

Consultation response form

Consultation title	Ofcom’s proposed Plan of Work
Full name	[X]
Contact phone number	[X]
Representing (delete as appropriate)	Self
Organisation name	[X]
Email address	[X]

Your response

Question	Your response
Question 1: Do you have any comments on Ofcom’s proposed Plan of Work 2024/25?	Confidential? – N

Ofcom has a comprehensive set of guidelines that govern the use of language and content in broadcast media. The Ofcom Broadcasting Code is designed to provide adequate protection for the public from harmful and/or offensive material. This includes the use of terms related to gender and sexual orientation, such as 'LGBT', 'Queer', 'TERF', and others.

The Code emphasises that broadcasters must apply generally accepted standards to ensure that material which may cause offence is justified by the context. This includes offensive language, discriminatory treatment or language (for example, on the grounds of sexual orientation or gender reassignment), and the portrayal of people in a way that might risk significant harm. Ofcom’s approach takes into account various aspects of context, such as the editorial content, the service on which the material is broadcast, the time of broadcast, audience expectations, and the potential impact of the material on viewers or listeners, especially those who may come across it unawares.

Importantly, factual programmes, or portrayals of factual matters, must not materially mislead the audience. This is particularly relevant when dealing with sensitive or controversial subjects like gender identity and sexual orientation. Ofcom’s guidelines require a balance between freedom of expression and the potential harm or offence that could be caused by the broadcast content.

Ofcom's approach to assessing the use of terms like 'LGBT', 'Queer', 'TERF', and other gender-related terms in broadcasts, is a complex issue that balances the need to protect audiences from harm while

preserving due impartiality. The latest research by Ofcom, as of September 2021, shows an increased public concern regarding discriminatory language, including those around race, and suggests a heightened sensitivity to potentially offensive language, but does not reflect heightened concerns about the use of language associated with sexual orientation and gender identity.

The research indicates that while audiences are becoming more relaxed about the use of swear words, there is a growing concern about discriminatory language. This reflects a societal shift towards heightened awareness and sensitivity around issues of discrimination, including those related to gender and sexual orientation. As a result, audiences expect broadcasters to take utmost care to contextualize strong forms of discriminatory language, should they appear in programmes, to mitigate the offence they might cause.

In terms of revising guidelines, Ofcom continuously engages in research and consultation to keep their standards and guidelines relevant and reflective of societal changes and public attitudes. This includes a comprehensive approach involving surveys, interviews, and group discussions across diverse demographics, ensuring a wide range of perspectives is considered. The findings from these research activities inform Ofcom's guidelines and help broadcasters understand audience expectations regarding offensive language and discriminatory content.

Given the dynamic nature of public opinion and the evolving understanding of language and identity, Ofcom's guidelines must be subject to ongoing review and adjustment in the form of a full Equality Impact Assessment. This process is integral to ensuring that broadcast content remains in line with public sensibilities while also respecting the principles of freedom of expression.

As part of the Workplan for 2024, Ofcom should undertake a full Equality Impact Assessment in relation to the use of language and terms associated with sexual orientation and gender identity. Since 2021 there have been several high-profile employment tribunals that have determined that discrimination has occurred in the workplace because individuals have articulated their legitimate belief that sex is an immutable social characteristic. This needs to be reflected in the updated guidance that Ofcom issues.

The concerns about grouping lesbian, gay, and bisexual (LGB) people under a collective identity with transgender and other gender-diverse individuals (often represented as the 'T' and '+' in LGBTQ+) stem from the differences between sexual orientation and gender identity. These two aspects, while often discussed together, represent distinct experiences and identities.

Sexual orientation, encompassing identities such as lesbian, gay, and bisexual, relates to an individual's enduring physical, romantic, and/or emotional attraction to others. In contrast, gender identity refers to one's internal understanding of their gender, which may or may not align with the sex. This distinction is crucial as it highlights that while LGB individuals primarily deal with variations in sexual orientation, transgender and other gender-diverse individuals experience variations in gender identity.

Ofcom must commission further research in order to understand, and therefore advise broadcasters about, the complexity of public views on gender identity. Updated research will show a wide range of opinions influenced by factors like personal experiences, scientific understanding, and religious beliefs. This complexity is mirrored in the societal debate about how best to understand and accommodate these different identities within the collective LGBTQ+ umbrella.

The broader conversation often includes differing worldviews, particularly from religious or traditional perspectives, which can influence how individuals and communities perceive and respond to LGBTQ+ identities. These worldviews can significantly impact the societal acceptance and treatment

of LGBTQ+ individuals, as seen in historical contexts where non-heterosexual or non-cisgender identities were often marginalized or discriminated against.

It should not be assumed, however, that Lesbian, Gay and Bisexual people share an affinity with 'trans' or 'gender-fluid' identities. It is now well established and accepted that the term BAME was an inappropriate way of grouping people from different ethnic minority groups. Ofcom should consider revising its guidance based on a similar decoupling of the assumed identities of LGB and TQ+ representations and beliefs.

The debate around the grouping of LGB and transgender individuals under a collective identity is multifaceted, involving distinct but interconnected aspects of sexual orientation and gender identity. This conversation is influenced by a variety of factors, including personal experiences, scientific research, religious beliefs, and societal norms. Ofcom must therefore reflect in its guidance that the discussion of identity has moved on, and that past assumptions made about LGB and TQ+ identities are no longer valid.

For broadcasters and media professionals, staying abreast of these guidelines and the underlying research is crucial for navigating the complexities of language use in a sensitive and responsible manner. Ofcom's research into offensive language and the continually updated Broadcasting Code provide crucial guidance in this regard. Updated research will give audiences an assurance that potentially controversial or harmful representations of Lesbian, Gay and Bisexual people, as well as 'trans' and 'gender-fluid' people are being dealt with responsibly and in accordance with the law.