finding it had already made as part of its reasoning in relation to unjust or unfair treatment that Practice 7.3 was not followed. It said that since, for the reasons set out above, it considered that Practice 7.3 did not apply in the present case, this vitiated the reasoning and conclusion in relation to unwarranted infringement of privacy.

ADMC said that it considered a further error was made in Ofcom’s consideration of the balance between the competing rights of privacy and freedom of expression, and in particular in its assessment of ADMC’s submissions based on the public interest in the making and broadcast of the programme. ADMC said that Ofcom stated that “it was not warranted to film [Dr Al-Jaidah] in such a sensitive situation for the purpose of a television broadcast”, and that this appeared to be regarded as a significant factor by Ofcom in reaching its conclusion that the public interest in making the programme, and including information about Dr Al-Jaidah, did not outweigh any infringement of privacy. ADMC said that the factual premise that Dr Al-Jaidah was filmed “for the purpose of a television broadcast”, however, was not made out. It said that neither Ofcom nor ADMC are in a position to ascertain why the footage was filmed and so it cannot be concluded that the filming of Dr Al-Jaidah took place “for the purposes of television broadcast”. ADMC said that, nevertheless, the Preliminary View stated that Ofcom’s finding that Dr Al-Jaidah’s legitimate expectation of privacy was unwarrantably infringed in connection with the obtaining of the broadcast footage was reached “on this basis” (i.e. on the basis that Dr Al-Jaidah was filmed “for the purpose of a television broadcast”).

ADMC said that these errors meant that Ofcom’s reasoning in relation to the complaint of unwarranted infringement of privacy in connection with the obtaining of the footage was flawed and its conclusion could not stand. ADMC said that it was difficult to understand how it could be held accountable for the obtaining of the material in circumstances where it was not responsible for filming it. ADMC also said that the reasoning in relation to the complaint that there was an unwarranted infringement of privacy in the programme as broadcast expressly incorporated the findings already made in relation to the obtaining of the footage and that, for the same reasons set out above, it followed that Ofcom’s conclusion on this part of the complaint was also flawed and could not stand.

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 unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be

transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching the decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and translated transcript of the programme as broadcast, both parties' written submissions and the broadcaster's representations in response to the Preliminary View. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom's Preliminary View to uphold the complaint.

Unjust or unfair treatment

- a) Ofcom considered the complaint that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of the Code.

In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- i) We first considered the complaint that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast because the programme included information and allegations about him "in an attempt to smear his character and associate him with terrorism and terrorist activities". In particular, Mr Dixon said that the programme included footage of Dr Al-Jaidah confessing to crimes relating to terrorism. However, the programme did not explain that the confession had been obtained under the threat of torture. Mr Dixon said that the footage showed Dr Al-Jaidah apparently speaking openly during his 'interview'. Mr Dixon said that this would give viewers the reasonable impression that Dr Al-Jaidah had willingly provided a first-hand account of the events that led to his arrest and subsequent conviction. Mr Dixon said that Dr Al-Jaidah appeared to be "genuinely admitting to having committed the crimes of which he was (wrongly) accused and found guilty".

In considering this complaint, we had particular regard to the following Code Practices:

Practice 7.3 states:

"Where a person is invited to make a contribution to a programme...they should normally, at an appropriate stage:

- be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute...;
- be told what kind of contribution they are expected to make...;

- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness;
- ...
- Taking these measures is likely to result in the consent that is given being ‘informed consent’...”.

Practice 7.9 states:

“Before broadcasting a factual programme, ...broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation...”.

It is important to note that it is not Ofcom’s role to determine whether the statements made in the programme by Dr Al-Jaidah were obtained under the threat of torture, but rather, whether the broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Dr Al-Jaidah.

Dr Al-Jaidah was introduced in the programme as follows:

“Qatari citizen Mahmoud Al-Jaidah is one of the leaders of the Qatari terrorist organisation, the Muslim Brotherhood. He is responsible for illegally providing funds to members of the secret Emirati organisation. Mahmoud Al-Jaidah is also responsible for collecting funds from countries and other supporters of the organisation and then bringing them inside the country. He is further responsible for communicating with members of the secret Emirati organisation who have fled to Turkey and other countries”.

The programme stated that *“Mahmoud Al-Jaidah confessed details on the terrorist Qatari organisation and its structure”* and then broadcast footage of Dr Al-Jaidah providing information about the structure of an organisation of which he identified himself as a leader. In our view, the inclusion of this footage in the programme, in the context in which it was shown, would have been understood by viewers as an admission by Dr Al-Jaidah of his involvement with the Muslim Brotherhood, which was described in the programme as a terrorist organisation.

Given this, we considered that the programme had the clear potential to materially and adversely affect viewers’ opinions of Dr Al-Jaidah.

Ofcom first considered the application of Practice 7.3 and the extent to which ADMC had taken steps to provide Dr Al-Jaidah with the information set out above. We took into account the complainant’s assertion that:

“While in the secret prison [Dr Al-Jaidah] was forced to sign a confession and to record on video a confession under duress and torture on 13 March 2013. He was told what to say which he repeated for fear of retribution. He was told that this recording would never be made available to the media and the public. He was also promised that he would be released if he recorded the confession”.

We did not accept the broadcaster’s representations that Practice 7.3 was not applicable given this account of the filming. By including the footage of his confession, Dr Al-Jaidah was presented as a contributor to the programme broadcast by Abu Dhabi Channel. It should therefore have taken steps to ascertain whether he had been given information in line with Practice 7.3 to obtain his informed consent. As a licensed broadcaster, it was responsible for ensuring that his treatment in the material it had obtained for broadcast complied with the Code.

ADMC said it had not been involved in the commissioning or filming of the footage, but that a “confidential third party source” had provided it to ADMC for the purpose of it being broadcast. We took into account the broadcaster’s statement and additional information provided to Ofcom regarding the circumstances surrounding the obtaining of the footage of Dr Al-Jaidah. ADMC told Ofcom that it had no knowledge of the circumstances in which he had been filmed: it said that no discussions had taken place between ADMC and the source that provided the footage as to the circumstances in which the material had been filmed and that “no specific steps were taken to ascertain the circumstances in which the footage had been filmed”.

We discuss below ADMC’s statement that it “had no knowledge” of the circumstances in which the footage was filmed. Regardless of what it did or did not know, ADMC has admitted that it did not take any specific steps to ascertain the circumstances, in order to satisfy itself that Dr Al-Jaidah had been informed about the nature and purpose of the programme, or why he had been asked to contribute or that he had been provided with any of the other information listed in Practice 7.3. We therefore considered that it was clear that the broadcaster had not obtained Dr Al-Jaidah’s informed consent to contribute to the programme nor taken any steps to verify whether such consent had been obtained.

Ofcom next considered the application of Practice 7.9 and the extent to which ADMC had exercised reasonable care in satisfying itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Dr Al-Jaidah.

We considered that Dr Al-Jaidah’s complaint that his confession was given under duress and the various published reports about this and his mistreatment while under investigation were material facts, since they challenged the reliability of his confession and subsequent conviction, which were the focus of the broadcast programme. Since they were not presented in the broadcast programme, we examined the various representations put forward by ADMC to explain their omission. These were:

- i) it appeared to suggest that it was not aware that the footage of Dr Al-Jaidah was filmed while he was being interrogated by the UAE authorities;
- ii) it was not aware of the allegations made by Dr Al-Jaidah about his interrogation;
- iii) it had no reason to believe that Dr Al-Jaidah had any credible complaints about the broadcast footage; and,
- iv) it did not regard the interview which Dr Al-Jaidah had given to the state Qatari television channel, which was referred to in the broadcast programme, as a reliable source.

ADMC said it had made no enquiries about where the footage of Dr Al-Jaidah was filmed and said it could not provide details about this because of the time that elapsed since broadcast. It noted that the filming appeared to have taken place in a “relaxed environment”. To the extent that ADMC was saying that by these representations that it was not aware that the footage was filmed during Dr Al-Jaidah’s interrogation by the UAE authorities, we did not consider that this was supported by the content of the programme that was broadcast. The footage of Dr Al-Jaidah speaking was shown within the context of the presenter outlining the facts that led to his conviction in the UAE. For example, at the beginning of the programme, the presenter said: *“Early in 2013, the Emirati security services monitored suspect Mahmoud Al-Jaidah as he sneaks across Dubai International Airport”*. Then, after outlining Dr Al-Jaidah’s activities in the Muslim Brotherhood, the presenter said *“Mahmoud Al-Jaidah confessed details on the terrorist Qatari organisation and its structure”* and footage of Dr Al-Jaidah providing this information was then shown. Later, in the programme, the presenter referred to Dr Al-Jaidah’s *“interrogation”* during which he revealed the extent of the Muslim Brotherhood’s influence in Qatar. This was followed by a clip of Dr Al-Jaidah providing information about organisations, such as the Ministry of Religious Endowments, which Dr Al-Jaidah said *“they control”*. The presenter then concluded with the information that Dr Al-Jaidah had been sentenced to seven years imprisonment by the Emirati Federal Court for his involvement with the Muslim Brotherhood in the UAE.

Accordingly, taking account of the context within which it was broadcast and the way in which it was described by the presenter, we considered that the footage of Dr Al-Jaidah was presented as being filmed during his interrogation by the UAE authorities and would have been understood by viewers as such.

In assessing whether the broadcaster was aware of Dr Al-Jaidah’s allegations about his interrogation, we took account of the broadcaster’s statement that following his release from prison in the UAE, Dr Al-Jaidah did not appear to have made any immediate public statements or given any interviews which suggested that he had given the relevant interview under pressure. ADMC said that: *“In fact, despite the assertions that Dr Al-Jaidah has ‘consistently maintained...that his written and recorded confessions were (allegedly) obtained by torture and are false’, his first public complaint to non-Qatari press in respect of the footage appears to have been made around September 2017, two months after the Programme was aired”*. ADMC said that: *“As such, at the time of broadcast, there was no reason for ADMC to believe that the videos were anything other than freely obtained and an accurate reflection of the*

circumstances surrounding Dr Al-Jaidah's arrest and conviction for the crimes against the UAE".

However, the broadcast programme included a reference to an interview that Dr Al-Jaidah had given to the state Qatari television channel four days before the broadcast of the programme in this case and the explicit complaint that he had made during the interview on the state Qatari television channel, that during the investigation by the Emirati authorities he had been deprived of medical care. We were therefore satisfied that ADMC was aware that Dr Al-Jaidah had complained about mistreatment while he was under investigation by the Emirati authorities.

ADMC further submitted that it had no reason to believe that Dr Al-Jaidah had any "credible" complaints about the footage of the interview with him and other content within the broadcast programme. In this regard, we took into account the document that was shown during the broadcast programme, which stated "*I do not want to go to hospital since I do not suffer from any pain at the moment*". However, since ADMC admitted that it had made no attempt to contact Dr Al-Jaidah, it was not clear on what basis it satisfied itself that the document demonstrated that his complaint about mistreatment was not credible. The document was dated 2014, a year after Dr Al-Jaidah's arrest and confession. Further, to the extent it related more generally to Dr Al-Jaidah's treatment while in the custody of the UAE authorities, we considered that the document was ambiguous since it also contained the statement "*I would like the meeting to be deferred until my next meeting with the doctor*". It therefore did not clearly undermine the veracity of Dr Al-Jaidah's complaint. We therefore considered that the document did not provide sufficient grounds for the broadcaster to dismiss Dr Al-Jaidah's complaints about his mistreatment by the UAE authorities without making further enquiries.

ADMC also dismissed the interview that Dr Al-Jaidah had given to state Qatari television as an "unreliable source" on the grounds that it was a reaction to another programme, relating to a different individual. Even if this were the case, we did not consider that this provided ADMC with reasonable grounds for dismissing Dr Al-Jaidah's complaints about his mistreatment without making further enquiries.

Accordingly, on the basis of the information before it, we considered that the broadcaster should have made reasonable enquiries to satisfy itself that material facts about Dr Al-Jaidah's confession had not been presented, disregarded or omitted from the broadcast programme in a way that was unfair to Dr Al-Jaidah. We considered it was particularly important to do so in this case, given that the broadcast programme was presenting Dr Al-Jaidah as a leader and funder of what it described as a terrorist organisation on the basis of his own confession and conviction by the UAE authorities.

We considered that if the broadcaster had carried out some basic desk research, it is likely that it would have discovered one or more of the documents highlighted in Mr Dixon's representations, namely: a public statement released by Amnesty International on 15 June 2015, in which it noted that Dr Al-Jaidah was forced to video record a confession on the

premise of being release; the opinion of the United Nations Working Group on Arbitrary Detention published on 21 December 2015¹¹, in which it detailed Dr Al-Jaidah having confessed to crimes under the threat of torture; and online press articles, which Mr Dixon provided to Ofcom about the detention, torture and mistreatment of Dr Al-Jaidah¹².

We therefore considered that ADMC had failed to exercise reasonable care in satisfying itself that material facts had not been presented, disregarded or omitted from the broadcast programme in a way that was unfair to Dr Al-Jaidah.

A failure to follow Practices will only constitute a breach of Rule 7.1 where it results in unfairness to an individual or organisation in the programme as broadcast¹³. We therefore went on to consider whether the way in which Dr Al-Jaidah was presented in the programme resulted in unfairness to him.

The programme presented Dr Al-Jaidah as a leader of and participant in a terrorist organisation, who had been convicted of these crimes in the UAE. The footage of his confession was central to the broadcast and the case that was set out against him in the programme. Ofcom considered that the way the footage of Dr Al-Jaidah was used in the programme as broadcast would have led viewers to believe that there was no reason to question the validity of his confession or his criminal conviction.

In Ofcom's view, it was clear that Dr Al-Jaidah had not consented to the footage of him being included in the broadcast programme. Further, we considered the broadcast programme omitted material facts in that it made no reference to Dr Al-Jaidah's contention that he was forced to provide the confession under duress and on the promise of being released nor to the published reports of his complaints by third parties, such as the UN Working Group on Arbitrary Detention and Amnesty International. These facts called into question the reliability of Dr Al-Jaidah's confession in the broadcast footage. As such, taking account of the very serious nature of the case set out against Dr Al-Jaidah and the weight that was placed on Dr Al-Jaidah's confession in the broadcast programme, we considered these omissions in the broadcast programme were unfair to Dr Al-Jaidah, in breach of Rule 7.1.

- ii) We next considered the complaint that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast because he was not given an opportunity to contribute or comment on the programme before it was broadcast. Mr Dixon said that the programme makers took

¹¹[The opinion of the United Nations Working Group on Arbitrary Detention](#), published on 21 December 2015.

¹² Examples of the online press articles provided:

[Qatari doctor gets seven years in UAE jail, Aljazeera, 4 March 2014.](#)

[Qatari doctor held and 'beaten' in unknown UAE jail, BBC News, 28 June 2013.](#)

[UAE jails Qatari doctor for supporting banned group, BBC News, 3 March 2014.](#)

[Another individual linked to free Dr Mahmoud al-Jaidah campaign detained in UAE, Cage, 10 January 2014.](#)

¹³ See Forward to Section Seven of the Code.

no action at any time to confirm with Dr Al-Jaidah the veracity or accuracy of the footage broadcast.

In assessing this head of complaint Ofcom took account of the following Practices of the Code.

Practice 7.11 states:

“If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond”.

For the reasons given in head a) i) above, we considered that the programme presented Dr Al-Jaidah as a leader and funder of a terrorist organisation on the basis of his confession and conviction by the UAE authorities, and that the broadcaster should have made reasonable enquiries to satisfy itself that material facts about Dr Al-Jaidah’s confession had not been presented, disregarded or omitted from the broadcast programme in a way that was unfair to Dr Al-Jaidah. One step towards ensuring this would have been to have offered Dr Al-Jaidah an appropriate and timely opportunity to respond to the allegations made against him in order to avoid unfairness, in accordance with Practice 7.11.

We acknowledged ADMC’s representation that: “...even if ADMC had considered it necessary to seek comment from Dr Al-Jaidah prior to the broadcast of the Programme, it could not have done so because his whereabouts and address at the time of broadcast were unknown to us”. However, ADMC made it clear to Ofcom that it did not consider it necessary to contact Dr Al-Jaidah for his views, and it did not provide Ofcom with any evidence of any attempt to do so. In these circumstances, and taking all of the above factors set out at head a) i) into consideration, we considered that Dr Al-Jaidah was treated unjustly or unfairly in the programme as broadcast.

Unwarranted infringement of privacy

Having considered unjust or unfair treatment, Ofcom then considered the complaint regarding unwarranted infringement of privacy. The complaint in this respect had two closely linked aspects, allegedly obtaining footage without consent and including it in the programme without consent.

In Ofcom’s view, the individual’s right to privacy has to be balanced against the competing rights of the broadcaster to freedom of expression and of the audience to receive ideas and information without undue interference. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate. This is reflected in how Ofcom applies Rule 8.1 which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

In addition to this rule, Section Eight (Privacy) of the Code contains “practices to be followed” by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not

necessarily avoid a breach of Rule 8.1 and failure to follow these practices will only constitute a breach where it results in an unwarranted infringement of privacy.

- b) We first considered the complaint that Dr Al-Jaidah's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the footage of his confession included in the programme was "obtained through duress, torture and false promises while he was being arbitrarily detained". Mr Dixon said that Dr Al-Jaidah was filmed in a private room within the facility he was being imprisoned, while discussing matters of a highly sensitive and confidential nature, in particular, about his alleged involvement in the Muslim Brotherhood for which he could be convicted of criminal conduct. Mr Dixon said that Dr Al-Jaidah did not make the confession voluntarily, nor did he give his consent to be filmed. Mr Dixon said that the broadcaster was aware, or should have been aware, of the circumstances in which Dr Al-Jaidah was filmed before the material was broadcast.

Ofcom had regard to Practice 8.5 which states that any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted.

We assessed the extent to which Dr Al-Jaidah had a legitimate expectation of privacy in the particular circumstances in which the material included in the programme was obtained. The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact-sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself.

According to the complaint, the footage of Dr Al-Jaidah was filmed in a private room in the facility where he was imprisoned. The complaint also said that the footage was filmed without his consent, while he was making a confession under threat of torture. Other than its observation that the footage showed Dr Al-Jaidah in a relaxed environment, ADMC was unable to confirm or deny his account of the filming. It said it was not involved in the filming and was not informed of the intention to film Dr Al-Jaidah in advance. It said that the footage was filmed and provided to ADMC by a "confidential third party source" and that it had no discussions with the source as to the circumstances in which the material had been filmed, including, for example, details as to where the footage was filmed.

As noted above, it is not Ofcom's role to determine whether the footage of Dr Al-Jaidah was filmed while he was under threat of torture. We have therefore not examined this aspect of Dr Al-Jaidah's complaint, but have instead focussed on the objective facts about the filming gleaned from the footage itself.

As we set out above in relation to our consideration of whether Dr Al-Jaidah was treated unfairly or unjustly in this case, we took account of the context within which the footage of Dr Al-Jaidah was broadcast and the way in which it was described by the presenter. We considered that the footage of Dr Al-Jaidah was presented as being filmed during his interrogation by the UAE authorities and would have been understood by viewers as such. We therefore considered that the broadcast footage of Dr Al-Jaidah's confession was filmed while he was being interrogated by

the UAE authorities. Further, it was clear that the footage was filmed inside, in a location that appeared private.

We also took into account the highly sensitive nature of the information Dr Al-Jaidah gave in the footage. In addition to his admissions about his own participation in the Muslim Brotherhood, he also disclosed information about other individuals that he said were involved in the organisation and the names of charitable bodies in Qatar that he said it controlled. We considered that these disclosures and the fact that Dr Al-Jaidah had made them were highly confidential. Therefore, taking all the circumstances revealed by the footage into account, we considered that Dr Al-Jaidah had a legitimate expectation of privacy while he was being filmed.

We next considered whether Dr Al-Jaidah had consented to the obtaining of the relevant material. It was clear from the footage that Dr Al-Jaidah was aware he was being filmed. However, he complained that he did not consent to being filmed at the time. As noted above in relation to the application of Practice 7.3, the broadcaster took no action to ascertain whether Dr Al-Jaidah had been provided with information to secure his informed consent to the filming. In these circumstances, we were not satisfied on the evidence before us that Dr Al-Jaidah's consent to being filmed for the broadcast programme had been obtained.

Having come to the view that the footage had been obtained without his consent, Ofcom was satisfied that the filming of Dr Al-Jaidah was a significant intrusion into his legitimate expectation of privacy. We therefore considered whether any such infringement was warranted.

The Code states that "warranted" has a particular meaning. Where broadcasters wish to justify an infringement of privacy, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest could include revealing or detecting crime, protecting public health and safety, exposing misleading claims by individuals or organisations or disclosing incompetence that affects the public.

Ofcom considered carefully ADMC's response as summarised above and in particular that:

"We contend that there was in fact no right to privacy in the material, and if there had been, any infringement would be warranted because we did not know and could not have been aware that the material might be private. We also respectfully disagree that any breach of privacy would outweigh the public interest in broadcasting the interview".

ADMC submitted that the factual premise that Dr Al-Jaidah was filmed for the purpose of a television broadcast was not made out. It said that neither Ofcom nor ADMC were in a position to know why the footage was filmed.

Ofcom acknowledged that ADMC made no enquiries to ascertain the circumstances in which the footage of Dr Al-Jaidah had been filmed, including whether he had consented to the filming.

However, we also considered that ADMC had decided to broadcast a programme which included the footage of Dr Al-Jaidah. As a licensed broadcaster, it is responsible for ensuring that it complies with the Broadcasting Code. Accordingly, it should have considered whether the filming of Dr Al-Jaidah for the purposes of a broadcast was an infringement of Dr Al-Jaidah's privacy and if so whether that infringement was warranted.

In relation to the question of whether the infringement was warranted, we considered that the programme reported serious matters which would have been of significant public interest, namely Dr Al-Jaidah's conviction in the UAE and allegations that Qatar supported the Muslim Brotherhood with which he was convicted of being associated. We considered that it was important for broadcasters to be able to make programmes which report on news stories with a view to imparting information about such topics to the audience. However, we considered that the filming of Dr Al-Jaidah for a television broadcast was a significant intrusion into his legitimate expectation of privacy, given our findings that he was being interrogated by the UAE authorities at the time and the highly sensitive and confidential nature of the disclosures that he made. In the absence of any measures on the part of the broadcaster to verify the circumstances which had led to Dr Al-Jaidah's interview and to ensure his consent had been obtained, we considered that such a significant intrusion into his privacy was not warranted by the public interest in reporting on the matters addressed in the programme.

Accordingly, Ofcom is satisfied that Dr Al-Jaidah's legitimate expectation of privacy was unwarrantably infringed in connection with the obtaining of the broadcast footage.

- c) We next considered Dr Al-Jaidah's complaint that his privacy was unwarrantably infringed in the programme as broadcast because footage of him was included in the programme without his consent.

We had regard to Practice 8.6 of the Code which states that if the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

We considered the extent to which Dr Al-Jaidah had a legitimate expectation of privacy in relation to the footage of him being included in the programme, taking into account the context in which he was filmed, as set out in detail in head b) above. For the reasons already set out at head b), we considered that the footage of Dr Al-Jaidah included in the programme as broadcast was of a highly sensitive and confidential nature. We therefore considered that he had a legitimate expectation of privacy regarding the inclusion of the footage in the programme as broadcast.

As noted in head b) above, there was no evidence that Dr Al-Jaidah's consent to being filmed had been secured. The broadcaster admitted that it had not subsequently obtained his consent for the interview to be broadcast. We therefore considered that the broadcast of the footage was a breach of Dr Al-Jaidah's legitimate expectation of privacy.

Ofcom therefore went on to consider whether the broadcast of the material was "warranted" within the meaning set out in the Code (see above under head b)).

We carefully balanced Dr Al-Jaidah's right to privacy regarding the inclusion of the relevant footage in the programme with the broadcaster's right to freedom of expression and the audience's right to receive the information broadcast without unnecessary interference. We acknowledged ADMC's view that:

“At the time of the broadcast of the Programme, the UAE and Qatar (and other Middle Eastern nations) were embroiled in the height of the Qatar diplomatic crisis. The crisis was triggered by Qatar's alleged support and financing of terrorist groups including Hamas, and Qatar's alleged violation of its obligations as a member of the Gulf Cooperation Council. Public interest in broadcasting information concerning matters relating to Qatar's conduct in the region was therefore very high. As such, we consider that the public interest in broadcasting the Programme contemporaneously with the crisis outweighs any claims that Dr Al-Jaidah may seek to invoke in relation to his own privacy”.

We considered there was a public interest in the programme in that it concerned allegations that Qatar supported the Muslim Brotherhood which the programme described as a terrorist organisation. Further, we considered it was important for the broadcaster to be able to make a programme of this nature and to film and include the testimonies of individuals who had been involved in the events discussed in the programme. However, as with head b) above, we considered that the inclusion of the footage of Dr Al-Jaidah in the broadcast programme was a significant intrusion of his privacy, given our findings that it showed him being interrogated by the UAE authorities and the highly sensitive and confidential nature of the disclosures that he made. We considered that the public interest in broadcasting the programme did not warrant the significant intrusion into Dr Al-Jaidah's legitimate expectation of privacy without having taken further measures to verify the circumstances which had led to the interview and to confirm that his consent had been obtained.

On this basis, Ofcom considered that Dr Al-Jaidah's legitimate expectation of privacy was unwarrantably infringed in the broadcast of the footage of him included in the programme.

Ofcom has upheld Dr Al-Jaidah's complaint of unjust or unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Ofcom considers the breaches of Rules 7.1 and 8.1 of the Code to be serious. We are therefore putting the broadcaster on notice that we intend to consider the breaches for the imposition of a statutory sanction.