

Ofcom Broadcast and On Demand Bulletin

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Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act². Ofcom must include these standards in a code, codes or rules. These are listed below.

The Broadcast and On Demand Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes and rules below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by the ASA on the basis of their rules and guidance for advertising content on ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”) for content broadcast on television and radio services.
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in television programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility for on television and radio services. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) Ofcom’s [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS. Ofcom considers sanctions in relation to advertising content on ODPS on referral by the Advertising Standards Authority (“ASA”), the co-regulator of ODPS for advertising or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

³ BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

It is Ofcom's policy to describe fully the content in television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.

Notice of Sanction

Leith Community Mediaworks Ltd

For a failure to comply with community radio Licence Conditions 8(2)(a) and (b)

Introduction

Castle FM is a community radio service for the residents of Leith, Edinburgh, which is provided by Leith Community Mediaworks Ltd (LCMWL) (or “the Licensee”) under a licence granted by Ofcom under Part 3 of the Broadcasting Act 1990 (the “1990 Act”). The service is licensed to broadcast on 98.8 MHz on the FM band.

Summary of Decision

In a Finding published on 1 September 2015 in issue 286 of the Broadcast Bulletin¹, Ofcom found that LCMWL had breached Licence Conditions 8(2)(a) and (b) of its licence which require licensees to adopt procedures to ensure they are able to retain recordings and produce them to Ofcom upon request.

In Ofcom’s view, the breaches were particularly serious. In particular, the conditions in question are of fundamental importance to Ofcom’s ability to assess compliance with licence conditions on broadcast content including, as in this case, compliance with Key Commitments intended to ensure that the community benefit for which the service is licensed is in fact being delivered. Such content-related conditions also include those designed to ensure audiences are adequately protected from harm and offence, and from unfair treatment and unwarranted infringements of privacy. Failure to retain and produce recordings risks seriously undermining Ofcom’s ability to secure compliance with such conditions in line with its duties.

Ofcom also concluded that the breaches in question were repeated. The most recent breaches were the third set of breaches in relation to failure to retain and produce recordings, following earlier findings dated 19 May 2014 and 28 July 2014 (the former covering two separate such failures).

The Licensee made oral representations to Ofcom regarding the appropriateness of imposing a financial penalty and potential nature and level of such penalty. It expressed regret to the extent it had fallen short of expected standards, stating that staff members are aware of the requirement to keep recordings. It explained changes it said have been put in place since the most recent breach Finding. In particular, it said it had made improvements to the physical security of recording equipment, introduced a back-up recorder, and made software changes such that broadcasting cannot take place without recording equipment being activated.

After considering all of the evidence and representations made to it, the Sanctions Panel decided that the serious and repeated nature of these breaches of Licence Conditions 8(2)(a) and (b) meant that a financial penalty should be imposed. The Panel considered the level of the fine to be imposed, in accordance with Ofcom’s Penalty Guidelines.

In reaching its decision on this penalty, Ofcom took into account all the matters referred to above. In particular, the penalty reflected limitations in the Licensee’s

¹ http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb286/Issue_286.pdf

ability to pay and factors including its assurances that it has put into place, since 1 September 2015, improvements in its recording systems. However, it also reflected the serious and repeated nature of the breaches and the importance of providing an incentive for compliance with what are important licence conditions. Further, the penalty reflected that the Licensee had failed to make sufficient improvements following earlier breach decisions, and may have made cost savings by not having implemented an adequate recording system earlier.

In accordance with Ofcom's Penalty Guidelines, **Ofcom decided it was appropriate and proportionate to impose a financial penalty of £850 on Leith Community Mediaworks Limited in respect of the Licence Condition 8(2)(a) and (b) breach (payable to HM Paymaster General).**

In addition, Ofcom informed the Licensee it plans to carry out further monitoring with a view to verifying that corrective action has been taken to address the earlier breaches in relation both to retention and provision of recordings, and Key Commitments compliance. The outcome of this monitoring would be a factor in determining whether or not to grant a licence extension if an application was made (noting that the current licence is due to expire on 23 March 2017 meaning the latest date for a renewal application to be submitted is on 23 September 2016).

The full adjudication is available at:

http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/castle_fm_010216

Broadcast Standards cases

In Breach/Not In Breach

Steve Allen

LBC 97.3 FM, 28 August 2015, 04:15

Introduction

Steve Allen presents the early weekday morning breakfast show between 04:00 and 06:30 on the speech based London radio station LBC 97.3FM. The format of the programme is based on the presenter expressing his views on a range of topical issues and encouraging listeners to interact and express their opinions. The Licensee for this service is LBC Radio Limited (“LBC Radio” or “the Licensee”).

Ofcom noted comments made by Steve Allen during this programme about Chris Spivey, who had recently been given a suspended six month sentence for posting offensive comments on social media about the killing of Fusilier Lee Rigby, the soldier murdered in Woolwich in 2013, which amounted to the harassment of Fusilier Rigby’s family.

We listened to the programme and noted the following statements made by the presenter:

“He’s quite clearly not only immensely stupid but thick at the same time. I’d have had him hanging from gallows, ladies and gentlemen”.

“We know all about internet trolls because they are generally people with mental health issues. This particular one here is a menacing looking bloke. He’s a nasty piece of work this one is. His name is Chris Spivey”.

“When you see him out throw things at him – bricks would be quite nice”.

“I’d have had him banged up immediately. He looks like he would enjoy a bit of prison life with a few other men”.

“You vile piece of filth...you stupid pathetic waste of space. People like you need taking out and just pushing off the end of the pier somewhere. Let you swim, preferably as far out as you can possibly get”.

“So you’ll like it then when I call, Chris, for people to egg you in the street and throw things at you, you know, because you are a vile piece of work. What a disgusting person you are. I hope to God he doesn’t live next to any of you – he’s in Rochford in Essex”.

“What an ugly person...perhaps we can come and daub things on the outside of your house?”

Ofcom considered these statements raised potential issues under the following Code rules:

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...”

Rule 3.1: “Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services.”

We therefore asked the Licensee for comments on how the programme complied with these rules.

Response

The Licensee stated that Steve Allen had “a particular presenting style and tone that his audience were very familiar with”. Accordingly, listeners would have “noted from his typically acerbic delivery that the comments were not meant literally and thus would not have been likely to find them offensive or, where relevant, interpreted them as a direct incitement to commit a criminal or anti-social act”.

LBC Radio said Steve Allen believed the suspended sentence given to Chris Spivey “was lenient given the level of anguish caused to Fusilier Lee Rigby’s family” and therefore commented in response with several “tongue-in-cheek remarks”.

The Licensee added that “the exaggerated nature of the comments ensured there was no serious encouragement for listeners to take this action. Similarly, given the tone, and following a description of the sustained campaign the individual had carried out against a murder victim’s family, it is extremely unlikely that the comments would have caused offence to the audience”.

Nonetheless, the Licensee said that following this and other recent investigations by Ofcom into comments made by this presenter¹, LBC Radio had taken Steve Allen through all the requirements of the Code and “in particular the importance of making clear that he is not inciting members of the public to carry out anti-social criminal acts”.

The Licensee concluded that the presenter’s right to freedom of expression should be preserved “as it has to date in his 39 years of broadcasting on LBC”.

The Licensee also provided further comments in response to Ofcom’s Preliminary View (that there was a breach of Rule 2.3 but not Rule 3.1). In response to Ofcom’s view that listeners would have been “accustomed to the style and content of [Steve Allen’s] programme” and would have been “unlikely to take literally...Steve Allen’s remarks”, the Licensee stated: “if it was clear to listeners that the comments were not intended to be taken literally it surely should follow that they would not have been offended by them.” The Licensee also re-iterated that listeners would “have taken into account that Steve Allen was discussing a convicted criminal and not an innocent member of the public”.

The Licensee noted Ofcom’s view that “it is crucial that broadcasters should be permitted to make provocative and offensive remarks” and commented that “without such freedom, talk stations such as LBC are effectively prevented from broadcasting”. It added that “LBC has a rich history of challenging and opinionated content, and is proud to provide a platform for free speech and, at times, controversial views”. The Licensee also re-iterated that Steve Allen “has been broadcasting in his inimitable style for more than 39 years – he is loved and understood by his loyal audience and it is important to us that his freedom of speech is not unnecessarily restricted”.

¹ http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/1515021/Issue_289.pdf

Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for the content of programmes as appear to it best calculated to secure the standards objectives. These objectives include that “generally accepted standards” are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material and that “material likely to encourage or incite the commission of crime or lead to disorder is not included in television or radio services”. These objectives are reflected in Section Two and Three of the Code.

In reaching a Decision in this case, Ofcom has taken account of the audience’s and broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material which may be considered offensive on one hand and the right to freedom of expression on the other.

Rule 2.3

Under Rule 2.3, broadcasters must ensure that potentially offensive material (including offensive language) is justified by its context.

Ofcom considered firstly whether Steve Allen’s comments as set out above had the potential to cause offence.

We noted that Chris Spivey, the subject of the presenter’s comments, had just been given a six month jail term (suspended for two years), after being found guilty of harassing the family of Fusilier Lee Rigby and posting offensive comments about the soldier. We also noted that, in the programme, Steve Allen expressed his view about other punishments which he considered would be more suitable given Chris Spivey’s crime (*“I’d have had him hanging from gallows ladies and gentlemen” and “I’d have had him banged up immediately. He looks like he would enjoy a bit of prison life with a few other men”.*)

Steve Allen then went on to suggest that, among other things, it would be appropriate:

- if listeners to the programme who saw Chris Spivey were to “throw things” such as “bricks” and “eggs” at him;
- that “people like [Chris Spivey] need taking out and just pushing off the end of the pier somewhere”; and
- if people were to “daub things on the outside of [Chris Spivey’s] house”.

We also noted that, while making these comments, on two occasions Steve Allen mentioned the town in which Chris Spivey lived (e.g. *“So you’ll like it then when I call, Chris, for people to egg you in the street and throw things at you...He’s in Rochford in Essex”*). Taken as a whole, we considered that the aggressive approach taken by Steve Allen, which appeared to condone vigilantism against an individual whom he perceived as having received insufficient punishment by the courts, had the potential to cause offence to listeners.

Ofcom went on to consider whether the broadcast of these comments was justified by the context.

We noted the Licensee's view that Steve Allen had "a particular presenting style and tone" with which regular listeners would have been familiar and that therefore the "tongue-in-cheek" nature of his comments would have been clear to the programme's audience.

Ofcom acknowledged that the subject of lenient sentencing for criminals was clearly a topical and legitimate one for discussion and consistent with audience expectations. It is clearly essential that broadcasters have the editorial freedom to debate topics of significant public interest such as the appropriateness of punishments imposed by the courts – both generally and in specific cases. In the context of such discussions and debates, it is also crucial that broadcasters should be permitted to make provocative and offensive remarks.

The obligation under Rule 2.3, however, means that, although there is significant room for innovation, creativity and challenging material within programming, broadcasters do not have *unlimited* licence to include offensive material in programmes. Therefore, when comments of a more offensive nature are broadcast, licensees must ensure there is adequate context provided to mitigate against this likely offence.

However, Ofcom's concern was that the presenter's comments went further than just a demonstration of what LBC Radio described as Steve Allen's "typically acerbic delivery" and the usual editorial nature and provocative tone of the debates of his programme. In this case Steve Allen's comments amounted to the endorsement of retribution against an individual whom he considered had been leniently treated by the criminal justice system.

Having made comments which were capable of causing a considerable level of offence, it was then incumbent on Steve Allen to place them in context so as to lessen their potential offensiveness. However, no contextual discussion about the Crown Prosecution Service's sentencing guidelines in such cases, the appropriateness of custodial sentences for the offence of harassment over social media, or the specific offences committed in this case was provided. The fact that there were no calls or emails from listeners highlighting an alternative to Steve Allen's viewpoint on this issue also meant that the presenter's strongly voiced opinions went unchallenged. The absence of contextual information or challenge meant that no material was broadcast to mitigate the potential offence caused. We therefore did not consider that there was sufficient justification for the inclusion of this offensive material.

Ofcom considered that regular listeners to Steve Allen would be accustomed to lively debate and the regular expression of strong and sometimes offensive views. However, it was our view that the presenter's remarks in this case – endorsing retribution against a specific individual whose home location had been identified – would have exceeded audience expectations. Although Ofcom noted the measures subsequently taken by the Licensee, we concluded that on the facts of this particular case the presenter's comments breached Rule 2.3 of the Code.

Rule 3.1

Rule 3.1 states that "Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services".

In considering material under Rule 3.1 we are required to assess the *likelihood* of it encouraging or inciting the commission of crime or of it leading to some form of disorder.

We therefore considered whether Steve Allen's statements were likely to encourage or incite criminal action against Chris Spivey or to lead to disorder. We also took into account the Licensee's comments, including that the "tongue-in-cheek" nature of Steve Allen's statements comments would have been clear to the programme's audience.

Within the context of a topical discussion programme, it was Ofcom's view that listeners would have been unlikely to take literally, and act on, Steve's Allen's remarks which did not amount to any call to action. Because we concluded that Steve Allen's comments were unlikely to encourage or incite crime or lead to disorder, there was no breach of Rule 3.1 in this case.

Breach of Rule 2.3, Not in Breach of Rule 3.1

In Breach/Not In Breach

Steve Allen

LBC 97.3 FM, 31 August 2015, 04:00 to 06:30

Introduction

Steve Allen presents the early weekday morning breakfast show between 04:00 and 06:30 on the speech based London radio station LBC 97.3FM. The format of the programme is based on the presenter expressing his views on a range of topical issues and encouraging listeners to interact and express their opinions. The Licensee for this service is LBC Radio Limited (“LBC Radio” or “the Licensee”).

A listener complained to Ofcom about comments made by Steve Allen during this programme.

On reviewing the broadcast, Ofcom noted the following comments made by the presenter with regard to a convicted fraudster, Christine Babb, who had been sentenced around the time of the broadcast for selling fake tickets for the Glastonbury Festival:

“I’d be round there egging her house ladies and gentleman. She can’t be that difficult to find. Her name is Christine Babb. She lives in East Grinstead—must be dead easy to find”.

“Thick as a brick. Let’s teach her a few lessons. I’m sick to death of the courts”.

“These people don’t learn. You have to teach them a lesson. Teach them a lesson. You take the money back and you go round to the house and you strip their house. You take everything - the car, the televisions, the three piece suite, everything. You either sell it or set fire to it. I couldn’t care less what you do with it. You just teach them a lesson...caught again, we’re going to take you on a plane and we’re going to go over the Atlantic, open the door, and shove you out, you wizened old bag”.

“Remember I told you about Christine Babb – the lady who was flogging fake tickets - and I said we need to go round and egg her house? I have the address because the police released it. Ha ha ha. The police actually released it way back in April....Christine Babb. East Grinstead. She’s 34”.

“Christine Babb...Oh I want to go round and egg her myself. Thank you for her address. She won’t be too difficult to find...”.

Ofcom considered the comments raised potential issues with regard to the following rules of the Code:

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...”.

Rule 3.1: “Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services”.

We therefore asked the Licensee how this material complied with these rules.

Response

The Licensee stated that Steve Allen had “a particular presenting style and tone that his audience were very familiar with.” Accordingly, listeners would have “noted from his typically acerbic delivery that the comments were not meant literally and thus would not have been likely to find them offensive or, where relevant, interpreted them as a direct incitement to commit a criminal or anti-social act”.

LBC Radio said Steve Allen “wished to feature another individual he felt had caused considerable harm without sufficient punishment”. The presenter believed that having “dodged jail” the convicted fraudster, Christine Babb, would not have been deterred from carrying out similar activities in the future. The Licensee added that Steve Allen also wanted to take the opportunity “to remind his audience that they should be very wary about engaging with businesses without recommendation or verification”.

The Licensee said that, in discussing possible punishments that might serve as an adequate deterrent to fraudsters like Christine Babb, Steve Allen “suggested taking the money back and stripping [them of their] assets such as televisions, sofas, and cars”. The Licensee argued that even though Mr Allen did not “specifically state this point”, it was his view that “a reasonable listener would have understood that he intended that this would be carried out by the authorities and was not a call to take such matters into their own hands”. Further, his remark that Ms Babb “should be shoved out of a plane” was referring to “potential ways to stop her reoffending and was clearly satirical”.

In response to the comments made by Mr Allen that he had Christine Babb’s address, the LBC Radio stated that Mr Allen “chose not to give this information out.” The Licensee stated that “[s]hould he have been seriously inciting listeners to ‘egg’ her house he would have given this detail”.

Taking into account the general context in which Steve Allen made these comments, LBC Radio stated that it did not believe they were “unlikely to cause offence, given that the presenter had made clear that the individual in question was a convicted criminal who had not, in his opinion, been punished appropriately or proportionately by the justice system”.

Nonetheless, the Licensee said that following this and other recent investigations by Ofcom into comments made by this presenter¹, LBC Radio had taken Steve Allen through all the requirements of the Code and “in particular the importance of making clear that he is not inciting members of the public to carry out anti-social criminal acts”.

The Licensee concluded that the presenter’s right to freedom of expression should be preserved “as it has to date in his 39 years of broadcasting on LBC”.

The Licensee also provided further comments in response to Ofcom’s Preliminary View. In response to Ofcom’s view that listeners would have been “accustomed to the style and content of [Steve Allen’s] programme” and would have been “unlikely to take literally...his remarks” the Licensee stated that “surely it should follow that they would not have been offended by them.” The Licensee also re-iterated that Steve Allen was discussing “a convicted criminal and not an innocent member of the public” and he made clear his basis for his opinion (that she had not received a sufficient

¹ http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/1515021/Issue_289.pdf

punishment and could re-offend) which he considered was a fair comment on the matter.

In response to Ofcom's view that Steve Allen did not present any information which might have placed Steve Allen's comments in context, the Licensee stated that "it would not have been relevant for a standards case on this occasion...that the audience would not have taken the comments literally and/or been incited to carry out the acts." Further, the subject "was only visited fleetingly before the next topic was examined".

The Licensee also noted Ofcom's view that "it is crucial that broadcasters should be permitted to make provocative and offensive remarks" and commented that "without such freedom, talk stations such as LBC are effectively prevented from broadcasting". It added that "LBC has a rich history of challenging and opinionated content, and is proud to provide a platform for free speech and at times controversial views".

Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for the content of programmes as appear to it best calculated to secure the standards objectives. One of these is that "generally accepted standards" are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. This standard is reflected in Section Two of the Code.

In reaching a Decision in this case, Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material which may be considered offensive on one hand and the right to freedom of expression on the other.

Rule 2.3

Under Rule 2.3, broadcasters must ensure that potentially offensive material (including offensive language) is justified by its context.

Ofcom considered firstly whether Steve Allen's comments as set out above had the potential to cause offence.

We noted that Christine Babb, the target of the presenter's comments, had just been given a 16 month jail term suspended for one year, after being found guilty of committing 30 acts of fraud and misrepresentation for selling fake Glastonbury tickets to the value of over £21,000. This suspended sentence, in the presenter's view, was not adequate and he expressed his dissatisfaction, commenting: *"I'm sick to death of the courts."* He then went on to state, at least four times during the course of the programme, how in his view it was necessary to *"teach"* her, and other fraudsters like her, *"a few lessons"*.

"These people don't learn. You have to teach them a lesson. Teach them a lesson".

"You just teach them a lesson..."

Steve Allen then set out, during the course of the programme what was, in his view, the appropriate “*lesson*” for the fraudster. He referred on three separate occasions to “*egging*” her house and identified the area where Christine lived:

“I’d be round there egging her house ladies and gentleman. She can’t be that difficult to find. Her name is Christine Babb. She lives in East Grinstead – must be dead easy to find”.

“Remember I told you about Christine Babb – the lady who was flogging fake tickets – and I said we need to go round and egg her house? I have the address because the police released it. Ha ha ha. The police actually released it way back in April....Christine Babb. East Grinstead. She’s 34”.

“Christine Babb...Oh I want to go round and egg her myself. Thank you for her address. She won’t be too difficult to find...”

In addition, the presenter went on to describe how he thought other individuals who commit financial fraud, like Ms Babb, should be treated:

“You take the money back and you go round to the house and you strip their house. You take everything – the car, the televisions, the three piece suite, everything. You either sell it or set fire to it. I couldn’t care less what you do with it. You just teach them a lesson...caught again...”

Steve Allen therefore: put forward the idea of throwing eggs at Ms Babb’s house; named the area where she lived on at least three occasions; stated that she must be “*dead easy to find*”, and later in the broadcast, that he had her address as the police had given it out publicly earlier in the year. He further argued that people like her “*don’t learn*” and “*you have to teach them a lesson*” – that is, stripping their houses of items of value to either sell “*or set fire to...*”. In Ofcom’s view, his comments on this case were not “*visited fleetingly*” as suggested by the Licensee and his repeated and antagonistic language had the potential to cause offence to listeners.

Ofcom went on to consider whether the broadcast of these comments was justified by the context.

Firstly, we considered the editorial context. We noted that in this programme Steve Allen appeared angered by the fact that a fraudster, Christine Babb, had not received, in his view, an adequate punishment for the crimes she had committed. Within the editorial context of the Steve Allen programme, and the speech based radio station LBC 97.3 as a whole, the subject of lenient sentencing for criminals was clearly a topical and legitimate one for discussion and consistent with audience expectations.

Ofcom acknowledged the Licensee’s comments that Steve Allen had “a particular presenting style and tone”, and that regular listeners were familiar with this and therefore his comments would have been unlikely to have been taken literally. We accepted that the way in which Steve Allen presented this issue to listeners clearly reflected his individual style which is, generally, both opinionated and robust. We also took account of the fact that listeners would clearly have made some allowance for the presenter’s occasional exaggeration, for example:

“[W]e’re going to take you on a plane and we’re going to go over the Atlantic, open the door, and shove you out, you wizened old bag”.

However, Ofcom's concern was that the presenter's comments went further than just a demonstration of what LBC Radio described as Steve Allen's "typically acerbic delivery" and the usual editorial nature and tone of the debates of his programme. Taken as a whole, Steve Allen's comments amounted to a series of angry protestations, putting forward possible additional punishments that could be administered to a criminal, if a sentence was considered to be too lenient. This, in our opinion, was capable of causing a considerable level of offence in the context of this case.

We also noted that Steve Allen did not set out for listeners additional facts surrounding the trial and sentencing of Christine Babb and the reasons for her non-custodial sentence. For example, Ofcom noted that it had been reported in the press that Ms Babb was ordered to pay over £22,000 in compensation and that the court had taken into account that she suffered from mental health issues. In our view, by not providing listeners with more background of this nature, the audience was not supplied with material information to help them fairly assess Steve Allen's comments. The potential degree of offence generated by the presenter's remarks was heightened to some extent by his selective comments on the sentence.

In response to this point, the Licensee stated that it was not "a relevant matter" that Steve Allen "did not present every fact in this case" because listeners "would not have taken the comments literally and/or been incited to carry out such acts." In coming to our decision Ofcom, as discussed below in relation to Rule 3.1, the issue of inciting listeners to take criminal action was not a consideration in this case. Rather, Ofcom's concern was the nature of Steve Allen's comments which were offensive. In applying Rule 2.3, broadcasters must ensure that material which may cause offence is justified by context. Accordingly, it is wholly relevant in applying this rule to present any facts that might assist in avoiding or minimising offence.

In addition, Ofcom noted that Steve Allen did not broadcast any remarks to mitigate his comments or place them in context so as to lessen their potential offensiveness. The fact that there were no calls or emails from listeners on this issue included in the programme meant that Steve Allen's strongly voiced opinions went unchallenged.

We noted the Licensee's view that listeners would have taken into account that Steve Allen's comments were about "a convicted criminal and not an innocent member of the public" and therefore his views were "fair comment on the matter". However, in Ofcom's view it was not necessarily the issue of to whom the presenter's comments were directed that raised concern. It was the aggressive tone and delivery of the presenter's comments which amounted to an endorsement that it was acceptable for listeners to compensate for lenient sentencing by taking their own retribution against such individuals, which was capable of causing offence.

We also had regard to the right to freedom of expression of LBC Radio, Steve Allen and of the LBC audience, and carefully balanced it against our duty to provide adequate protection for members of the public from harmful and/or offensive material. We noted the Licensee's view that LBC has "a rich history of challenging and opinionated content" and "without such freedom, talk stations such as LBC are effectively prevented from broadcasting." Ofcom acknowledged that it is clearly essential that broadcasters have the editorial freedom to debate topics of significant public interest, such as the appropriateness of punishments imposed by the courts – both generally and in specific cases. In the context of such discussions and debates, it is also crucial that broadcasters should be permitted to make provocative and offensive remarks.

However, the obligation under Rule 2.3 means that, although there is significant room for innovation, creativity and challenging material within programming, broadcasters do not have *unlimited* licence to include offensive material in programmes.

Despite regular listeners to Steve Allen being accustomed to lively debate and the regular expression of strong and sometimes offensive views, we considered that the presenter's remarks in this case was likely to have exceeded audience expectations. Taking into account all the relevant factors in this case, Ofcom did not consider that there was sufficient justification for the inclusion of this offensive material. The presenter's comments led to the Licensee failing to apply generally accepted standards, and there was therefore a breach of Rule 2.3 of the Code.

Ofcom welcomed the measures taken by the Licensee to improve compliance after it was alerted to this matter.

Rule 3.1

For content to breach Rule 3.1, Ofcom must be of the view that in the circumstances it is likely to encourage or incite crime or lead to disorder. In deciding whether this rule is contravened Ofcom takes account of all the relevant circumstances, but in particular the nature of the content, its context and its probable effects.

In this case Steve Allen made a number of provocative and controversial remarks and criticisms of a woman who was in the news. We took into account that Steve Allen has a well established reputation for making such comments in his radio programmes. This factor in our view was likely to have affected the expectations of the audience, who would have been accustomed to the style and content of his programme, and so in our view would have been unlikely to take literally, and act on, his remarks.

In our view, in these particular circumstances, his remarks did not amount to a call to action to listeners, encouraging them to take criminal action. Our opinion was therefore that these remarks were not likely to encourage or incite crime or lead to disorder and there was no breach of Rule 3.1.

Breach of Rule 2.3, Not in Breach of Rule 3.1

In Breach

Breakfast Show

Koast Radio, 14 December 2015, 08:40

DJ John in the Mix

Koast Radio, 14 December 2015, 18:25

Introduction

Koast Radio is a community radio station broadcasting to south-east Northumberland. The licence for the service is held by Koast Radio Limited (“the Licensee”).

Ofcom was alerted by complaints to the following incidents of offensive language broadcast on the station on 14 December 2015:

- at about 08:40 the song *Heaven is a Halfpipe* by the band OPM was broadcast. The song included two uses of the word “fucking”.
- at around 18:25, the track *4am* by Scooter was broadcast. This featured two uses of the word “fucking”.

Ofcom considered the above material raised issues warranting investigation under Rule 1.14 of the Code. This states:

“The most offensive language must not be broadcast...when children are particularly likely to be listening”.

We therefore requested comments from the Licensee about how this material complied with this rule.

Response

The Licensee “wholeheartedly apologise[d] for any offence the playing of the two songs...may have caused to listeners”. The Licensee explained that “as a fledging community radio station staffed entirely by volunteers” it was “absolutely committed” to providing output “suitable and appropriate for [its] listeners of all ages and backgrounds”.

The Licensee also told Ofcom that to “ensure there is no likelihood of a recurrence” it had:

- removed the two offending tracks from its music database;
- conducted a review of all tracks on its database “with a view to ensuring the database contains only suitable radio edits”;
- conducted further compliance training with its volunteers to provide “absolute clarity on the requirements of [the Code]”;
- assigned “clear responsibility...to a senior member of [its] management team to oversee all additions to [its] database”; and,

- given “all volunteers...a point of reference within the Senior Management Team” should they require “further guidance or clarification...on [the Code]”.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.14 of the Code states that “the most offensive language must not be broadcast... when children are particularly likely to be listening”. Ofcom’s research on offensive language¹ clearly notes that the word “fuck” and variations of this word are considered by audiences to be amongst the most offensive language.

The Code states that the phrase “when children are particularly likely to be listening” refers to: “the school run and breakfast time, but might include other times”. Ofcom’s guidance on offensive language on radio² notes that:

“For the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all relevant information available to it. However, based on Ofcom’s analysis of audience listening data, and previous Ofcom decisions, radio broadcasters should have particular regard to broadcast content at the following times:

- between 06:00 and 09:00 and 15:00 and 19:00 Monday to Friday during term-time”.

In these cases, the word “fucking” was broadcast at 08:40 and 18:25 on a Monday during school term-time. The most offensive language was therefore broadcast when children were particularly likely to be listening. Although we noted the actions taken by the Licensee to prevent a recurrence of the issue, Rule 1.14 was clearly breached on both occasions.

Breaches of Rule 1.14

¹ <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

² <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>

Broadcast Licence Conditions cases

In Breach

Licence Condition 17(2) – compliance procedures and arrangements

Middlesex Broadcasting Corporation Limited regarding its service MATV (TLCS-384)

Introduction

Midlands Asian Television (“MATV”) is a satellite television service that broadcasts Indian programming in primarily Hindi, English, Gujarati and Punjabi. The licence for MATV is held by Middlesex Broadcasting Corporation Limited (“MBCL” or “the Licensee”). Ofcom granted this Television Licensable Content Service (“TLCS”) licence on 4 October 2000.

On 5 January 2015, MBCL made representations to Ofcom during an investigation into MBCL’s compliance with Conditions 20(1)(a) and 20(1)(e) of its TLCS Licence (“the Licence”). Those representations included the following statement about a programme on Christian teachings, *Welcome TV*, which is broadcast on MATV in Lingala and French:

“...Major cause of the misunderstanding was that we had no knowledge of the spoken language and we thought it was religious broadcast so we never thought we need to hire someone to look at the content closely. Which we accept was a mistake. Since the Ofcom issues have surfaced now we have one person closely monitoring the Live or recorded content”.

Following further inquiries in relation to MBCL’s representations of 5 January 2015, Ofcom became aware that a third-party content provider, Pastor Bienvenu Messalin, was supplying the relevant content to MBCL. Ofcom asked the Licensee to provide a copy of its contract with Pastor Bienvenu Messalin for the provision of *Welcome TV*.

MBCL provided Ofcom with a copy of an agreement between itself and Pastor Bienvenu Messalin dated 7 April 2014, headed ‘Campaign Plan’. The ‘Sales Order Terms and Conditions’ of that agreement stated at paragraphs 8 and 9 that:

“Pastor Beivenue will be personally Responsible for the following. And will sit with MATV team during all his programmes. He will make sure that the programmes supplied by him will be either Religious or cultural nature only. He will go through all the programmes well before they are ingested in play list. During Live shows he will sit in MCR and will be listening to all the discussion, and issue directions to participants. It is expressly agreed that most of his programming will be religious in nature and he will be personally supervised by Pastor. majority of the programmes will be in Lingala, the Congolese language, but some will be in French. Pastor has confirmed that he has complete knowledge of French as well. There will be no Broadcast till the programme has been seen and assessed by Pastor”.

In light of MBCL’s representations of 5 January 2015, together with the excerpt from the agreement above, Ofcom was concerned that MBCL may not have adopted procedures to ensure that programmes included in the Licensed Service complied

with the relevant rules. In particular, the agreement appeared to indicate to Ofcom that MBCL may have sought to delegate its obligations under Licence Condition 17(2) (see below) to a third party – namely Pastor Bienvenu Messalin – where MBCL did not itself appear to review the programmes before they were broadcast in order to check compliance.

We considered that these matters warranted further investigation under Licence Condition 17(2). This condition requires that:

“(2) The Licensee shall adopt procedures and ensure that such procedures are observed by those involved in providing the Licensed Service for the purposes of ensuring that programmes included in the Licensed Service comply in all respects with the provisions of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance. The Licensee shall, without prejudice to the generality of the foregoing, ensure that:

- (a) there are sufficient persons involved in providing the Licensed Service who are adequately versed in the requirements of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance and that such persons are able to ensure compliance with such requirements on a day to day basis;
- (b) adequate arrangements exist for the immediate implementation of such general and specific directions as may from time to time be given to the Licensee by Ofcom;
- (c) the requirements of the Audiovisual Media Services Directive are complied with where practicable, having regard to the provisions set out in Articles 16, 17 and 18 of the Directive and any guidance issued and from time to time revised by Ofcom for the purpose of giving effect to those provisions;
- (d) adequate arrangements exist for the advance clearance of advertisements of such types and for such products as Ofcom shall determine;
- (e) that in each department of the Licensee where any of the procedures referred to in this Condition are to be implemented the member of staff responsible is of sufficient seniority to ensure immediate action and that issues relating to compliance may be brought where necessary directly before senior management for consideration”.

The “relevant codes and guidance” referred to in Licence Condition 17(2) include (amongst other things) the Code.

We wrote to MBCL for its formal comments on how it was satisfying the requirements of Licence Condition 17(2).

Response from the Licensee

MBCL gave details of its main regulatory compliance officer and explained that there was “a chain of command” for ensuring compliance, first, for programmes broadcast in Hindi and other Indian languages, and secondly for programmes broadcast in Lingala and French.

For programmes which are broadcast in Hindi and other Indian languages, the Licensee explained that both its main regulatory compliance officer and a second

compliance officer are responsible for compliance. For programmes which are broadcast in Lingala and French, the Licensee stated that Pastor Bienvenu Messalin reported to both the main compliance office and the second compliance officer employed by MBCL. The process is that Pastor Messalin “has to sit and review the content well in advance” which, for a recorded show, means “at least 48 hrs in advance”. MBCL stated that the second compliance officer also “looks after Compliance” and “if they [Pastor Bienvenu Messalin or the second compliance officer] find any thing that is not suitable for the channel she reports to [the main compliance officer] and then I [the main compliance officer] sit and watch the same for final go ahead”.

MBCL also explained that Pastor Bienvenu Messalin is “only there to make us understand the programme” and that he is not the decision-maker as to which content will be broadcast. For live shows, the Licensee said that there was a “standard practice of briefing the participants about OFCOM regulations”.

Ofcom sought further details from MBCL about the representations it had provided above. The Licensee subsequently explained that:

- Both the compliance officers’ knowledge of French and Lingala was at a “very basic level”;
- The two compliance officers had received compliance training and were “aware of” the Code;
- Three days prior to the broadcast of the programme, Pastor Bienvenu Messalin provides the material to be broadcast and goes through this with the second compliance officer in detail. MBCL said that this information was then given to the main compliance officer for approval before broadcast. It said that “due to our strict compliance” MATV had stopped 80% of Pastor Bienvenu Messalin’s programmes and that he was currently only presenting a 5-10 minute Christian programme once a week and a community-based live programme once a week;
- MATV now also had an “independent advisor” with respect to programmes which are broadcast in Lingala and French;
- With regards to live broadcasts, all of MBCL’s presenters have been “briefed about Ofcom regulations and they are advised not to breach Ofcom codes for the broadcast”;
- With regards to how MATV ensures that content broadcast in French or Lingala is compliant with the Code, MBCL said: “[The independent advisor] and Pastor [Bienvenu Messalin] are both advisors, without a prior approval from [the main compliance officer and/or the second compliance officer] no content is broadcast resulting in cancelation of the show”.

In another further response to Ofcom, MBCL clarified:

“[The new independent advisor referred to in the fourth bullet point above]...acts as an advisor and translator of the recorded content. Other than he sits with our on line editor when Pastor Bienvenu does his Live show. Pastor is mainly speaking about Christianity. So to safe guard the compliance issue he has been coming for last 6 months and doing so. He is of Congolese decent and knows the language well. He keeps us updated on the entire programme”.

Response from Pastor Bienvenu Messalin

Ofcom's 'General procedures for investigating breaches of broadcast licences'¹ provide for it to seek representations from third parties "who may be directly affected by the outcome of Ofcom's investigation". In this case, Ofcom considered it appropriate to give Pastor Bienvenu Messalin an opportunity to make representations.

Pastor Bienvenu Messalin explained that he had an excellent knowledge of French, Lingala, Swahili and English. He said that the two MBCL compliance officers had "explained certain rules" he had to follow with regards to his live religious programmes and that they had continued to advise him. Pastor Bienvenu Messalin also stated that MBCL has "many Times...refused to play My recorded programme as they told me it was not per ofcom guidelines". He said that he agreed with the response provided by MBCL to Ofcom, as summarised above.

Decision

Licence Condition 17(2) requires licensees to adopt procedures and arrangements to ensure their programmes comply in all respects with their Licence conditions and regulatory obligations. In particular, it obliges the licensee to ensure there are enough sufficiently qualified or trained people to ensure compliance, and that they have seniority to ensure the compliance procedures are followed.

In this case, Ofcom was concerned that, at the time that the relevant episode of *Welcome TV* was broadcast², MBCL did not have staff in place who were able to understand the relevant languages in which some programmes were being broadcast. In Ofcom's view, this meant that it would not have been able to verify for itself that those programmes complied with the relevant codes and rules. Even though Pastor Bienvenu Messalin may have been able to understand Lingala and French, Ofcom was concerned that he may not be sufficiently independent to ensure compliance, in circumstances where he was also the supplier (and, at times, the presenter) of that content.

However, Ofcom also understood from the representations provided by the Licensee that changes have since been made to its compliance procedures. In particular, we noted that an independent advisor who is proficient in French and Lingala, has now been working for MBCL for the past six months.

On that basis, Ofcom concluded that MBCL breached Licence Condition 17(2) of its licence due to its lack of sufficient procedures for ensuring compliance as at 5 January 2015. Ofcom is requesting MBCL to attend a meeting to discuss its compliance arrangements. We also intend to monitor whether the changes MBCL has made in recent months have been sufficient to ensure the Licensee's ongoing compliance with Licence Condition 17(2). Should the Licensee breach Licence Condition 17(2) again, Ofcom is likely to consider the imposition of a statutory sanction.

In Breach of TLCS Licence Condition 17(2)

¹ <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>

² i.e. The episode which gave rise to Ofcom's initial investigation into MBCL's compliance with Licence Conditions 20(1)(a) and (e).

In Breach

Providing a service in accordance with ‘Key Commitments’

TCR FM (Tamworth), 2 to 4 November 2015

Introduction

TCR FM is a community radio station licensed to provide a service for people aged under 30 in Tamworth. The licence is held by Tamworth Radio Broadcasting CIC (“TCR FM” or “the Licensee”).

Like other community radio stations, TCR FM is required to deliver the ‘Key Commitments’ which form part of its licence¹. These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Ofcom received a complaint alleging that TCR FM was failing to meet a number of its Key Commitments, and specifically those relating to its on-air programming.

We requested recordings of three days of TCR FM’s output, covering Monday 2 November, Tuesday 3 November, and Wednesday 4 November 2015. After monitoring this output we identified some potential issues concerning TCR FM’s delivery of the following Key Commitments:

- “Output between 6am and midnight will typically comprise 80% music and 20% speech daily (‘speech’ excludes advertising, programme/promotional trails and sponsor credits). (Some programmes may contain a higher proportion of speech output)”.
- “Speech output comprises local news...”.

We noted that, throughout the mornings and afternoons of the three days of our monitoring period, TCR FM broadcast very little speech content outside of national Sky News bulletins and the occasional pre-recorded ‘what’s on’ announcement, with the overwhelming majority of the content consisting of continuous music. We were not able to identify any local (i.e. Tamworth area) news broadcast during the monitoring period.

While there was a greater amount of speech broadcast by the station during the evenings, the overall levels of speech between 06:00 and midnight, taken as an average, were considerably below the 20% required by the Key Commitments.

Ofcom considered that these issues warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to TCR FM’s licence. These state, respectively:

“The Licensee shall provide the Licensed Service specified in the Annex for the licence period.” (Section 106(2) of the Broadcasting Act 1990); and

¹ The Key Commitments are contained in an annex to Tamworth Radio Broadcasting CIC’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000173.pdf>

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).

We therefore sought TCR FM’s comments on how it was complying with these licence conditions, with reference to the specific Key Commitments set out above.

Response

TCR FM provided us with a programme schedule detailing the typical speech content of each programme, and the overall percentage of speech content broadcast by the station each day. The Licensee stated that, based on this weekly schedule, “on average the typical speech output [per day] is approximately 23%”. However, TCR FM acknowledged that this schedule did not reflect the amount of speech actually broadcast by the station during the Ofcom monitoring days. It noted that “there is considerable variance across our days and we will seek to work with Ofcom to ensure the commitment is accurate and has the appropriate threshold for varying speech”.

With regards to meeting the local news requirement, the Licensee confirmed that its news bulletins were provided by Sky News, “but we supplement this national output with some local news during weekends when possible. Typically these are selected bulletins on Saturday and Sunday which use the Sky News national bulletin...We do sometimes broadcast bulletins entirely from a local news reader (with local news) and these are during special programmes”.

TCR FM stated that (national) news bulletins were broadcast “reliably on the hour every hour”. The Licensee clarified that “at weekends the national bulletins from Sky News are supplemented by local news on set hours (Saturdays 12pm, 1pm, 3pm, 6pm & 8pm and Sundays 3pm, 4pm, 6pm & 7pm)”.

TCR FM said that it broadcasts a live three hour sport programme on Saturday afternoons featuring local sport, and that a weekly arts and events programme (Sunday evenings) includes local news relevant to entertainment in the Tamworth area.

The Licensee also cited its broadcast, in association with the local council, of a recent three-hour public meeting on “Regeneration and Growth, Safer Communities and Healthier Communities”. It stated that this was not a programme that could be scheduled weekly (due to the resources involved and the need for audience participation), but argued that it was “an example of TCR FM’s fulfilment of the local news commitment of our service”.

The Licensee was concerned that “the news commitment is not being accurately judged [by Ofcom]” and noted that during its October 2014 Key Commitments change request to Ofcom it stated that it would not be broadcasting local news bulletins or dedicated programmes every day, “but that there is an intention to provide local news within our capabilities...examples are morning shows, outside events shows, the sports show and weekend shows”.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of

tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Ofcom has traditionally regulated speech output on all stations on the basis of a daily average percentage, rather than requiring licensees to meet the percentage speech requirement in every single clock hour. This is because we recognise that licensees may legitimately wish to over-deliver on speech content during some hours, but place a greater emphasis upon music during other hours.

However, our view was that, even when calculated on this averaged-out basis, TCR FM was not delivering the 20% required level of speech content. For example, in the weekly schedule provided by the Licensee itself, in four out of the seven days speech output fell considerably below the 20% threshold as required by TCR FM's Key Commitments.

In addition, based on the three days we monitored, we found the programme schedule significantly over-estimated the amount of speech output that was actually broadcast by TCR FM. For example, TCR FM's schedule states that from 20:00 to 21:00 on Mondays there is typically 22 minutes of speech broadcast, yet the 20:00 to 21:00 programme broadcast on Monday 2 November contained only nine minutes and 19 seconds of speech. Similarly, TCR FM's schedule stated that on Wednesdays from 10:00 to 11:00 there is typically 18 minutes of speech delivered, while Ofcom calculated that only seven minutes and 11 seconds of speech content was broadcast from 10:00 to 11:00 on Wednesday 4 November 2015.

With regards to the local news requirement, the Licensee admitted that its local news service was largely confined to weekends. Although it cited various other programmes as evidence of the fulfilment of this Key Commitment, none of these programmes (one of which was not broadcast regularly) were primarily focused upon "local news" and would also be needed to meet some of the station's other Key Commitments, which require TCR FM to deliver "sports, events and current affairs, community information, interviews, discussions".

As the Licensee correctly pointed out, Ofcom does not necessarily require stations to present local news in a traditional bulletin format. We do, however, require that local news is present in some form (if it is a Key Commitment). Throughout the three consecutive days of TCR FM's output that we monitored, there was no material broadcast that could be reasonably described as constituting "local news". Ofcom considers that local news is an important aspect of community radio, ensuring that the station's target community is kept informed of local issues affecting residents and forming a key part of its locally-relevant content.

TCR FM was not delivering the required 20% level of speech content on any of the three days Ofcom monitored, nor was it delivering on the requirement to provide listeners with local news.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Tamworth Radio Broadcasting CIC (licence number CR000173).

In Breach

Broadcasting licensees' non-payment of licence fees

Various licensees

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles¹. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables².

The payment of a licence fee is a requirement of a broadcasting licence³. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

In Breach

The following licensees failed to pay their annual licence fees by the required payment date. These licensees have therefore breached their broadcast licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

Licensee	Licence Number	Service Name
Betar Bangla Ltd	CR000222BA	Betar Bangla Radio
Bootlace Radio Productions Limited	CR000009BA	Skyline Gold 102.5
Kohinoor Media Ltd	CR000180BA	Kohinoor FM
Music Choice Europe Ltd	RLCS000108BA	Music Choice
Pulse Media Broadcasting Limited	DP100746BA	Pulse
Wirral Christian Media Limited	CR000155BA	Flame CCR

Breaches of Licence Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licences.

¹

http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

² http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff_Tables_2015_16.pdf

³ As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

Fairness and Privacy cases

Upheld

Complaint made by Mr Mahender Singh Rathour¹ on behalf of the management committee of the Gurdwara Miri Piri Sahib

Gurdwara Miri Piri Sahib Kar Sewa Live, MATV, 11 May 2015

Summary

Ofcom has upheld this complaint of unjust or unfair treatment in the programme as broadcast, made by Mr Mahender Singh Rathour on behalf of the management committee of the Gurdwara Miri Piri Sahib.

The programme included various comments about the management committee (“the Committee”) of the Miri Piri Gurdwara (“the Gurdwara”), a Sikh temple in Southall, west London. In particular, the programme included a number of claims that Committee members had been misappropriating funds belonging to the Gurdwara for their own benefit.

Ofcom considered that the comments made in the programme relating to the complainant were likely to materially and adversely affect viewers’ perception of the Committee in a way that was unfair. We considered that the comments alleged that the Committee and its members had been involved in serious wrongdoing, such as theft and embezzlement. Consequently, Ofcom found that the broadcaster did not take reasonable care to satisfy itself that material facts in relation to the complainant were not presented in the programme in a way that was unfair to the Committee.

Programme summary

Midlands Asian Television (“MATV”) is a television service that broadcasts programmes primarily directed towards communities of south Asian origin in the UK.

On 11 May 2015, MATV broadcast a call-in programme called *Gurdwara Miri Piri Sahib Kar Sewa Live*. The topic discussed during the programme was whether it was appropriate for all the members of the management Committee of a Gurdwara to be drawn from the same caste. The two presenters of the programme, referred to respectively as Thekedar Jaswant Singh and Parminder Singh Bal, both made it clear that they did not consider that this was an appropriate arrangement. For example, Mr Singh Bal said: *“the very important point on which you touched is that local committee members are selected, they should not be selected on the basis of caste, but on the basis that they are local ‘respectables’”* [sic]. He added:

“when it becomes the case that the same people pack the management committee [of a Gurdwara] to the exclusion of all others, that leads people to dividing and going to their own favoured Gurdwaras purely on the basis of their clan and that’s wrong. This is one of the great blows that our nation has suffered, and these people have become prominent and then [sic] against the interests of the wider Sikh community”.

Soon afterwards, the first caller to the programme, Mr Manjit Kaur, said:

¹ The President of the Gurdwara management committee referred to in the programme.

"I want to ask that a lot of people are talking about the Gurdwara Miri Piri and in particular about the future development plans and want to know what's happening. Some are saying the Gurdwara has been taken over and no further development will take place and everything has stopped".

In response to this call, Mr Jaswant Singh said:

"But in relation to Gurdwara Miri Piri is concerned, this "committee for rent", that has recently come to the fore, cannot last for long, and the maximum time they have to remain is five to six weeks. Because they cannot build the Gurdwara, nor do they have the intention, nor will they spend any money on this. In fact, all the money that is coming to the Gurdwara is going straight into a private account, for which they have never given any accounting, nor will they ever give an account, as they have not done so in the past 17 years. We would certainly say to the viewers please just wait five to six weeks. A Gurdwara will be built very, very quickly, a very beautiful Gurdwara will be built and this will have no planning issues. We will start this project quickly. They have no control over things, nor can they take over, but through legal means the rental agreement has come over to them and we have already given them notice, and very soon they will have to vacate. I think that this has clarified matters".

Later in the programme, Mr Singh Bal referred back to this call and said:

"[L]et me complete what I was about to say to the caller Manjit Kaur, talking about the Miri Piri Gurdwara. I want to point out that we have had four council inspections, and the "paid for" committee as you earlier called them, or the gang of thieves as I prefer calling them, they have taken a lot of money from the house of the Guru, and embezzled a lot of money. They are going around saying that they are so influential that they won't allow the building of the Gurdwara, and yet we follow the path of the righteous, and as you have earlier said their plans will be thwarted. A new Gurdwara will be built exactly according to the agreed planning permission, and we will unmask and lift the veil from these people, and they will be exposed. It is an extremely inappropriate thing for them to go around spreading propaganda that a Gurdwara will not be built. This is like bringing disgrace upon them".

Mr Jaswant Singh responded:

"[A]t the moment worshippers are being misled and being asked to sign a petition, and they are totally misleading worshippers, because they are not clarifying what the petition is about, and whoever goes to worship at the Gurdwara they get him/her to sign that the Gurdwara always belongs to the people".

Another call was taken from a viewer who was critical of the Committee. In response to this call, Mr Jaswant Singh said: *"Any person who accepts that he has taken money from the Gurdwara and accepts that at court, and says that I took that for my private business. That person could not possibly love his Lord".*

Mr Singh Bal then described the alleged actions of the Committee as *"totally anti-Sikh activity"* and Mr Jaswant Singh said: *"Let me tell you, that at a mediation which cost us £9000, he came out and said 'I will build a Gurdwara, just to show you'... And now we can see that he has no intention of building a Gurdwara".*

Immediately afterwards the same caller said: *“That means he had no intention of building a Gurdwara, he had no love of the Guru in his heart or regard for the faith, or Sikhism, or Miri Piri Sahib or the Guru Granth”*. A short while later the caller added: *“When you talk about Miri Piri, it causes me a great deal of pain that they have embezzled thousands of pounds; this is fraudulent and pure larceny [loot]. This is like looting the Guru himself...”*.

A few minutes later, viewers heard the following exchange between another caller and Mr Jaswant Singh (JS):

Caller: *“We used to see in the past, with the former Gurdwara committee, that the same old people who used to collect people and their van with them are once again living there.*

JS: *“What Gurdwara are we talking about?*

Caller: *Miri Piri Gurdwara. Yes, just like before the van leaves filled with goods.*

JS: *Even now the van is there, and in the evening they fill it up in the evening.*

Caller: *Yes, the same committee is back or maybe it has changed? I wanted to ask about that.*

JS: *The first thing is that there has been no change in the committee, and nor is it registered with the Charity Commission and nor has the committee changed. This is the same lot who used to fill the van with water and provisions and take it to their homes. And they have all come from north London and they come over here and are dictating to us. Their bankruptcy petitions are in the courts. This week we should know the court dates, and very soon these people will be declared bankrupt and sent back to their homes”*.

At this point, Mr Singh Bal interjected saying: *“Yes they have already embezzled a lot of money from the community”* after which Mr Jaswant Singh said: *“Very soon they [the Committee] will be packed off home”*.

Later, Mr Jaswant Singh said: *“we will try very hard that this committee for rent is sent home very quickly because they have never paid the dues out of the monies raised, as the Gurdwara is to be built out of these monies. In the first 17 years they have contributed no money out of these funds, and they ate up these funds [appropriated]”*.

Mr Singh Bal then said that the Committee owed *“very large sums”* of money, had not paid the water bill and that in the past the water company had pursued the Committee for non-payment of bills amounting to £90,000. Mr Jaswant Singh then said that under the tenancy agreement of the Gurdwara, the Committee was *“obliged to pay for all the bills, repairs and expenditure”* and that as a result of the non-payment of legal fees incurred by the Committee the lawyers concerned had *“taken out a charge on the land via the court”*. He also said *“if the tenant committee don’t pay the monies owed by them, they can’t live there anymore”* before adding: *“I pray that he/they [i.e. the Committee] leave of their own accord”*.

Mr Singh Bal then returned to the original topic of discussion. However, during this section of the programme he said:

“In addition, when we get Miri Piri back to normal we are never going to get involved in caste issues, but have always chosen respectable person even though one of them turned out to be a crook”.

There was no further discussion relating to the Committee in the programme.

Summary of the complaint and the broadcaster’s response

Mr Rathour complained that the Committee was treated unjustly or unfairly in the programme as broadcast because the presenters made false allegations against it, including that the Committee: would soon be made bankrupt; had put the congregation’s money in a private account which could not be accounted for; was a “tenant Committee” and “a Committee of thieves”. It was also implied that Committee members had stolen from the Gurdwara.

In response, MATV said that the background to the discussion about the Gurdwara in the programme was a long-running dispute between several individuals who claimed ownership of the property in which the Gurdwara was located and the tenants of the property (i.e. the members of the committee which managed the Gurdwara) about the ownership of and rental agreements relating to the Gurdwara. MATV said that this dispute culminated in County Court proceedings, brought by three members of the Committee in 2010, after the Committee refused the owner’s request that it either pay the agreed rent or vacate the property.

MATV said that it was reasonable for the programme to have said that the Committee would be “made bankrupt” and that it would “not last more than eight weeks” because the largest shareholder, Mr Jaswant Singh (one of the presenters) had served the Committee with a notice to pay £250,000 in back rent, and, given that the Committee had no means of paying this sum, Mr Singh also served the Committee with an eviction notice giving it eight weeks to vacate the premises.

The broadcaster said that it was reasonable for the programme to have said that the Committee had put money into a private account because one of the Committee members had given a witness statement during the court proceedings regarding the ownership of the Gurdwara in which he said that he had paid “congregation money” to his daughter and also into a private account.

MATV said that it was reasonable for the programme to have described the Committee as a “tenant committee” because it was confirmed as such by a court order. It also said that the description of the Committee as a “committee of thieves” was reasonable because it had taken the congregation’s money and not accounted for it in the Gurdwara’s accounts.

MATV also said that it was reasonable for Mr Singh to have implied that members of the Committee had stolen goods from the Gurdwara, because two regular attendees at the Gurdwara had said that they had witnessed a member of the Committee “stealing food from items from the Gurdwara’s kitchen”.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint made on behalf of the Committee should be upheld. Both parties were given the opportunity to make representations on the Preliminary View, however neither chose to do so.

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 its Decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and transcript translated into English from the original Punjabi, agreed by both parties, of the programme as broadcast and both parties' written submissions and supporting documentation.

When considering complaints of 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 Ofcom's Broadcasting Code ("the Code").

Ofcom assessed the Committee's complaint that it was treated unjustly or unfairly in the programme as broadcast because the presenters made false allegations against it.

In considering the complaint, Ofcom had regard to Practice 7.9 of the Code which states that, 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 the individual or organisation. It is important to clarify from the outset that Ofcom is unable to make findings of fact in relation to the allegations made about the Committee and its members in the programme. Rather, our role is to consider whether by broadcasting the comments made by the presenters and callers the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to the complainant.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they were presented in the programme.

We began by considering the seriousness of any of the above claims made about the Committee in the programme and whether they had the potential to materially and adversely affect viewers' opinions of the Committee in a way that was unfair. We then went on to consider whether, if they did have this potential, the manner in which the claims were presented in the programme resulted in unfairness.

Having viewed the programme and examined the translated transcript of it, we noted that, as set out in the "Programme summary" section above, when responding to a caller's question about events at the Gurdwara, Mr Singh said: *"this 'committee for rent', that has recently come to the fore, cannot last for long, and the maximum time they have to remain is five to six weeks.* He also said *"all the money that is coming to*

the Gurdwara is going straight into a private account, for which they have never given any accounting, nor will they ever give an account, as they have not done so in the past 17 years” and later added: “we have already given them notice, and very soon they will have to vacate”.

We noted too that later in the programme, Mr Singh Bal described the Committee as a *“paid for’ committee”* and *“the gang of thieves”* and said it had *“taken a lot of money from the house of the Guru, and embezzled a lot of money”*. In addition, Mr Singh Bal confirmed a claim, initially made by another caller to the programme, that members of the Committee members (whom he identified as coming from north London) *“fill the van with water and provisions and take it to their homes”*, presumably, Ofcom understood, for their own use.

Subsequently, Mr Singh indicated that a bankruptcy petition had been made to the court against the Committee to seize its assets which would then be sold to pay its outstanding debts, while Mr Singh Bal said of the Committee that *“...they have already embezzled a lot of money from the community”*. Mr Singh also said that the Committee allegedly *“never paid the dues out of the monies raised”* for the Gurdwara by the community, notably for a new building, and instead *ate up* (i.e. appropriated) *these funds”*.

Ofcom noted MATV’s submission that it was reasonable to include some of the comments made in the programme on the basis of information available to the programme makers at the time of the broadcast. However, as stated above, Ofcom’s role is not to determine the truth or otherwise of claims made in a programme, but to consider whether the programme, in its entirety, resulted in unfairness to an individual and/or organisation. Therefore, notwithstanding, the broadcaster’s argument that the programme was justified in making some of the claims made in the programme, Ofcom considered that the comments made in the programme amounted to serious allegations that the Committee had acted improperly in relation to its management of the Gurdwara’s money. In particular, we considered that referring to the Committee as a *“gang of thieves”*; that it had *“embezzled a lot of money”*; and its members had stolen property from the Gurdwara for their own personal use was accusatory in nature and would have left viewers in no doubt that the programme claimed that the Committee and its members had been involved in serious wrongdoing. Such was the serious nature of these allegations, Ofcom considered that they had the clear potential to materially and adversely affect viewers’ opinions of the Committee.

Having established that the relevant comments made about the Committee amounted to serious allegations which were likely to materially and adversely affect viewers’ opinions of it, we next considered whether the inclusion of the comments in the programme as broadcast resulted in unfairness to the complainant. Ofcom acknowledged the broadcaster’s right to freedom of expression and that they must be able to broadcast programme on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals and organisations in programmes.

We recognised that the programme was broadcast live and that, with such broadcasts, broadcasters need to take particular care. Given the nature of this type of programming, contributors and presenters can sometimes make unexpected comments which have the potential to cause unfairness to an individual or organisation. It is Ofcom’s view therefore, that, for live broadcasts, it is not always

possible for the broadcaster to obtain responses from others prior to or during the broadcast. However, in such circumstances, Ofcom considers that when including material that has the potential to amount a significant allegation, reasonable care must be taken by the broadcaster that the broadcast material is consistent with the requirements of the Code and that it does not mislead viewers or portray individuals or organisations in a way that is unfair, without sufficient basis to do so. This may include ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation.

In this case, Ofcom noted that neither presenter made an attempt to place their claims in context in the programme by explaining, for instance, the sources from which they based their claims, that they were expressing their own opinions, or by representing a counter-balancing viewpoint). In particular, we noted that the Committee was not provided with an opportunity to respond to the allegations made about it in the programme that it had put money into a private account and not accounted for it, that it was a *“gang of thieves”*; and that it had *“embezzled a lot of money”*; or that its members had stolen from the Gurdwara. We also noted that two callers to the programme either repeated or enlarged upon the claims of theft made by the presenters. For example, one of the callers spoke about the Committee having *“embezzled thousands of pounds”* and described this as *“fraudulent and pure larceny”* adding that it was *“like looting the Guru himself...”*. On neither occasion were the callers’ comments either challenged or put into context by the presenters.

Taking into account all the factors above, and notably the fact that nowhere in the programme was anything said to balance or place into appropriate context the comments made about the Committee, we considered that the allegations made against the Committee in the programme amounted to significant allegations about the conduct of the Committee and its members which had the clear potential to materially and adversely affect viewers’ opinions of Committee and its management of the Gurdwara in a way that was unfair to it.

For these reasons, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme in a way that was unfair to the Committee.

Therefore, Ofcom has upheld this complaint of unfair treatment in the programme as broadcast.

Not Upheld

Complaint by the Steadfast Trust

Exposure: Charities Behaving Badly, ITV, 18 February 2015

Summary

Ofcom has not upheld the Steadfast Trust's complaint, made on its behalf by Tilbrook's Solicitors ("Tilbrook's"), 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.

The programme *Exposure: Charities Behaving Badly* examined concerns that some registered charities were promoting race hatred, religious bigotry and extremism, and questioned whether the Charity Commission was failing to regulate charities effectively in this regard. One of the charities investigated in the programme was the Steadfast Trust.

Ofcom found that:

- The Steadfast Trust was provided with an appropriate and timely opportunity to respond to claims made in the programme, and in particular, about claims made about one of its supporters, Mr Darren Clarke, and its response was fairly represented in the programme. Therefore, in the circumstances of this case, Ofcom considered that the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to the Steadfast Trust.
- It was warranted for the programme makers to decide to film conversations between its undercover reporter and trustees and supporters of the Steadfast Trust surreptitiously, in circumstances where they had *prima facie* evidence of a story in the public interest. The Steadfast Trust had a legitimate expectation of privacy, albeit limited, in the material obtained surreptitiously by the programme makers. In this case, Ofcom considered that the public interest in obtaining the material outweighed the Steadfast Trust's limited expectation of privacy. Therefore, the Steadfast Trust's privacy was not unwarrantably infringed in connection with the obtaining of the material included in the programme.
- The Steadfast Trust had a legitimate expectation of privacy, albeit limited, in relation to the broadcast of the surreptitiously filmed footage of its trustees and supporters. In this case, the public interest in broadcasting the material outweighed the Steadfast Trust's limited expectation of privacy. Therefore, the Steadfast Trust's privacy was not unwarrantably infringed in the programme as broadcast.

Introduction and programme summary

On 18 February 2015, ITV broadcast an edition of its current affairs programme *Exposure* entitled: *Charities Behaving Badly*. The programme examined concerns that some registered charities were promoting race hatred, religious bigotry and extremism, and questioned whether the Charity Commission was failing to regulate charities effectively in this regard.

The programme sent undercover reporters to film at three different charities and showed footage recorded by each to illustrate its concerns. During each of the three main sections of the programme, two experts Mrs Francesca Quint, a barrister practising in charity law, and Professor Chetan Bhatt, an academic with an expertise in extremism, gave their opinions of the footage filmed at each charity. At the end of each section, a response from the charity concerned was presented.

The programme was introduced:

“Tonight on Exposure...Charity supporters promoting hatred...How the money you give is paying for lessons in bigotry...We go undercover in charities that don't just do good works and find racism and extremist views...And we ask the Charity Commission if they're doing enough to challenge extremism”.

The presenter went on to say:

“There are more than 160,000 registered charities in England and Wales and together they have a combined income that has grown to more than £60 billion. But when we give money, how do we always know where it's going? We've heard disturbing allegations of the serious abuse of charitable status. So we've set out to film undercover with three very different registered charities and found compelling evidence that rules are being broken and public trust undermined”.

The first charity featured in the programme was the Steadfast Trust. This section of the programme began by including footage of an event to celebrate St George's Day. The programme's presenter explained:

“The event is sponsored by a national charity called the Steadfast Trust. According to the Charity Commission's website, the organisation's official purposes include:

- Relieving poverty among members of the Anglo-Saxon community living in England; and,*
- Bringing about awareness of contributions made to British history and society by people of Anglo-Saxon descent”.*

The presenter then said:

“But we've been told that the Steadfast Trust has a political purpose and it's engaging in some activities that are not for the benefit of the general public. So we've sent in our undercover reporter Jamie to find out more”.

The remainder of this section of the programme focussed on the findings of the undercover reporter, “Jamie”, about the Steadfast Trust. This included footage filmed undercover of Jamie speaking with various trustees and supporters of the Steadfast Trust.

During the programme, one such supporter of the Steadfast Trust featured in the programme was Mr Darren Clarke. The presenter introduced Mr Clarke:

“A short time later our reporter meets Darren. Darren's been organising events for Steadfast for more than four years. Immediately, Darren openly admits that he commits criminal damage with a racist agenda”.

The following conversation ensued:

Mr Clarke: *"My mate is talking about, 'Oh yeah, look at the graffiti'. I bloody did the graffiti.*

Jamie: *Did you?*

Mr Clarke: *Yeah, I sprayed it up.*

Jamie: *Where was it?*

Mr Clarke: *Down at Battle Abbey.*

Jamie: *What was it?*

Mr Clarke: *Oh just like a – I've got a picture in my car – two suspicious characters – had these massive great stencils and a can of red paint.*

Jamie: *Where was that?*

Mr Clarke: *Norwich Castle. Why they should illustrate an Anglo-Saxon gallery with a picture of an Indian woman, I don't know? Just, just had to be done. I've got loads and loads of stickers which you can just go in and chuck on to offensive displays. If there's anything round your way, we can get some stickers to yah".*

The presenter then said:

"Then Darren tells our reporter that he's aware of the risks of more extreme action".

Mr Clarke said:

"If you can do something one week, and then the next week, and then the next week, and then the next week. They'd take notice of you. Demos, petitions, angry letters, you know, it's just wasting my time aren't they? You do have to have the right people who you can trust with your liberty, trust with your life even. You're risking to go away for twenty five/thirty years, or be sectioned or something – cause that's what they'll try and do to you..."

Footage was then shown at an event to commemorate the Battle of Maldon in 991AD. The presenter stated:

"Jamie discovers many of the men at this gathering have extreme political views".

Jamie was shown speaking to several of the attendees, one of whom was "Robin". Robin stated:

"I was a candidate for the National Front in 1980 something. When the Klu Klux Klan started up over here I got involved in that. A lot of us here took it to extreme. Where we was actually going out and mob up and attack them. That's because that's all there was. We didn't have the Steadfast charity years ago. I suppose you want to try and do it a bit differently – so the Steadfast charity comes into play".

The presenter then stated:

“So according to this supporter of the Steadfast Trust, the registered charity has become a new focal point for the fascist far right movement”.

Later in the programme, the presenter stated:

“Tim Hawke and Mark Taylor took over the running of the charity in 2014. It seems these new trustees are happy to have support from the far right”.

Mr Taylor then said:

“There’s a whole bunch of them going down with Darren. Skinheads and everything. We need some people like that, we need some enthusiasm, you know”.

The presenter then said:

“To find out the charity’s plans for the future, Jamie’s invited to Tim Hawke’s house”.

Mr Taylor then asked:

“It’s [Mr Hawke’s house] become a kind of haven for English Nationalists, your place isn’t it really?”

Mr Hawke then said:

“I have a big, 20-foot flagpole with a dragon at the front of mine. Everyone sees it”.

The presenter then said:

“Our undercover reporter Jamie has heard people associated with the charity boasting about criminal damage...So he wonders if trustee Tim has also been involved”.

Footage of Mr Hawke was then shown. He said:

“I mean, I got involved in a couple of little things with him once, went to Norwich, the Anglo-Saxon centre they had. They said ‘You know, there’s lots of parts of culture in Britain – Anglo-Saxon was part of it’ – and then they had a picture of Indian women and stuff like this, and we thought, ‘What?’ So we put some little sticker things over it – so that I’ve been doing”.

The presenter then explained that Mr Hawke had mentioned an *“English Community Group in Chelmsford”* which he referred to as *“Burn the Mosques”*. Mr Hawke said:

“Burn the Mosques. I said there’s not a chance in hell a charity’s gonna give you any money. Can you imagine a charity’s gonna give you any money. Can you imagine charity providing funding for that... They’re not going to burn the mosques down. Maybe if there was a strong, Nationalist, English focus, and there was more militancy – that might happen. It’s not gonna happen in the next few years. Maybe it’ll happen in the future, but not now”.

The undercover reporter was then shown attending an event at Waltham Abbey. The presenter stated:

"But last year at the same event Steadfast supporter Steve spotted a mixed race family he did not approve of".

Footage was then shown of Steve, who stated:

"What was that geezer? Remember at the Waltham Abbey last year? It was the geezer who came up with the fucking nigger wife with the nigger kid, with the white dragon flag".

On seeing the same family again, Steve said:

"There's that one with the African wife with the white dragon flag. What goes through their fucking mind though? 'Oh yeah my African wife, drape yourself in this white dragon flag' African tart holding the white dragon flag. Fucking unbelievable".

At the end of the section of the programme about the Steadfast Trust, the presenter explained:

"The Steadfast Trust told us:

Tim Hawke has been suspended pending an internal investigation and Darren Clarke suspended from our supporters list.

The Trust does not share or support the offensive views expressed, some by people unknown to the charity.

We cannot be held responsible for the views, actions or political affiliations of our supporters.

We always work within charity law and all donations are used to further our registered objectives.

The Steadfast Trust is not and never has been political in its aims and we are perplexed by the suggestion it has become the focal point for the far right.

Tim Hawke attended the Maldon event to identify whether it could benefit from a grant; he disliked what he saw and told trustees he would not attend in future.

We have criteria that English Community Groups must follow.

Only a fraction of groups are sanctioned by us.

Tim Hawke says 'burn the mosques' was a comment on the page of one group, and he decided the Trust could not be associated with it.

Mark Taylor's comments on skinheads were made in jest and the event referred to did not happen.

Steadfast told us they had no knowledge of 'Steve' and we could not trace him for a response".

Towards the end of the programme, footage of an interview with Ms Michelle Russell of the Charity Commission was included. Ms Russell was asked for the Charity Commission's response to the programme makers' findings on the three charities featured in the programme. With regards to the Steadfast Trust Ms Russell said:

"Our view is that Steadfast is not a charity and never was a charity...we have issued and given notice that we intend to remove it from the register of charities because it is not a charity and that process will take its course in the next few months".

At the end of the programme an onscreen message was displayed and read out. It said that the Charity Commission had removed the Steadfast Trust from the Register of Charities.

Summary of the complaint and the broadcaster's response

Unjust or unfair treatment

- a) Tilbrook's complained, on behalf of the Steadfast Trust, that the programme stated incorrectly that Mr Darren Clarke had been organising events for the Steadfast Trust for many years when this was not the case. Directly after making this claim, the programme stated: *"Immediately, Darren openly admits that he commits criminal damage with a racist agenda"*. Tilbrook's argued that "There was no evidence produced by ITV that Darren's activities had any connection or support from the [Steadfast Trust]".

ITV disagreed that the programme's statement that Mr Clarke had been organising events for the Steadfast Trust for more than four years was incorrect or that it resulted in any unjust or unfair treatment of the Steadfast Trust. It said that the programme makers had gathered evidence that this was the case and took care not to present this information in a manner that resulted in unfairness.

ITV said that the programme makers had found various articles on the Steadfast Trust website that referred to it contributing funding towards events in 2010 and 2011 held to honour St Edmund. ITV said that the Steadfast Trust appeared to have promoted and supported the events. It said that the articles referred to both events being organised by "Darren" and that photographs included in the articles appeared to show Mr Clarke present at both events. ITV provided links to the online articles to Ofcom. ITV also said that during the reporter's conversations with Mr Hawke, Mr Hawke had suggested that Mr Clarke had organised the events and said that he "does quite a bit for the charity like that". Mr Hawke had also suggested that the Steadfast Trust was closely involved in the events. Mr Clarke had talked about his involvement in the events in conversations with the undercover reporter, and suggested that a fifth event was due to be held in 2014. ITV said that it considered that Mr Clarke's close association with the Steadfast Trust and Mr Hawke was also corroborated by the fact that he was a Steadfast Trust supporter and was present at three of the five events the undercover reporter attended with Mr Hawke.

ITV said that in a letter to the Steadfast Trust dated 6 January 2015, the programme makers put their findings about Mr Clarke to it, and stated that they understood from their evidence that Mr Clarke had been organising events for the Trust for more than four years and that, as Mr Hawke had told their undercover reporter, Mr Clarke "does quite a bit for the charity". In its response to the programme makers dated 17 January 2015, the Steadfast Trust did not dispute or

deny that Mr Clarke had organised events for the Trust. ITV said that the Steadfast Trust had, in fact, admitted that Mr Clarke was a supporter and stated that he had been suspended from their supporters' list as a result of the allegations, which was reflected in the programme. ITV said that:

"That being the case, it was not unreasonable for the programme makers and ITV to conclude that the charity did not dispute their evidence regarding Mr Clarke's involvement with the charity, and it was not unfair for the programme to state that he had been organising events for them for more than four years".

ITV argued that, in any event, whether or not the Steadfast Trust denied that Mr Clarke had organised events specifically on its behalf, it was clear that he was "closely associated with" the Trust and Mr Hawke.

ITV acknowledged that the programme stated: *"Immediately, Darren openly admits that he commits criminal damage with a racist agenda"*. However, it pointed out that the programme did not state or imply that Mr Clarke's admitted criminal activity was undertaken in his capacity as a supporter of, or event organiser for, the Steadfast Trust, or that this behaviour was supported, or condoned by, the Trust itself. It said that the programme made clear that this was not the case. ITV pointed out that Mr Clarke's comments in question were made during his attendance at the Battle of Maldon event, which the programme made clear was not a Steadfast Trust event.

ITV said that when the programme later referred back to Mr Clarke's admissions, it stated that: *"Our undercover reporter Jamie has heard people associated with the charity [emphasis added by ITV] boasting about criminal damage"*. ITV also said that the programme included the Steadfast Trust's detailed response that it had suspended Mr Clarke from its supporters' list, that it could not be held responsible for the actions of its supporters, and, it did not share the offensive views expressed. ITV said that it therefore considered that:

"...the reasonable viewer would have concluded that Mr Clarke's criminal activity was not done in his capacity as a representative of the Steadfast Trust, and that the charity's official position was that it did not condone or support Mr Clarke's admitted actions".

ITV then went on to explain that the programme included evidence that a trustee of the Steadfast Trust, Mr Hawke, appeared to support Mr Clarke's criminal activity and had even participated in vandalism with him. Mr Hawke admitted in the programme that: *"I got involved in a couple of little things with him once"*, including the defacing of a display in Norwich. ITV said that the programme makers had also found additional evidence that a photograph of a vandalised image of an Indian woman (referred to in the programme) had been posted on Facebook and "liked" by another Steadfast Trust trustee. ITV said that this was not referred to in the programme but was raised in the programme makers' letter to the Steadfast Trust dated 21 January 2015. ITV said that it therefore believed the programme fairly reflected the extent to which the Steadfast Trust and its trustee Mr Hawke were "demonstrably connected to the criminal activity admitted by Mr Clarke", and that this did not result in any unjust or unfair treatment of the Steadfast Trust in this respect.

In any event, even if – as Tilbrook's alleged – it was incorrect to suggest that Mr Clarke's relationship with the Steadfast Trust was as an organiser of events for

them, ITV argued that given the weight of the other evidence the programme presented about the Trust, its trustees and supporters, the views expressed by Dr Bhatt, Mrs Quint and the Charity Commission about it, and the fact that it was subsequently removed from the Register of Charities, this did not materially and adversely affect the reasonable viewer's opinion of the Steadfast Trust in a way that was unfair.

Unwarranted infringement of privacy

- b) Tilbrook's complained that the Steadfast Trust's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the programme makers had "no prima evidence of a story in the public interest" to warrant the surreptitious filming of the Steadfast Trust. Tilbrook's said that the programme makers had a "preconceived agenda and predetermined view to justify undercover filming".

In response, ITV began by pointing out that the Steadfast Trust was not a natural legal person, and therefore had no capacity for distress or embarrassment. Secondly, it also pointed out that the Steadfast Trust was a public-facing organisation, which received donations from the public and carrying out work for the public. It said that as such it had to expect a degree of journalistic scrutiny. Thirdly, it said that that many of the sequences of surreptitious filming were filmed at public events - including those attended by the Steadfast Trust – and captured the charity's trustees' and supporters' public behaviour and comments. It said that it was also relevant to note that neither of the trustees, Mr Hawke and Mr Taylor, nor any of the supporters who were filmed surreptitiously subsequently complained to ITV or Ofcom about their privacy being unwarrantably infringed.

ITV denied that there was a preconceived agenda or predetermined view regarding the investigation in to the Steadfast Trust. It said that the programme makers had collected *prima facie* evidence of a story in the public interest, and that the surreptitious filming was entirely warranted.

ITV said that through the programme makers' research and the attendance of the undercover reporter at events in 2014, the programme makers had gathered *prima facie* evidence relating to the Steadfast Trust, which suggested that as well as its stated charitable objectives, the Trust might have a political purpose contrary to charity law and the Charity Commission's "Guidance on campaigning and political activity by charities", that individuals associated with the Trust held or had links to those who held racist, extreme and/or far right political views, and that those individuals may be using the Trust to promote those views.

ITV explained that this evidence included material that indicated that the Charity Commission had previously expressed concerns that the Steadfast Trust and organisations linked to it had a political purpose. ITV pointed to the fact that in 2007 the Charity Commission rejected the applications for registration by the Ethnic-English Trust ("the EET") and the Ironside Community Trust ("the ICT"), two organisations it said were linked at the time to the Steadfast Trust by having common directors and the same solicitor. ITV provided a link to this decision¹. In this decision the Charity Commission's Members stated their concern that the

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https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/324247/eetrust_decision.pdf

EET and the ICT were "...being used as tools to make a political point, or seek recognition of the 'ethnic English' as [a] racial group...". Members also expressed their doubts that the EET and the ICT would provide their intended education and training in a non-propagandist manner given the known political links of the applicants. ITV said that the Charity Commission had also noted that a message about the registration of the Steadfast Trust had been posted on the Stormfront "White Pride"² website, which the programme makers believed suggested a link between the Trust and the far right.

ITV said that the research also showed that in May 2011, the Steadfast Trust had posted a message on its website stating that the Charity Commission was investigating the Trust, was querying the validity of its beneficial class and its charitable status and that "there have also been suggestions that the Trust is promoting a propagandist or particular point of view and was therefore not established for exclusively charitable purposes".

ITV also said that the programme makers' research suggested that Steadfast Trust trustees were associated with individuals who had posted messages online containing extreme and/or racist views, that Mr Hawke had condoned the criminal damage at Battle Abbey (which Mr Clarke subsequently admitted to) and that the Steadfast Trust was associated with individuals who held racist, extreme and far right political views or who were connected to far right groups.

ITV said that it considered that there was sufficient *prima facie* evidence of a story in the public interest, and therefore authorised the programme makers to film the Steadfast Trust and its trustees and supporters surreptitiously. ITV said that it believed there were reasonable grounds to suspect that, through surreptitious filming, further evidence in the public interest could be obtained, including evidence that the Steadfast Trust:

"...had a political purpose, that individuals associated with it held, or had links to those who held, racist, extreme and/or far right political views, and that those individuals may be using the charity to promote those views".

Furthermore, ITV said that it considered the surreptitious filming was necessary to the credibility and authenticity of the programme. It said that given the nature of the investigation, it was necessary to film covertly. It said that had the Steadfast Trust, its trustees, its supporters, and other people filmed, been asked for their consent to be filmed, it was unlikely that this would have been given. ITV argued that even if consent had been obtained, it was likely that the particular individuals would have behaved differently had they known that they were being filmed. ITV said that surreptitious filming was required to corroborate the programme makers' initial research into the Steadfast Trust.

ITV said that given the above, the surreptitious filming of the Steadfast Trust and people associated with it was warranted and proportionate, and that any infringement of the Trust's privacy in the making of the programme was also warranted.

² Stormfront describes itself on its website as: "...a community of racial realists and idealists. We are White Nationals who support true diversity and a homeland for all peoples".

- c) Tilbrook's also complained that the Steadfast Trust's privacy was unwarrantably infringed in the programme as broadcast because footage of material obtained surreptitiously of the Steadfast Trust was broadcast in the programme.

In response, ITV said that it did not agree that the Steadfast Trust's privacy had been unwarrantably infringed in the programme as broadcast. It said that for the reasons set out above, any legitimate expectation of privacy the charity had was limited in the circumstances.

ITV said that while it accepted that the Steadfast Trust did not consent to the broadcast of the footage, it considered that any breach of the Steadfast Trust's privacy was justified because the inclusion of the surreptitiously filmed footage was warranted in the public interest. ITV said that the footage included in the programme exposed admissions of vandalism committed by one of the Trust's trustees, Mr Hawke, and criminal activity committed by one of its supporters, Mr Clarke. It said that in her interview Mrs Quint (barrister practising in charity law), expressed the view that Mr Clarke's admissions brought the Steadfast Trust and charities into disrepute.

ITV said that the footage also exposed evidence that corroborated the concerns and findings about the Steadfast Trust and linked organisations that had previously been raised by the Charity Commission, namely it said that the Trust may have a political purpose, may be promoting a propagandist view and appeared to have political links to the far right. It said that the footage also corroborated the concerns raised in the programme as to whether the Steadfast Trust had a political purpose, whether individuals associated with it held racist, extreme and/or far right political views, whether the Trust's trustees were content to receive support from those individuals and shared and condoned their views and whether those individuals may be using the Trust to promote those views. ITV said that the footage raised questions about the behaviour and attitudes of the Steadfast Trust's trustees and supporters, which it said in turn raised questions about the governance of the charity.

ITV also considered that the footage corroborated the concerns about the Steadfast Trust expressed by Dr Bhatt (an expert on extremism), Mrs Quint and the Charity Commission in their interviews for the programme. It said that the footage exposed evidence that raised serious questions in the public interest as to whether the Charity Commission was effectively regulating charities, and preventing donors and the public from being misled and public trust in charities being undermined. ITV said that given the above, there was a strong public interest in including the surreptitiously filmed footage in the programme. It said that it was also worth noting that the Steadfast Trust had suspended Mr Hawke pending an investigation and suspended Mr Clarke from its supporters' list, which it said suggested that even the Steadfast Trust itself recognised that the footage included in the programme raised some substantive concerns in the public interest.

ITV said that it had paid due regard to the privacy of the Steadfast Trust and its trustees and supporters and that the inclusion of the surreptitiously filmed footage was warranted in the public interest. It argued that in the circumstances ITV's freedom of expression and the audience's right to receive information outweighed any expectation of privacy the Steadfast Trust had in relation to the broadcast of the material without its consent.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that the Steadfast Trust's complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Both parties made representations which are summarised below.

The Steadfast Trust's representations

Unjust or unfair treatment

The Steadfast Trust stated that:

- wrongdoing by the Trust needed to have been established and it had not been. It argued that Ofcom's Preliminary View was "based entirely on the views, associations and private acts of third parties and not those of the [Steadfast Trust] itself".
- Mr Clarke was a beneficiary of grants from the Trust to hold cultural events, however no evidence had been produced in the programme to show that the those grants had been used to promote racial hatred or extremism. Further, the Steadfast Trust stated "[t]hat Darren as a beneficiary was close to a trustee does not make Darren close to the [Steadfast Trust]". It argued that no evidence had been produced to show that Darren had organised events for the Steadfast Trust or was ever a "representative" in any capacity of the Trust. The Trust also stated that it was not compatible with Ofcom's duties under Articles 6(1) and 14 of the Human Rights Act, or with its duties under the Equalities Act, for Ofcom to simply accept ITV's account.
- Mr Hawke was a trustee of the Steadfast Trust, but he was not a Director and as such he was "not speaking for the Board of Directors of the [Steadfast Trust] or for the Trustees or for the [Steadfast Trust]. Mr Hawke was speaking for himself and himself alone".
- with regards to the letter sent to it by ITV, regarding the proposed content of the programme, it "...gave inadequate information from which the [Steadfast Trust] could understand or know what ITV was going to accuse the [Steadfast Trust] of in the programme". The Steadfast Trust also said that the letter was not sent to its Board of Directors and therefore the Board did not have the opportunity to respond.

Unwarranted infringement of privacy

The Steadfast Trust stated that:

- it was a legal person and could be libelled. Further, the Steadfast Trust, like "every other corporate body, has the capacity to experience the legal equivalent of a capacity for distress and embarrassment".
- it did not accept that the preliminary research undertaken by the programme makers suggested *prima facie* evidence of a story in the public interest, such as to justify the surreptitious filming of the Steadfast Trust or the broadcast of that footage. In particular, the Trust stated that "ITV openly admits it went looking for evidence to support its view of the [Steadfast Trust]. At no time did ITV look for evidence that did not." Further, the Trust stated that "ITV had no prior evidence of

wrongdoing on the part of the [Steadfast Trust] and no allegations were current at the date of the secret filming”.

- there was no evidence produced in the programme that demonstrated that the Trust had done anything illegal or otherwise wrong. The Steadfast Trust stated that “[t]here was no propaganda, no political activity, no evidence [the Steadfast Trust] was not entirely charitable. There was no evidence that [the Steadfast Trust] was promoting racist, extremist, or Far Right views. Mere association, private or professional, is not enough to found a public interest...”. In the Steadfast Trust’s view, ITV “simply assert that having contact with people of a particular racial identity who have views considered racist etc. is enough to justify the targeting of the [Steadfast Trust] as it did.” Again, in the Steadfast Trust’s view, it was not compatible with Ofcom’s duties under Articles 6(1) and 14 of the Human Rights Act, or with its duties under the Equalities Act, for Ofcom to find that any infringement by ITV of the Steadfast Trust’s legitimate expectation of privacy was warranted.
- it disagreed with Ofcom’s view regarding the various concerns it considered the programme raised about the Steadfast Trust and in turn about the Charity Commission and whether it was regulating charities effectively.

ITV’s representations

ITV did not raise any representations with regards to Ofcom’s Preliminary View. However, it provided further information in response to the Steadfast Trust’s comments, as summarised above.

Unjust or unfair treatment

ITV stated that:

- it gave the Steadfast Trust an appropriate and timely opportunity to respond to the significant allegations made in the programme. It explained that the programme makers’ letter to the Steadfast Trust, dated 6 January 2015, set out the nature and purpose of the programme and also included transcripts of the excerpts of the surreptitiously filmed footage that they intended to include in the programme, details of the context the footage had been filmed in, what the programme makers believed it demonstrated and the nature of the allegations that were intended to be included in the programme. It said that this included the evidence the programme makers had gathered suggesting the charity had a political purpose. ITV said that the letter had been sent to the contact postal and email addresses given on the Steadfast Trust’s website. It said that the letter was answered by a trustee of the Steadfast Trust, which suggested that it was sent to and received by the appropriate persons.

ITV also said that a second letter, dated 21 January 2015, provided the Steadfast Trust with further detail on the evidence the programme makers had gathered that suggested it had a political purpose. It said that no response to this letter was received.

ITV did not accept that the content of the programme had been materially altered following correspondence with the Steadfast Trust in a way that resulted in unfairness to it. ITV further reiterated that it considered the programme fairly reflected the response it received from the Steadfast Trust to the programme

makers' first letter. It therefore said that it considered the Steadfast Trust was treated fairly and justly in the programme.

- ITV pointed out that contrary to the Steadfast Trust's representations above, Mr Clarke was neither referred to in the programme nor in ITV's response to the complaint as a "representative" of the Steadfast Trust. Rather, "[t]he statement simply set out the evidence ITV and the programme makers had gathered regarding Mr Clarke's association with the charity and why ITV believes the programme fairly and accurately described that".

Unwarranted infringement of privacy

ITV said that evidence gathered from over a number of years, together with that gathered at recent events in 2014 suggested there were ongoing concerns regarding the Steadfast Trust that warranted the surreptitious filming. It reiterated that the evidence gathered by the programme makers suggested the Steadfast Trust may have had a political purpose contrary to charity law and the Charity Commission's "Guidance on Campaigning and Political Activity by Charities", that individuals associated with the charity held or had links to those who held racist, extreme and/or far right political views, and that those individuals may be using the charity to promote those views.

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 its decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast and transcript, both parties' written submissions, and supporting documentation. Ofcom also took account of the representations made by both parties in response to Ofcom's Preliminary View on this complaint. After careful consideration of the representations, we concluded that the points raised did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

Unjust or unfair treatment

When considering and deciding complaints of unjust and 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.

- a) Ofcom considered Tilbrook's complaint, made on behalf of the Steadfast Trust, that the programme stated incorrectly that Mr Darren Clarke had been organising events for the Steadfast Trust for many years when this was not the case.

Directly after making this claim, the programme stated: *“Immediately, Darren openly admits that he commits criminal damage with a racist agenda”*. Tilbrook’s argued that “There was no evidence produced by ITV that Darren’s activities had any connection or support from the [Steadfast Trust]”.

In considering this complaint, we had particular regard to Practice 7.9 of the Code. This states that 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 clarify from the outset that Ofcom is unable to make findings of fact in relation to the allegations made about the Steadfast Trust. Rather, our role is to consider whether by broadcasting certain comments the broadcaster treated the Steadfast Trust unfairly and, in particular, whether it took reasonable care not to present, disregard or omit material facts in a way that was unfair to the Trust. In assessing this complaint, Ofcom also took into account Practice 7.11 which states that 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.

Having viewed the programme, we noted that in relation to Mr Clarke, the programme stated that he had been organising events for the Steadfast Trust for more than four years. We also noted in particular the following comments made in the programme:

The presenter stated:

“Darren openly admits that he commits criminal damage with a racist agenda”.

Mr Clarke stated:

“Norwich Castle. Why they should illustrate an Anglo-Saxon gallery with a picture of an Indian woman, I don’t know? Just, just had to be done. I’ve got loads and loads of stickers which you can just go in and chuck on to offensive displays. If there’s anything round your way, we can get some stickers to yah”.

Mr Clarke admitted to the undercover reporter that he was aware of the risks of his criminal behaviour:

“You’re risking to go away for twenty five/thirty years, or be sectioned or something...”.

The presenter said:

“Our undercover reporter Jamie has heard people associated with the charity boasting about criminal damage [i.e. Mr Clarke]...So he wonders if trustee Tim has also been involved”.

Given the above comments, we considered that the programme made clear that Mr Clarke had organised events for the Steadfast Trust and was an individual who had been involved in criminal activity. We acknowledged that the programme did not state that Mr Clarke’s admitted criminal activity was undertaken in his

capacity as a supporter or event organiser for the Steadfast Trust. However, we noted that directly after stating that Mr Clarke organised events for the Trust, the presenter commented: “*Darren openly admits that he commits criminal damage with a racist agenda*”. On this basis, Ofcom believed that some viewers may have reasonably assumed that Mr Clarke’s activities were connected with the Steadfast Trust. We therefore considered that this information taken together constituted a serious allegation which had the potential to materially and adversely affect viewers’ opinions of the Steadfast Trust.

We next considered whether the inclusion of this allegation resulted in unfairness to the Steadfast Trust. In doing so, Ofcom acknowledged the broadcasters’ right to freedom of expression, enabling them to broadcast programmes of matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster’s response and accompanying evidence which it said demonstrated that Mr Clarke had organised events for the Steadfast Trust for at least four years. Although, as explained above, Ofcom is unable to make findings of fact, we considered that the evidence presented by the broadcaster, as outlined in detail above in the “Summary of the complaint and the broadcaster’s response” section, strongly suggested that Mr Clarke had, at least from November 2010 to November 2011, organised events for the Trust. In particular, we noted that various articles on the Steadfast Trust’s website referred to events being organised by “Darren” during this time and also included photographs of an individual who appeared to be Mr Clarke at those events.

In any event, we considered that even if Mr Clarke had not organised events for the Steadfast Trust, as Tilbrook’s said was the case, we also took account of the fact that the Trust had had the opportunity to respond to this specific claim. We noted that in a letter to the Steadfast Trust dated 6 January 2015, the programme makers put their findings about Mr Clarke to the Steadfast Trust, and stated that they understood from their evidence that Mr Clarke had been organising events for the Trust for more than four years and that, as Mr Hawke had told their reporter, Mr Clarke “does quite a bit for the charity”. In its response dated 17 January 2015, the Steadfast Trust did not dispute or deny that Mr Clarke had organised events for the charity. In fact, the Trust confirmed that Mr Clarke was a supporter and stated that he had been suspended from their supporters’ list as a result of the allegations, and this was reflected in the programme.

In light of the above factors, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the statement that Mr Clarke had been organising events for the Steadfast Trust for more than four years.

In addition, we noted that in their letter of 6 January 2015, the programme makers also put forward to the Trust “Evidence of Criminal Behaviour” they had collected regarding Mr Clarke. The letter outlined the following:

- Mr Clarke had admitted in a conversation with the undercover reporter that he had “committed criminal damage with a political and racist agenda”. In particular the programme makers stated that Mr Clarke had admitted his involvement in spray painting a display at Battle Abbey in October 2013.

- Mr Clarke had admitted to the reporter that he had also defaced a picture of an Indian woman which was part of a display at Norwich Castle.
- Mr Clarke had offered the reporter stickers and suggested that he could use them to carry out similar acts of vandalism.
- Mr Clarke had told the reporter that he understood the risks associated with his criminal behaviour.

In response, we noted that the Steadfast Trust confirmed to the programme makers that Mr Clarke was a supporter and stated that he had been suspended from their supporters' list as a result of the allegations, and this information was reflected in the programme. It did not, however, dispute the evidence put to it regarding Mr Clarke's criminal behaviour. In their letter of 6 January 2015 the programme makers also presented a list of specific allegations they planned to include in the programme about the Steadfast Trust. One of these was that: "...a Trust Supporter admits to racially and politically motivated criminal damage". In response, the Steadfast Trust simply stated that: "We cannot be held responsible for a supporter's private actions (supporters are not necessarily representatives of the charity)". Again, this was reflected in the Trust's response included in the programme.

Given the above, Ofcom considered that that the Steadfast Trust had been provided with an appropriate and timely opportunity to respond to claims made in the programme about Mr Clarke, pursuant to Practice 7.11 and fairly reflected its response in the programme. In Ofcom's view, the detailed response from the Steadfast Trust included in the programme made it clear to viewers that Mr Clarke had been suspended from its supporters list and that the Steadfast Trust did not "*share or support the offensive views expressed*" in the programme and it could not "*be held responsible for the views, actions or political affiliations*" of its supporters. Therefore, we considered that viewers were free to reach their own view about Mr Clarke's comments and behaviour and the nature of his relationship with the Steadfast Trust. Given the above, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to the Steadfast Trust.

Ofcom's decision is therefore that there was no unfairness to the Steadfast Trust in this regard.

Unwarranted infringement of privacy

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. 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 of the Code, which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

- b) Tilbrook's complained that the Steadfast Trust's privacy was unwarrantably

infringed in connection with the obtaining of material included in the programme because the programme makers had “no prima evidence of a story in the public interest” to warrant the surreptitious filming of the Steadfast Trust. Tilbrook’s said that the programme makers had a “preconceived agenda and predetermined view to justify undercover filming”.

In considering this part of the complaint, we had regard to Practices 8.5 and 8.13 of the Code. Practice 8.5 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. Practice 8.13 says that surreptitious filming should only be used where it is warranted. Normally, it will only be warranted if: there is a *prima facie* evidence of a story in the public interest; there are reasonable grounds to suspect that further material evidence could be obtained; and, it is necessary to the credibility and authenticity of the programme. We also had regard to Practice 8.9 which states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

Before assessing whether the Steadfast Trust’s privacy was unwarrantably infringed in connection with the obtaining of material included in the programme, Ofcom considered whether it was warranted for the programme makers to decide to film surreptitiously in accordance with Practice 8.13.

From ITV’s submissions set out above, we noted the preliminary research undertaken by the programme makers which preceded their decision to surreptitiously film conversations between trustees and supporters of the Steadfast Trust and the undercover reporter. This included:

- material that indicated that the Charity Commission had previously expressed concerns that the Steadfast Trust and organisations linked to it had a political purpose;
- the fact that the Charity Commission had noted that a message about the registration of the Steadfast Trust had been posted on the Stormfront “White Pride” website³, which ITV said suggested to the programme makers that there was a link between the Trust and the far right;
- research which showed that in May 2011, the Steadfast Trust had posted a message on its website stating that the Charity Commission was investigating the Trust and that there had been “suggestions that the Trust is promoting a propagandist or particular point of view and was therefore not established for exclusively charitable purposes”;
- research which suggested that Steadfast Trust trustees were associated with individuals who had posted messages online containing extreme and/or racist views; and,
- research that indicated that the Steadfast Trust was associated with individuals who held racist, extreme and far right political views or who were connected to far right groups.

In addition, Ofcom took account of the broadcaster’s submissions which stated that surreptitious filming of trustees and supporters of the Steadfast Trust was

³ See footnote 2.

necessary to the credibility and authenticity of the programme as the individuals in question would unlikely have given their consent to be filmed had they been asked and also would likely have behaved differently had they known that they were being filmed. ITV said that surreptitious filming was required to corroborate the programme makers' initial research into the Steadfast Trust.

Ofcom considered that there was a genuine public interest justification in the programme makers' decision to gather information on the Steadfast Trust because it appeared there was a reasonable likelihood that surreptitious filming would uncover evidence relating to the Steadfast Trust having a political purpose, individuals associated with it holding, or having links to those who held racist, extreme and/or far right political views, and that those individuals may have been using the Trust to promote those views.

For these reasons, Ofcom considered that the use of surreptitious filming was warranted in the circumstances. We also considered that the means of obtaining the material had been proportionate.

Having reached the view that the use of surreptitious filming was warranted, Ofcom next considered the extent to which the Steadfast Trust had a legitimate expectation of privacy in the obtaining of the relevant footage, where its trustees and supporters were filmed surreptitiously by an undercover reporter. As stated in the Code, "legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question". When considering the extent to which a person/organisation has a legitimate expectation of privacy, Ofcom has regard to a number of factors which are set out below.

It should be noted that Ofcom is not concerned with privacy of *individuals* in this particular case. Rather, we have considered whether the Steadfast Trust as an organisation had a legitimate expectation of privacy in the obtaining of material included in the programme as broadcast. None of the individuals included in the programme complained to Ofcom that their privacy had been unwarrantably infringed.

We noted that various trustees and supporters of the Steadfast Trust (notably, Mr Hawke, Mr Taylor, Mr Clarke, and "Steve") were filmed and that the filming took place at various locations. The individuals were not aware that they were being filmed surreptitiously while speaking openly with the undercover reporter about, for example: the aims and activities of the Steadfast Trust; events attended by the Steadfast Trust; the Trust's plans for the future; their views on committing criminal damage to further a particular agenda; and, their particular political views. Ofcom took the view that, ordinarily, conversations in which the parties felt they could speak openly and freely could reasonably be regarded as being confidential and therefore could attract an expectation of privacy.

Next, we considered whether any private or sensitive information was revealed about the Steadfast Trust in the conversations had between its trustees and supporters and the undercover reporter. From the extracts of conversations included in the programme we did not consider that the various individuals in question disclosed any particularly private information about the Steadfast Trust. For example, it appeared from the footage included in the programme, that no information about the Trust's financial affairs was filmed. It was also clear to Ofcom that apart from the conversation which took place at Mr Hawke's house, the other conversations were conducted in public, i.e. at various outdoor events, in a pub and in the street. These locations were openly accessible to the

general public and therefore the conversations could have been overheard by other people in the vicinity.

With regards to the conversation which took place in Mr Hawke's house, Ofcom noted that, unlike the conversations above, matters relating to the Steadfast Trust were discussed in a private setting which was not accessible to members of the general public. However, we also took into account the fact that the footage filmed in Mr Hawke's house was filmed in his living room and that this was not an official office of the Steadfast Trust. As such, we considered that no footage particularly sensitive to the Steadfast Trust was filmed; for example, no footage of sensitive/confidential documents was obtained. In Ofcom's view, to the extent that the Steadfast Trust as an organisation may have had a legitimate expectation of privacy in the obtaining of the footage in Mr Hawke's house, this was not to the same degree as Mr Hawke himself, being an individual in his own home.

Taking all these factors into account, we considered that, on balance, the Steadfast Trust did have legitimate expectation of privacy in connection with the obtaining of the surreptitiously filmed material. This expectation was, however, limited by the largely public nature of the locations where the filming of the trustees and supporters took place and that the content of the conversations was not particularly private or sensitive in nature.

Having reached the view that the Steadfast Trust had a legitimate expectation of privacy, albeit limited in these circumstances, Ofcom went on to consider whether it was warranted to infringe the Trust's legitimate expectation of privacy.

The Code states that "warranted" has a particular meaning. It means that, where broadcasters wish to justify an infringement of privacy as warranted, 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, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest would include revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations or disclosing incompetence that affects the public.

As already noted above, Ofcom considered that there was a genuine public interest justification in the programme makers' decision to gather information on the Steadfast Trust, in circumstances where they had reason to believe that various trustees and supporters of the Trust held racist, extreme and/or far right political views, and that those individuals may have been using the Trust to promote those views.

We considered too that while the Steadfast Trust may have been unaware of the views held by its various trustees and supporters at the time of filming, there was significant public interest in detecting and revealing the behaviour and attitudes held by some of the Trust's members.

On balance, and given all the facts set out above, Ofcom considered that the broadcaster's right to freedom of expression and the public interest in obtaining footage of the particular views of some of the trustees and supporters of the Steadfast Trust outweighed the Steadfast Trust's limited legitimate expectation of privacy.

Ofcom concluded therefore that there was no unwarranted infringement of the Steadfast Trust's privacy in connection with the obtaining of material included in the programme.

- c) Tilbrook's also complained that the Steadfast Trust's privacy was unwarrantably infringed in the programme as broadcast because footage of material obtained surreptitiously of the Steadfast Trust was broadcast in the programme.

In relation to this part of the complaint, Ofcom had regard to Practices 8.6 and 8.14 of the Code. Practice 8.6 of the Code states that if the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Practice 8.14 states that material gained by surreptitious filming and recording should only be broadcast when it is warranted.

Before assessing whether the Steadfast Trust's privacy was unwarrantably infringed in the programme as broadcast, we again considered whether it was warranted to film surreptitiously in accordance with Practice 8.13. For the reasons set out in detail in head b) above, Ofcom considered that the use of surreptitious filming was warranted in the circumstances.

Having reached the view that the use of surreptitious filming was warranted, we next considered the extent to which the Steadfast Trust had a legitimate expectation of privacy in the broadcast of the material in the programme.

Ofcom took into account the circumstances in which the trustees and supporters of the Steadfast Trust were filmed and what material was actually included in the programme as broadcast (as set out in detail in head b) and the "Introduction and programme summary" section above). Trustees and supporters of the Trust were filmed surreptitiously while speaking openly with the undercover reporter about, for example: the aims and activities of the Steadfast Trust; events attended by the Steadfast Trust; the Trust's plans for the future; their views on committing criminal damage with a particular agenda; and, their particular political views.

Again, Ofcom took the view that, ordinarily, conversations in which the parties felt they could speak openly and freely could reasonably be regarded as being confidential and therefore attract an expectation of privacy. However, from the material included in the programme, the content of the conversations with the trustees and supporters in question did not disclose any particularly private information about the Steadfast Trust. For example, the programme did not disclose any information about the Trust's financial affairs.

It was also clear to Ofcom that, as outlined above at head b), apart from the conversation which took place at Mr Hawke's house, the other conversations were conducted in public locations which were openly accessible to the general public and therefore the conversations could have been overheard by other people in the vicinity.

With regards to the conversation which took place in Mr Hawke's house, as noted above in head b), matters relating to the Steadfast Trust were discussed in a private setting which was not accessible to members of the general public. However, we also took account of the fact that the footage filmed at Mr Hawke's house for inclusion in the programme as broadcast was filmed in Mr Hawke's living room and that this was not an official office of the Steadfast Trust. As such, we considered that no footage particularly sensitive to the Steadfast Trust was

included in the programme; for example, no footage of sensitive/confidential documents was included in the programme. In Ofcom's view, to the extent that the Steadfast Trust as an organisation may have had a legitimate expectation of privacy in the broadcast of the footage taken in Mr Hawke's house, this expectation was not to the same degree as that of Mr Hawke, being an individual in his own home.

Taking all these factors into account, we considered that, on balance, the Steadfast Trust had a legitimate expectation of privacy in relation to the broadcast of the footage. This expectation of privacy was, however, limited by the largely public nature of the locations where the filming of its trustees and supporters took place and the fact that the content of the conversations was not particularly private or sensitive in nature.

Having reached the view that the Steadfast Trust had a legitimate expectation of privacy, albeit limited in these circumstances, Ofcom went on to consider whether it was warranted to infringe the Steadfast Trust's legitimate expectation of privacy. Again, we observed from the programme that the individuals in question (notably, Mr Hawke, Mr Taylor, Mr Clarke, and "Steve") were identified in the programme as either trustees or supporters of the Steadfast Trust. It was not disputed that the Steadfast Trust's consent was not obtained before footage of these individuals was broadcast in the programme.

As set out in head b) above the Code states that "warranted" has a particular meaning. It means that, where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted.

As already set out above, the individual's right to privacy has to be balanced against the competing rights of the broadcaster's to freedom of expression. Neither right 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 right.

We carefully balanced the Steadfast Trust's right to privacy in the broadcast of the surreptitiously filmed footage of its trustees and supporters 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 came to the view that there was significant public interest in the programme broadcasting the programme makers' findings relating to the Trust. The programme raised concerns about whether the Steadfast Trust may have a political purpose, whether individuals associated with the Trust held racist, extreme and/or far right political views, whether the Steadfast Trust's trustees were content to receive support from those people and shared and condoned their views, and whether those individuals may be using the charity to promote those views. It raised questions about the behaviour and attitudes of the Steadfast Trust's trustees and supporters, which in turn raised questions about the governance of the Trust. The footage also exposed evidence that raised serious questions in the public interest as to whether the Charity Commission was effectively regulating charities, and preventing the public from being misled and public trust in charities being undermined.

On balance and given all the factors set out above, Ofcom considered that the broadcaster's right to freedom of expression and the public interest in

broadcasting the material outweighed the Steadfast Trust's limited legitimate expectation of privacy.

We note the Steadfast Trust's representations, that Ofcom would not be acting in a way that was compatible with Articles 6(1) and 14 of the Human Rights Act, or with the Equalities Act were it to find in favour of the broadcaster in relation to this complaint. Ofcom does not accept that its finding in this case is incompatible with either the Human Rights Act or with the Equalities Act, which Ofcom has regard to in the application of the Broadcasting Code.

Ofcom concluded therefore that there was no unwarranted infringement of the Steadfast Trust's privacy in the broadcast of the material in these circumstances.

Ofcom has not upheld the Steadfast Trust's complaint, made on its behalf by Tilbrook's, of unjust or unfair treatment and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Not Upheld

Complaint by Miss Julia Liddle on her own behalf and on behalf of Dorset Dog Rescue

Inside Out South, BBC 1 South, 12 January 2015

Summary

Ofcom has not upheld the complaint made by Miss Julia Liddle on behalf of herself and her organisation, Dorset Dog Rescue (“DDR”), of unjust or unfair treatment and of unwarranted infringement of privacy in connection with the obtaining of the material in the programme and in the programme as broadcast.

The programme featured an investigation into Miss Liddle and her organisation, DDR, in relation to concerns about the charity and the manner in which it was transporting puppies and dogs from the Republic of Ireland to the UK. The report included contributions from those who claimed to be unhappy with their experience of DDR including those who had adopted dogs from DDR and a former DDR foster carer. Miss Liddle was shown in the programme being doorstepped by the programme’s presenter.

Ofcom found that:

- The broadcaster took reasonable steps to satisfy itself that material facts about Miss Liddle and DDR in relation to the claims made in the programme were not presented, disregarded or omitted in a manner that was unfair.
- Miss Liddle and DDR were given an appropriate and timely opportunity to respond to the claims made about them in the programme.
- Miss Liddle did have a legitimate expectation of privacy, albeit limited, in connection with the obtaining of material included in the programme and in the broadcast of footage of her being doorstepped. However, we considered that the public interest in investigating and trying to obtain a more substantive response from Miss Liddle and DDR outweighed her expectation of privacy. Therefore, Miss Liddle’s privacy was not unwarrantably infringed in this respect.

Programme summary

On 12 January 2015, BBC 1 South broadcast an edition of its current affairs programme *Inside Out*. This particular edition included an investigation into dogs and puppies being transported from Ireland to the UK. The opening introductory sequence to the programme included footage of the programme’s reporter, Mr Jon Cuthill, at a service station approaching several vehicles, including one car in which he was heard asking the driver: “*Have you got your puppies in there?*”

Mr Cuthill then said: “*We’re up all night on the trail of the dogs and puppies shipped illegally from Ireland and sold on here in the south*”. Footage of dogs being transferred between different white vans was briefly shown.

Immediately following this, Mr Cuthill said that he was in a car park in Ireland. He explained that the programme had been told that a van full of dogs from Irish rescue centres was being handed over to a second van heading for Berkshire. Secretly

filmed footage of dogs and puppies being transferred between the two vans was shown. Mr Cuthill then explained that:

“These dogs are about to make a 14 hour journey via Chieveley service station near Newbury where many of them will be handed over in the dark to a Dorset charity”.

Secretly filmed footage of Mr Cuthill speaking to a group of people was shown. The conversation could not be heard. However, while this footage was being shown Mr Cuthill said:

“We’ve learnt that between 40 and 80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires”.

Mr Cuthill continued:

“Sold on at up to £200 a dog, I want to know if what Dorset Dog Rescue is doing really is a charity or a business?”

A contributor to the programme, Lady Sue Kilbracken (the founder of Ferry Dogmothers, an Irish dog rescue organisation) said:

“It’s a business, it’s a huge money making business. If you think about it, if Dorset Dog Rescue are taking 40 dogs in crates, if they’re selling those dogs for £200 each, on average, that equals £8000, that’s a huge business”.

Mr Cuthill then introduced another story (unconnected to Miss Liddle) about dogs being imported as part of a puppy farming operation.

Following this story, secretly filmed footage of various white vans was shown. Mr Cuthill said:

“It all happens in dark and shady corners of car parks tucked away from public view. There are deliveries every week to Dorset Dog Rescue which has been going for the last five years and they recently became a charity. Over that time, they’ve imported thousands of dogs to sell on in the south of England. This is the story of how that can go terribly wrong”.

A photograph of a pregnant bitch was then shown and the reporter said:

“We’ve heard of heavily pregnant bitches being transported and dogs with contagious stomach bugs and kennel cough”.

Mr Cuthill then discussed a dog nicknamed “Ugly” and a photograph of this dog was shown. He explained that this dog had mange and cardiac failure which had cost its owner *“hundreds of pounds in vet fees and eventually had to be put down”*. Ms Teresa Rowe, the owner of the dog was then shown saying:

“He’d arrived in Ireland late Thursday evening and we picked him up Saturday morning so he was only over here for just over a day. He was so, so ill that a vet would have picked it up I’m sure of it and there was just nothing they could do”.

Immediately following this, Mr Cuthill said:

“and when it comes to it, if you take on a dog from Dorset Dog Rescue and it all goes horribly wrong, they don’t seem keen to help sort out the problem and take on dogs like Bullit back”.

“Tracey”, the owner of Bullit, was shown and said:

“I got him on Friday, he was advertised on their website on the Thursday, he’d come over from Ireland on the Wednesday. The foster lady said that she’d had him two weeks and she hadn’t, she’d had him two days. No home checks. No vet checks. I texted a photograph of a garden to them that was my home check and that was it. He wasn’t assessed at all.

My dog bit my nephew twice. In the stomach and in the face and I immediately phoned the police and the paramedics and I wanted the police to take the dog away, they couldn’t and wouldn’t. I phoned Dorset Dog Rescue that evening about three times. I phoned them again on the Monday morning. Nothing. The police phoned them. My vet phoned them. They didn’t answer the phone, didn’t answer any messages, didn’t return any calls and because of that my dog was destroyed cause they didn’t take him back. They should have taken him back”.

Tracey’s comments were interspersed with photographs of Bullit.

Secretly filmed footage of cars and vans were then shown driving onto a ferry. The reporter said:

“This is how dogs like Bullit are imported, straight onto the ferry. Legally they should have vet checks and vaccinations meant to protect them and us. They’ll be dropped off at foster homes and could be sold for cash to new owners within 48 hours allowing very little time to assess their health and temperaments”.

The programme then showed footage of “Lindsey” and her dog “Bella”. Mr Cuthill said that Lindsey had paid Dorset Dog Rescue £275, but had *“ended up with a £400 vet bill”*. Lindsey explained that she quickly realised Bella was not well and that *“their [i.e. DDR] support when we then confronted them with these issues was zero. And she said ‘it’s your dog, you bought it, it’s your problem’ that was it”*.

The programme then discussed a puppy named “Luna” who *“racked up £800 in vet bills”*. Mr Cuthill said that Luna ended up with *“others from her Irish shipment at Dorset Dog Rescue’s recommended vet, from where the family refused to collect her, afraid she would spread disease to their other pets”*. One of the contributors, who in the programme appeared to be the owner of Luna, explained the circumstances surrounding Luna’s illness and said *“within hours it went down really fast”*. She added *“I think it’s a shambles, I believe it should be done properly and it’s not being done properly”*. Mr Cuthill said *“Luna did recover and was sold again. Her original family was never compensated for the vet bills or the puppy”*.

The programme then explained that there was a big problem in Ireland with unneutered stray dogs having litters of unwanted puppies so it was *“easy to think that rescuing dogs from Ireland was a good thing”*. The programme added that in Ireland, stray dogs were kept in official pounds for five days and if they are not claimed then they are often destroyed which has led to rescue homes trying to *“buy time for dogs”*. The programme then said:

“UK rescues are overrun with Staffies and other bull breeds that are hard to rehome, but it seems there’s a ready market for the more attractive Irish strays and critics say it’s led to a trade that too easily overlooks the dog’s wellbeing”.

Lady Kilbracken then said:

“You’ve got to look beyond taking a dog which is a good thing, it’s a good thing to take a dog from a pound or a rescue, it’s a fantastic thing, but you’ve got to look at the skulduggery that’s gone on behind the scenes to get that dog there. That’s what needs to be exposed”.

The programme explained that Lady Kilbracken had set up Ferry Dog Mothers to take dogs from the dog pounds and into Irish rescues.

Mr Cuthill then said that Lady Kilbracken was *“horrified”* to find out that dogs she had moved to an Irish rescue had turned up in Dorset. Lady Kilbracken explained that on the Saturday, three of her volunteers took six puppies from a shelter to an Irish rescue where they believed the puppies were going to be looked after. Lady Kilbracken added that a couple of the puppies were sick on the journey. She then said that on the Tuesday, she received a message from one of her colleagues who told her to look at DDR’s Facebook page. Lady Kilbracken said:

“There were photographs of the puppies we’d moved that Saturday. They were suddenly over there on Dorset Dog Rescues’ page effectively for sale”.

Photographs of the puppies from DDR and Ferry Dog Mothers were shown side by side on screen.

Mr Cuthill then said that they had found other Irish rescues which supplied DDR and were not trying to rehome dogs locally. Mr Cuthill spoke about a woman in Ireland who had wanted to adopt “Topsy”, but was told that she could not do so because Topsy was being transported that evening to a rescue centre in the UK. The woman said:

“It makes no sense that I can offer this dog a home here in Ireland and they feel that they should send it to another rescue centre across the water in the UK, like put that dog through all that travelling and everything for nothing when a dog was offered a home here”.

The programme explained that:

“In the care of Dorset Dog Rescue, Topsy went to one of a network of around 40 foster homes with dogs dropped off direct from Ireland in the early hours”.

Mr Cuthill then spoke with one former foster carer from DDR who he said *“gave up because she was worried about the sheer quantity of dogs coming in and the conditions”.*

The following conversation between Mr Cuthill and the former foster carer took place:

Mr Cuthill: *“How many puppies are we talking about, how many dogs are we talking about per load?”*

Foster carer: *“Per load, usually between 30 and 40. They’d often have cages of puppies with anything up to 7 or 9 puppies in a cage. Individual dogs,*

often 2, 3 or 4 in a cage according to their size, all in together. I'd usually counted between 30 and 40 on the transport which came over a lot of the time weekly. The puppies would be absolutely covered in their own excrement and urine and sick.

I remember one lot of puppies in the winter were freezing cold because they were soaking wet, they were all shivering and shaking, they were very ill. And the cages were on top of each other so obviously there was some droppage from one cage down onto another. Quite often the puppies, one or two of the puppies, were so ill they had to actually leave and go straight to the vets and get put on a drip, one or two would die, some pulled through but it wasn't good".

Various photographs of dogs were shown to accompany the former foster carer's comments.

Mr Cuthill continued: *"She says she was asked to check out other fosterers and the homes of would be adopters".*

The foster carer said:

"I've made checks on some fosterers and some potential homes and there were two or three that I wasn't happy with and I said no and the dogs were still sent there. Quite often fosterers would be in flats with no gardens and with young children and any dog that needed a fosterer would get sent there and it was not suitable conditions. It was dangerous for the children! You're taking on a dog that you know nothing about, nothing of its history. It could be antagonistic towards children or other dogs and you were given that dog and it could have been a very dangerous situation.

Home checks were made, but I disapproved of two or three homes that I went to check and the dogs still went there. Basically, the first person that came to the door with the money got the dog".

Mr Cuthill was then shown approaching a car. He said:

"Hello Julia, it's Jon Cuthill from BBC Inside Out. Can we talk to you about Dorset Dog Rescue, please?"

Footage of Miss Liddle sat in a car typing on her mobile phone was shown. Her face was unobscured. Miss Liddle was shown trying to cover her face with her hand.

Mr Cuthill said:

"We don't normally crash in on people like this, but having written to and phoned Julia Liddle who runs Dorset Dog Rescue we needed some answers. So many people were telling us this was a business not a rescue.

In an initial phone conversation, Julia Liddle denied importing any dogs without passports, but following our intervention she started appealing on Facebook for donations to passport dogs. She said she brought in only 15 dogs a month, when we repeated our evidence of up to 80 dogs and puppies a month, she refused to comment further. Face to face, Julia Liddle had nothing more to add. She later rang us saying that the reason she didn't want to be interviewed was because of a vicious social media campaign against her. She pointed to big, monthly vet bills

as evidence of the good work done by Dorset Dog Rescue, but she continued to refuse to confirm the numbers of dogs she was importing. She wouldn't talk about passports either or comment on the speed of rehoming".

Secretly filmed footage of dogs being transferred between two vans at Chieveley services was shown. Mr Cuthill said:

"At Chieveley services we filmed two of the weekly deliveries to Dorset Dog Rescue and observed others. What we saw seems to corroborate figures of between 40 and 80 dogs and puppies coming in every month. The Irish van driver seemed reluctant to tell us more".

Mr Cuthill was filmed outside the van asking the van driver various questions about the puppies/dogs. The van driver was shown on his phone and did not respond to Mr Cuthill's questions. Mr Cuthill then went to speak with the DDR van driver and said that he was *"not keen to talk either"*. Footage of the DDR van driver was shown as he put his hood up in an attempt to cover his face. Mr Cuthill was shown outside the van asking the driver various questions about the dogs. At various points, the driver appeared to shake his head in response to the questions he was being asked. Both van drivers then drove away.

Mr Cuthill then went on to discuss the other story from the van about puppy farming which was not connected to Miss Liddle.

Later in the programme, Mr Cuthill said:

"As for Dorset Dog Rescue, we don't dispute that there are some dogs that have found happy homes which might otherwise not have survived, but there's nothing to stop the charity doing the job properly, it might just cost some of the profits, but some people would say that's a price well worth paying".

No further comments about Miss Liddle or DDR were included in the programme.

Summary of the complaint and the broadcaster's response

The complaint

Unjust or unfair treatment

In summary, Miss Liddle complained on her own behalf and on behalf of DDR that they were treated unjustly or unfairly in the programme as broadcast because:

- a) The programme included contributions from people who were part of a "hate campaign" against Miss Liddle without any supporting evidence and who made untrue comments about her. Miss Liddle said that the comments which they made undermined her and DDR's credibility and integrity. In particular:
 - i) *Ms Teresa Rowe*
 - Ms Rowe alleged in the programme that she had to pay *"hundreds of pound in vet fees"*, however, this was because she refused to take the dog to the vet which DDR have an arrangement with. Further, she did not provide any evidence of the money she had spent or what was wrong with the dog.

ii) “Tracey”

Miss Liddle said that Tracey’s comments in the programme were fabricated and designed to discredit DDR. In particular:

- Tracey alleged that no veterinary checks were carried out on her dog by DDR. However, this was untrue as the dog was health checked.
- Tracey alleged that DDR only had the dog for a few days which was not true. The dog had been in foster care for at least two weeks with two foster mothers at DDR.
- Tracey alleged that her home check consisted of her sending a photograph of her garden to the fosterer.
- Tracey alleged that she along with her vet and the police had tried to contact DDR when her nephew was bitten by Bullit, but that DDR did not answer her messages or return her calls. However, no one contacted DDR and no evidence has been provided of these alleged telephone calls.
- Bullit was not the dog responsible for the bite. The bite occurred prior to Bullit being adopted and no evidence of the dog bite was provided. Miss Liddle said that the BBC was informed that this dog was not responsible for the bite on 10 January 2015.

iii) “Lindsey”

- Lindsey alleged that she contacted DDR when her dog, “Bella”, became sick, which was not true. Lindsey had been in contact with DDR to express her delight with the adoption. Lindsey’s social media entries showed that her dog was well, but also suggested that Lindsey had not been consistent with Bella’s feeding arrangements.

iv) “Luna”

- Luna’s owner alleged that the dog was ill and that DDR did not compensate her for the vet bills or for the cost of Luna which was later sold on to another owner by DDR. However, Miss Liddle said that the only reason the owner incurred vet bills was because she did not initially take the dog to the vet which DDR had an arrangement with. However, the dog was not ill and had been health checked before the adoption.

v) *Former DDR foster carer*

- The former foster carer made allegations about the number of dogs being transported, the number of dogs to a cage and the cage conditions which were not true.
- The former foster carer alleged that some dogs died while being transported, which was not true.

- b) The programme included a number of unfair and untrue allegations about the way in which DDR transported the dogs from Ireland to the UK. In particular:

- i) The programme alleged that dogs were transported ill or pregnant to DDR. This was not true.

Miss Liddle said that the only evidence was based on that of the former foster carer who was featured in the programme and who was asked to leave DDR for not following policy and administration and is part of the hate campaign against Miss Liddle and DDR.

- ii) The programme alleged that 40 to 80 dogs were imported by DDR which was untrue.

Miss Liddle said that the average number of dogs imported by DDR for six months in 2014 was 36 per month. Miss Liddle said that the programme's allegation made out that DDR was being run as a business. This was because the programme stated that the dogs were sold by DDR which was not true. Miss Liddle said that all rescue centres, like hers, charged a re-homing fee, but in some cases this fee was not charged.

- iii) The programme alleged that DDR illegally imported dogs.

Miss Liddle said that the dogs were not illegally imported as stated in the programme because it was only on 28 December 2014 that new legislation came into force requiring dogs to have passports, but that prior to this date it was not illegal to import dogs from Ireland without passports. The filming of the dogs (in October 2014) took place prior to the change in the legal position. Further, the BBC did not state that the legislation said that no offence was committed because of the special relationship with Ireland.

- iv) The programme alleged that dogs are sold by DDR to new owners "within 48 hours allowing very little time to assess their health and temperaments".

Miss Liddle said that "all dogs are health checked and vaccinated" and that no dog was rehomed within 48 hours.

By way of background, Miss Liddle said that there was no evidence of dogs being re-homed in these circumstances other than from contributors who were part of the hate campaign against her and DDR.

- c) Miss Liddle and DDR were not given an appropriate opportunity to respond to the allegations made in the programme as broadcast because Miss Liddle was not informed about:

- the investigation by the BBC into the dogs "Ugly" and "Luna"; and
- the comments the former foster mother made in the programme.

By way of background, Miss Liddle said she was first approached by the BBC on 11 December 2014 and that she replied to the BBC's letter by email on 11 December 2014. Miss Liddle said that the BBC did not respond to her email and she was then doorstepped on 19 December 2014 without notice. Further, on 7 January 2015, Miss Liddle was informed that if she wanted to participate in an on-camera interview then she would have to do so the following day which she could not do at such short notice. Miss Liddle said that the Christmas period was a particularly busy time of year for her.

As a result of the programme, Miss Liddle said that the number of donations and voluntary support for DDR has reduced considerably. Further, Miss Liddle said that she and other trustees of DDR feared for their safety and suffered extensive personal and verbal abuse. Miss Liddle said that she and the other trustees of DDR have lost all integrity, credibility and respect, both personally and professionally.

Unwarranted Infringement of Privacy

- d) In summary, Miss Liddle complained that her privacy had been unwarrantably infringed in connection with the obtaining of material included in the programme because the programme makers had: followed her while she was going about her personal affairs; blocked in her vehicle; and had refused to stop filming her even when she requested for them to do so because she was ill.
- e) Miss Liddle also complained that her privacy had been unwarrantably infringed in the programme as broadcast because Miss Liddle was doorstepped by the programme makers for no reason and it was not warranted. Miss Liddle said that she had not declined an on-camera interview and so there was no evidence to suggest that the investigation would be frustrated.

By way of background, Miss Liddle explained that she had informed the programme makers that she was concerned about her personal safety and that she had obtained injunctions against her former boyfriend who did not know her whereabouts. Further, the BBC was aware that Miss Liddle was suffering from Post-traumatic Stress Syndrome.

BBC's response

In response to the complaint, the BBC said that the programme carried out an investigation into the manner in which DDR imported homeless and stray dogs from Ireland and found them new homes in England. The BBC said DDR was set up in 2008/9 with a charitable constitution and a company called Dorset and Somerset Dog Rescue ("DSDR") was subsequently registered in November 2014. The BBC said it understood that DDR was originally set up by Miss Liddle and a colleague over six years ago and that she had been responsible for running the operation since then.

The BBC said the programme makers conducted an investigation over several months after they became aware of concerns and complaints which had been raised about the actions of DDR from a number of sources who had first-hand experience. The BBC added that these concerns were reinforced by the content of various social media sites. The BBC said in the course of the investigation, it became aware of the following:

- Dogs were transported from Ireland without legally required paperwork, including passports and micro-chips and without undergoing legally required health checks by a registered vet.
- Dogs were transported from Ireland which had not been vaccinated against rabies, as required by law.
- Puppies were transported from Ireland which were under the legal age to travel.
- Dogs were transported from Ireland in inadequate and inhumane conditions.

- DDR imported dogs which were seriously ill and posed a threat to public health.
- Dogs were rehoused in the UK without adequate health checks and were placed in homes without appropriate vetting or sufficient time to assess their temperament.
- DDR charged people to adopt dogs which had serious health conditions.

During the investigation, the BBC said the programme makers spoke to numerous informed sources including:

- Three former foster carers for DDR.
- A former employee of DDR, who the BBC said was described by Miss Liddle in “DDR’s Annual statement” of 2012 published on the Dorset and Somerset Dog Rescue Facebook page as “my right hand man and couldnt [sic] do it without her”¹.
- More than ten people who had adopted dogs from DDR.
- Poole Trading Standards.
- Dorset Police.
- An animal welfare officer based in Dorset.
- A separate Dorset-based dog rescue and the RSPCA.
- Sources in Ireland with links to the Inistioge Puppy Rescue centre run by Brenda Stone which supplied the vast majority of the dogs imported by DDR.
- The person who transported dogs from Ireland for DDR.

In addition, the BBC said the programme makers:

- conducted off-the-record interviews with various sources connected to or associated with DDR;
- had contact with more than 120 people who adopted dogs from DDR;
- read posts on social media sites including the Facebook pages of Dorset and Somerset Dog Rescue, Dorset Dog Rescue Bad Experience and Dorset Dog Rescue Spotted;
- had access to copies of Facebook posts and messages between Miss Liddle and various third parties on closed sites, as well as copies of text and social media messages sent to and from Miss Liddle; and,

¹ <https://www.facebook.com/notes/dorset-and-somerset-dog-rescue/ddrs-annual-statement-bit-late-i-forgot/36737752333985>

- were shown copies of the DDR accounts between September 2011 and June 2013 by a former employee. The originals of which are in the possession of Dorset police as part of its investigation into the actions of DDR.

The BBC explained that the programme maker's conducted surveillance of DDR's operation importing dogs from Ireland over a nine week period in Autumn 2014, as follows:

- *Weeks 1-4* – BBC sources observed dogs from Inistioge Puppy Rescue being transferred to a transporter in a Lidl supermarket car park in New Ross, County Wexford, Ireland, bound for the UK via ferry.
- *Week 5* – Dogs from the same transporter were observed by a BBC researcher being transferred to a van owned by DDR at Chieveley Service Station in Berkshire.
- *Week 6* – Reporter Jon Cuthill filmed dogs being loaded onto a transporter in the Lidl car park in New Ross. The transporter was followed to the ferry terminal. The same van was subsequently filmed in the early hours of the following morning at Chieveley services and dogs were recorded being transferred to a vehicle owned by DDR and another vehicle owned by a separate operation which also featured in the programme.
- *Week 7* – An Inside Out researcher observed and filmed the same operation; dogs were transferred to a vehicle owned by DDR in the early hours at Chieveley services.
- *Week 9* – Reporter Jon Cuthill filmed dogs being loaded onto a transporter in the Lidl car park in New Ross and followed the vehicle continuously on its journey to the ferry terminal, on the crossing to England and then to Chieveley services, filming on regular occasions. The driver of the DDR van was filmed and questioned at the services (shown in the programme).

The broadcaster said the programme makers concluded there was a clear public interest in exposing the illegal operations of DDR which was putting the health of both dogs and people at risk.

The BBC said any operation which brings dogs into the UK for sale or re-homing is regarded as a commercial operation and has to comply with the appropriate legislation. The BBC added it was reasonable to assume that those responsible for running DDR (i.e. Miss Liddle) should have been aware of the legal requirements for importing dogs and taken action to ensure their operation was compliant with the relevant legislation.

The broadcaster concluded the introduction to their response to the complaint by stating that: the allegations made in the programme were accurate and based on sound evidence; Miss Liddle was provided with a comprehensive explanation of the allegations made against her and DDR and was provided with an appropriate and timely opportunity to respond; and, any infringement of her privacy was warranted in the public interest. The BBC said the treatment of Miss Liddle and DDR was fair and reasonable, and there was no unwarranted infringement of her privacy in the making or broadcast of the programme.

The BBC then responded to each separate head of complaint as entertained.

- a) In response to head a) in general, the BBC said a number of individuals used social media to draw attention to serious concerns about the operation of DDR. The broadcaster said these people had first-hand knowledge of DDR and used social media sites such as Facebook to share their bad experiences and highlight concerns about the way DDR treated its dogs, its adopters and its foster carers. The BBC said many of these people told the programme makers they were frustrated that any adverse or negative comments they posted on the DDR Facebook page were deleted and so an alternative forum was set up. The broadcaster said Dorset Police have reviewed the content of the various sites and confirmed to the BBC that they regard them as legitimate forums for public debate.

The BBC stated that the programme maker's spoke to many of the sources (as listed above) and gathered evidence which supported the concerns they had raised. The BBC said the programme included contributions from foster carers and adopters in order to illustrate the kind of negative experiences of DDR which were shared by others.

The broadcaster said Miss Liddle may choose to dismiss the concerns of people with first hand experiences of DDR as a "hate campaign" but it said, people are entitled to air their legitimate grievances and concerns and Miss Liddle cannot reasonably argue there was no evidence to support the serious failings identified in the way she runs her dog rescue operation.

i) *Teresa Rowe*

In response to this sub-head of complaint, the BBC said that the programme makers included the experience of Ms Rowe to illustrate the fact that numerous dogs were rehomed too quickly by DDR after being brought over from Ireland. The broadcaster said that these dogs were not properly assessed by qualified vets and as a result, adopters (such as Ms Rowe) paid for dogs with serious health issues which should have been addressed before the animals were handed over.

The BBC stated that Ms Rowe adopted a Jack Russell dog from DDR on Saturday 18 May 2013. The broadcaster confirmed that the dog was originally named "Ginger" but Ms Rowe changed its name to Ugly. The broadcaster also said Ms Rowe's vet confirmed that the dog was fatally ill with cardiac and renal failure, as well as suffering from a chest infection and skin problems such as mange. The BBC said the dog's condition was so severe he was put to sleep two days later on Monday 20 May 2013.

The BBC said Miss Liddle asserted that the dog was given a health check by DDR's vet on Wednesday 15 May 2013. However, the BBC observed that the evidence provided by Miss Liddle to support this claim was limited to a copy of a form which indicated that the dog was given Advocate - a treatment to protect dogs against fleas and worms. The broadcaster stated that the programme makers spoke to staff at the vet used by DDR and three foster carers who all confirmed the checks carried out on dogs were brief and in some cases, dogs were rehomed so quickly that no vet checks took place.

Further, the broadcaster said if the dog in this case had been given an appropriate and thorough medical check before it was rehomed, as Miss Liddle claimed, it was inconceivable that a qualified vet would not have

identified the serious skin conditions and organ failure for which the dog was treated just three days later and which led to it being put to sleep a further two days later. The BBC said the dog should have been health checked by a registered vet before it left Ireland and if this had taken place, the dog would not have been allowed to travel to the UK.

The broadcaster said it understood that Ms Rowe was aware DDR preferred newly adopted dogs to be treated by its own vets, Natterjacks. However, the BBC said Ms Rowe was forced to seek immediate treatment for the dog because it was so ill and so she took the dog to her local vet in Waterlooville rather than to Natterjacks in Bournemouth, which was over an hour's drive by car. The BBC said this course of action would not have been necessary had the dog received the appropriate medical checks before Ms Rowe paid to adopt him.

The BBC also pointed out that the documentation provided by Miss Liddle was inconsistent with the available evidence. In particular, the hand written note from Ms Samantha Sherratt, a DDR foster carer, said the dog was treated for mange on "15.03.13" and refers to an adoption date of "18.03.13" which contradicts the adoption agreement dated May 2013 (not March).

Further, the adoption agreement for Ugly showed it had not been micro-chipped, which the BBC said, would have been a legal requirement at the time it was imported. The broadcaster also stated that the dog's vaccination papers had two stickers on it (DHPPi and Lepto 2) which suggested it was vaccinated against Canine Distemper, Hepatitis, Parvovirus and Para-influenza virus on 7 May 2013, but makes no mention of a rabies vaccination (which the BBC said was also a legal requirement). Furthermore, the BBC said if the dog had a passport (as required by the law), the details of the dog's vaccinations would be included in that passport and it should be handed to the new owner by DDR. In support of these claims, the BBC provided Ofcom with a copy of the dog's adoption agreement and vaccination papers. The programme makers confirmed that during the course of their investigation, they did not find a single case of a person who adopted a dog from DDR who received a passport.

ii) *Tracey*

- In response to Miss Liddle's complaint that it was untrue that no veterinary checks were carried out on Tracey's dog by DDR, the BBC said Tracey made a number of allegations in the programme about the manner in which the adoption of her dog Bullit was handled, including the claim there were "*no home checks, no vet checks*". The broadcaster said Tracey was prepared to speak on camera but her experience had also been shared by many other adopters who were contacted by the programme makers.

The broadcaster stated the adoption of Bullit showed that DDR frequently rehoused dogs so quickly after their arrival from Ireland that they could not be given adequate or appropriate health and behavioural checks. The BBC said all dogs brought into the UK from Ireland are required to be given a health check by a registered vet before travel and it is regarded as good practice for dogs to be checked again once they arrive in the UK; there should also be sufficient time to ensure they are worm and disease free. The BBC added that dogs which are intended for rehoming should also be assessed for temperament and behaviour by a foster carer. The

broadcaster stated that these checks are necessary to safeguard the welfare of the animals and monitor their behaviour to ensure they are safe to be adopted and there is no risk to humans or human health. The BBC added that the programme makers spoke to other contacts off-the-record who confirmed that vet checks and behavioural checks on DDR dogs which had arrived in England were sporadic at best.

The BBC said Miss Liddle had stated that Bullit was health checked but no evidence was provided to support this assertion. In particular, the BBC said the copy of the Adoption Agreement for Bullit provided by Miss Liddle to Ofcom contained no entry under the section marked Date of Veterinary Check.

The BBC stated that the evidence showed that Bullit bit a small child shortly after being rehomed and so it was not safe to be offered for adoption. The broadcaster said Tracey's assessment of the dog and the manner in which DDR handled her adoption was accurate, supported by the evidence, and therefore did not lead to any unfairness to Miss Liddle or DDR.

- In response to Miss Liddle's complaint that it was untrue that DDR only had the dog for a few days, the BBC stated that as confirmed by the dog's adoption papers, Tracey adopted Bullit on Sunday, 8 August 2010. The broadcaster said Tracey told the programme makers she subsequently discovered Bullit had been with a DDR foster carer for only two days before she adopted it and when she challenged the foster carer about this, they admitted this was the case.

The BBC said an email from Ms Lizz Parry (who claimed to have fostered Bullit) provided by Miss Liddle to Ofcom was inconsistent with Bullit's vaccination papers (the BBC provided Ofcom with a copy of these papers). The BBC said the email suggested that Ms Parry had fostered the dog in England "for around 10 days from July 14th 2010" before the dog was passed to another carer, Ms Joanne Gale. The BBC said Bullit's vaccination papers apparently completed by the rescue in Inistioge showed the dog was given a worm dose, flea spray and vaccinated with Parvo-C in Ireland on Sunday, 25 July 2010. The broadcaster concluded that the dog could not have been vaccinated in Inistioge if it was also being fostered by Ms Parry in England at the same time.

- In response to Miss Liddle's complaint that it was untrue that Tracey's home check consisted of her sending a photograph of her garden to the fosterer, the BBC said Tracey confirmed to the programme makers that no home check was carried out by DDR prior to the adoption of Bullit. Further, the BBC said the adoption agreement for Bullit provided by Miss Liddle confirmed no home check was recorded.

The BBC added that this was a common concern of many of the adopters whom the programme makers spoke to and led them to believe that DDR put financial considerations before the welfare of the dogs being rehomed. In the course of the programme maker's investigation, the BBC said Poole Trading Standards, Dorset Police and an animal welfare officer all confirmed that home checks by DDR were intermittent and inconsistent. Further, the BBC said an animal welfare officer based in Dorset told the programme makers (a letter from the welfare officer was provided by the

BBC to Ofcom) that she had dealt with cases of people paying DDR for dogs without home checks or vaccinations and confirmed this led to unsuitable dogs being housed with families with small children.

- In response to Miss Liddle's complaint that no one contacted DDR when Tracey's nephew was bit by Bullit, the BBC said Tracey does not have the records of the telephone calls she made to DDR, but that, the programme makers were frequently told by those who had dealings with DDR that it failed to respond to telephone calls. The BBC stated that Tracey made numerous telephone calls to DDR after her dog had bitten her nephew but received no response. BBC added that this was confirmed by a former DDR employee who spoke to the programme makers about this particular dog.

The BBC stated that it did not believe it was unfair to include an allegation of this kind bearing in mind it was supported by other sources and illustrated Miss Liddle's refusal to act appropriately when dealing with adoption problems. The BBC gave the following example which was included in a letter the BBC provided to Ofcom from the Dorset animal welfare officer who confirmed that she was asked to get involved because of Miss Liddle's behaviour:

"One particular case in which I dealt with was in July 2012 when a lady contacted me asking for assistance to meet up with her and DDR to return a dog back to them. The lady advised that due to vile threats from DDR she was frightened to meet DDR on her own and asked for me to attend with her".

- In response to the final bullet point that Miss Liddle claimed Bullit was not the dog responsible for the bite, the BBC said Miss Liddle had confused two separate incidents. The BBC said the information supplied by Miss Liddle to Ofcom was about an attack on a boy called Mika which apparently occurred on or before April 2010. The BBC stated that the Adoption Agreement for Bullit showed the dog was adopted by Tracey in August 2010. The BBC added that Tracey confirmed that her nephew and Mika are not the same person.

The BBC said the programme makers took the necessary steps to confirm the story told by Tracey and they spoke to the veterinary practice which originally treated Bullit, Delaware Veterinary Group, and it confirmed that a dog matching Bullit's description was destroyed on 31 August 2010, as stated by Tracey.

iii) *Lindsey*

With regards to Miss Liddle's complaint that it was untrue Lindsey contacted DDR when her dog, Bella became sick, the BBC said Lindsey's story was included in the programme as a further example of a person who adopted an unhealthy dog from DDR and subsequently received no help or support from them.

The broadcaster said Lindsey paid £275 to adopt the dog but ended up having to pay a substantial vet bill.

The BBC stated that Lindsey adopted Bella on 7 March 2014 and raised concerns about the dog's health in messages to a third party on 16 and 17 March 2014. The BBC provided Ofcom with copies of these messages. The BBC identified that on 16 March, Lindsey wrote: *"I have said for days shes [sic] ill"*. The BBC explained that Lindsey took the dog to the Aniwell Veterinary Clinic on 17 March where it was recorded that the dog had been vomiting and not eating properly and as a result, it was put on a course of tablets to reduce vomiting associated with chronic gastritis. The BBC provided Ofcom with a copy of the veterinary report in relation to Bella.

The BBC said the programme accurately reflected the events at the time the programme was broadcast and added that Lindsay did not suggest in the programme the dog's symptoms were immediately obvious (*"we quickly realised she wasn't well. She didn't move for probably 80 per cent of the day. She'd just lie in front of her food bowl, she wouldn't eat. She was being sick"*). However, the BBC said once it was clear the dog was suffering from serious stomach problems, Lindsey contacted Miss Liddle for assistance. The broadcaster said Lindsey's experience was that DDR provided no support or help, and it was Lindsey's view that DDR refused to accept any responsibility for the dog's ill health. BBC said this attitude was apparent in Miss Liddle's complaint to Ofcom in which she sought to blame Lindsey for Bella's illness by saying it was caused by Lindsey changing the dog's diet.

iv) *Luna*

In response to Miss Liddle's complaint that the reason the owner of Luna incurred vet bills was because she did not initially take the dog to the vet which DDR had an arrangement with, the BBC said the case of Luna was included to show that checks carried out by DDR once dogs arrived in the UK were frequently inadequate to ensure the animals were fit for adoption.

The BBC said in the case of DDR, imported dogs, such as Luna, were frequently checked by a vet and moved from a foster carer to a new owner in a matter of days. The BBC said this quick turnaround indicated that DDR was more concerned with moving high volumes of dogs rather than ensuring their health and welfare was considered appropriately. The broadcaster added that The Dogs Trusts, which it said exemplified good practice in this area, said on its website that: "most of our dogs are rehomed within a month, around 15% take over 6 months to rehome".

The BBC added that the timing of Luna's adoption in December 2014 also demonstrated that DDR's lack of welfare provisions for the dogs it put up for adoption was on-going at the time the programme was being made.

The BBC said the programme makers spoke to the woman who adopted Luna, who did not wish to be interviewed on camera, and she explained that she had numerous concerns about the way the adoption was handled. For example she said: when she first viewed Luna, the dog was kept with four other puppies which the foster carer confirmed were sick; the check on her home conducted by DDR lasted only two minutes; she was not given a passport and only received a photocopy of a document purporting to show the injections the dog had received; and, she was not told that DDR had a specific policy for treating newly adopted dogs out of hours (such as on a Sunday). The BBC provided Ofcom with an email in which the owner of Luna set out her concerns (as noted above) to the programme makers.

The broadcaster said the owner's greatest concern was that the dog became ill within two or three days of it being collected from the foster carer but DDR refused to accept any responsibility. The BBC said Miss Liddle maintained the dog was not ill but the evidence showed it was taken to the People's Dispensary for Sick Animals (PDSA), a charity which provides veterinary services, for treatment on Sunday, 7 December 2014, on the advice of a vet called "Guy" at Natterjacks, the DDR's preferred vet, which resulted in a bill for £600. The BBC referred to, and provided copies to Ofcom of, a series of text messages between Miss Liddle and Luna's owner as evidence of this. The broadcaster said the dog was treated the following day at Natterjacks, who indicated to the owner that parvovirus, a highly contagious viral disease that can be life-threatening, had been detected. The BBC again referred to the series of text messages between Miss Liddle and Luna's owner as evidence of this. The BBC said that Luna's owners also had an older dog and so were concerned it could infect their other pet if it was not quarantined.

The BBC said it was clear from the text messages between Miss Liddle and Luna's owner that Miss Liddle was aware: the dog was sick on Sunday, 7 December 2014; and, that at least one vet at Natterjacks had apparently diagnosed the dog as having parvovirus. However, the broadcaster said, Miss Liddle's response was to dismiss that diagnosis and reject any responsibility for the dog's ill health. For example she wrote in a text message: "I think it's a severe gastro that is affecting kidneys as drinking lots. But they would never of been rehomed if sick hence why we get vet to sign them of". The BBC said it was also clear that Miss Liddle subsequently refused to provide a refund for the £175 adoption fee, despite putting the dog up for re-adoption (In a text message Miss Liddle said: "I think you will find we are a charity and it's a donation paid which is actually non-refundable!!").

iv) *Former DDR foster carer*

- With regards to Miss Liddle's complaint that the former foster carer made allegations about the number of dogs being transported, the number of dogs to a cage and the cage condition, the BBC said the programme makers spoke to three former foster carers for DDR who all confirmed dogs were transported in conditions which were frequently cramped or otherwise unacceptable. The broadcaster added that this was the reason cited by all three for deciding to stop working with DDR. The BBC said a former DDR employee had also told the programme makers that at one stage, Miss Liddle took over responsibility for driving dogs between Ireland and England because her former driver based in Ireland "refused to cram dogs in".

The BBC said the former foster carer who featured in the programme provided photographs she had taken secretly in the back of the DDR van which showed dogs held in cages before they were unloaded at the homes of foster carers. The BBC provided Ofcom with copies of photographs which it said proved that up to three adult dogs were held in a single cage and which was in clear contradiction of the claim made by Miss Liddle that dogs were normally caged separately. In addition, the BBC provided Ofcom with another photograph which had been provided by a second former foster carer which it said showed numerous puppies were held in individual cages. Further, the BBC said by law, puppies under the age of 12 weeks should not be transported.

The BBC said the programme maker's reporter, Mr Cuthill, spoke to Miss Liddle on the telephone on 10 December 2014 and this conversation was recorded. The broadcaster provided Ofcom with a transcript of this telephone conversation. The BBC stated that in the course of the conversation, Miss Liddle admitted that she had recently stopped using the person who was driving dogs from Ireland to England because of concerns about the manner in which the dogs were transported. The BBC quoted the following from the telephone conversation:

- Jon Cuthill: *"I have got questions to ask about...I mean if you, yourself have stopped using the transport that you have been using because you have concerns, you can see that I might have the same concerns about how dogs have been brought into the country, and this is a transport which you have been using."*
- Julia Liddle: *"We're going back to doing it ourselves."*
- Jon Cuthill: *I know but the thing is, you have been using that transport."*
- Julia Liddle: *I've used him for four months out of the whole five years we've been going."*
- Jon Cuthill: *OK."*
- Julia Liddle: *So out of the whole five years we've been established, I've used him 16 weeks. And over the 16 weeks I've had a few niggles and somebody pointed some things out to me in Ireland what they witnessed and they weren't impressed with and it was relayed back to me, I think it must have been Saturday actually, someone called me and said they saw the dogs being loaded and they weren't being handled very nicely and that dogs would be in, because basically if we pay for a cage, we pay for the cage per dog, or sort of if they're like sort of like older dogs then we get a couple in together. Someone in Ireland has said that basically this is not what's happening and the dogs are being mixed around, puppies were being put in with adult dogs and that's not what I want for my dogs so we've stopped using them."*
- Jon Cuthill: *Forgive me but is it any coincidence that you've stopped using it once you know that we've been looking at how they travel?"*
- Julia Liddle: *No, because Brenda only phoned me Saturday. And we've only been using them for four months because basically I [unclear]"*

The BBC stated that this indicated that Miss Liddle was aware of concerns about the conditions in which dogs were transported and sought to make changes at the times she was aware the actions of DDR were under investigation by the programme makers.

- In response to Miss Liddle's complaint that the former foster carer alleged that some dogs died while being transported, which Miss Liddle said was not true, the BBC said this allegation was substantiated by other former DDR foster carers and supported by evidence supplied by a former DDR employee who recorded information in the DDR accounts about dogs and

puppies which were brought in from Ireland. The BBC stated that this information was recorded between September 2011 and June 2013 and the original documents were in the possession of Dorset Police. The broadcaster added that the programme makers saw the accounts and made contemporaneous notes, including verbatim quotes which showed that a number of dogs brought from Ireland died or were put to sleep ("PTS"). The BBC provided Ofcom with a copy of these notes. Further, the broadcaster said, the claim by Miss Liddle that "No dogs died in transit" was also contradicted by a posting she made on the Facebook page of "AHAH Exposed" (a site closed to non-members). The broadcaster provided Ofcom with a redacted screen shot taken by an Inside Out source which the BBC said included a comment by Miss Liddle in which she confirmed some of the dogs imported by DDR died in transit.

Therefore, the BBC concluded that there was sufficient evidence from a range of sources to substantiate the claim made in the programme by the former foster carer.

- b) i) In response to Miss Liddle's complaint that the programme alleged dogs were transported ill or pregnant by DDR, the BBC said the evidence on which this was based related to the adoption of dogs by Ms Rowe, Lindsey, and the owner of Luna which confirmed that DDR rehomed dogs which had been brought over from Ireland with pre-existing serious health issues. The broadcaster added that the DDR accounts (a copy of which was provided by the BBC to Ofcom) also indicated that dogs died in transit or shortly after they arrived in England.

The BBC said the programme makers had proof that at least two pregnant dogs were brought over from Ireland and subsequently gave birth. The broadcaster provided Ofcom with a copy of Facebook messages sent by Miss Liddle on 11 April 2014 which included a photograph of a heavily pregnant dog and the comment "just hope we get her over in time". Three days later, on 14 April, the BBC said Miss Liddle sent further messages (also provided to Ofcom), with a photograph of the same dog confirming it was with her and had gone into labour.

Further, the BBC said the programme makers also spoke to a DDR foster carer who confirmed she had taken a dog from DDR which was pregnant.

- ii) With regards to Miss Liddle's complaint that the programme alleged 40-80 dogs were imported by DDR each month, the BBC said Miss Liddle had consistently changed her account of the number of dogs imported by DDR from Ireland and thus, the BBC said it did not consider her statement to Ofcom (which it said was unsupported by evidence) could be relied upon. The broadcaster said Miss Liddle told Mr Cuthill in December 2014 that the figure regarding the number of dogs imported at that time was 15 a month. However, by contrast, the BBC said Miss Liddle told Buzz website of Bournemouth University in December 2013 (the BBC provided Ofcom with a website link² to this article) that she imported around 10 to 15 dogs per week from Ireland which, the BBC said would amount to between 45 and 66 dogs per calendar month.

² "Exclusive interview with Dorset Dog Rescue Founder Julie Liddle"
<http://buzz.bournemouth.ac.uk/exclusive-interview-with-dorset-dog-rescue-founder/>

The broadcaster explained that the evidence gathered by the programme makers supported the broad assessment made in the programme: *“we’ve learned that between 40 and 80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires”*.

The BBC said the DDR accounts (a copy of which was provided to Ofcom) shown to the programme makers by a former employee (who, at one time the BBC said, was described by Miss Liddle as her “right hand man” who she couldn’t do without) recorded a total of 1195 dogs and puppies brought from Ireland and rehomed for a fee over 63 separate weeks between September 2011 and June 2013. The BBC explained that records were not kept for all weeks in which dogs were transported. The broadcaster observed that in some months, the figure in relation to the number of dogs and puppies brought from Ireland was as high as 94 (i.e. April 2012). The BBC said this meant there was an average of 19 dogs per week transported (based on the weeks in which numbers were recorded during this period) or approximately 84 per month. The BBC added that even allowing for the possibility that no dogs were imported on weeks where no data was recorded, the figure quoted in the programme was reasonable.

Further, the BBC said a separate source close to DDR who spoke to the programme makers off-the-record confirmed they had evidence at least 40 dogs per month were brought in from Ireland and estimated that was likely to be only half of the total.

The BBC explained that DDR requested a “donation” from adopters of, on average, £175. Therefore, the BBC calculated the revenue generated from dogs imported from Ireland alone amounted to more than £7000 per month. Further, the BBC said the accounts seen by the programme makers showed that DDR’s rehoming fees for the 63 weeks recorded between September 2011 and June 2013 amounted to £208,527. The BBC concluded by stating that even allowing for overheads such as transport costs and vet bills (and ignoring other forms of revenue such as donations, fund-raising and adoption fees from dogs not imported), it was clear that DDR was generating a significant income every month which supported the allegation that it was run as a business rather than a not-for-profit charity.

- iii) The BBC next responded to Miss Liddle’s complaint that the programme alleged DDR illegally imported dogs.

The BBC explained that the movement of dogs for the purpose of rehoming is considered to be a commercial trade under EU regulations³. The BBC said the rules have been in place since 1 January 2012 when the UK harmonised its rules with those of the EU for both commercial and non-commercial movement of pet animals⁴. In summary, the BBC said dogs which are being

³ “Moving live animals or animal products as part of EU trade” <https://www.gov.uk/moving-live-animals-or-animal-products-as-part-of-eu-trade>

⁴ “Balai Directive: moving live animals, semen and embryos” <https://www.gov.uk/balai-directive-moving-live-animals-semen-and-embryos>
“Bringing pets into the UK after January 2012” <https://www.gov.uk/government/publications/bringing-pets-into-the-uk-after-1-january-2012>

imported to the UK from another EU country to be rehomed (or sold) are subject to the following:

- ID i.e. microchip or tattoo;
- Passport;
- Clinical inspection 48 hours ahead of movement;
- Tapeworm treatment (dogs only) other than those from Ireland, Finland, Norway or Malta;
- Rabies vaccination plus 21 day wait (must be 12 weeks old);
- Cannot travel younger than 2 months, unless accompanied by mother;
- No unvaccinated animals younger than 3 months;
- To travel with a ITAHC (Intra Trade Animal Health Certificate) entered on TRACES by official vet at origin; and,
- Come from a premises registered with the competent authority of origin.

The BBC stated that any dog brought into the UK for commercial purposes, such as to be rehomed, would therefore be in breach of the legislation if it did not meet the requirements set out in the bullet points above. Also, the BBC said in order to obtain a passport, a dog must first be micro-chipped and then has to be vaccinated against rabies at least three weeks before a passport can be issued. The BBC added that a dog with a passport can only be authorised for travel if it undergoes a medical check by a registered vet and travels within the next 48 hours and the registered vet will stamp the dog's passport to confirm it is in good health and fit to travel.

The BBC said the programme makers gathered evidence of numerous dogs which were brought in by DDR without the necessary rabies vaccination, micro-chip or passport. Further, the BBC said many dogs were not checked by a registered vet 48 hours before travel. For example, the BBC said the programme featured a dog called Topsy which was brought to England from Ireland by DDR. The BBC explained that the programme makers spoke to the dog's foster carer who confirmed the dog had been vaccinated and micro-chipped in Somerset and therefore, it could not have been vaccinated or micro-chipped in Ireland and so could not have received a passport.

Further, the BBC said the document provided by Miss Liddle to Ofcom from Barrowvale Veterinary Clinic in County Carlow did not actually prove that dogs imported by DDR had passports. At best, the BBC said it established that rabies jabs were administered to some dogs in Ireland from September 2014 (after the programme maker's began its investigation). The BBC explained that a passport cannot be issued until three weeks after the rabies vaccination. The BBC added that Miss Liddle provided no evidence that individual dogs had individual passports as required.

In addition, the BBC said the programme contained details of other dogs which appeared on the websites of dog shelters and rescue centres in Ireland

and then appeared for adoption on the DDR website within a matter of days. The BBC said these dogs could not legally travel to the UK without meeting the requirements as set out in the bullet points above.

In addition, the BBC stated that Miss Liddle was in error when she asserted that passports were only requirements from December 2014. The BBC pointed to the “Explanatory Memorandum” dated 2011 which was provided to Ofcom by Miss Liddle which the BBC said referred only to the Non-Commercial Movement of Pet Animals and does not apply to DDR’s business. However, the BBC said if Miss Liddle believes her business is not commercial and the memorandum does apply to DDR, then Paragraph 7.2 clearly states: “From 1 January 2012, the UK must implement the requirements of Regulation (EC) No 988/2003 as it applies across the rest of the EU. This means that pets travelling to the UK from those countries will require a microchip, passport and rabies vaccination and must wait 21 days after vaccination”. The BBC said Miss Liddle should have been aware of the relevant legislation as a person responsible for running a dog rescue centre which has been importing dogs from Ireland for more than five years.

The BBC further added that there was evidence to suggest Miss Liddle had been aware of the legislation’s requirements but simply chose to ignore them. For example, the BBC referred to Miss Liddle’s interview with the Bournemouth University’s website⁵, Buzz, in which the BBC said Miss Liddle appeared to have a clear understanding of the rules. In particular, the BBC referenced the following question and answer sequence from the interview:

“Q: Could you tell what the main changes are and a little bit about the new law the EU has enforced?

A: Well, the EU has always had the legislation in place, which the Balai directive said all rescues had to comply with. However, it never affected transportation between the UK and Southern Ireland, as neither had rabies and the dogs were able to travel across to us freely. But now they’ve decided that they want to tighten the law so all dogs must have a passport and be given a rabies vaccination before entering the UK.

Q: What effect will this now have on your rescue here in Dorset?

A: We’ll no longer be able to accept dogs from Southern Ireland as we simply cant [sic] afford to spend £80 per dog on vaccinations and passports. This essentially means hundreds of dogs a year will have to be put down because our service will no longer be available to them”.

Further, the BBC said Miss Liddle posted on the DDR Facebook page on 24 July 2014 in which she confirmed that all dogs coming from Ireland required a passport. The BBC provided Ofcom with a copy of this Facebook post, she said:

“As of today all Irish dogs up for rehoming will be 200 or 225 this is through no fault of ours but due to them needing to pet passport to travel from S Ireland to UK, but can travel freely from N Ireland. Local dogs will

⁵ “Exclusive interview with Dorset Dog Rescue Founder Julie Liddle”
<http://buzz.bournemouth.ac.uk/exclusive-interview-with-dorset-dog-rescue-founder/>

stay the same. So they will all have a pet passport to travel through Europe without quarantine and be microchipped”.

In addition, the BBC said in the telephone interview between Mr Cuthill and Miss Liddle on 10 December 2014 (a transcript of which was provided to Ofcom) she frequently indicated that the dogs she imported did have pet passports. For example she said:

- “all our dogs are coming in with passports”; and
- “my man sits and has a coffee with them whilst he goes through the passports and everything and the problem is you’re focusing on the rescue that is passporting and the rescues that aren’t you’re not focusing on”.

The BBC said this would suggest Miss Liddle was aware the regulations on passports applied to her business which contradicted her claim to Ofcom that “on the 28 December 2014 new legislation came into force requiring dogs to have passports. Prior to this date it was not illegal to import dogs from Ireland without passports”.

- iv) In response to Miss Liddle’s complaint that the programme alleged that dogs were sold by DDR to new owners “within 48 hours”, the BBC said the programme did not claim that all dogs were rehomed within 48 hours but that there was evidence to support the claim that some dogs “could be sold for cash to new owners within 48 hours, allowing very little time to assess their health and temperaments”.

The BBC explained that the programme tracked numerous dogs which were brought from Ireland and rehomed by DDR within a short space of time. The broadcaster said the programme included the evidence of Tracey who told the programme she adopted a dog two days after it arrived in England. Further, the BBC said the lack of time for appropriate health checks to be carried out was demonstrated by the cases of dogs such as Luna and Bella. In addition, the BBC said Lady Sue Kilbracken confirmed that six puppies, Ferry Dog Mothers transferred to the animal rescue in Inistioge, Ireland, two of whom were sick, were advertised for adoption on the DDR website only three days later.

The BBC stated that the veterinary practice used by DDR, Natterjacks, confirmed to the programme makers that it had treated DDR puppies and dogs that travelled with contagious gastric conditions. The BBC explained that had these dogs undergone the legally required health check by a registered vet prior to leaving Ireland, they would have been prevented from travel.

The BBC concluded by stating that the programme makers therefore had persuasive evidence that DDR allowed insufficient time to assess the health and temperament of the dogs it rehomed.

- c) With regards to Miss Liddle’s complaint that she was not given an appropriate opportunity to respond to the allegations made in the programme, the BBC said it did not believe there was any requirement to provide Miss Liddle with the specific details of each dog which would be featured in the programme or the specific views or claims of each contributor. The BBC said, if Miss Liddle’s contention was that DDR complied with the law in all instances that would hold good for any

individual dog.

The BBC said that the programme makers contacted Miss Liddle on several separate occasions and provided her with a detailed explanation of the range of concerns which had been raised about DDR. The BBC provided Ofcom with all correspondence between the programme makers and Miss Liddle and also, a communications log setting out the correspondence and telephone calls between Miss Liddle and the programme makers. BBC said that in summary:

- Reporter Mr Cuthill initially telephoned Miss Liddle on Wednesday 10 December 2014. As explained above, this conversation was recorded by the programme makers (a transcript of the telephone conversation was provided to Ofcom). The BBC said in the course of this conversation, Mr Cuthill set out some of the central allegations against DDR, including:
 - "...dogs being brought in without the complete paperwork and also being bought in too young to have had the complete paperwork and the relevant vaccinations".
 - "...the numbers of dogs as well which are being brought into the country. Because we're looking at the figures and we can't quite make all the numbers add up with what's being stated".
 - "...if you, yourself have stopped using the transport that you have been using because you have concerns, you can see that I might have the same concerns about how dogs have been brought into the country".
 - "Can I ask whether any of the dogs that you've transported have died in transit".
 - "Can I ask whether you take litters of puppies which are handed to you in a car park?...these puppies they're too young to be passported. That is the issue isn't it?"
 - Can I talk about animal welfare...?"
- On Thursday 11 December, the editor of the programme, Ms Jane French, sent a letter to Miss Liddle in which she set out in some detail the central allegations against DDR.
- Ms French telephoned Miss Liddle on Monday 15 December 2014 and left a message on her mobile's voicemail. The BBC said this message was recorded. Miss Liddle returned the call the same day but no recording was made of this conversation.
- Ms French sent a further email on Monday 22 December 2014 summarising the main allegations against DDR.
- Ms French sent a further email on Wednesday 7 January 2015 following a telephone call from Miss Liddle in which Ms French said: "...would outline again our concerns and give you details of some individual examples, although I should stress in every case there are other examples for our records which don't feature on film".

The BBC said it ensured Miss Liddle was given sufficient information about the content of the programme and provided with an appropriate opportunity to respond and there was therefore no unfairness to her.

Unwarranted Infringement of Privacy

- d) In response to Miss Liddle's complaint that her privacy had been unwarrantably infringed in connection with the obtaining of material included in the programme as broadcast, the BBC said that the programme makers contacted Miss Liddle on several occasions and set out the allegations against DDR, as explained at head c) immediately above. The BBC stated that on every occasion Miss Liddle was invited to give an on-camera interview to put her side of the story but she repeatedly rejected such invitations. As a result, the BBC said there was a clear justification for doorstepping Miss Liddle and any infringement of privacy was clearly warranted in the public interest. The BBC added that Miss Liddle consistently refused to respond to serious allegations that DDR was knowingly breaking the law and provided untrue or misleading responses when questioned by Mr Cuthill about aspects of DDR's operation including: not obtaining passports, importing dogs which had not been given the necessary health checks and transporting dogs in inadequate conditions. The BBC said it would expand on these matters at head e) immediately below.

The BBC explained the doorstep was conducted on Friday, 19 December 2014. The BBC added that the programme makers were aware that Miss Liddle had children and so decided it would be inappropriate to approach her at her home. The BBC stated that a researcher and a producer therefore observed her home from a car parked some distance away and followed her on a single occasion when she and her partner drove to a nearby shop. The BBC said the programme makers parked away from Miss Liddle's vehicle and trailer and contacted Mr Cuthill. The broadcaster said Mr Cuthill parked down a side road behind Miss Liddle's car when he arrived. The BBC stated that at no stage was Miss Liddle's vehicle blocked in and there was nothing to prevent her from driving away. The BBC provided Ofcom with a copy of the unedited footage of the doorstep to illustrate this.

In addition, the BBC said there was no evidence to support Miss Liddle's claim that she asked the programme makers to stop filming. The BBC said the unedited footage of the doorstep clearly show that Miss Liddle's partner spoke for more than five minutes to the programme makers but at no stage did he request that filming should stop or make reference to Miss Liddle's health.

- e) In response to Miss Liddle's complaint that her privacy was unwarrantably infringed in the programme as broadcast, the BBC said it explained in response to head d) immediately above that any infringement of Miss Liddle's privacy was warranted in the public interest. The BBC said the programme makers contacted Miss Liddle on several separate occasions and provided her with a detailed explanation of the range of the concerns which had been raised about DDR. For example, the BBC said Mr Cuthill made the following requests during a telephone conversation (transcript of which was provided to Ofcom) on 10 December 2014:

Mr Cuthill	"What I'd like to do is I'd like to give you the opportunity to have chat with us on camera and put your side of the story".
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- Miss Liddle: "I can send you a photo of all my dogs that have come in from Ireland and their passports and the fact that they were signed off by the vet.
- Mr Cuthill: Ok well we'd love to have that on camera
- Miss Liddle: I'm not going to defend myself against something that's not true".
- Mr Cuthill: "This is part of the reason that I'm phoning you now is because we're very keen to hear the side of the story from the DDR's perspective. You know if some people are making allegations to us we want to get to the bottom of them and that's why I want to talk to you and see".
- Mr Cuthill: "Sorry this is all about me trying to, you know, get to the bottom of the facts and have your side of the story put forward as much as other people's.
- Miss Liddle: I'm happy for you to go ahead and post what you think you know. But literally my solicitors will be all over it and I will go for a big court case over this".
- Mr Cuthill: "Do you not want to put on record? Do you not want to put your side of the story?
- Miss Liddle: No because I have nothing to defend".
- Mr Cuthill: "I'd love to talk to you face to face but I appreciate what you've said and we don't want to go there again. Because we want to establish, as I said, fact from fiction and that's all I'm doing because I owe it to you to see what is being said if you see what I mean?"
- Mr Cuthill: "Can I just ask that you have a think about possibly meeting or a chat because I'd really, really love to have a chat.
- Miss Liddle: "There's no way at all I would put my face on TV. I just wouldn't".

The BBC said the subsequent letter from Ms French (a copy of which was provided to Ofcom) made a formal request for an on-camera interview and set out the areas for discussion. The BBC added that Ms French followed this with a telephone call four days later and left a message for Miss Liddle as follows:

"Hello this is Jane French from BBC South, just wanted to have a chat with you about the current state of the right to reply and check that we are actually giving your opinion properly in the film. Be grateful if you could give me a call back...".

The BBC said Miss Liddle returned the call and again stated her refusal to give an on-camera interview or to respond to the substantive issues which the programme had raised.

The BBC said there was therefore a clear justification for doorstepping Miss Liddle and any infringement of her privacy was clearly warranted in the public interest. The BBC explained that Miss Liddle consistently refused to respond to

serious allegations that DDR was knowingly breaking the law and gave untrue or misleading responses when questioned by Mr Cuthill about aspects of DDR's operation.

The BBC added that at no stage did Miss Liddle inform the programme makers she was suffering from a post-traumatic stress disorder. The BBC said Miss Liddle mentioned an "injunction" against a former boyfriend in a telephone call after the doorstep, but was unable to provide details or confirm if it was still in force when asked. Further, the BBC said Miss Liddle was extremely active on social media sites such as Facebook and in their view, appeared to have taken little action to protect her own privacy. For example, the website of DDR and the Facebook page for Dorset and Somerset Dog Rescue both give Miss Liddle's mobile phone number – the BBC provided Ofcom with a website link to this information⁶. Further, the BBC said the details for Dorset and Somerset Dog Rescue on the register at Companies House gave Miss Liddle's home address as its registered office.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint of unjust or unfair treatment in the programme as broadcast should not be upheld.

Both parties were given the opportunity to make representations on the Preliminary View. Both Miss Liddle's legal representative and the BBC submitted representations on the Preliminary. These representations, in so far as they were relevant to the complaint entertained by Ofcom, are summarised below.

Representations made on behalf of Miss Liddle and DDR

In summary, Miss Liddle's representative said that the BBC did not take reasonable care to ensure that material facts were not presented, disregarded or omitted in a way that was unfair to Miss Liddle and DDR and that, as a consequence, injustice and unfairness was caused.

Head a)

Miss Liddle's representative stated that all the contributors who featured in the programme as broadcast were participants in a hate campaign on social media against DDR. Miss Liddle's representative said that the BBC had acknowledged that it was aware of the existence of these groups. Further, the BBC had been informed that the allegations of the contributors were fabrications, distortions of the truth and nothing more than personal vendettas. In these circumstances, Miss Liddle's representative said that there was a real prospect that the contributors' motivation to appear on the programme was simply an extension of the social media hate campaign and any reasonable individual or organisation would have questioned the motives of the contributors to the programme. Therefore, Miss Liddle's representative submitted that the BBC should have taken steps to ensure that the allegations the contributors made could be substantiated by documented evidence.

Miss Liddle's representative said it was also noted that the BBC had off the record interviews with various sources connected or associated with DDR yet no individual unconnected with the hate campaign was identified nor did the BBC specify or record

⁶ <http://www.dorsetdogrescue.com/contactus.htm>, and https://www.facebook.com/Dorsetdogrescue/info?tab=page_info

whether the responses received were negative or not. Given the number of people interviewed, Miss Liddle's representative questioned the reason the BBC could not have included a contribution from a person who was not a participant in the hate campaign against DDR. Miss Liddle's representative concluded that it seemed unjust and unfair to only use identified sources that were part of a social media hate campaign.

Further, Miss Liddle's representative said that although the programme included the statement that some DDR dogs had found new homes; it was the only positive statement about DDR included in the programme. Miss Liddle's representative explained that this suggested that the experience of the contributors in the programme "were the norm", when in fact, thousands of dogs regionally and from Ireland had been successfully rehomed by DDR. Miss Liddle's representative said that the programme was edited and presented to relay a negative impression of DDR (except for the one statement included in the programme that some DDR dogs had found new homes).

Teresa Rowe

Miss Liddle's representative said that Ms Rowe's statement that the dog had only been in the UK for just over a day and that Ugly was so ill the vet would have picked it up were factually incorrect. Miss Liddle's representative said that no DDR dog is adopted within 48 hours. She said Ugly had been with a foster mother for a period of time before being adopted, was veterinary checked in the UK on 15 May 2013 and adopted on 18 May 2013. They added that the vet only records conditions which are discovered and that no cardiac failure was found. Miss Liddle's representative said that there was no evidence provided by the BBC of the cardiac failure or the hundreds of pounds Ms Rowe was required to pay in vet fees. Therefore, Miss Liddle's representative said that the failure to produce these material facts together with confirmation that Ms Rowe was part of the hate campaign resulted in unfairness to Miss Liddle and DDR.

Miss Liddle's representative stated that Natterjacks, who provide veterinary care for DDR dogs, did not inform the BBC that health checks were brief or that dogs were homed too quickly and there was no vet check.

Tracey

Miss Liddle's representative said that while the adoption form may not have been fully and properly completed, the dog was health checked and vaccinated by a vet on 25 July 2010. Further, Miss Liddle's representative said that all DDR dogs, including Bullit, were rehomed with a foster mother for a period of time and the failure to include this information resulted in unfairness to DDR and Miss Liddle.

DDR said it doubted that the dog bite had taken place and that if it did, another dog was responsible. Miss Liddle's representative explained that dog bites are taken seriously by the police and all relevant authorities but that no evidence had been produced to support the fact that a dog had bitten a small child. Miss Liddle's representative questioned the reason the veterinary practice stated that a dog matching Bullit's description was destroyed on 31 August 2010, rather than stating that it was Bullit that was destroyed. Miss Liddle's representative said that Bullit would have been readily identifiable from his microchip and his destruction for biting a child would have been clearly recorded on his records. Further, it was not stated in the programme that the incident had happened four years prior to the broadcast and that Tracey had taken no action.

Lindsey

Miss Liddle's representative argued that given Lindsey's contribution was that her puppy was unhealthy when adopted, establishing the cause of the resulting illness was important, particularly given that Lindsey did not make contact with DDR as alleged. Miss Liddle's representative said Lindsey's dog was ill as a consequence of Lindsey's own actions and it was material for viewers to know who was responsible for the resulting illness given that the clear implication from the programme was that it was DDR. However, Miss Liddle's representative stated that had all the relevant information regarding the puppy's illness been given in the programme, it would have left it open for viewers to decide whether or not Lindsey's testimony could be relied upon.

Luna

Miss Liddle's representative said that the adoption agreement confirmed that a health check took place on 1 December 2014, but that this information was not included in the programme. Miss Liddle's representative added that the letter from Natterjacks confirmed that within a few hours of being admitted on 8 December 2014, Luna recovered within a short period of time and it was decided that Parvovirus was not present.

Miss Liddle's representative said there was no evidence produced in relation to the cost of vet treatment or anything to suggest that the puppy was unwell when adopted. Miss Liddle's representative said that the resulting illness of Luna had been the result of the owner's own actions. Miss Liddle's representative added that viewers should have been provided with all this information to enable them to assess whether they accepted the statements being made by the contributor.

Foster carer

Miss Liddle's representative said that Miss Liddle had always used on behalf of DDR, transport approved by DEFRA. Miss Liddle said that the foster carer featured in the programme and another former employee of DDR, had arranged their own transport not DEFRA regulated which, during a telephone conversation with Mr Cuthill, Miss Liddle confirmed she had stopped using it.

Miss Liddle's representative said that the evidence relied on by the BBC in relation to dogs who had died in transit i.e. the Facebook post, had been taken out of context. Miss Liddle's representative said that Miss Liddle was discussing another rescue centre, not DDR.

Further Miss Liddle's representative said that Inistioge Rescue, Ireland, did not send ill dogs from Ireland to DDR. The transport was always checked by port authorities for both the appropriate paperwork and transport conditions.

Miss Liddle's representative added that the DDR accounts relied on by the BBC as evidence was not professionally drawn up accounts but handwritten notes.

Head b)

Miss Liddle's representative said there was no evidence of heavily pregnant bitches being transported as stated in the programme. They said there was only one case where a bitch was transported while heavily pregnant. Miss Liddle's representative also said that there was no evidence of dogs being transported with contagious

stomach conditions. Miss Liddle's representative said that the DDR veterinary practice did not say that dogs travelled with contagious gastrobugs but that they may have become ill post arrival in the UK.

Miss Liddle's representative said that the port authorities in both Ireland and the UK checked and were satisfied with the paperwork and documents provided by DDR.

Further, Miss Liddle's representative said there was no evidence dogs were being sold and that none of the contributors who featured in the programme referred to dogs being sold. Miss Liddle's representative said that all DDR dogs were placed with foster mothers so that their temperaments could be assessed. Miss Liddle's representative said that although this was disputed by the contributors who featured in the programme, they simply gave their personal accounts, but provided no documentation.

Head c)

Miss Liddle's representative said that the BBC took many months to collect the information required for their investigation but that Miss Liddle was only allowed a "few days" in December to provide her response. Miss Liddle's representative stated that there were only five working days between the first approach and Miss Liddle being doorstepped.

Miss Liddle's representative said that the BBC requested for Miss Liddle to provide a significant amount of information (which would have taken a long time to produce) during a particularly busy time of the year. Miss Liddle's representative added that Miss Liddle tried to respond to the mass amount of information required of her and correct the vast amounts of misinformation in a very short time frame. Miss Liddle's representative added that Miss Liddle did not avoid telephone calls and was cooperative. Therefore, Miss Liddle's representative said that the doorstepping of Miss Liddle was not appropriate.

Miss Liddle's representative said that Miss Liddle provided some information to the programme makers but that this did not mean that the timeframe allowed was sufficient to enable her to provide all the information required. Miss Liddle's representative added that Miss Liddle did not think to ask for more time.

Miss Liddle's representative said that there were only two, rather than numerous, offers for Miss Liddle to take part in an interview in December 2014 which was a busy period for DDR. Miss Liddle's representative said that the first approach was made on 10 December 2014 with the final deadline for reply being 2 January 2015, which was an inadequate amount of time given the time of year. Miss Liddle's representative said that Miss Liddle did not reject the offer of an interview until 10 January 2015.

Miss Liddle's representative said that DDR was not given sufficient details of each of the allegations to enable it to respond.

Head d)

Miss Liddle's representative said that Miss Liddle had been engaged with ongoing communication with the programme makers and at the time of the doorstep interview, Miss Liddle had not yet refused to take part in an interview with the programme makers.

Miss Liddle's representative said that Miss Liddle's car had a trailer which made reversing it more difficult. Further, Miss Liddle's representative said that Miss Liddle was not very well, upset and distressed to the extent that she did not consider she could safely reverse or drive away. Further, the camera crew were stood next to Miss Liddle's car and she did not want to risk injuring them, other members of the public or damaging other vehicles. Miss Liddle's representative said that Miss Liddle could not escape. Further, It was a dangerous situation and the infringement of Miss Liddle's privacy was not justified.

Head e)

Miss Liddle's representative said that any person distressed and upset, as Miss Liddle clearly was, might be a danger to themselves and any other road user.

Miss Liddle's representative also stated that Miss Liddle did not repeatedly fail to provide information to the programme makers and the timescale for providing such information was limited particularly when taking into consideration the length of time the BBC had to investigate the matter. Miss Liddle's representative said that Miss Liddle had cooperated and provided information to the BBC and it was therefore irrelevant to the consideration as to whether she had provided a response to all the questions asked by the BBC.

The broadcaster's representations

Head a)

The BBC said the programme makers gathered substantive evidence to justify the inclusion of the contributors in the programme (as set out in the BBC's initial statement on the complaint in the "Summary of the complaint and broadcaster's response" section above). Further, the programme makers spoke to numerous individuals and organisations, all of whom corroborated the views of those who contributed to the programme, and carried out additional research which further supported their experiences. The BBC added that the programme acknowledged there were "*some dogs that have found happy homes which might otherwise not have survived*" but that there was a clear public interest in exposing the illegal operations of DDR which put the health of dogs and people at risk.

The BBC said that it had demonstrated in their initial statement to Ofcom that the programme makers had substantive evidence to corroborate and justify the inclusion of the contributors' comments in the programme. The BBC also said that it was incorrect for Miss Liddle's representative to assert that those who contributed to the programme "are all participants in the hate campaign on social media against DDR". The BBC said that it was their understanding that Lady Sue Kilbracken, the contributor who spoke about Luna, and the woman who wished to adopt Topsy have never contributed to such sites. The BBC added that Miss Liddle's representative had provided no evidence to support her assertion. Further, the broadcaster said that BBC South was contacted by a number of people after the broadcast who confirmed their experiences of DDR were similar to those highlighted in the programme which acted as further evidence supporting the claims made in the programme.

Teresa Rowe

The BBC said that the programme accurately and fairly reflected the evidence that the dog, Ugly, was severely ill when it was offered for adoption and had to be put down just two days later. The BBC added that its condition should have been spotted if it had received the required health check by a registered vet before it left Ireland.

Further, the BBC said that the programme included Ms Rowe's first hand view of what had taken place in the knowledge that her experience was similar to that of many others who had adopted a dog from DDR.

Tracey

The BBC said that it had provided evidence that showed that:

- No veterinary check or home check was carried out. Other sources confirmed home checks by DDR were sporadic and inconsistent in most cases.
- The dog was offered for adoption within days of arriving in the UK.
- DDR's claim that the dog was placed with a foster carer in the UK was contradicted by its adoption agreement and vaccination papers.
- The programme makers spoke to numerous people who confirmed DDR failed to respond to telephone enquiries about adopted dogs.
- The programme makers confirmed in an off-the-record conversation with a vet that a dog matching Bullit's description was destroyed. The language used by the veterinary practice reflected its concerns about Data Protection.

The BBC said that Miss Liddle's representative had provided no new evidence to contradict or challenge the BBC's evidence or show there was any unfairness in including Tracey's first-hand experience.

Lindsey

The BBC said that Lindsey had to pay a significant vet's bill ten days after adopting the dog. The BBC added that viewers would have judged her contribution accordingly.

Luna

The BBC said that it had already demonstrated in its statement in response to the complaint that Miss Liddle was aware that the dog was sick but had dismissed the diagnosis of a qualified vet and rejected any responsibility for the dog's ill health.

Foster carer

The BBC said that Miss Liddle's representative asserted that Miss Liddle had "always used on behalf of DDR, transport approved by DEFRA" and suggested that any evidence dogs were transported in inadequate or inhumane conditions does not relate to transport arrangements for which Miss Liddle was responsible. The BBC stated that this appeared to be an example of Miss Liddle retrospectively attempting to pass responsibility for the illegal actions of DDR onto others.

The BBC also said that Miss Liddle made no mention that others were responsible for transport arrangements when she spoke to Mr Cuthill and that she appeared to accept personal responsibility for transport she conceded was unacceptable: "I've used him for four months out of the whole five years we've been going"; "I've used him sixteen weeks..."; "I've had a few niggles" and "that's not what I want for my dogs so we've stopped using them".

The BBC said that Miss Liddle's representative suggested that a Facebook post by Miss Liddle in which she confirmed dogs had died in transit actually referred to another dog rescue. The BBC stated that it did not consider this claim to be credible. The BBC said that in the post Miss Liddle clearly identified herself as from Dorset Dog Rescue and said "Suzanne Gibbons is lying when she says that she only ever set 3 or 4 dogs over to **us**. The real truth is that over a 6 month period she sent **us** over 100 dogs, some of which died on transit" (emphasis added by the BBC).

Further, the BBC said that the programme makers had seen the original DDR accounts and made handwritten contemporaneous notes during the time that they had access to them.

Head b)

The BBC said that Miss Liddle's representative confirmed that DDR was responsible for importing at least one pregnant dog which contradicted the previous assertion (as summarised by Ofcom in the Entertainment Decision) that no pregnant dogs were transported to DDR.

It said that the rules governing the movement of dogs for the purposes of rehoming are clear and were set out in its initial statement on the complaint. The BBC said that it had demonstrated in its statement in response to the complaint that Miss Liddle made it clear she was aware of the requirements but chose not to abide by them.

Head c)

The BBC said that the evidence it had presented previously confirmed that the programme makers set out the allegations against DDR in a clear and precise manner and provided sufficient detail to allow an informed reply. The BBC added that Miss Liddle was given an appropriate and timely opportunity to respond. Further, the BBC said Miss Liddle's representative was incorrect to assert that "there were only 5 working days between the first approach and doorstep". The BBC said Miss Liddle was first contacted on 10 December 2014 by telephone and the doorstep occurred on 19 December 2014.

Head d) and e)

The BBC said that it remained of the view that any infringement of Miss Liddle's limited expectation of privacy was warranted in the public interest. The BBC said that Miss Liddle repeatedly rejected offers to respond to the serious allegations which had been made about DDR. Therefore, the BBC stated that there was a genuine public interest in allowing the audience to draw its own conclusions as to her willingness to provide a substantive response to those allegations.

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 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 this decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and both parties' written submissions. Ofcom also took into account the relevant representations made by Miss Liddle's representative on her behalf and DDR and the BBC in response to Ofcom's Preliminary View in this case. However, we concluded that the representations did not materially affect the outcome of Ofcom's decision to not uphold the complaint.

Unjust or unfair treatment

In assessing this case it was not Ofcom's role to make a determination about the truth or otherwise of the claims made in the programme. Our concern in this case was solely whether the programme had complied with Section Seven (Fairness) of the Code. In carrying out this assessment, we took into consideration the nature of the claims made against Miss Liddle and DDR. Against this background, and in line with the right to freedom of expression, we considered it legitimate for a broadcaster to make and broadcast an investigative report on matters of regional concern, i.e. the manner in which DDR, a local rescue centre, imported homeless and stray dogs from Ireland and found them new homes in England. Nevertheless, we considered that, in making and broadcasting such a programme, a broadcaster must ensure that it avoids unjust or unfair treatment of organisations or individuals in the programme pursuant to Section Seven (Fairness) of the Code.

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 or organisations, as set out in Rule 7.1 of the Code. Ofcom had regard to this Rule when reaching its decision.

- a) We first considered Miss Liddle's complaint that her and DDR were treated unjustly or unfairly in the programme as programme because the programme included contributions from people who were part of a "hate campaign" against Miss Liddle without any supporting evidence and who made untrue comments about her.

In assessing this part of the complaint, Ofcom had regard to Practice 7.9 of the Code. This provides that 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 the individual or organisation.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they are made.

We had regard to Miss Liddle's representative's representations, made on behalf of Miss Liddle and DDR, that the programme should have made clear that the contributors who featured were part of a hate campaign on social media against Miss Liddle and DDR. However, it is important to note that it is not for Ofcom to determine whether or not the contributors who featured in the programme were engaged in a hate campaign against Miss Liddle and DDR, but to consider whether or not the programme makers had gathered substantive evidence to

corroborate and justify the inclusion of their contributions in the programme. Given this, we did not consider it was a prerequisite to have included such information about the contributors in the programme to avoid unfairness to Miss Liddle and DDR. Instead, in relation to each contributor discussed below (whether or not they were a part of a hate campaign against DDR and Miss Liddle) we considered that they were introduced as people who had either adopted a dog from DDR or were a former foster carer. Therefore, we considered that viewers were likely to have understood that the contributors were all expressing their own opinions about DDR and Miss Liddle, based on their experience of the organisation either as an adopter or foster carer. It was therefore our view that programme makers had a reasonable basis for including the contributions in the programme.

Therefore, in relation to each contributor, we considered the seriousness of the allegation and whether they had the potential to materially and adversely affect viewers' opinions of Miss Liddle and DDR in a way that was unfair. We then went on to consider whether, if they did have this potential, the manner in which the allegations were presented in the programme resulted in unfairness overall.

i) *Teresa Rowe*

Ofcom first considered Miss Liddle's complaint that Ms Rowe alleged in the programme that she had to pay "*hundreds of pounds in vet fees*".

We carefully viewed the programme and noted that the programme's presenter said in relation to DDR that the programme had "*heard of heavily pregnant bitches being transported and dogs with contagious stomach bugs and kennel cough*" and that this was immediately followed by Ms Rowe's contribution in relation to her dog, nicknamed Ugly. The programme said that the dog had mange and cardiac failure which cost Ms Rowe "*hundreds of pounds in vet fees and eventually [Ugly] had to be put down*". Ms Rowe said the dog had only been "*over here for just over a day*" and was "*so ill that a vet would have picked it up I'm sure of it and there was just nothing they could do*".

We noted that Ms Rowe's contribution was included in the programme to illustrate the BBC's belief that numerous dogs were rehomed too quickly by DDR after being brought over from Ireland. As a consequence, the BBC said these dogs were not properly assessed by qualified vets, and adopters, like Ms Rowe, paid for dogs with serious health issues which should have been addressed before the animals were handed over. Therefore, we considered that, in this context, the allegations made by Ms Rowe were serious and therefore had the potential to significantly undermine the reputation of Miss Liddle and DDR.

Given the serious nature of the allegations made by Ms Rowe, we assessed the basis on which Ms Rowe's comments were included in the programme. We considered that Ms Rowe was providing her first-hand testimony of the events which had taken place and viewers to the programme would have therefore understood that the purpose of Ms Rowe's contribution was to express her outlook on DDR based on her own experience of their services. We noted too, that the programme's claims about DDR's operations in this respect were based on various other sources and corroborated the concerns raised by Ms Rowe. These included: the views of other people who had first-hand experience of DDR, including, but not limited to, other people who had

adopted dogs and incurred similar problems; the vet used by DDR and three former foster carers for DDR who all confirmed the checks carried out on dogs were brief and in some cases, dogs were rehomed so quickly that no vet check took place. In addition, the programme makers' research led them to conclude that the law requires dogs to have passports which lists details of the vaccinations the dog has had, however, they had found no evidence of any person who adopted a dog from DDR receiving such a passport.

We also considered what appeared to Miss Liddle's main concern regarding Ms Rowe's contribution, i.e. the programme omitted to explain the reason Ms Rowe had incurred vet fees.

It is clear from the BBC's response that the programme makers had been aware that Ms Rowe knew that DDR preferred newly adopted dogs to be treated by its own vets. Despite this, it was not included in the programme. While we recognised from Miss Liddle's complaint that she might have preferred for the reason as to why Ms Rowe incurred vet fees to have been included in the programme, we considered that Ms Rowe's contribution to the programme focused on her experience of DDR in relation to claims that dogs at DDR were not adequately health checked prior to being rehomed. Therefore, we considered that the reason Ms Rowe incurred vet fees (not taking the dog to DDR's own vet) was not materially relevant to the question of whether or not adequate health checks had been carried out on her dog. Therefore, we did not consider that the omission of this information would have resulted in unfairness to Miss Liddle or DDR.

Therefore, taking into account all the factors noted above, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made by Mrs Rowe and the programme as broadcast did not result in unfairness to Miss Liddle and DDR in this respect.

ii) *Tracey*

In relation to Miss Liddle's complaints about Tracey's contribution, we viewed the programme and noted that immediately following the contribution made by Ms Rowe, the programme's presenter said *"and when it comes to it, if you take on a dog from Dorset Dog Rescue and it all goes horribly wrong, they don't seem keen to help sort out the problem and take on dogs like Bullit back"*. Miss Liddle complained about a number of the allegations made by Tracey against DDR relating to the events leading up to her dog, Bullit, biting her nephew which we will consider below.

In relation to each element of complaint, we had regard to the BBC's response in which it said that Tracey's experience had been included in the programme to illustrate that DDR rehoused dogs too quickly so they could not be given adequate and appropriate health and behavioural checks.

- We first considered Miss Liddle's complaint that Tracey alleged that no veterinary checks were carried out on Bullit which was not true.

We viewed the programme and noted that Tracey clearly stated in the programme that there had been *"no vet checks"* on her dog. We considered that, in the context of an investigation into DDR's operations, the allegation that *"no vet checks"* had been carried out on her dog was

serious and had the potential to significantly impact on the reputation of Miss Liddle and DDR.

Given the serious nature of this allegation, we therefore considered the basis on which Tracey's comment was included in the programme. We recognised that Miss Liddle disputed the veracity of the claim made by Tracey. However, the BBC highlighted that the adoption agreement for Bullit (which Miss Liddle provided to Ofcom in support of her complaint to Ofcom) had no entry under the section marked Date of Veterinary Check. We noted that in response to the Preliminary View, Miss Liddle's representative said that the form had not been fully and properly completed and confirmed that the dog was health checked and vaccinated on 25 July 2010, although no documented evidence of this was provided to Ofcom. Nevertheless, we also considered that although Tracey may not have been present at the time the vet check was carried out on the dog, she was providing her first-hand testimony of her understanding of the events which had taken place and viewers would have understood that in doing so, she was providing her own personal opinion of DDR based on her experience. In addition, we noted that to corroborate Tracey's claim, the programme makers had also spoken with other contacts off-the-record who confirmed that vet checks and behavioural checks on DDR dogs which had arrived in England from Ireland were sporadic.

Taking into account all the factors noted above, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claim made by Tracey and that the programme did not result in unfairness to DDR in this respect.

- We next considered Miss Liddle's complaint that Tracey alleged DDR only had Bullit for a few days which was not true.

We viewed the programme and noted that Tracey said *"I got him on Friday, he was advertised on their website on Thursday, he'd come over from Ireland on the Wednesday. The foster lady said that she'd had him two weeks and she hadn't, she'd had him two days"*. As noted above, in the context of an investigation into DDR operations, Tracey's claim that a DDR foster carer had only had her dog for a few days prior to the adoption was a serious one and had the potential to significantly undermine the reputation of Miss Liddle and DDR, particularly because she claimed that her nephew was subsequently bitten by the dog

We noted that Miss Liddle disputed the veracity of this claim and in support of her view, she provided Ofcom with an email from Bullit's foster carer in which the foster carer said she had looked after Bullit from 14 July 2010 for around ten days before the dog was passed to another carer. This directly contradicted Tracey's claim that Bullit had only been with a foster carer for a few days prior to its adoption. The length of time Bullit was with a foster carer was clearly a matter of dispute between the parties and it is not for Ofcom to determine the truth or otherwise of this claim. Rather, we considered whether it was reasonable and fair for the BBC to have included this claim in the programme.

We recognised that as well as relying on Tracey's first-hand testimony of events, the programme makers also relied on information included in Bullit's adoption agreement and vaccination papers (which suggested that

Bullit had received vaccinations in Ireland on 25 July 2010 at a time when the foster carer said the dog was with her). We noted that there was a factual discrepancy between the information included in the programme and the BBC's response to Miss Liddle's complaint in that Tracey claimed in the programme that she got the dog on Friday, whereas Bullit's adoption paper was dated Sunday, 8 August 2010. Nevertheless, we did not consider that the discrepancy of a couple of days in Tracey's recount of events was likely to materially change Tracey's assertion that her dog had been rehomed too quickly.

Taking into account all the factors noted above, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claim made by Tracey and that the programme did not result in unfairness to DDR in this respect.

- We then considered Miss Liddle's complaint that Tracey alleged that her home check consisted of her sending a photograph of her garden to the fosterer.

We viewed the programme and noted that Tracey said that "*no home checks*" were carried out by DDR and that her home check had consisted of her texting "*a photograph of a garden to them*".

We noted that Tracey's contribution was included in the programme to illustrate that appropriate home checks had not been carried out to safeguard the welfare of animals. We therefore considered in the context of an investigation into DDR's operations, this was a serious allegation.

We next assessed on what basis Tracey's comment was included in the programme. We recognised that Miss Liddle disputed the veracity of the claim made by Tracey. However, the BBC highlighted that the adoption agreement for Bullit (which Miss Liddle provided to Ofcom in support of her complaint) had no entry recorded for the home check. Further, as noted above, we considered that Tracey was providing her first-hand testimony of the events which had taken place and viewers would have understood that in doing so, she was providing her own personal opinion of DDR based on her experience. In addition, we noted that to corroborate Tracey's claim, the programme makers had also taken into account the concerns of many other adopters who the programme makers had spoken to plus Poole Trading Standards, Dorset Police and an animal welfare officer who also confirmed that home checks by DDR were intermittent and inconsistent.

Therefore, taking these factors into account, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts in a way that was unfair to Miss Liddle and DDR.

- We next considered Miss Liddle's complaint that it was untrue, and that no evidence had been provided, that Tracey, her vet, and the police had tried to contact DDR when her nephew was bitten.

Having regard to Tracey's comments in the programme, we noted that she said "*I immediately phoned the police and the paramedics and I wanted the police to take the dog away, they couldn't and wouldn't. I*

phoned Dorset Dog Rescue that evening about three times. I phoned them again on the Monday morning. Nothing. The police phoned them. My vet phoned them. They didn't answer the phone, didn't answer any messages, didn't return any calls".

It was our view that the inclusion of Tracey's views of DDR was to illustrate that from her experience, if problems with adoptions did arise, Miss Liddle refused to deal with them appropriately. In this context, Tracey revealed that her dog had bitten her nephew and that DDR had failed to help her when she contacted them about the incident. Therefore, we considered that the allegation made by Tracey was serious and had the clear potential to significantly impact on the reputation of Miss Liddle and DDR.

We therefore considered whether or not the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way which was unfair to DDR.

We recognised that Miss Liddle disputed the veracity of Tracey's allegations. However, we observed that Miss Liddle provided no substantive evidence to suggest that the claim included in the programme was not true. We noted also that Tracey was not able to provide the programme makers with any records of the telephone calls she had made to DDR. Nevertheless, as well as relying on Tracey's own first-hand testimony, we noted that the programme makers said they had spoken to a former DDR employee in relation to Bullit, who confirmed that Tracey had made numerous telephone calls to DDR after the dog had bitten her nephew but had received no response. Further, the BBC said that to corroborate Tracey's claim, the programme makers had also relied on the fact that they were frequently told by other people who had dealings with DDR that it had failed to respond to their telephone calls.

Therefore, taking these factors into account, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts in a way that was unfair to DDR.

- We then had regard to Miss Liddle's complaint that Bullit was not the dog responsible for the bite.

We noted that Tracey clearly alleged in the programme: *"my dog [i.e. Bullit] bit my nephew twice. In the stomach and in the face"*.

In the context of a discussion about allegations that Bullit's temperament and behaviour were not adequately assessed before the dog was rehomed, we considered that an allegation that the dog had bitten a young child was serious and had the clear potential to significantly undermine the reputation of Miss Liddle and DDR.

We therefore considered whether or not the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way which was unfair to DDR.

We noted Miss Liddle's assertion that Bullit was not responsible for the bite on Tracey's nephew. In doing so, we had regard to information which

Miss Liddle supplied to Ofcom relating to a child named Mika who had allegedly been attacked sometime in April 2010. We noted too that Miss Liddle alerted the BBC to this matter prior to the broadcast of the programme. We also noted Miss Liddle's representative's representations in response to the Preliminary View that no evidence had been produced to support the fact that a dog had bitten a small child. As noted above, it is not Ofcom's role to determine disputed issues of fact, rather Ofcom is concerned with deciding whether the complainant has been subject to unfair treatment in the programme as broadcast. Therefore, we considered the basis on which the broadcaster decided to include this allegation. We recognised that as well as relying on Tracey's first-hand testimony, the programme makers also pointed to the adoption agreement for Bullit which was dated 8 August 2010 (after the incident involving Mika had taken place) and Tracey's own declaration that her nephew and Mika were not the same person. Further, the programme makers spoke with the veterinary practice which treated Bullit, who also confirmed that a dog matching Bullit's description was destroyed on 31 August 2010 which corroborated Tracey's story that Bullit was put to sleep shortly after the incident.

Therefore, taking these factors into account, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts in a way that was unfair to DDR.

Further, in relation to each of these examples, we recognised that the programme included a summary of Miss Liddle's position and also stated that some dogs had found happy homes and survived. Therefore given all these factors and in relation to each of these specific examples, we considered that the programme did not result in unfairness to Miss Liddle and DDR in this respect.

iii) *Lindsey*

We considered Miss Liddle's complaint that Lindsey had not contacted DDR when her dog Bella became sick.

Again, we viewed the programme and noted Lindsey said that when she realised Bella was not well *"their [DDR] support when we then confronted them with these issues was zero. And she said 'it's your dog, you bought it, it's your problem' that was it"*.

Ofcom considered that Lindsey's contribution was included in the programme to further illustrate the BBC's belief that when unhealthy dogs were adopted and required treatment, the adopter received no help or support from DDR. Therefore, we considered that in the context of an investigation into DDR's operation, this was a serious allegation.

Given the serious nature of the allegation, we next considered whether or not the broadcaster had a reasonable basis on which to include this claim. We noted that Miss Liddle disputed the veracity of Lindsey's claim and considered it was Lindsey's fault her dog had become ill. We also took into account Miss Liddle's representative's representations on the Preliminary View that it was necessary to establish who was at fault because the implication of the programme was that it was DDR's fault. However, in establishing whether or

not the programme makers had reasonable grounds to include Lindsey's story, we did not consider it our role to establish who was at fault for the resulting illness, particularly in light of the fact that the purpose of Lindsey's contribution was to provide an example of a person who claimed she had not received help or support from DDR. Instead, we focused on whether or not the BBC had a reasonable and credible basis in which to include the claim that the dog was unhealthy and DDR had been unsupportive.

With regards to establishing whether the dog had become ill shortly after its adoption, we noted that as well as relying on Lindsey's own testimony regarding her dog's health, the programme makers also relied on messages Lindsey had sent to a third party shortly after the adoption and the veterinary clinic records which showed the dog had received treatment for vomiting associated with chronic gastritis. In this respect, therefore, we considered that the programme makers had a reasonable and credible basis to include this claim.

In relation to whether or not Lindsey had contacted Miss Liddle about the dog's health, we noted that the BBC did not provide Ofcom with evidence that Lindsey had been in contact with DDR about the dog's illness. However, in our view this does not necessarily confirm or challenge the veracity of Lindsey's statement on this matter. Lindsey's statement was consistent with other cases therefore it did not appear that the programme maker's had any reason to doubt Lindsey's story. We also noted that in response to the complaint Miss Liddle made about Tracey's claims, the BBC said "the programme makers were frequently told by those who had dealings with DDR that it failed to respond to telephone calls".

In addition, we considered that the programme included a summary of Miss Liddle's position and also stated that some dogs had found happy homes and survived. Therefore, taking these factors into account, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts in a way that was unfair to DDR.

iv) *Luna*

We next considered Miss Liddle's complaint that the only reason Luna's owner incurred vet bills was because she did not initially take the dog to the vet which DDR had an arrangement with and that the dog had in fact been health checked.

After viewing the programme we noted that Lindsey's contribution regarding the lack of support she received from DDR when her dog became ill was immediately followed by a discussion about a dog named "*Luna*" who the programme's presenter said "*racked up £800 in vet bills*". The presenter added that Luna ended up with "*others from her Irish shipment at Dorset Dog Rescue's recommended vet, from where the family refused to collect her, afraid she would spread disease to their other pets*". We then noted that the person who appeared in the programme to discuss Luna said that Luna's health had quickly deteriorated. She said about DDR that "*it's a shambles, I believe it should be done properly and it's not being done properly*". The programme clarified that Luna recovered and was sold on but that "*her original family was never compensated for the vet bills or the puppy*".

In our view, Luna's story was included to illustrate that checks carried out by DDR once dogs arrived in the UK were frequently inadequate to ensure the animals were fit for adoption. Therefore, given the claim made in the programme that Luna had fallen seriously ill shortly after the adoption; the owner had incurred vet fees as a consequence; and the dog had been sold on without the original owner being reimbursed for the adoption and vet fees, we considered that the allegations in relation to Luna were of a serious nature.

We then assessed the basis on which the comments about Luna were included in the programme. We recognised that the person who appeared in the programme was not the owner of Luna and was therefore not providing a first-hand testimony of the events which had taken place. However, we noted that the programme makers had contacted the owner of Luna who had provided a written statement along with supplementary evidence (i.e. various sets of text messages) in support of her claims which corroborated the comments made in the programme about Luna and confirmed that Miss Liddle had been made aware of the dog's illness.

We noted that there appeared to be some dispute about the type of illness Luna had, nevertheless, we recognised that the dog was treated for some form of gastro illness and the owner of Luna claimed that she was told by the vet that parvovirus had been detected. It was our view that whether it later transpired that the disease was not as serious as this, was not relevant to our consideration of whether or not the broadcaster had a reasonable and credible basis to include the comments about Luna.

We also considered what appeared to be Miss Liddle's main concern regarding the contribution about Luna i.e. the programme omitted to explain the reason the owner had incurred vet fees. We observed that there appeared to be some dispute about whether the owner of Luna was aware that Miss Liddle preferred newly adopted dogs to be treated by DDR's own vet. While we recognised Miss Liddle may have preferred for the reason as to why Luna's owner incurred vet fees to have been included in the programme, we considered that this contribution to the programme focused on the owner of Luna's experience of DDR in relation to claims that dogs at DDR were not adequately health checked prior to being rehomed. Therefore, we considered that the reason Luna's owner incurred vet fees (not taking the dog to DDR's own vet) was not materially relevant to the question of whether or not adequate health checks had been carried out on her dog. Therefore, we did not consider that the omission of this information would have resulted in unfairness to Miss Liddle or DDR.

Taking into account all the factors noted above, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made about Luna and that the programme did not result in unfairness to DDR in this respect.

v) *Foster carer*

- We next assessed Miss Liddle's complaint that the former foster carer made untrue allegations about the number of dogs: being transported, the number of dogs per cage and the poor cage conditions.

We viewed the programme and observed that the former foster carer in

the programme said in response to a question about the number of puppies/dogs transported *“per load, usually between 30 and 40. They’d often have cages of puppies with anything up to 7 or 9 puppies in a cage. Individual dogs, often 2, 3 or 4 in a cage according to their size, all in together”* and *“the puppies would be absolutely covered in their own excrement and urine and sick”*. The former foster carer also gave specific details about one load of puppies she had seen which were transported in the winter (see “Introduction and programme summary section” for more details).

We considered that the reason for the inclusion of the former foster carer’s comments was to illustrate the BBC’s belief that DDR transported dogs from Ireland in inadequate and inhumane conditions. In doing so, the BBC included her contribution regarding the number of dogs being transported and their cage conditions. Given that DDR is an animal rescue centre, any allegations relating to the welfare of animals which were under its supervision were serious and would have the potential to significantly undermine the reputation of Miss Liddle and DDR.

We next assessed the basis on which the former foster carer’s allegations were included in the programme. We noted that viewers were made aware that the former foster carer had stopped working for DDR because of her concerns about the number of dogs being transported and the conditions they travelled in and therefore would have understood that there had been some form of disagreement between the former foster carer and Miss Liddle and that the former foster carer was sufficiently concerned about transportation issues to leave DDR. We recognised that Miss Liddle disputed the veracity of the former foster carer’s allegations and that in response to the Preliminary View, Miss Liddle’s representative said that the former foster carer temporarily ran DDR for a period of 2 years and the issues with the transport were a consequence of her decision to make transport arrangements which were not DEFRA approved during this time. However, we did not consider it relevant to our consideration of the complaint to take a view or otherwise as to who was at fault for the issues with the transport used by DDR. Instead, we focused on whether or not the BBC had a reasonable and credible basis in which to include the claim made by the foster carer.

It was our view that the former foster carer was providing her first-hand testimony of her experience as a foster carer and viewers to the programme would have understood that the purpose of the former foster carer’s contribution was to express her opinion of DDR based of her own experience of their services.

In addition, we recognised that the former foster carer’s claims about DDR were corroborated by various other sources. These included: the testimonies of two other foster carers who the BBC said also confirmed that dogs were transported in conditions which were frequently cramped or otherwise unacceptable; photographic evidence to corroborate claims regarding the number of puppies/dogs to a cage; and, a telephone conversation between Mr Cuthill and Miss Liddle in which she revealed that she had stopped using one of her transport drivers because of concerns she had about the manner in which the dogs were being transported.

Taking these factors into account, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made by the former foster carer and that the programme did not result in unfairness to DDR in this respect.

- Finally, we considered Miss Liddle's complaint that the former foster carer alleged that some dogs died while being transported which was not true.

We viewed the programme and noted that the former foster carer in the programme said *"quite often the puppies, one or two of the puppies, were so ill they had to actually leave and go straight to the vets and get put on a drip, one or two would die, some pulled through but it wasn't good"*.

As above, we noted that the reason for the inclusion of the former foster carer's comments was to illustrate the BBC's belief that DDR transported dogs from Ireland in inadequate and inhumane conditions. In doing so, the BBC included her contribution regarding the fact that a number of dogs had died en route. DDR is an animal rescue centre, and therefore any allegations relating to the welfare of dogs which were under her supervision was serious and would have the potential to significantly undermine the reputation of Miss Liddle and DDR.

Given the serious nature of the allegations made by the former foster carer, we next considered whether or not the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way which was unfair to Miss Liddle and DDR. We recognised that the former foster carer was providing her first-hand testimony of her experiences of DDR. However, we noted too that the programme's claims about DDR's operations were based on various other sources. These included: the testimonies of two other foster carers; DDR accounts which showed that a number of dogs brought from Ireland died or were put to sleep; and, a Facebook post from Miss Liddle in which she confirmed that some dogs imported by DDR did die in transit. We note Miss Liddle's representative's comments in response to the Preliminary View that the BBC relied on handwritten notes rather than the original accounts and the BBC's response that the notes were made by the programme makers who had seen the original accounts.

Taking these factors into account, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made by the former foster carer and that the programme did not result in unfairness to DDR in this respect.

Further, in relation to each of these examples, we recognised that the programme included a summary of Miss Liddle's position and also stated that some dogs had found happy homes and survived. Therefore given all these factors, we considered, that in relation to each of these examples, the programme did not result in unfairness to Miss Liddle and DDR in this respect.

Having assessed each element of Miss Liddle's complaint, we concluded that as regards each of these elements, the material facts were not presented, omitted or disregarded in a way that portrayed Miss Liddle and DDR unfairly in the programme as broadcast.

- b) We next considered the allegations about the way in which DDR transported the dogs from Ireland to the UK which Miss Liddle identified as being unfair and untrue.
- i) We first assessed Miss Liddle's complaint that the programme alleged that dogs were transported to DDR ill or pregnant.

After viewing the programme, we noted that the programme's presenter said *"we've heard of heavily pregnant bitches being transported and dogs with contagious stomach bugs and kennel cough"*.

As noted above, DDR is an animal rescue centre and any allegations related to the welfare of animals which are under its supervision would be regarded as serious.

Therefore, given the serious nature of the allegations made about dogs being transported ill or pregnant, we next considered the basis on which the BBC had decided to include this allegation in the programme. We recognised that Miss Liddle disputed the veracity of the claim that pregnant bitches were transported and it was her belief that this claim was based only on the evidence of the former foster carer who appeared in the programme. However, we noted that this claim was substantiated by messages and photographs posted on social media by Miss Liddle in relation to the transportation of a pregnant dog; and evidence from another former foster carer who said she had taken a dog from DDR which was pregnant.

In relation to the allegation that dogs were transported ill, we noted that this allegation too was substantiated by evidence from various other sources, including: evidence related to the adoption of dogs by Ms Rowe, Lindsay and the owner of Luna who confirmed that DDR rehomed dogs which had been brought over from Ireland with pre-existing health issues; and, DDR accounts which indicated that dogs died in transit or shortly after arriving in England.

Taking these factors into account, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made about the manner in which dogs were transported and that the programme did not result in unfairness to DDR in this respect.

- ii) We next considered Miss Liddle's complaint that the programme alleged that 40-80 dogs were imported by DDR which was untrue.

We observed that the programme's presenter said *"we've learnt that between 40-80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires"* and *"sold on at up to £200 a dog, I want to know if what Dorset Dog Rescue is doing really is a charity or a business"*.

As already noted above, an allegation concerning the welfare of animals imported by DDR was serious and had the potential to seriously impact on Miss Liddle and DDR's reputation and integrity.

Having regard to the serious nature of the allegation made about the number of dogs being imported by DDR and suggestions that as a consequence it could be regarded as a business rather than a charity, we assessed the basis on which this claim was included in the programme. We noted that Miss

Liddle disputed that the number of dogs imported by DDR was as high as that suggested in the programme. However, as noted above, it is not Ofcom's role to make a determination about the truth or otherwise of the claims made in the programme. Rather, we considered whether or not it was reasonable for the programme makers to have included the claim that between 40-80 dogs a month had been imported by DDR.

We noted that the programme makers put to Miss Liddle the matter concerning the number of dogs imported by DDR and that in response, various figures were given by her. We noted that the programme makers did take into consideration Miss Liddle's assertions regarding the number of dogs imported by DDR (her response was reflected in the programme), however, in deciding a figure for the number of dogs it believed DDR imported from Ireland, the BBC also relied on a number of other sources including: an interview Miss Liddle had with Bournemouth University's Buzz website in which she discussed the number of dogs imported, suggesting that it would be between 45 and 66 dogs per calendar month; DDR accounts which suggested the number was approximately 84 dogs per month; and, a source close to DDR who spoke to the programme makers off-the-record stating that DDR imported 40 dogs per month. We therefore considered that the programme makers had thoroughly investigated this claim before it was included in the programme and had reason to believe DDR was generating a significant income every month which supported its belief that DDR was perhaps being run as a business.

Taking all these factors into account, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made about the number of dogs DDR had imported from Ireland.

- iii) We assessed Miss Liddle's complaint that the programme alleged that DDR illegally imported dogs.

Again, after viewing the programme, we noted that the programme's presenter said *"we've learnt that between 40 and 80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires"*; and, *"legally they should have vet checks and vaccinations meant to protect them and us"*. During the programme, Lady Kilbracken also stated *"it's a good thing to take a dog from a pound or a rescue, it's a fantastic thing, but you've got to look at the skulduggery that's gone on behind the scenes to get that dog there"*.

Ofcom considered that if there was a legal requirement for dogs to have passports before they are transported from Ireland to the UK then an allegation that Miss Liddle and DDR were not doing so was serious, particularly if it resulted in the animal's welfare being put at risk.

We noted in response to the Preliminary View that Miss Liddle's representative said that the port authorities in both the UK and Ireland were satisfied with the paperwork DDR had provided. However, whether or not DDR had illegally imported dogs was a matter of dispute between the parties and it was not appropriate for Ofcom to make a determination about the accuracy of this matter; rather we considered whether, by including this allegation, it resulted in unfairness to DDR or Miss Liddle.

Ofcom therefore considered the basis on which the BBC had decided to include this claim in the programme. We recognised that it was the BBC's view that Miss Liddle was required, in accordance with legislation, to passport dogs (amongst other things) 48 hours ahead of movement from Ireland to the UK and that the programme makers had gathered evidence of numerous dogs which were brought in by DDR without these necessary requirements. For example, Topsy had been brought over from Ireland to the UK by DDR but could not have received a passport to travel as the dog was vaccinated and micro-chipped in the UK.

We noted that Miss Liddle asserted that passports for dogs transported from Ireland to the UK were only a requirement from December 2014 but the BBC disputed this was the case on the basis of their research as set out earlier in the "Summary of complaint and broadcaster's response" section above. We observed that in establishing whether Miss Liddle was aware of the legislation in place, the programme makers relied on Miss Liddle's interview with Bournemouth University's website, Buzz, in which she appeared to understand that a change in the law meant all dogs were required to have a passport before entering the UK. A further Facebook post of the DDR Facebook page on 24 July 2014 indicated that Miss Liddle understood that dogs coming from Ireland required a passport. Further, in a telephone conversation between Miss Liddle and Mr Cuthill on 10 December 2014, Miss Liddle claimed that all her dogs had passports. As such, in including the claim that DDR had illegally imported dogs from Ireland, the programme makers also relied on evidence they gathered that dogs transported by DDR either did not have passports or could not have passports; and, that Miss Liddle had provided the programme makers with no substantive evidence to suggest any dogs had been given passports. Therefore, we considered, the programme makers had gathered evidence which suggested that Miss Liddle was aware of the legal requirements placed upon her but that she had not abided by them.

Taking these factors into consideration, we found that the BBC had a reasonable and credible basis for the inclusion in the programme of this claim.

- vi) We next considered Miss Liddle's complaint that the programme alleged that dogs are sold by DDR to new owners "within 48 hours allowing very little time to assess their health and temperaments".

We viewed the programme and observed that, following footage of cars and vans being shown driving onto a ferry, the programme's reporter said that dogs were *"imported, straight onto the ferry. Legally they should have vet checks and vaccinations meant to protect them and us. They'll be dropped off at foster homes and could be sold for cash to new owners within 48 hours allowing very little time to assess their health and temperaments"*.

We had regard to BBC's response in which it said that the programme did not claim that all dogs were rehomed within 48 hours. Nevertheless, we considered that the allegation that *some* dogs were rehomed within 48 hours of arriving in the UK was serious.

Therefore, we considered whether or not the broadcaster had a reasonable and credible basis on which to base this claim. In doing so, we noted that the programme's claim about DDR's operations was based on various sources

which included: the programme makers' own observations when they tracked dogs transported from Ireland and rehomed by DDR; Tracey's testimony and Lady Kilbracken's testimony which both cited dogs being rehomed too quickly; and a review into the lack of apparent health checks carried out on Luna and Bella because of the speed in which the dogs were rehomed.

Taking these factors into consideration, we found that the BBC had a reasonable and credible basis for the inclusion in the programme of this claim.

Taking each element of complaint into account separately, Ofcom considered that material facts were not presented, omitted or disregarded in a way that portrayed DDR and Miss Liddle unfairly in the programme as broadcast. We also considered the programme as a whole to reach a view as to whether the programme in its entirety was unfair to the complainant. In addition, we noted that the programme did include a summary of Miss Liddle's position and stated that some dogs had found happy homes and survived. Therefore, after careful consideration, and for all the reasons set out above, we found that, when taken as a whole, the way in which DDR and Miss Liddle were portrayed did not result in unfairness to them in the programme.

- c) We then considered Miss Liddle and DDR were not given an appropriate opportunity to respond to the allegations made in the programme as broadcast.

In assessing this head of complaint Ofcom took into account Practice 7.11 which states that 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.

In considering this part of the complaint, we examined the steps taken by the programme makers to provide Miss Liddle with an opportunity to respond to the allegations. We observed that on 10 December 2014, Mr Cuthill contacted Miss Liddle by telephone and informed her of the allegations against DDR and requested that Miss Liddle take part in an interview. In a subsequent letter sent the following day, the programme makers set out in more detail the allegations against DDR and a further request for Miss Liddle to take part in an interview was made. We observed that on the same day Miss Liddle responded to some, but not all of the allegations and provided the BBC with a document called "hate campaign against DDR". However, the BBC did not receive this email because it was too large. On 15 December 2014, the programme makers contacted Miss Liddle by telephone and left a voicemail message. Miss Liddle returned this call on the same day, however, we were not informed by either party what was said during this telephone conversation.

Following the doorstep interview which took place on 19 December 2014, a further email was sent by the programme makers on 22 December 2014 which again summarised the main allegations against DDR and Miss Liddle was offered the opportunity to provide her response to the allegations and/or to take part in an interview. The programme makers made it clear that they would need a response by 2 January 2015. The deadline passed and the programme makers received no response. On 7 January, Miss Liddle contacted the programme makers by telephone and an email was sent by the programme makers asking, amongst other things, Miss Liddle to reconsider giving them an interview but making it clear that it would need to be conducted the following day. In response, Miss Liddle neither accepted nor declined the BBC's offer. Therefore, Miss Liddle had

been offered an opportunity to take part in an interview numerous times prior to the final offer on 7 January 2015 and it was our view that it was reasonable for the programme makers to believe, given her previous responses, that she did not intend to take part in an interview. On 10 January 2015, the programme makers explained that they were still awaiting a response to a number of the allegations and they set out these concerns. Following a response from Miss Liddle, on 11 January 2015 the programme makers requested Miss Liddle to clarify her response to an allegation.

We had regard to Miss Liddle's assertion that the Christmas period is a particularly busy time of year for her. We noted that Miss Liddle did not indicate to the programme makers that she needed more time to be able to respond. We also noted that the programme makers were in contact with Miss Liddle from 10 December 2014 to 11 January 2015. We therefore considered Miss Liddle was given a reasonable period to draft a response to questions concerning her own organisation's practices. This is supported by the fact that Miss Liddle appeared able to provide various responses to the claims made about DDR before the broadcast of the programme.

Therefore, taking these factors into account, we considered that Miss Liddle was given an appropriate and timely opportunity to respond to the claims made about DDR in the programme in this respect.

We then considered the two matters identified by Miss Liddle which she said she was not given an appropriate opportunity to respond to. We considered each of these matters in turn.

- We assessed whether Miss Liddle was informed about the investigation by the BBC into the dogs Ugly and Luna.

For the reasons given in head a) above, we considered that the comments made in the programme in relation to Ugly and Luna amounted to serious allegations concerning the welfare of the animals because the dogs were being rehomed too quickly and inadequate health checks were being carried out by DDR. As a consequence, this had the potential to significantly undermine the reputation and integrity of Miss Liddle and DDR. Therefore, in accordance with Practice 7.11, it was incumbent on the broadcaster to ensure that these allegations were put to Miss Liddle and that she was given an appropriate and timely opportunity to respond.

We noted the BBC's acknowledgement that it did not provide Miss Liddle with the specific details of each dog which would be featured in the programme or the specific views or claims of each contributor, but that, it did not believe there was any requirement to do so. In assessing whether or not the broadcaster had provided Miss Liddle with a sufficient opportunity to respond, we had regard to the pre-broadcast exchange between the parties. We noted that at no point in the correspondence between the programme makers and Miss Liddle or the telephone conversation between Miss Liddle and Mr Cuthill were the claims of each contributor or the dogs, Ugly and Luna, specifically referred to. Nevertheless, we observed that on 11 December 2014, the programme makers set out the nature of the claims the programme intended to make, including asking Miss Liddle about concerns that dogs were travelling without passports. In subsequent emails, further concerns about the animal welfare of the dogs were raised. In particular, an email sent on 7 January 2015 from the programme makers to Miss Liddle asked her to inform

them about “the vet bills and covering dogs for existing treatments” and, told her that “we have spoken to people who say dogs which had only recently arrived from Ireland before they were adopted were very unwell. Your veterinary practice confirmed that they treated DDR puppies and dogs that travelled with contagious gastrobugs”. Similarly, on 10 January 2015, Miss Liddle was reminded that she had not “commented on the speed of rehoming which can sometimes be within a very short time of coming from Ireland. Does this worry you at all?”

Therefore although the programme makers may not have provided the specific details in relation to Luna and Ugly, we considered that the programme makers gave Miss Liddle sufficient details of the allegations which would be made in the programme in order to afford her an appropriate and timely opportunity to respond to the allegations.

- We next considered whether Miss Liddle was informed about the comments the former foster carer made in the programme.

For the reasons given in head a) above, we considered that the comments made in the programme by the DDR former foster carer amounted to serious allegations concerning the number of dogs being transported, the number to a cage, the cage conditions and that some dogs had died in transit. As a result, this had the potential to significantly undermine the reputation and integrity of Miss Liddle and DDR. Therefore, in accordance with Practice 7.11, it was incumbent on the broadcaster to ensure that these allegations were put to Miss Liddle and that she was given an appropriate and timely opportunity to respond to these allegations.

As noted above, the BBC acknowledged that it did not provide Miss Liddle with the specific views or claims of each contributor. In examining whether or not the broadcaster had provided Miss Liddle with a sufficient opportunity to respond, we had regard to the pre-broadcast exchange between the parties. We noted that at no point in the correspondence between the programme makers and Miss Liddle or during the telephone conversation between Miss Liddle and Mr Cuthill were any of the claims made attributed to the former foster carer. Nevertheless, we observed that during the telephone conversation, Mr Cuthill asked Miss Liddle specific questions about the number of dogs being transported, the welfare of the animals during the transportation and whether any dogs had died en route. In subsequent correspondence (11 December 2014, 22 December 2014, 10 January 2015 and 11 January 2015), these claims were repeated (at least to some extent) and a response from Miss Liddle sought. Therefore although the programme makers may not have provided the specific details in relation to the comments made by the former foster carer, we consider that the programme makers gave Miss Liddle sufficient details of the allegations which would be made in the programme about DDR in order to afford her an appropriate and timely opportunity to respond to the claims made by the former foster carer.

Therefore taking each element of the complaint into account separately, we considered that Miss Liddle and DDR was given an appropriate and timely opportunity to respond to the claims made about it in the programme.

We also carefully assessed the parts of the programme relating to DDR and Miss Liddle as a whole, to reach a decision as to whether the programme in its entirety was unfair to the complainant, In particular whether the various examples taken

together may have created a cumulative effect that might portray the DDR and Miss Liddle in a way that was unfair and whether the programme provided Miss Liddle with an appropriate and timely opportunity to respond to the claims about DDR. After careful consideration, and for all the reasons set out above, we found that, when taken in its entirety, the way in which DDR and Miss Liddle were portrayed in the programme did not result in unfairness to them in the programme as broadcast and DDR and Miss Liddle were given an appropriate and timely opportunity to respond to all the claims and there was no unfairness to Miss Liddle or DDR in this respect..

Unwarranted infringement of privacy

Ofcom considers the individual's right to privacy has to be balanced against the competing rights of the broadcaster to freedom of expression. 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.

- d) We assessed Miss Liddle's complaint that her privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because the programme makers had: followed her while she was going about her personal affairs; blocked in her vehicle; and had refused to stop filming her even when she requested for them to do so because she was ill.

In considering this head of complaint, 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 took into account Practice 8.9 which states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme. We also took into consideration Practice 8.11 which requires that: "Doorstepping for factual programmes should not take place unless a request for an interview has been refused ...and it is warranted to doorstep". Doorstepping is defined as the "filming or recording of an interview or attempted interview with someone or announcing that a call is being filmed or recorded for broadcast purposes, without any prior warning".

We first considered the extent to which Miss Liddle may have had a legitimate expectation of privacy with respect to the programme makers following her, blocking in her vehicle and refusing to stop filming her when she asked them to do so.

Having viewed the unedited footage, we noted that the programme makers approached Miss Liddle while she was parked up in her car outside a tack shop. Miss Liddle was sat in the driver's seat of the car and was on her phone, while her partner was loading items into the boot of the car. When Miss Liddle saw the cameras, she immediately went to cover her face with her hands, at which point, Mr Cuthill introduced himself to her, stating that he was from BBC Inside Out and wanted Miss Liddle to answer some questions about DDR. Following this, Miss Liddle's partner could be heard saying "she's not very well at the minute so I don't know why you want to talk to her now". Mr Cuthill continued to ask Miss Liddle questions about DDR and its operation but Miss Liddle did not answer any of these questions. Miss Liddle's partner asked Mr Cuthill whether he had

permission to film and asked Mr Cuthill why he was asking Miss Liddle questions about DDR, which her partner claimed she had already answered. Mr Cuthill made a final attempt to gain an interview with Miss Liddle, asking her if she would chat off-the-record.

In Ofcom's view, a person may have a legitimate expectation of privacy in connection with the filming and subsequent broadcast of footage of them in circumstances where they would not ordinarily expect to be filmed i.e. going about their day-to-day affairs. In these particular circumstances, Miss Liddle was sat in the car, unaware that she was about to be approached by the programme makers. From the unedited footage, we observed that the programme makers were made aware that Miss Liddle was ill at the time she was filmed. We also noted that the filming captured footage of Miss Liddle and her partner in which both of their faces were visible. The filming also captured footage of Miss Liddle's car, the registration plate of which was visible on a number of occasions in the unedited footage.

However, we observed that Miss Liddle was filmed openly and from the public highway, and she did not appear to be engaged in any activity which was particularly private or sensitive in nature. She was simply filmed sat in her car, outside a shop.

Therefore, in light of these factors, we considered that Miss Liddle had a legitimate expectation of privacy in connection with the obtaining of material included in the programme. However, in these circumstances, her legitimate expectation of privacy was limited by the fact that she was filmed in a public place.

Having concluded that Miss Liddle had a limited legitimate expectation of privacy in the filming of her, we next considered whether the programme makers had secured her consent to obtain this material. The unedited footage showed that Miss Liddle did not consent to the filming of this footage. Therefore, Ofcom went on to consider whether the intrusion into Miss Liddle's privacy was warranted.

We considered that the filming of Miss Liddle constituted an incident of doorstepping. Therefore, we considered whether the doorstepping was warranted in the particular circumstances of this case.

We examined the pre-broadcast exchange between Miss Liddle and the programme makers and noted that the broadcaster offered Miss Liddle, in a telephone call on 10 December 2014 and subsequent letter and email sent the following day, the opportunity to respond to the allegations to be made in the programme, either by written statement or filmed camera interview. In particular, during the telephone conversation, Mr Cuthill requested on numerous occasions for Miss Liddle to take part in an interview so she had the opportunity to put across her side of the story, and each time she declined. Further, at the end of the telephone conversation, Mr Cuthill provided Miss Liddle with his contact details so it would have been possible for her to take up the interview request at any time (also see head c) of the Decision above for more details regarding the steps the programme makers took to obtain an interview from Miss Liddle). We noted that it was only after a number of attempts had been made to obtain an interview from Miss Liddle that the doorstep interview then took place on 19 December 2014.

In Ofcom's view, the concerns raised by the programme makers in their correspondence were serious: they concerned claims that Miss Liddle and DDR were not concerned about the welfare of the animals it was importing from Ireland. Although we noted that Miss Liddle made an attempt to respond to some of the allegations during the telephone conversation and in the three subsequent emails (one of which was not received by the BBC), it was our view that she failed to fully respond to the substance of the questions. Therefore, we considered that filming Miss Liddle formed a key part of the investigation into the allegations the programme makers intended to rely on and there was a genuine public interest in the programme's investigation into the claims made about DDR.

We also considered whether the means of obtaining material, i.e. filming Miss Liddle while she was sat in her car to speak with her about the claims made about DDR, were proportionate in all the circumstances and in particular to the subject matter of the programme. We had regard to Miss Liddle's concerns that the programme makers followed her while she was going about her personal affairs; blocked in her vehicle; and, refused to stop filming her. We recognised that the filming took place while Miss Liddle was sat in her car and that Mr Cuthill and the two members of the camera crew were all stood very close to the car which to some extent could have obstructed Miss Liddle's car from being able to freely leave. We noted that the programme makers van was parked behind Miss Liddle's car, however, we considered that there was some distance between the van and Miss Liddle's vehicle and there was also space between Miss Liddle's van and the vehicle in front. However, we had regard to Miss Liddle's representative's representations on the Preliminary View in which she said that Miss Liddle's car had a trailer which made reversing it more difficult and that Miss Liddle was not very well, upset and distressed to the extent that she did not consider she could safely reverse or drive away. We noted that Mr Cuthill was asked to move his van by a member of the public and a member of the production team did this immediately. We noted that at no point were any of the production team asked by Miss Liddle or her partner to move their vehicles and in our view, we therefore did not consider that Miss Liddle was prevented from leaving. We observed that the programme makers were informed that Miss Liddle was not very well, however, at no point were the programme makers asked to stop filming Miss Liddle. Further, the filming did not result in the obtaining of any further personal information about Miss Liddle beyond the footage and recording itself. We also considered that the filming of Miss Liddle was relevant to the subject matter of the programme i.e. an investigation into her organisation, DDR, and whether it was taking into account the welfare of the animals it was transporting from Ireland to the UK.

Therefore, on balance, and given all the factors set out above, we considered the broadcaster's right to freedom of expression and the public interest in obtaining footage of Miss Liddle in the circumstances outweighed Miss Liddle's limited expectation of privacy.

Ofcom considered that there was no unwarranted infringement of Miss Liddle's privacy in connection with the obtaining of material included in the programme as broadcast.

- e) We next examined Miss Liddle's complaint that her privacy had been unwarrantably infringed in the programme as broadcast because she was doorstepped by the programme makers for no reason and it was not warranted.

In considering this head of complaint, Ofcom had regard to Practice 8.6 which

states that, if the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. Ofcom also took into consideration Practice 8.11 (see head c) above).

We first examined the extent to which Miss Liddle may have had a legitimate expectation of privacy in relation to the broadcast of footage of her in the programme.

As set out in the “Introduction and programme summary” section above, Ofcom noted that the programme included footage of Miss Liddle while she was parked up in her car outside a tack shop. The footage showed Miss Liddle sat in the driver’s seat of the car while she was on her phone. When Miss Liddle saw the cameras, she immediately went to cover her face with her hands. Footage of Miss Liddle sat in her car and on her phone continued to be shown while Mr Cuthill read out Miss Liddle’s responses to their allegations.

As noted above, we considered that a person may have a legitimate expectation of privacy in connection with the filming and subsequent broadcast of footage of them in circumstances where they would not ordinarily expect to be filmed i.e. going about their day-to-day affairs. In these particular circumstances, we noted that images of Miss Liddle’s vehicle were broadcast in the programme. However, any registration plate of the vehicle included in this footage was obscured. The footage broadcast showed Miss Liddle sat in her car.

However, the footage of Miss Liddle was of her going about her day-to-day business in a public place and we considered that the footage did not disclose anything that could be regarded as being particularly private or personal to Miss Liddle. We noted Miss Liddle’s assertion regarding her personal safety, however, we noted that Miss Liddle had not provided the programme makers with any real evidence on which she had based her concerns.

Therefore, in light of the factors, we considered that Miss Liddle had a legitimate expectation of privacy in relation to the broadcast of footage of her being doorstepped in the programme. However, in these circumstances, her legitimate expectation of privacy was limited by the fact that she was filmed in a public place.

Having concluded that Miss Liddle had a limited legitimate expectation of privacy in the footage of her broadcast in the programme, we next considered whether the programme makers had secured her consent to include this material. As noted above, the unedited footage showed that Miss Liddle did not consent to the filming of this footage and, in its response to the complaint, the BBC did not indicate that the programme makers subsequently obtained consent from Miss Liddle to broadcast this material. Therefore, we considered that Miss Liddle had not consented to the broadcast of this footage and so Ofcom went on to consider whether the intrusion into Miss Liddle’s privacy was warranted.

As noted in head d) above, we considered that the filming of Miss Liddle constituted an incident of doorstepping. We also considered that given the serious nature of the claims made about Miss Liddle and DDR, and that she had repeatedly failed to provide a substantive response to those claims, there was a genuine public interest in broadcasting the footage of Mr Cuthill attempting to confront Miss Liddle to try to obtain a response to the claims made in the programme. We also considered that by filming and subsequently broadcasting

footage of Miss Liddle in the programme, it allowed viewers to make their own judgement as to Miss Liddle's willingness to respond to the allegations.

Therefore, on balance and taking all the factors set out above into account, we considered that the broadcaster's right to freedom of expression, and the audience's right to receive this information, outweighed Miss Liddle's limited legitimate expectation of privacy in circumstances where there was a public interest in broadcasting the footage of the programme makers' attempts to get a substantive response from Miss Liddle to the serious claims being made about her and DDR.

Ofcom has not upheld Miss Liddle's complaint made on behalf of herself and DDR of unjust or unfair treatment and of unwarranted infringement of privacy in connection with the obtaining of the material in the programme and in the programme as broadcast.

Not Upheld

Complaint by Miss Julia Liddle and Dorset Dog Rescue

The Steve Allen Breakfast Show, LBC 97.3FM, 13 January 2015

Summary

Ofcom has not upheld the complaint made by Miss Julia Liddle and Dorset Dog Rescue (“DDR”) of unjust or unfair treatment in the programme as broadcast.

The programme featured a discussion about the regional BBC 1 programme, *Inside Out South*¹, broadcast the previous evening which featured an investigation into the manner in which DDR imported homeless and stray dogs from the Republic of Ireland and found them new homes in the UK. The programme’s presenter, Mr Steve Allen, made various comments about Miss Liddle and DDR.

Ofcom found that:

- The broadcaster took reasonable steps to satisfy itself that the programme did not present, disregard or omit material facts in relation to Miss Liddle and DDR in a way that resulted in unfairness to them.
- The presenter’s comments in the programme did not amount to significant allegations about Miss Liddle and DDR that required the broadcaster to have offered Miss Liddle and DDR an appropriate and timely opportunity to respond to them.

Introduction and programme summary

LBC is a local speech based commercial radio service broadcasting across Greater London.

On 13 January 2015, LBC broadcast an edition of *The Steve Allen Breakfast Show*, a news, political debate and discussion show presented by Mr Steve Allen. The programme included a discussion about *Inside Out South*, which was broadcast the previous evening (12 January 2015) on BBC 1 South. Mr Allen explained that he had been sent a retweet on Twitter about the programme which he said could be found on YouTube. Mr Allen then said:

“It’s an investigation into the Dorset Dog Rescue company. Make a mental note of that company name. You don’t want to go anywhere near them with a bargepole. It turns out the woman who runs it [i.e. Miss Liddle], and she’s been running it for about eight years, and they’ve just managed to get themselves declared a charity, although it’s beginning to sound like a business.

It’s been under investigation by the BBC’s Inside Out programme where dogs come in from rescue centres in Ireland, in Ireland. They arrive in this country with no paperwork. They take them to Chieveley. This is just outside Newbury and there they are transferred from white van to white van, you know what sort of people these are, you can see straightaway if they are driving a white van you

¹ The complainant also complained about this programme, however, Ofcom did not find that the BBC programme was unfair to either Miss Liddle or DDR (see page 58).

know what they are and then the Dorset Dog Rescue company, who are supposed to be passing them on and helping, they put them up for sale. She's running a business down there.

And so, of course they confront, which they used to do years ago when they had these great exposure programmes, with the cameras and there she is, the fat, bloated old bag who runs it and, to be honest, do these dogs have passports? Why you selling them? Why you doing this? Well, they can't get them out quick enough. They're running a rather crooked old business.

So, just remember, you know, check it out on YouTube. Just type in Dorset Dog Rescue. You'll find it. You'll find it quite easily and you'll sit there and watch in horror. If you're a dog lover, well, anyway, whilst they were filming somebody came in with a white van and got the dogs out of the sheds that they were being kept in and spirited them away. So you know what sort of people you are dealing with. You're dealing with crooks. Ok. Don't go anywhere near these sort of places. If you want a dog, check them out, check them out. What she's doing is getting rescue dogs and selling them and putting them up on the internet. She looked like that sort of person, I mean, it's a business, she's running a business, she's not running any sort of dog rescue place, they're coming in from Ireland. Some of them, some of the dogs are so ill that people have had to have them put down. That's how bad it is, that's how bad it is.

So Dorset Dog Rescue you get zero marks out of ten this morning. We don't like people like you at all. Absolutely dreadful".

There were no further comments made about Miss Liddle (who was not named) or DDR in the programme.

Summary of the complaint and the broadcaster's response

The complaint

- a) Miss Liddle complained that both she and DDR were treated unjustly or unfairly in the programme as broadcast because material facts were presented, disregarded or omitted in the programme in a way that was unfair to Miss Liddle and DDR. In particular, she complained that:
 - i) The presenter implied that all the dogs arrived at DDR without paperwork, which was not stated in the *Inside Out South* programme.
 - ii) The presenter referred to DDR as a "*crooked old business*" and that the people running it [i.e. Miss Liddle and DDR] were "*crooks*". This allegation was not made in the *Inside Out South* programme.
 - iii) The programme made a "definitive and repeated assertion" that Miss Liddle was running a business, rather than a charity, and that dogs were being sold.
- b) Miss Liddle and DDR were not given an appropriate opportunity to respond to the allegations at head a) made in the programme as broadcast.

LBC's response

LBC said that the programme's presenter, Mr Allen was an established presenter on LBC, known for having strong and often provocative opinions. LBC stated that during the programme, the presenter referred to a retweet he had picked up regarding the BBC's *Inside Out South* investigation of DDR. The broadcaster said it was clear from the outset Mr Allen had based his opinion on the programme he had viewed via YouTube and he did not have any particular knowledge on the subject beyond the evidence presented in the BBC investigation. LBC added that the BBC programme had included testimonials from a range of sources citing suspicious and harmful activity that appeared to be linked to the rescue centre and the presenter's intention was to notify listeners of the potential issue as a matter of public interest, such that they would be alerted to "check it out" before proceeding with rehoming a dog from DDR. LBC said Mr Allen actively encouraged listeners to watch the BBC programme and gave full instructions as to how to do so on YouTube: *"just type in Dorset Dog Rescue"*. LBC added that the documentary was available to view on YouTube at the time of broadcast and remains so to date.

LBC said, when considered in the above context, it was clear that listeners would not have received the statements as direct and substantiated allegations, as when broadcast in the original programme, but as brief comments and an incitement to seek further information on the subject. In any case, as detailed below, the comments mirrored allegations in the BBC programme and would therefore not have affected listeners' perception of the parties beyond this.

LBC then went on to address the specific heads of complaint.

- a) i) LBC said there was no implication from what was said in the programme that "all" the dogs had arrived at DDR without paperwork. It said that only the following brief statements referred to this:

"Dogs come in from rescue centres in Ireland, in Ireland. They arrive in this country with no paperwork";

and,

"...and, to be honest, do these dogs have passports?"

LBC said the presenter's comments merely implied that at least some of the dogs arrive with no paperwork, which mirrors the allegation made in the documentary that "between 40 and 80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires".

- a) ii) LBC said that the term "crook" does not necessarily refer to a person who has committed a crime. The broadcaster said Mr Allen used this term in his characteristic scathing style to refer to the concerning activity alleged in the documentary which included:
- "We've learned that between 40 and 80 dogs a month have been illegally imported by Dorset Dog Rescue without the completed health checks and passports the law requires";

- “Sold on at up to £200 a dog, I want to know if what Dorset Dog Rescue is doing really is a charity or a business”. This was followed by an assertion by Lady Kilbracken that it was a “moneymaking business”;
- That DDR shares the Irish transport with individuals linked to illegal puppy dealing;
- The activity all takes place out of public view in car parks;
- How the investigation heard that heavily pregnant bitches, and dogs with contagious stomach bugs and kennel cough, had been transported;
- One dog from the rescue centre turned out to have mange and cardiac failures, and subsequently had to be put down;
- The rescue centre failed to respond in a timely manner to an owner whose dog had become seriously ill shortly after being adopted and it had to be put down;
- Puppies that had been sent down to a home in Ireland appeared on the internet for sale from DDR a few days later;
- Some rescue centres in Ireland that supply DDR have been found to not be rehoming dogs locally;
- A former fosterer for DDR claimed to have given up because she was worried about the conditions and sheer quantities of dogs coming in;
- The same former fosterer also claimed to have seen some of the puppies that arrived so ill that they were immediately sent to the vets;
- She also claimed to have been charged with checking the homes of potential fosterers and adopters and, having flagged some as unsuitable, had found puppies had been sent there regardless;
- Miss Liddle had initially denied importing any dogs without passports but later appealed on Facebook for donations to passport dogs; and,
- A van driver for Miss Liddle refused to answer questions about the puppies in his van when confronted.

LBC said it was alleged in the BBC programme that dogs were being illegally imported without the correct paperwork and that it understood that there was an ongoing police investigation. However, regardless of this, LBC said whether there were any criminal convictions as a consequence, there was a body of evidence that suggested DDR was not following correct practice and LBC considered this was problematic for a charity that should be primarily concerned with the welfare of dogs.

a) iii) LBC said that Mr Allen made the following comments:

“...they’ve just managed to get themselves declared a charity, although it’s beginning to sound like a business”;

“...the Dorset Dog Rescue company, who are supposed to be passing them on and helping, they put them up for sale. She’s running a business down there”;

“What she’s doing is getting rescue dogs and selling them on the internet. She looked like that sort of person. I mean, it’s a business, she’s running a business”;

and,

“They’re running a rather crooked old business”.

LBC said that these comments were intended to reflect the allegations made in the programme, which included a first-hand account of dogs that had been believed to be sent to a rescue home in Ireland appearing on the internet for sale on DDR’s page.

LBC added that several sources in the *Inside Out South* programme also directly referred to it as a business. For example, Lady Kilbracken stated: “It’s a business. It’s a huge moneymaking business. If you think about it, if Dorset Dog Rescue are taking 40 dogs in crates and they are selling those dogs for £200 each, on average that equals £8000, that’s a big business”.

LBC said Mr Allen did not go into any particular detail on this point and did not directly refer to it as a moneymaking enterprise or imply that the money was going anywhere other than back into the running of the dog rescue centre. LBC added that listeners could only have got a full sense of the allegations had they watched the original BBC programme.

- b) LBC said that Mr Allen was unable to reflect Miss Liddle’s view as she had been given the opportunity by the BBC to comment on passports, whether it was a business or a rescue centre, the speed of rehoming and the number of dogs being imported in the BBC programme, but had refused to do so.

LBC added that any comments or allegations made by Mr Allen did not go beyond those made in the original programme. There was therefore no need to seek Miss Liddle’s response on these points.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint of unjust or unfair treatment in the programme as broadcast should not be upheld.

Both parties were given the opportunity to make representations on the Preliminary View. Miss Liddle’s legal representative submitted representations on behalf of Miss Liddle and DDR and we have summarised those which were relevant to the Preliminary View below. LBC chose not to make any representations on the Preliminary View.

In summary, Miss Liddle’s legal representative said in response to *head a)* of the Preliminary View that the presenter’s comments made in the programme were not qualified as being his own opinion. She added that his position as a presenter on the radio (with a significant number of listeners) would have given the programme (*Inside Out*) further endorsement and credibility.

In response specifically to heads a) i) and iii) Miss Liddle's representative said that in making his comments, the presenter relied on whether the BBC had taken reasonable care to satisfy itself that material facts had been presented, disregarded or omitted in a way which was unfair to the individual or organisations, which Ms Layland claimed the BBC investigation itself had failed to do. Therefore, Miss Liddle's representative said the presenter of the LBC programme would also be responsible for failing to take reasonable care.

In response specifically to *head a)ii)* Miss Liddle's representative said that the *Inside Out* programme alleged that DDR dogs did not have passports and were being sold. However, Miss Liddle's representative said that there was no evidence provided by the contributors to the BBC programme to justify an allegation that dogs were being sold. Miss Liddle's representative added that whether it was a business or not or whether the dogs travelled without passports did not make Miss Liddle or DDR "crooks per se".

Miss Liddle's representative also said that *Inside Out* did not describe DDR or Miss Liddle as "crooks" or running "a crooked old business" but that the LBC presenter "expanded and took the allegations a stage further without any evidence or facts to support the allegation. Miss Liddle's representative said that in the context of the sentence in which it was used in the programme, the ordinary definition means a person who is dishonest or a criminal (as defined by the Oxford English Dictionary). Therefore, Miss Liddle's representative said, the position of the presenter would mean that it was more likely for listeners to think that this was not just his personal view, particularly because his statements were not qualified as being his personal view and the case made out by the BBC investigation did not support the allegation that Miss Liddle and DDR were crooks.

In response to head b) of the Preliminary View, Miss Liddle's representative said that the statements made in the programme went beyond those in the BBC *Inside Out* programme and therefore Miss Liddle should have been given an opportunity to respond to the allegations prior to the broadcast of the programme.

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 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 this decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and both parties' written submissions. Ofcom also took into account the relevant representations made by Miss Liddle Liddle's legal representative and DDR in response to the Preliminary View on this complaint, however, as explained further below, we concluded that the representations did not materially affect the outcome of Ofcom's decision to not uphold the complaint.

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 or organisations, as set out in Rule 7.1 of the Code. Ofcom had regard to this Rule when reaching its decision.

- a) We first assessed Miss Liddle's complaint that both she and DDR were treated unjustly or unfairly in the programme as broadcast because material facts were presented, disregarded or omitted in the programme in a way that was unfair to Miss Liddle and DDR.

In considering this part of the complaint, Ofcom had regard to Practice 7.9 of the Code. This provides that 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 the individual or organisation.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they are made.

In relation to all the examples cited by Miss Liddle as resulting in unfairness to her and DDR, it is important to clarify that it is not Ofcom's role to establish whether or not the substance of the comments made by the programme's presenter were factually correct, but to determine whether or not, in broadcasting the comments, the broadcaster complied with the Code in avoiding unjust or unfair treatment of individuals or organisations. In doing so, we considered the context in which the comments made by the presenter were broadcast and whether the programme's presentation of these comments resulted in unfairness to Miss Liddle and DDR.

- i) We first considered her complaint that the presenter implied that all the dogs arrived at DDR without paperwork, which was not stated in the *Inside Out South* programme.

As set out in the "Introduction and programme summary" section above, in the context of a discussion about the BBC *Inside Out South* investigation into DDR and Miss Liddle, the programme's presenter said that the investigation showed that: "*Dogs come in from rescue centres in Ireland, in Ireland. They arrive in this country with no paperwork*".

We noted the presenter's comment and observed that he did not qualify his remark, for example, by stating that he understood it may have only been some dogs which were transported by DDR with no paperwork. In our view the presenter's comment was ambiguous as to whether he meant some or all dogs. We considered that the presenter was expressing his view of the BBC programme which alleged that some dogs had been imported without correct paperwork. Therefore whether he meant some or all dogs is immaterial to the point that proper practices were not being followed and the comments did not create unfairness to Miss Liddle or DDR.

We took into account representations made on behalf of Miss Liddle and DDR on Ofcom's Preliminary View, however, we considered that listeners would have understood that the programme's presenter was expressing his own opinions of the BBC investigation, without the need for this to be expressly

stated, and in our view it was clearly signposted to listeners that his views were based on having watched the BBC programme on YouTube and not on any further research he had carried out. In this context, we therefore considered that the presenter represented the investigation as he understood it and it was unlikely that his comment would have materially and adversely affected listeners' perceptions of DDR and Miss Liddle in a way that was unfair.

Therefore, taking all the factors into account, we did not consider that material facts were presented, disregarded or omitted in a way that resulted in unfairness to Miss Liddle and DDR.

- ii) We assessed Miss Liddle's complaint that the presenter referred to DDR as a "crooked old business" and that the people running it [i.e. Miss Liddle and DDR] were "crooks". This allegation was not made in the *Inside Out South* programme.

We viewed the programme and noted that in the context of a discussion about the BBC *Inside Out South* investigation into DDR and Miss Liddle in relation to DDR transporting dogs without passports, the programme's presenter said that: "*They're running a rather crooked old business*". Later in the programme, he also said: "*You're dealing with crooks*".

We took into consideration Miss Liddle's representative's representations on behalf of Miss Liddle and DDR on Ofcom's Preliminary View and had regard to the fact that the BBC investigation did not state that DDR was a "*crooked old business*" nor that Miss Liddle was a "*crook*". However, we had regard to the specific context in which the presenter made his comments, in particular we noted that in the first instance, when he referred to DDR as a "*crooked old business*", the presenter had been discussing his understanding that the programme had found that DDR were selling dogs and had not been obtaining passports for dogs travelling from Ireland to the UK. We therefore considered that listeners would have understood that the presenter was expressing his view that Miss Liddle was not following proper practices, rather than that he was suggesting she was engaged in any sort of a criminal activity. In relation to the second instance, in which the presenter referred to Miss Liddle as a "*crook*", we again had regard to the specific context in which the presenter made his comments and considered that listeners would have understood his comment as his opinion on the programme he had seen and a continuation of his view that Miss Liddle was not following correct practices, rather than that she was a criminal.

Further, as noted above, we considered it was made clear to listeners that the presenter's opinions were based on having watched the BBC programme on YouTube and not on any further research he had carried out. We also noted that the programme itself had found that Miss Liddle had not been following correct practices and that this was problematic because as a dog rescue centre it should be concerned about the animal's welfare. In this context, we therefore considered that the presenter was representing his views on the investigation and we do not consider that his comments would have materially and adversely affected listeners' perceptions of DDR and Miss Liddle in a way that was unfair.

Therefore, taking all the factors into account, we did not consider that material facts were presented, disregarded or omitted in a way that resulted in unfairness to Miss Liddle and DDR.

- iii) Ofcom finally considered Miss Liddle's complaint that the programme made a "definitive and repeated assertion" that Miss Liddle was running a business, rather than a charity, and that dogs were being sold.

As set out in the "Introduction and programme summary" section above, in the context of a discussion about the BBC *Inside Out South* investigation into DDR and Miss Liddle, the programme's presenter said: *"they've [DDR] just managed to get themselves declared a charity, although it's beginning to sound like a business"; "She's [Miss Liddle] running a business down there" and, "I mean, it's a business, she's [Miss Liddle] running a business, she's not running any sort of dog rescue place".*

We had regard to representations made on behalf of Miss Liddle and DDR on Ofcom's Preliminary View and observed that the BBC investigation discussed whether or not Miss Liddle was running the charity as a business and the implications if that was so. We noted the presenter's comments and considered that based on these comments, listeners would have understood that the presenter's view was that Miss Liddle was running DDR as a business rather than as a charity. However, we did not consider the presenter's comments amounted to an unequivocal statement of fact about the findings of the BBC investigation. Instead, it was our view that listeners would have understood that the presenter was simply providing his own opinions, without the need for this to be expressly stated, on the BBC investigation, including his view that DDR was being run as a business. Further, as noted above, we considered it was made clear to listeners that the presenter's opinions were based on having watched the BBC programme on YouTube and not on any further research he had carried out. We therefore considered that the presenter represented his views on the investigation, which he was entitled to do, and it was unlikely that his comments would have materially and adversely affected listeners' perceptions of DDR and Miss Liddle in a way that was unfair.

Therefore, taking all the factors into account, we did not consider that material facts were presented, disregarded or omitted in a way that resulted in unfairness to Miss Liddle and DDR.

We also carefully assessed the parts of the programme relating to DDR and Miss Liddle as a whole, to reach a decision as to whether the programme in its entirety was unfair to the complainant. In particular, we considered whether the various examples taken together may have created a cumulative effect that portrayed DDR and Miss Liddle in a way that was unfair. In our view, it was clear that the presenter was concerned with the findings of the BBC investigation into DDR and Miss Liddle and, as a consequence, the presenter was highly critical of them. In this context, and during a discussion about the programme, we considered it was relevant for the presenter to provide his view of DDR and Miss Liddle. He also encouraged listeners to watch the programme for themselves and gave instructions on how to find the programme on YouTube. Therefore, after careful consideration and for all the reasons set out above, our view was that, when taken in its entirety, the way in which DDR and Miss Liddle were portrayed in the programme did not result in unfairness to them.

- b) Miss Liddle and DDR were not given an appropriate opportunity to respond to the allegations at head a) made in the programme as broadcast.

In considering this head of complaint, we took particular account of Practice 7.11 which states that, 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.

Again, we noted the comments made by the programme's presenter as set out in the "Introduction and Programme Summary" section above, and considered if they could reasonably be regarded as significant allegations that would require the broadcaster to provide Miss Liddle and DDR with an opportunity to respond.

In Ofcom's view, we considered that the statements made by the presenter about Miss Liddle and DDR in the context of this particular programme, were expressions of his own opinion and understanding of the investigation into DDR and Miss Liddle by the BBC rather than allegations. Further, we noted that the presenter's comments did not go beyond those which had already been made in the BBC programme and his comments were therefore unlikely to cause any additional adverse damage to Miss Liddle or DDR's reputation. Therefore, taking all the factors into account and given our conclusions at head a) of the "Decision" above, that the presenter's comments did not result in any unfairness to Miss Liddle and DDR, we considered that the provision of an opportunity to respond was not necessary to prevent unfairness to Miss Liddle and DDR. Given these factors, and in the circumstances of this particular case, we considered that it was not incumbent upon the broadcaster to have offered Miss Liddle and DDR with an appropriate and timely opportunity to respond to the presenter's comments in order to avoid unfairness to Miss Liddle and DDR.

Therefore, we considered that there was no unfairness to Miss Liddle and DDR in this respect.

Ofcom has not upheld Miss Liddle's complaint made on behalf of herself and DDR of unfair and unjust treatment in the programme as broadcast.

Not Upheld

Complaint by Ms Rajinder Sehmar made on behalf of Mr Bhajna Ram

Shri Guru Ravidass Ji Live, Venus TV, 15 March 2015

Summary

Ofcom has not upheld Mr Ram'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.

During the programme, a number of studio guests discussed religious and other matters relating to the Sikh community. In particular, they discussed the various uses to which Gurdwaras (Sikh temples) could be put by their management committees. The discussion included various comments about the work undertaken by the management committee of the Shri Guru Ravidass Sabha Gurdwara in Birmingham ("the Gurdwara") with which one of the studio guests, Mr Shadev, was involved. The programme included video footage, recorded at the Gurdwara, of a group of men many of whom seemed to be shouting or talking to each other. One of the men shown in this footage was Mr Ram. After the video was shown, the presenter and studio guests commented on the incident shown in the video.

Ofcom found that:

- The broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts, with regard to the incident that occurred at the Gurdwara in a way that resulted in unfairness to Mr Ram.
- It was not necessary for the broadcaster to have given Mr Ram an appropriate and timely opportunity to respond to the claims made in the programme about the incident in Gurdwara and therefore the fact that it did not do so did not result in unfairness to him.
- In the particular circumstances of this case, Mr Ram did not have a legitimate expectation of privacy with regard to either the recording of the footage at the Gurdwara in which he was included or the subsequent broadcast of part of this footage in the programme as broadcast. Therefore, his privacy was not unwarrantably infringed in these respects.

Introduction and programme summary

Venus TV is a general entertainment television channel for the Asian community. It broadcasts in English, Urdu, Hindi, Punjabi, Gujarati and Bengali. An English translation of the programme was obtained by Ofcom from an independent translation company and distributed to the complainant and broadcaster. Neither party objected to Ofcom using this translation for the purpose of investigating the complaint.

On 15 March 2015, Venus TV broadcast *Sri Guru Ravidass Live*, a programme in which the presenter, Mr Balbir, and a number of studio guests discussed religious and other matters relating to the Sikh community. In particular, they discussed the various uses to which Gurdwaras in general could be put and how Gurdwaras could

attract children to attend by, for example, holding music classes. The presenter said that if children were not attending Gurdwaras, this was because the management committees of the Gurdwaras were not planning properly. The discussion included various comments about the work undertaken by the management committee of the Gurdwara with which one of the studio guests, Mr Shadev, was involved.

Following this discussion, part of a video was shown. The video showed a group of men, apparently in a Gurdwara, many of whom seemed to be shouting or talking to each other. The translation provided to Ofcom stated that what was being said by the group of men, or individuals amongst them, could not be discerned given the noise. However, the “customary Sikh slogan *“Jo bolay so nihaal – sat sirry Akaal”* [“Glory to God – whoever says wins”]” could be heard. Mr Ram was one of the men shown in the video. He was shown from a distance and standing behind several other men for the majority of the time he appeared on screen. The video lasted approximately two and a half minutes.

Afterwards, the presenter said that the video showed “*a very tragic incident*” and that he was “*surprised to see that in the presence of the Guru Garanth (Sikh Holy book) people are behaving like this, turning their back on the holy book and shouting slogans; they stopped the Kirtan (recitation of Sikh scripture)*”. The presenter then asked Mr Shadev to explain the background to the video. Mr Shadev said:

“...this heart-breaking incident took place in our Guru’s House [Gurdwara] today. We speak for observance of respect and traditions in [the] Guru’s House and breaking this decorum is very sad. On the one hand, we say we highly respect the [holy] Guru Garanth and on the other hand, we see in this video clip what happened today. It was a sure violation of the Guru Garanth. One who says – if one says – you saw the faces” [inaudible].

The following exchange then took place between Mr Shadev and the presenter:

Presenter: *“I have heard that the chairman [of the committee which managed the Gurdwara] was saying, “We will talk to you after this function,” and, dear fellows in the Guru, it is so bad that a family was holding their function there, how much hurt they must have felt”.*

Mr Shadev: *“We had requested to them, whatever the issue, we would talk later because a girl from our community was celebrating her 21st birthday there. In her heart and mind, what would she think about the Guru’s House? She would think, “It was an important day of my life; I was celebrating my birthday”, and no one cared about this girl. We gave them time, [we said], “This function will end at 13:30 and then we will sit down with the committee and discuss all this issue.” But you saw that our priest was reciting the scripture and they came in between and stopped him. The tradition of kirtan was violated. What kind of humanity is this? What kind of respect is this for the Guru’s House? What kind of humans can heighten the issue of gianis (Sikh priests) above the [respect for] Holy Guru Garanth? Have our gianis become bigger [i.e. more important] than the Holy Guru Garanth?”*

The presenter went on to comment that “*these things should not happen in the Guru’s houses*” and that the people involved were all respected and well-known and that some had served as office bearers at the Gurdwara. The presenter and the studio guests also said that people had been clapping during the recitation of the

scripture and that this was very disrespectful. The programme also included contributions from viewers who called in to discuss the issues raised by the video.

Later in the programme, the presenter announced that the management committee of the Gurdwara in which the incident shown in the video had occurred had apologised to the family of the 21 year old woman whose birthday celebration was disrupted.

The discussion between the presenter, the studio guests and callers to the programme about the incident which occurred in the Gurdwara continued throughout the programme until its conclusion.

Mr Ram was not named in the programme and the footage of him was not shown again.

Summary of the complaint and the broadcaster's response

Unjust or unfair treatment

- a) Ms Sehmar complained on behalf of her father, Mr Ram, that he was treated unjustly or unfairly in the programme as broadcast because he was misrepresented and the interpretation given in the programme as to the events shown in the video was incorrect and one-sided. In particular, Ms Sehmar said that:
- The recitation of the scripture was not stopped as claimed in the programme. Ms Sehmar also said that Mr Ram had approached the committee members after the prayer had finished.
 - Throughout the programme mention was made about how a girl was celebrating her 21st birthday and Mr Ram, who was shown in the video, along with others, was alleged to have disrupted her religious prayer. This did not happen.
 - The programme's presenter said: *"I have had numerous calls from members of the community about their feeling towards this offensive behaviour by people who entered our Guru's House. You see how bad a message it gives, people had to phone"*. Again, this comment showed Mr Ram in a bad light. Ms Sehmar said that the programme had not told the truth and, as a result, a number of people from the community, who watched the programme, would have believed it.

By way of background, Ms Sehmar said that her father had gone to the Gurdwara to worship and, being passionate about his beliefs, felt that the committee should listen to members of the community rather than refusing to listen to them. She said that to then broadcast the events in "a biased form using such derogatory language and incorrect statements" severely affected Mr Ram and his standing in the community.

In response to this head of complaint, Venus TV said that the section of video recorded at the Gurdwara (and subsequently included in the programme) showed exactly what took place and thereby confirmed that the event at the Gurdwara was disrupted and that the recitation of the scripture stopped as a result of a disturbance caused by a group of men at the Gurdwara. Venus TV said that the

video showed the priest, who had until this point been reciting scripture, standing up and walking away from the microphone while the disturbance was going on. It also said that a letter sent to Venus TV by the President of the committee which managed the Gurdwara (a copy of which was provided to Ofcom) confirmed these events. In particular, the broadcaster noted that, in his letter, the President of the Gurdwara said:

- “a large group of people disrupted our religious programme by shouting, abusing, insulting, using derogatory language and physically [and] aggressively agitating within the main prayer hall, resulting in the religious hymns (Kirtan) being stopped and the programme [being] ruined”; and,
- “a special programme had been organised to celebrate a 21st birthday which was ruined and not completed as a direct result of this disturbance”.

The broadcaster also said that, in a letter of complaint sent to the Gurdwara and copied to Venus TV on 18 March 2015 (a copy of which was provided to Ofcom), the father of the woman who was celebrating her 21st birthday at the Gurdwara when the incident occurred said: “What occurred on that day completely ruined our family function and has left members of our family deeply upset, angry and traumatised, to such an extent that some of the refuse to attend the Bhawan [i.e. the Gurdwara] any further. On that day, complete and utter chaos erupted in the prayer hall when mischievous people halted the religious hymns that were taking place”.

Venus TV added that it had received six letters from individuals who were at the Gurdwara when the incident occurred (copies of which were provided to Ofcom) that confirmed that the presenter “accurately reflected the views of the members of the public who contacted him about this incident prior to the broadcast of the programme.

The broadcaster also said that Mr Ram was shown only as one of many men who were part of group that disrupted the programme of events at the Gurdwara and that at no point during the programme was he named or otherwise identified as an individual.

- b) Mr Ram was not given an opportunity to contribute to the programme or give his response to the claims made in the programme.

By way of background, Ms Sehmar said that as a result of the programme, Mr Ram was challenged by many members of the community about the broadcast and its incorrect interpretation of the events. The programme did not describe the events correctly and it undermined Mr Ram’s respect as a community member. People had asked him why he would be part of something that would stop a prayer, ruin a girl’s 21st birthday celebration and involve him turning his back on the holy book.

In response to this head of complaint, Venus TV said the programme did not single out or identify any particular individual who was involved in the disturbance and therefore, none of these individuals were “invited to take part in the show”.

The broadcaster did not accept that it was necessary for it to have offered Mr Ram an opportunity to respond to the comments made in the programme about the incident that occurred at the Gurdwara in order to have avoided unfairness to him. However, it said that “as a gesture of goodwill and without any prejudice” it

was prepared to broadcast an apology to Mr Ram for “not giving him an opportunity to contribute to the programme or [to] give his response to the claims made in the programme”.

Unwarranted infringement of privacy

- c) Ms Sehmar complained that Mr Ram’s privacy was unwarrantably infringed in connection with the obtaining of material included in the programme in that he was filmed at a private meeting without his knowledge or consent.
- d) Ms Sehmar also complained that Mr Ram’s privacy was unwarrantably infringed in the programme as broadcast in that footage of him at a private meeting was broadcast without his consent.

In response to both heads of the complaint of unwarranted infringement of privacy, Venus TV said that Mr Ram was not filmed at a private meeting but was, alongside many others, recorded by CCTV while in public place which had appropriate signage stating that filming was taking place.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Mr Ram’s complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View and their comments are summarised below.

Mr Ram’s representations

Ms Sehmar questioned the veracity of various aspects of the broadcaster’s response to the complaint and set out several elements of it with which she said her father disagreed. For example, she said that, in contrast to Venus TV’s claim that “the video showed the priest, who had until this point been reciting scripture, standing up and walking away from the microphone while the disturbance was going on”, her father considered that “the video showed the priest getting up [but] not that he got up as result of the disturbance”. Ms Sehmar added that no priest would stop reading the scripture unless another priest was present to take over because to do so “goes against the rules and protocols for the reading of the holy book”. Similarly, Ms Sehmar contested Venus TV’s assertion that a young woman’s 21st birthday celebration was disrupted and said that the group of men (which included her father) only approached the Committee after the prayer to celebrate the young woman’s birthday was concluded.

Ms Sehmar also said that Ofcom had “relied on witness statements that are not independent and represent[ed] the opinions of the Committee only”.

In addition, Ms Sehmar said that the Preliminary View was factually incorrect in that it stated that the programme had not claimed that Mr Ram had approached the Committee members until after the recitation of the scripture was finished. In this context, Ms Sehmar went on to observe that Preliminary View also noted that during the programme the presenter said that the video showed people at the Gurdwara who behaved in such a way that “*they stopped the Kirtan*”.

Venus TV’s representations

Venus TV said that the video clearly showed the priest getting up and walking away at approximately 12:30, and that this indicated that the planned programme, which

was due to end at around 15:00, had not been completed due to the disruption. The broadcaster also said that the events shown in the video occurred in a Ravidassia Gurdwara not a Sikh Gurdwara and therefore different traditions and proceeding were followed which meant that the priest could “get up and walk away at the first sign of trouble”. It added that the priest who appeared in the video had now confirmed that “he got up and walked away from the stage halfway through the hymns they were reciting as he didn’t want any trouble” (A copy of a letter from the priest to this effect was provided to Ofcom).

Venus TV also said that everyone at the Gurdwara on that day was “impartial” and that there was no way of ascertaining who supported the present Committee and who opposed it. In particular, it said that the father of the young lady who wrote a letter of complaint to the Gurdwara about the disruption of the prayers for her birthday was not connected to the Committee.

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 our Decision, we carefully considered all the relevant material provided by both parties. This included a recording and translated transcript, agreed by both parties, of the programme as broadcast and both parties’ written submissions and supporting documentation. Ofcom also took careful account of the representations made by the complainant and the broadcaster in response to being given the opportunity to comment on Ofcom’s Preliminary View on this complaint. After careful consideration of Ms Sehmar’s and Venus TV’s representations, we concluded that the points raised by both parties did not lead us to change the position we reached in our Preliminary View.

When considering complaints of 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 Ofcom’s Broadcasting Code (“the Code”). Ofcom had regard to this Rule when reaching its Decision on the individual heads of complaint detailed below.

Unjust or unfair treatment

- a) Ofcom first considered the complaint that Mr Ram was treated unjustly or unfairly in the programme as broadcast because he was misrepresented and the interpretation given in the programme as to the events shown in the video was incorrect and one-sided.

In considering this part of the complaint, Ofcom had regard to of Practice 7.9 of the Code which states that, 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 the individual or organisation.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they are made.

In the complaint, Ms Sehmar said that the claims in the programme that recitation of the scripture was stopped and the 21st birthday celebrations disrupted were wrong and thereby showed Mr Ram in a bad light. It is important to clarify at the outset that it is not for Ofcom to investigate and adjudicate on whether information broadcast or omitted is factually correct or not. Rather, our role is to decide whether the inclusion or omission of the information amounted to unjust or unfair treatment of an individual or organisation.

As set out in the “Introduction and programme summary” section above, taking the video footage and subsequent comments together, it is clear that the programme claimed that a group of men who attended a Gurdwara caused a disturbance that resulted in the priest’s recitation of the scripture being stopped and the disruption of the family celebration of a 21st birthday both of which were going on at the same time.

The presenter did not specifically state where or when the incident occurred. However, we considered that, from the title of the programme and comments made throughout it, viewers would have understood that the incident occurred at the Shri Guru Ravidass Sabha Gurdwara in Birmingham on the day of the broadcast (15 March 2015).

We noted that the video of the incident included in the programme showed a large number of men who were attending the Gurdwara, standing together in groups. It appeared that at least some of these men were creating a significant amount of noise by shouting. In our opinion, the level of noise was such that any other activity taking place in the same space would have been unavoidably disturbed. We observed that around one minute into the video, the priest, whom we understood had been reciting the scripture until this point, got up and walked away from the dais on which he had been sitting in front of a microphone. No footage of the 21st birthday celebrations was shown. We also observed that, from comments he made during the programme, it appeared that, Mr Shadev (one of the guests in the studio) had witnessed these events first-hand in his role as a member the management committee of the Gurdwara.

Ofcom took into account Ms Sehmar’s comments, made in response to the Preliminary View. In particular, her comments that her father considered that the “the video showed the priest getting up [but] not that he got up as result of the disturbance” and that the 21st birthday celebrations had not been disturbed. Notwithstanding these representations, however,, we noted that, as part of its response to the complaint, the broadcaster provided Ofcom with a letter from the President of the committee which managed the Gurdwara. This letter was not sent to the broadcaster until some months after the programme was broadcast, and therefore could not be regarded as part of the basis for the claims made in the programme. However, it stated that the programme of events at the Gurdwara on the day (including the reading of the scripture and the celebration of a 21st birthday) had been disturbed by the presence of a “a large group of people...shouting, abusing, insulting, using derogatory language and physically

[and] aggressively agitating within the main prayer hall". In addition, we noted that, in response to the Preliminary View, the broadcaster provided Ofcom with a copy of a letter from the priest who appeared in the video in which he said "I was on the stage reciting hymns with my colleagues, we were not half-way through our recital when a group of men rushed towards the stage and tried to grab our microphones. I wanted no trouble so I got up and left the stage". We also noted that the broadcaster provided Ofcom with a copy of a letter of complaint sent to the Gurdwara by the father of the woman who had celebrated her 21st birthday at the Gurdwara. However, this too was not available to the programme makers at the time of the broadcast.

In relation to the third element of this head of complaint, we observed that after the video was shown another member of the Gurdwara's management committee, Ms Kamala, who had joined the other guests in the studio, said:

"I am devastated about what happened today. It has never happened before. And since then I have had numerous calls from members of the community about their feeling towards this offensive behaviour by people who entered our Guru's House".

Immediately afterwards, the presenter said: "You see how bad a message it gives; people had to phone?", before turning to Mr Shadev to ask what he would do to "control" the situation.

In Ofcom's opinion, viewers would have understood that these particular comments, (as well the other comments made about the incident at the Gurdwara by the presenter, the other studio guests and the people who called the programme after the video was shown) reflected the understanding and opinions of the individuals who made them and their own experience of these events where applicable.

In light of all the observations set out above, we considered that, on the basis of the video footage of the incident and the first-hand testimony of two people who had been present at the Gurdwara when the incident occurred, namely Mr Shadev and Ms Kamala, it was reasonable for the programme to have included the claims that the recitation of the scripture at the Gurdwara was stopped and the 21st birthday celebrations disrupted.

Turning to Mr Ram in particular and the manner in which he was presented in the programme, we observed that although Mr Ram was visible during part of the video, he was seen from a distance and rather than being the focus of the footage in which he was shown he was one of large group of other men. He was shown facing towards the camera on a number of occasions (for a cumulative total of approximately 35 seconds). However, the images of his face were not clear and it was difficult to discern his features. During this footage, Mr Ram was shown either standing surrounded by other men or walking across the room and then turning around and walking back again. At one point he appeared to try to speak to some of the men near him and at another he raised his right arm when a number of other men near him did the same. None of Mr Ram's words, or those of any of the other individuals shown in this video, were audible. We also observed that, Mr Ram was not named, referred to or otherwise identified during the programme.

We noted that in the complaint, Ms Sehmar said that Mr Ram had not approached the committee members until after the recitation of the scripture was

finished. However, we also noted that no claim to the contrary (i.e. that Mr Ram specifically had approached the committee members before the recitation of the scripture had been brought to a halt) was made during the programme. Moreover, we observed that during the programme, Mr Ram, as an individual, was not shown either instigating or even taking a notably active role in the incident which we understood to have disturbed the programme of events at the Gurdwara. In addition, we observed that not only was Mr Ram not named or otherwise identified in the programme, but also, the programme did not state or imply that Mr Ram specifically had caused the recitation of the scripture to be stopped or the disturbance of the 21st birthday celebrations.

We also considered that, to the extent that any viewers might have connected the comments made about the incident in the programme to Mr Ram (should they have been able to identify him) they would have been able to draw their own conclusions about his involvement in that incident on the basis of footage of him shown in the programme.

Taking into account all the factors set out above, and, in particular, that Mr Ram was not the focus of the footage in which he appeared and was neither named nor otherwise referred to in the programme; that he, as an individual, was not the subject of the comments made about the incident that occurred at the Gurdwara; and, that viewers would have been able to draw their own conclusions about the actions of the individuals shown in the video footage, including Mr Ram, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts with regard to the incident that occurred at the Gurdwara in a way that resulted in unfairness to Mr Ram.

Therefore, Ofcom considered that Mr Ram was not treated unfairly in this respect.

- b) Ofcom then considered the complaint that Mr Ram was treated unjustly or unfairly in the programme as broadcast because he was not given an opportunity to contribute to the programme or give his response to the claims made in the programme.

In considering this head of complaint, Ofcom took particular account of Practice 7.11 which states that, 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.

As noted above, the programme claimed that a group of men who attended a Gurdwara caused a disturbance that resulted in the priest's recitation of the scripture being stopped and the disruption of the family celebration of a 21st birthday both of which were going on at the same time. However, as set out in our consideration of head a) above, in Ofcom's opinion, the programme did not state or imply that Mr Ram specifically had caused the recitation of the scripture to be stopped or the disturbance of the birthday celebrations and, in any case, viewers would have been able to have drawn their own conclusions about Mr Ram's actions, and the extent, if any, to which he was involved in the incident, on the basis of the video footage shown in the programme.

On this basis, we did not consider that the programme included a serious allegation of wrongdoing on the part of Mr Ram to which it was necessary for the

broadcaster to have given Mr Ram an appropriate and timely opportunity to respond in order to have avoided unfairness to him.

Given this, we considered that the fact that the broadcaster did not give Mr Ram such an opportunity did not result in unfairness to him in the programme as broadcast.

Unwarranted infringement of privacy

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. 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 of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

- c) Ofcom considered the complaint that Mr Ram's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because he was filmed at a private meeting without his knowledge or consent.

In assessing this head of the complaint, 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 consent or be otherwise warranted. Ofcom also had regard to Practice 8.9 which states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

In considering whether or not Mr Ram's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme, Ofcom first considered the extent to which he had a legitimate expectation of privacy, in the circumstances, with regard to the obtaining of the relevant footage.

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. Ofcom therefore approaches each case on its facts. In particular, as stated in the Code, there may be circumstances where people can reasonably expect privacy even in a public place. Some activities and conditions may be of such a private nature that filming or recording, even in a public place, could involve an infringement of privacy.

We recognised that a person may have a legitimate expectation of privacy in connection with the filming of footage of them in a place of worship and we noted that Ms Sehmar said that Mr Ram was filmed at a private meeting without his knowledge or consent. However, on the information provided, we observed that:

- Mr Ram was filmed by CCTV while he attended the Gurdwara, which filming took place at the behest of the committee managing the Gurdwara and that there were notices/signage informing visitors entering the building that CCTV recording is taking place;

- The Gurdwara, including the prayer hall from which the CCTV recording came, is a public, not private, place;
- Mr Ram did not appear to be filmed at a private meeting, but instead standing and walking in the prayer hall of the Gurdwara during what we understood to be the main programme of events for the day; and,
- Mr Ram did not appear to be filmed while doing anything that could be regarded as particularly private or sensitive or that any potentially private or sensitive information about him was captured during the filming.

Ofcom also considered whether the means of obtaining the footage was proportionate in all the circumstances and, in particular, to the subject matter of the programme. We again observed that, as noted above, the footage was recorded by CCTV, signs informing visitors to the Gurdwara about the filming were displayed and the filming occurred in a place to which the public had access. We also noted that the footage recorded did not focus on Mr Ram, but rather captured what was happening around the prayer hall. Given these factors, we considered that, in accordance with Practice 8.9 of the Code, the means of obtaining the relevant footage was proportionate.

Taking all of these factors into account, we considered that in the particular circumstances of this case, Mr Ram did not have a legitimate expectation of privacy in relation to the filming of footage in which he was included at the Gurdwara. Given this conclusion, it was not necessary for Ofcom to consider whether or not Mr Ram had consented to the filming, nor, if we concluded that he had not, whether any intrusion into his privacy in this regard was warranted.

Therefore, Ofcom considered that Mr Ram's privacy was not unwarrantably infringed in connection with the obtaining of material included in the programme.

- d) Ofcom went on to consider the complaint that Mr Ram's privacy was unwarrantably infringed in the programme as broadcast because footage of him at a private meeting was included without his consent.

In considering this head of complaint, 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. Ofcom also had regard to Practice 8.4 which states that "[b]roadcasters should ensure that words, images or actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual or organisation concerned, unless broadcasting without their consent is warranted"; and 8.10 which states that "[b]roadcasters should ensure that the re-use of material, i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create an unwarranted infringement of privacy. This applies both to material obtained from others and the broadcaster's own material".

Ofcom first considered the extent to which Mr Ram had a legitimate expectation of privacy, in the circumstances, with regard to the inclusion of the CCTV footage of him in the programme as broadcast. As stated above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective, fact

sensitive and must always be judged in light of the circumstances in which the individual finds him or herself.

As set out above, we noted that:

- The Gurdwara, including the prayer hall from which the CCTV recording came, is a public, not private, place;
- Mr Ram did not appear to be filmed at a private meeting, but instead standing and walking in the prayer hall of the Gurdwara during what we understood to be the main programme of events for the day;
- The footage did not show Mr Ram doing anything that could be regarded as particularly private or sensitive or which revealed any potentially private or sensitive information about him; and,
- in the footage, Mr Ram was occasionally visible as one of a large group of other men. He was shown facing the camera for a cumulative total of approximately 35 seconds. When visible, Mr Ram's face appeared unclearly and his features were difficult to discern. He was neither named, nor otherwise identified in the programme.

Taking all of the factors set out above into account, it was our view that, in the particular circumstances, Mr Ram did not have a legitimate expectation of privacy in regard to the broadcast of the footage in which he was shown at the Gurdwara in the programme. Consequently, it was not necessary for Ofcom to go on to consider whether or not Mr Ram had consented to the broadcast of this footage, nor, if we concluded that he had not, whether any infringement of Mr Ram's privacy was warranted.

Therefore, Ofcom considered that Mr Ram's privacy was not unwarrantably infringed in the programme as broadcast.

Ofcom has not upheld Mr Ram's complaint of unjust or unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material in and in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 18 and 31 January 2016 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

Investigations conducted under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date	Categories
The World's Most Expensive Foods	Channel 4	26/11/2015	Advertising/editorial distinction
Advertisements	Venus TV	05/12/2015	Advertising minutage
Good Morning Britain	ITV	08/12/2015	Due accuracy
Love/Hate (trailer)	Spike	15/11/2015	Scheduling

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 18 and 31 January 2016 because they did not raise issues warranting investigation.

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
UK Hot List Top 40	4Music	23/01/2016	Outside of remit / other	1
Gogglebox 2015	4Seven	10/01/2016	Generally accepted standards	1
Talkback Show	97.5 Kemet FM	10/01/2016	Race discrimination/offence	1
Adult Blue	Adult Blue (Freeview 176)	07/01/2016	Participation TV - Protection of under 18s	1
New Tricks	Alibi	04/01/2016	Advertising scheduling	1
Babestation	Babestation	Various	Sexual material	1
BBC News at Ten	BBC 1	25/01/2016	Generally accepted standards	1
Breakfast	BBC 1	25/01/2016	Gender discrimination/offence	1
Countryfile	BBC 1	17/01/2016	Generally accepted standards	1
Death in Paradise	BBC 1	14/01/2016	Drugs, smoking, solvents or alcohol	1
Dickensian	BBC 1	06/01/2016	Nudity	1
Dickensian	BBC 1	13/01/2016	Animal welfare	1
EastEnders	BBC 1	12/01/2016	Generally accepted standards	1
EastEnders	BBC 1	14/01/2016	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 1	14/01/2016	Generally accepted standards	1
EastEnders	BBC 1	15/01/2016	Generally accepted standards	1
EastEnders	BBC 1	15/01/2016	Violence and dangerous behaviour	1
EastEnders	BBC 1	21/01/2016	Materially misleading	1
Fake Britain	BBC 1	15/01/2016	Transgender discrimination/offence	1
Father Brown	BBC 1	11/01/2016	Outside of remit / other	1
Father Brown	BBC 1	21/01/2016	Animal welfare	1
Father Brown	BBC 1	26/01/2016	Scheduling	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Film 2016	BBC 1	27/01/2016	Religious/Beliefs discrimination/offence	1
Match of the Day	BBC 1	13/01/2016	Generally accepted standards	3
News Update	BBC 1	19/01/2016	Generally accepted standards	1
Question Time	BBC 1	14/01/2016	Outside of remit / other	1
Reggie Yates' Extreme UK	BBC 1	12/01/2016	Gender discrimination/offence	1
Sherlock	BBC 1	01/01/2016	Gender discrimination/offence	1
Silent Witness	BBC 1	12/01/2016	Generally accepted standards	8
Silent Witness	BBC 1	19/01/2016	Generally accepted standards	1
The Big Questions	BBC 1	17/01/2016	Generally accepted standards	1
The Great Sport Relief Bake Off	BBC 1	27/01/2016	Outside of remit / other	1
The Voice UK	BBC 1	09/01/2016	Offensive language	1
The Voice UK	BBC 1	09/01/2016	Outside of remit / other	5
The Voice UK	BBC 1	09/01/2016	Religious/Beliefs discrimination/offence	1
The Voice UK	BBC 1	16/01/2016	Religious/Beliefs discrimination/offence	1
The Voice UK	BBC 1	16/01/2016	Scheduling	2
The Voice UK	BBC 1	23/01/2016	Outside of remit / other	1
Wanted Down Under	BBC 1	25/01/2016	Outside of remit / other	1
South East Today	BBC 1 South East	26/01/2016	Violence and dangerous behaviour	1
Charlie Brooker's End of Year Review 2015	BBC 2	30/12/2015	Generally accepted standards	1
Victorian Bakers	BBC 2	23/01/2016	Scheduling	1
Wanted Down Under	BBC 2	17/01/2016	Generally accepted standards	1
Winterwatch	BBC 2	26/01/2016	Scheduling	5
Don't Tell the Bride	BBC 3	11/01/2016	Offensive language	1
EastEnders	BBC 3	12/01/2016	Information/warnings	1
BBC News	BBC News Channel	16/01/2016	Outside of remit / other	1
BBC News	BBC News Channel	18/01/2016	Religious/Beliefs discrimination/offence	1
House of Commons	BBC Parliament	27/01/2016	Race discrimination/offence	1
Jeremy Vine	BBC Radio 2	22/01/2016	Generally accepted standards	1
I'm Sorry I Haven't a Clue	BBC Radio 4	03/01/2016	Generally accepted standards	1
Test Match Special	BBC Radio 4 (LW)	05/01/2016	Race discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Programming	BT Sport	06/01/2016	Outside of remit / other	1
Fletch and Sav	BT Sport 1	02/01/2016	Race discrimination/offence	1
Fletch and Sav	BT Sport 1	16/01/2016	Religious/Beliefs discrimination/offence	1
Live European Rugby Champions Cup	BT Sport Europe	17/01/2016	Offensive language	1
Steven Universe	Cartoon Network	Various	Sexual orientation discrimination/offence	1
Blue Peter	CBBC	10/01/2016	Generally accepted standards	1
Swashbuckle	CBeebies	24/01/2016	Race discrimination/offence	1
Robot Wars	Challenge	26/01/2016	Outside of remit / other	1
Bernard Matthews' sponsorship of The Simpsons	Channel 4	13/01/2016	Sponsorship credits	1
Bodysockers	Channel 4	27/01/2016	Generally accepted standards	1
Channel 4 News	Channel 4	06/01/2016	Due accuracy	1
Channel 4 News	Channel 4	07/01/2016	Generally accepted standards	1
Channel 4 News	Channel 4	14/01/2016	Transgender discrimination/offence	3
Channel 4 News	Channel 4	27/01/2016	Due impartiality/bias	1
Channel 4 Racing	Channel 4	11/12/2015	Promotion of products/services	1
Continuity Announcement	Channel 4	18/01/2016	Transgender discrimination/offence	1
Crashing	Channel 4	11/01/2016	Generally accepted standards	1
Crashing (trailer)	Channel 4	24/01/2016	Scheduling	1
Derren Brown: Pushed to the Edge	Channel 4	12/01/2016	Generally accepted standards	47
Hollyoaks	Channel 4	22/01/2016	Generally accepted standards	2
How to Lose Weight Well	Channel 4	11/01/2016	Generally accepted standards	1
Location, Location, Location	Channel 4	14/01/2016	Generally accepted standards	1
Mary Portas: Secret Shopper	Channel 4	27/01/2016	Offensive language	3
Specsavers' sponsorship of The Snowman and the Snow Dog	Channel 4	24/12/2015	Sponsorship credits	1
The Jihadis Next Door	Channel 4	19/01/2016	Crime	8
The Jihadis Next Door	Channel 4	19/01/2016	Religious/Beliefs discrimination/offence	1
The Jihadis Next Door	Channel 4	19/01/2016	Violence and dangerous behaviour	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Simpsons	Channel 4	12/01/2016	Race discrimination/offence	1
The Undateables	Channel 4	18/01/2016	Disability discrimination/offence	2
Tricks of the Restaurant Trade	Channel 4	05/01/2016	Materially misleading	1
Tricks of the Restaurant Trade	Channel 4	19/01/2016	Generally accepted standards	1
Tricks of the Restaurant Trade	Channel 4	26/01/2016	Promotion of products/services	1
Walking the Himalayas	Channel 4	25/01/2016	Scheduling	1
What Britain Bought in 2015	Channel 4	30/12/2015	Due impartiality/bias	1
10,000 BC	Channel 5	20/01/2016	Animal welfare	1
10,000 BC	Channel 5	21/01/2016	Animal welfare	5
Britain's Bloody Crown	Channel 5	07/01/2016	Scheduling	1
Celebrity Big Brother	Channel 5	08/01/2016	Generally accepted standards	5
Celebrity Big Brother	Channel 5	14/01/2016	Offensive language	54
Celebrity Big Brother	Channel 5	15/01/2016	Outside of remit / other	1
Celebrity Big Brother	Channel 5	16/01/2016	Outside of remit / other	1
Celebrity Big Brother	Channel 5	18/01/2016	Generally accepted standards	6
Celebrity Big Brother	Channel 5	20/01/2016	Generally accepted standards	1
Celebrity Big Brother	Channel 5	20/01/2016	Race discrimination/offence	4
Celebrity Big Brother	Channel 5	21/01/2016	Generally accepted standards	6
Celebrity Big Brother	Channel 5	21/01/2016	Offensive language	2
Celebrity Big Brother	Channel 5	22/01/2016	Voting	12
Celebrity Big Brother	Channel 5	23/01/2016	Generally accepted standards	249
Celebrity Big Brother	Channel 5	24/01/2016	Generally accepted standards	22
Celebrity Big Brother	Channel 5	24/01/2016	Outside of remit / other	9
Celebrity Big Brother	Channel 5	25/01/2016	Sexual material	3
Celebrity Big Brother	Channel 5	26/01/2016	Violence and dangerous behaviour	1
Celebrity Big Brother	Channel 5	26/01/2016	Voting	1
Celebrity Big Brother	Channel 5	27/01/2016	Generally accepted standards	1
Celebrity Big Brother	Channel 5	28/01/2016	Outside of remit / other	1
Celebrity Big Brother	Channel 5	28/01/2016	Race discrimination/offence	1
Celebrity Big Brother	Channel 5	29/01/2016	Outside of remit / other	1
Celebrity Big Brother	Channel 5	Various	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Celebrity Big Brother's Bit on the Side	Channel 5	14/01/2016	Generally accepted standards	1
Celebrity Big Brother's Bit on the Side	Channel 5	21/01/2016	Generally accepted standards	10
Celebrity Big Brother's Bit on the Side	Channel 5	26/01/2016	Offensive language	1
Cheaper by the Dozen 2	Channel 5	17/01/2016	Offensive language	1
Fail Army	Channel 5	05/01/2016	Offensive language	6
Gotham	Channel 5	18/01/2016	Disability discrimination/offence	1
GPs: Behind Closed Doors	Channel 5	13/01/2016	Materially misleading	1
Lip Sync Battle UK	Channel 5	16/01/2016	Offensive language	1
Police Interceptors	Channel 5	16/01/2016	Generally accepted standards	1
The First Wives Club	Channel 5	10/01/2016	Offensive language	1
The Great British Benefits Handout	Channel 5	09/02/2016	Outside of remit / other	1
The Saturday Show	Channel 5	16/01/2016	Scheduling	1
The Secret Life of the Family	Channel 5	26/01/2016	Violence and dangerous behaviour	1
The Wright Stuff	Channel 5	25/01/2016	Generally accepted standards	3
The Wright Stuff	Channel 5	26/01/2016	Generally accepted standards	1
Scrambled!	CITV	09/01/2016	Offensive language	1
Impractical Jokers	Comedy Central	09/01/2016	Disability discrimination/offence	1
Rude Tube	E4	18/01/2016	Violence and dangerous behaviour	1
Virtually Famous (trailer)	E4	13/01/2016	Animal welfare	1
Help to Buy advertisement	Film 4	Various	Political advertising	1
The Football Factory	Film 4	12/01/2016	Generally accepted standards	1
Masterchef USA (trailer)	Gold	02/01/2016	Animal welfare	1
"More Music Variety" slogan	Heart FM	Various	Materially misleading	1
News	Heart FM (East Anglia)	19/01/2016	Race discrimination/offence	1
Heart Breakfast with Joel & Lorna	Heart FM (North West)	08/01/2016	Competitions	1
Heart Breakfast with Ed and Rachel	Heart FM (West Midlands)	05/01/2016	Under 18s in programmes	1
The Human Centipede II	Horror Channel	09/01/2016	Generally accepted standards	1
118118.com's sponsorship of movies on ITV	ITV	Various	Sponsorship credits	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Benidorm	ITV	18/01/2016	Disability discrimination/offence	1
Benidorm	ITV	18/01/2016	Generally accepted standards	1
Benidorm	ITV	25/01/2016	Drugs, smoking, solvents or alcohol	1
Benidorm	ITV	25/01/2016	Offensive language	1
Benidorm	ITV	26/01/2016	Outside of remit / other	1
Beowulf: Return to the Shieldlands	ITV	17/01/2016	Scheduling	2
Beowulf: Return to the Shieldlands	ITV	24/01/2016	Scheduling	1
Birds of a Feather	ITV	28/01/2016	Scheduling	1
Channel ident	ITV	20/01/2016	Flashing images/risk to viewers who have PSE	2
Coronation Street	ITV	01/01/2016	Generally accepted standards	1
Coronation Street	ITV	20/01/2016	Generally accepted standards	1
Coronation Street	ITV	27/01/2016	Materially misleading	1
Emmerdale	ITV	05/01/2016	Suicide and self harm	2
Emmerdale	ITV	11/01/2016	Scheduling	1
Emmerdale	ITV	21/01/2016	Scheduling	18
Emmerdale	ITV	27/01/2016	Generally accepted standards	1
Emmerdale	ITV	28/01/2016	Materially misleading	1
Endeavour	ITV	17/01/2016	Animal welfare	2
Good Morning Britain	ITV	19/01/2016	Due impartiality/bias	5
Good Morning Britain	ITV	21/01/2016	Violence and dangerous behaviour	1
Good Morning Britain	ITV	25/01/2016	Scheduling	1
Herbal Essence's sponsorship of Take Me Out	ITV	16/01/2016	Sponsorship credits	2
ITV News and Weather	ITV	13/01/2016	Due impartiality/bias	1
ITV News and Weather	ITV	16/01/2016	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	12/01/2016	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	13/01/2016	Generally accepted standards	1
ITV News at Ten and Weather	ITV	18/01/2016	Generally accepted standards	1
Judge Rinder	ITV	20/01/2016	Generally accepted standards	1
Loose Women	ITV	15/01/2016	Scheduling	2
Loose Women	ITV	25/01/2016	Gender discrimination/offence	2
Loose Women	ITV	26/01/2016	Scheduling	3

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Lorraine	ITV	20/01/2016	Violence and dangerous behaviour	2
McCain's sponsorship of Emmerdale	ITV	28/12/2015	Sponsorship credits	1
Nationwide's sponsorship of ITV documentaries	ITV	17/01/2016	Sponsorship credits	1
Ninja Warrior UK	ITV	23/01/2016	Gender discrimination/offence	1
Planet's Got Talent	ITV	24/01/2016	Violence and dangerous behaviour	1
Take Me Out	ITV	23/01/2016	Age discrimination/offence	1
The Chase	ITV	15/01/2016	Outside of remit / other	1
The Chase	ITV	26/01/2016	Outside of remit / other	4
The Jeremy Kyle Show	ITV	19/01/2016	Generally accepted standards	2
The Jeremy Kyle Show	ITV	20/01/2016	Gender discrimination/offence	1
The Jeremy Kyle Show	ITV	21/01/2016	Generally accepted standards	5
The Jeremy Kyle Show	ITV	22/01/2016	Generally accepted standards	1
The Jeremy Kyle Show	ITV	24/01/2016	Scheduling	1
The Jeremy Kyle Show	ITV	26/01/2016	Scheduling	2
The Keith Lemon Sketch Show (trailer)	ITV	22/01/2016	Scheduling	1
The Kyle Files	ITV	05/01/2016	Materially misleading	8
The National Television Awards	ITV	20/01/2016	Animal welfare	1
The National Television Awards	ITV	20/01/2016	Offensive language	1
The National Television Awards	ITV	20/01/2016	Race discrimination/offence	1
This Morning	ITV	12/01/2016	Competitions	1
This Morning	ITV	15/01/2016	Generally accepted standards	1
This Morning	ITV	18/01/2016	Materially misleading	8
This Morning	ITV	20/01/2016	Violence and dangerous behaviour	1
This Morning	ITV	21/01/2016	Generally accepted standards	12
Tonight: Supermarkets - The Tricks of the Trade	ITV	21/01/2016	Undue prominence	1
Warner Leisure Hotels' sponsorship	ITV	Various	Sponsorship credits	2
ITV News	ITV Anglia	08/01/2016	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
ITV News Granada Reports	ITV Granada	12/01/2016	Due accuracy	1
Coronation Street Omnibus	ITV2	24/01/2016	Violence and dangerous behaviour	1
Emmerdale Omnibus	ITV2	09/01/2016	Television Access Services	1
Hot Fuzz	ITV2	28/12/2015	Scheduling	1
Liar Liar	ITV2	02/01/2016	Scheduling	1
Take Me Out	ITV2	25/01/2016	Generally accepted standards	1
The Almost Impossible Gameshow	ITV2	30/12/2015	Race discrimination/offence	1
The Jeremy Kyle Show	ITV2	22/01/2016	Offensive language	1
Caroline Quentin's National Parks	ITV3	24/01/2016	Religious/Beliefs discrimination/offence	1
HSL's sponsorship of ITV3 Late Evenings	ITV3	01/12/2015	Sponsorship credits	1
The Royal Variety Performance	ITV3	03/01/2016	Race discrimination/offence	1
Warner Leisure Hotels' sponsorship	ITV3	16/01/2016	Sponsorship credits	1
Space Cowboys	ITV4	02/01/2016	Offensive language	1
The Classic Car Show	ITV4	17/01/2016	Offensive language	1
Big Brother Maktspelet	Kanal 11	11/11/2015	Voting	1
James O'Brien	LBC 97.3 FM	08/01/2016	Fairness	1
Breakfast Show	Koast Radio	14/12/2015	Offensive language	1
Koast Auto Play	Koast Radio	17/12/2015	Offensive language	1
Koast Auto Play	Koast Radio	18/12/2015	Offensive language	1
Koast Auto Play	Koast Radio	22/12/2015	Offensive language	2
Koast Breakfast	Koast Radio	15/12/2015	Offensive language	1
Laura's Lunch Box	Koast Radio	15/12/2015	Offensive language	1
Shelagh Fogarty	LBC 97.3 FM	14/01/2016	Sexual orientation discrimination/offence	1
Iain Dale	LBC 97.3FM	07/01/2016	Gender discrimination/offence	1
Katie Hopkins	LBC 97.3FM	30/12/2015	Generally accepted standards	1
Katie Hopkins	LBC 97.3FM	31/12/2015	Race discrimination/offence	1
Programming	LBC 97.3FM	Various	Advertising minutage	1
Shelagh Fogarty	LBC 97.3FM	05/01/2016	Race discrimination/offence	1
Sean Dunderdale	Lincs FM	23/01/2016	Generally accepted standards	1
Repeats	N/A	Various	Outside of remit / other	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Citroen Van's sponsorship of documentaries on Quest	Quest	07/01/2016	Sponsorship credits	1
The Chris Moyles Show	Radio X	15/01/2016	Generally accepted standards	1
Sher Aur Shayari – Anwar	Radio XL 1296AM	02/01/2016	Race discrimination/offence	1
Live: Sukhmani Shaib	Sikh Channel	04/12/2015	Sponsorship	1
Murnaghan	Sky News	24/01/2016	Due accuracy	1
News on the Hour	Sky News	16/01/2016	Generally accepted standards	1
Sky News at 5 with Andrew Wilson	Sky News	15/01/2016	Generally accepted standards	1
Sky News Tonight with Adam Boulton	Sky News	27/01/2016	Due impartiality/bias	1
Sky News with Colin Brazier	Sky News	25/01/2016	Generally accepted standards	1
Sky News with Dermot Murnaghan	Sky News	18/01/2016	Due impartiality/bias	1
Sunrise	Sky News	19/01/2016	Due accuracy	1
Stan Lee's Lucky Man (trailer)	Sky Sports 1	17/01/2016	Scheduling	1
A League of Their Own	Sky1	14/01/2016	Generally accepted standards	1
Fungus the Bogeyman	Sky1	04/01/2016	Scheduling	1
Fungus the Bogeyman (trailer)	Sky1	07/01/2016	Generally accepted standards	1
The Simpsons	Sky1	12/01/2016	Offensive language	1
From Dusk Till Dawn: The Series (trailer)	Spike	17/01/2016	Scheduling	1
Christmas Breakfast Show	Talksport	25/12/2015	Materially misleading	1
Dr G Medical Examiner	TLC	11/01/2016	Generally accepted standards	1
Programming	Tudno FM	31/12/2015	Offensive language	1
Advertisements	Various	Various	Advertising minutage	1
MasterChef USA	Watch	13/01/2016	Animal welfare	2
Masterchef USA (trailer)	Watch	02/01/2015	Animal welfare	1
Rick Jackson	Wave 105 FM	27/01/2016	Scheduling	1
Quincy	Your TV	18/01/2016	Offensive language	1

Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio, on demand adverts, or accuracy in BBC programmes does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Advertisement	5USA +1	24/01/2016	Advertising content	1
Advertisement	Boomerang+1	10/01/2016	Advertising content	1
Advertisement	CBS Reality	24/01/2016	Advertising content	1
Advertisement	CBS Reality	29/01/2016	Advertising content	1
Advertisement	Challenge	17/01/2016	Advertising content	1
Advertisement	Channel 4	12/01/2016	Advertising content	1
Advertisement	Channel 4	15/01/2016	Advertising content	1
Advertisement	Channel 4	21/01/2016	Advertising content	1
Advertisement	Channel 4	22/01/2016	Advertising content	1
Advertisement	Channel 4	23/01/2016	Advertising content	2
Advertisement	Channel 4	24/01/2016	Advertising content	1
Advertisement	Channel 4	28/01/2016	Advertising content	1
Advertisement	Classic FM	17/01/2016	Advertising content	1
Advertisement	Dave	27/01/2016	Advertising content	1
Advertisement	Discovery	27/01/2016	Advertising content	1
Advertisement	Good Food +1	18/01/2016	Advertising content	1
Programming	Ideal World	16/01/2016	Advertising content	2
Programming	Ideal World	27/01/2016	Advertising content	1
Advertisement	ITV	09/01/2016	Advertising content	2
Advertisement	ITV	12/01/2016	Advertising content	1
Advertisement	ITV	13/01/2016	Advertising content	3
Advertisement	ITV	15/01/2016	Advertising content	2
Advertisement	ITV	16/01/2016	Advertising content	1
Advertisement	ITV	17/01/2016	Advertising content	1
Advertisement	ITV	18/01/2016	Advertising content	1
Advertisement	ITV	19/01/2016	Advertising content	1
Advertisement	ITV	22/01/2016	Advertising content	1
Advertisement	ITV	23/01/2016	Advertising content	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Advertisement	ITV	24/01/2016	Advertising content	1
Advertisement	ITV	25/01/2016	Advertising content	2
Advertisement	ITV	27/01/2016	Advertising content	1
Advertisement	ITV	28/01/2016	Advertising content	2
Advertisement	ITV	Various	Advertising content	1
Advertisement	ITV2	19/01/2016	Advertising content	1
Advertisement	Movie Mix	24/01/2016	Advertising content	1
Advertisement	N/A	Various	Advertising content	2
Advertisement	Sky News	10/01/2016	Advertising content	1
Advertisement	Sky Sports News	10/01/2016	Advertising content	1
Advertisement	Sky Sports News	17/01/2016	Advertising content	1
Advertisement	Watch	13/01/2016	Advertising content	1
BBC News at One	BBC 1	29/01/2016	Due impartiality/bias	1
BBC News at Six	BBC 1	20/01/2016	Due impartiality/bias	1
Breakfast	BBC 1	20/01/2016	Due impartiality/bias	1
Question Time	BBC 1	28/01/2016	Due impartiality/bias	1
The One Show	BBC 1	07/01/2016	Product placement	1
The Voice UK	BBC 1	09/01/2016	Promotion of products/services	1
Sportscene	BBC 1 Scotland	15/01/2016	Due impartiality/bias	1
Today	BBC Radio 4	14/08/2015	Due impartiality/bias	1
5 Live Breakfast: Your Call	BBC Radio 5 Live	28/01/2016	Due impartiality/bias	1

Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 18 and 31 January 2016

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date
The Adventures of Stephen Brown	That's Solent	2 January 2016
Geoff Lloyd with Annabel Port	Absolute Radio	14 January 2016
Ek Sawal	Radio XL	14 October 2015
Attheraces Information	Sky EPG	various

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to: <http://stakeholders.ofcom.org.uk/broadcasting/procedures/standards/>

Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Broadcaster	Transmission date
Reporting Scotland	BBC 1 Scotland	15 December 2015
The House of Hypochondriacs	Channel 4	24 November 2015

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to: <http://stakeholders.ofcom.org.uk/broadcasting/procedures/fairness/>

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed Service
Baltic Media Alliance Limited	NTV Mir Lithuania