

OFCOM BROADCAST AND ON DEMAND BULLETIN

Issue number 368
17 December 2018



Contents

Introduction	3
Broadcast Standards cases	
In Breach	
Qutab Online <i>Samaa, 21 June 2018, 15:05</i>	5
Mariah's World <i>4Music, 28 September 2018, 18:30</i>	9
Kiss Fresh with Alex <i>Kiss Fresh, 23 October 2018, 11:22</i>	11
Broadcast Licence Conditions cases	
In Breach	
Providing a service in accordance with 'Key Commitments' <i>Secklow Sounds CIC, 10 to 16 September 2018</i>	14
Providing a service in accordance with 'Programming Commitments' <i>Sheffield Live!, Sheffield Local Television Limited, 2017</i>	16
Providing a service in accordance with 'Programming Commitments' <i>Bay TV Swansea, Bay TV Swansea Limited, 2017</i>	18
Broadcast Fairness and Privacy cases	
Not Upheld	
Complaint by Mr Ram Ladsawut <i>Can't Pay? We'll Take it Away!, Channel 5, 21 June 2017</i>	20
Tables of cases	
Investigations Not in Breach	41
Complaints assessed, not investigated	42
Complaints outside of remit	54
BBC First	56
Investigations List	58

Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for 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 (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it 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 requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

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.

It is Ofcom's policy to describe fully 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.

Broadcast Standards cases

In Breach

Qutab Online

Samaa, 21 June 2018, 15:05

Introduction

Samaa is a Pakistan-based news and entertainment channel that broadcasts in Urdu. It is re-transmitted on the digital satellite platform in the UK, serving the Pakistani community. The licence for Samaa is held by Up and Coming TV Limited (“UCTV” or “the Licensee”).

Qutab Online is a current affairs programme examining societal issues in Pakistan. A viewer complained to Ofcom that this edition of the programme included repeated footage of a young woman being fatally shot, which they described as “extremely shocking” and “distressing and painful to watch”.

Ofcom provided the Licensee with an English translation of the programme, which the Licensee confirmed was accurate. The broadcast lasted approximately 45 minutes and concerned the fatal shooting in Faisalabad, Pakistan, of Mehwish Arshad – a 19-year-old bus hostess – by Umar Daraz – a guard working for a different bus company. Umar Daraz was reported to have been pursuing Mehwish Arshad for some time and to have been trying to convince her to marry him. The opening voiceover explained that:

“...following Mehwish’s repeated rejection of his advances, he felt that his honour had been slighted. At the bus terminal he seized hold of her hand. Mehwish tried to pull her hand away from him and harsh words were exchanged, and, as a result, Umar Daraz shot her, and Mehwish died on the spot”.

During the voiceover, CCTV footage of the event was broadcast, showing clearly Mehwish Arshad being shot, collapsing and gasping for breath.

This was followed by a clip of Umar Daraz, who said:

“She rejected my proposal for marriage and that’s why I killed her”.

The programme comprised the presenter, Syed Bilal Qutab, and a reporter interviewing various people about the event, including: Umar Daraz; police officers; a bus company representative; an NGO expert; and religious scholars. Throughout the programme, the CCTV footage of the fatal shooting was broadcast a further 19 times – six times in full screen, the final two of which were partially obscured by an opaque channel logo, and 13 times in split screen, the final three of which were similarly obscured.

Ofcom considered the programme raised issues under Rule 2.3 of the Code:

Rule 2.3 “In applying generally accepted standards broadcasters must ensure the material which may cause offence is justified by the context... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

Ofcom requested comments from the Licensee about how the content complied with this rule.

Response

The Licensee submitted that *Qutab Online* is “an amalgamation of religious and philosophical content which aims to empower citizens with information about sensitive societal issues which are prevalent in Pakistan such as domestic violence, women victimization, child sexual abuse, police brutality etc”. It added that “in light of the growing global movement against harassment and violence suffered by women the issue pertaining to honour killings is being highlighted in electronic and print media across the globe including Pakistan”. UCTV said Samaa therefore aimed “to raise awareness and empower women by highlighting an incident of honour killing”. It added that *Qutab Online* caters for “a very specific viewership, which is aware of the nature and context of the programme” and would “have a genuine expectation to view content which highlights sensitive topics in Pakistan, which it would not therefore find harmful or offensive”. The Licensee also said that “Samaa TV is not available for viewing on terrestrial television” and “viewership of the channel is limited”, adding that *Qutab Online's* audience is very small and “consists of only viewers who are of Pakistani ethnicity or are persons residing in the United Kingdom who understand the Urdu language”.

UCTV also submitted that it is “mindful and aware of its journalistic responsibilities and duties towards the public and in order to ensure that the content broadcast by Samaa TV adheres to the strict standards laid down by the Ofcom Broadcasting Code, which is evidenced by the fact that Samaa TV has designed an unimpeachable internal system which includes but is not limited to an in-house monitoring committee [that] reviews and scrutinizes all broadcasts before they are aired by Samaa TV”. It added that “Samaa's viewership in Pakistan averages 10 million a day and no complaint was received or registered at the Pakistani Regulatory authorities (PEMRA)”.

The Licensee said it nevertheless accepted that this edition of *Qutab Online* should not have been aired in the UK because it contained repeated footage of a fatal shooting. UCTV said the programme was broadcast live and, at around the time it started, Samaa's computer graphics system used during live transmission (“CG”) crashed. UCTV added that “the operator immediately informed the transmission [manager] who arrived in playout within 5 minutes”. The Licensee said he tried to restart the CG, which took at least eight minutes, only to find that the system had frozen. UCTV added that IT personnel were then called, but it took them 10 minutes to arrive and “a further few minutes to sort out the problem”. The Licensee said that the recording it had provided to Ofcom showed that the material in question had then been successfully masked”.

UCTV said it now had a spare CG in place, which, in the event of any malfunction or system crash, should enable the operator to regain control of a live broadcast within two to three minutes, which is the time it takes to change relevant cabling.

The Licensee said that, “after the 2013 incident”¹ all its staff had gone through extensive compliance sessions to understand what material broadcast in Pakistan would comply with

¹ Samaa was found in breach of Rules 1.3, 1.11 and 2.3 of the Code for the broadcast of similar material on 14 September 2013. Ofcom's Finding can be found at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0025/45745/obb244.pdf

the UK regulations, which is why, in this instance, they knew the footage of the fatal shooting was not suitable for broadcast and had tried to mask it.

Decision

Reflecting our duties under the Communications Act 2003², Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes, for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast, the likely size and composition of the potential audience, and the likely expectation of the audience.

Ofcom has taken account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights.

The Code contains no prohibition on images depicting extreme violence, including fatal shootings, as there may be occasions when such images are editorially justified. Ofcom considers that, in line with the right to freedom of expression, it is important for programmes to be able to explore events that the licensee considers to be in the public interest. However, broadcasters must always comply with Code rules.

Ofcom first considered whether the material was potentially offensive. In this instance, the Licensee broadcast repeatedly images of a woman being fatally shot and gasping for breath, which clearly had the potential to cause considerable offence.

We next considered whether the material was justified by the context. Ofcom took into account that Samaa features a mixture of breaking news and general entertainment, and its audience in the UK is likely to be well aware of the type of content it usually broadcasts. We also took into account the Licensee's argument on the nature of the programme and its focus on "sensitive societal issues". However, we considered the repeated use of CCTV footage of distressing images of the fatal shooting of a young woman, which amounted to 20 broadcasts during a 45-minute programme, was capable of causing a high level of offence and was likely to have exceeded the expectations of the UK audience for this channel during a weekday afternoon.

We were also concerned that no warning about the material was given to viewers prior to its broadcast and no apology was subsequently aired, despite the fact that the Licensee was aware it had attempted unsuccessfully to mask all the images in question. Ofcom considered the material had the potential to be very distressing for viewers who came across it unawares at this time.

We took into account:

- the training UCTV had already provided its staff on the difference in the content compliance requirements of Pakistan and the UK, when broadcasting material produced for an audience in each country;

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

- the action the Licensee took in this instance to avoid recurrence immediately after the CG had failed, which we accept was evidenced by the fact that the material in question appeared to have been masked successfully twice towards the end of the programme; and
- the technical backup UCTV said it subsequently introduced to minimise the risk of recurrence.

Nevertheless, it is Ofcom's view that, in this instance, the repeated broadcast of a fatal shooting was not justified by the context, in breach of Rule 2.3 of the Code.

Further, Ofcom was concerned that the Licensee had previously been found in breach of the Code for the broadcast of similar material³. We recognised that the previous breach was five years ago and the repeated broadcast of such material in the UK in this instance was due to a technical issue. Nevertheless, Ofcom considers the broadcast of a fatal shooting that is not justified by the context to be capable of causing viewers serious offence and/or distress.

We therefore put the Licensee on notice that, in the event of a further similar breach, Ofcom may consider taking further regulatory action, including the imposition of a statutory sanction.

Breach of Rule 2.3

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0025/45745/obb244.pdf

In Breach

Mariah's World

4Music, 28 September 2018, 18:30

Introduction

4Music is a music and general entertainment channel. Its licence is held by The Box Plus Network Limited ("the Licensee"). *Mariah's World* is an American reality programme that follows the life of singer Mariah Carey.

Ofcom received a complaint about offensive language in the optional subtitles for this programme. Although the programme's soundtrack did not include any offensive language, the subtitles included a total of 14 uses of the words "fuck" and "fucking".

Ofcom considered that this material raised issues under Rules 1.14 and 2.3 of the Code:

Rule 1.14: "The most offensive language must not be broadcast before the watershed (in the case of television)...".

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context [...] Such material may include [...] offensive language".

Ofcom requested comments from the Licensee about how this content complied with these rules.

Response

The Licensee accepted that the programme did not comply with Rules 1.14 and 2.3.

The Licensee told Ofcom that the error was due to its "established subtitling processes being ignored". It said that this programme had previously been broadcast post-watershed and had been re-versioned for pre-watershed transmission. This included the removal of offensive language from the programme's soundtrack. However, the programme's subtitles "were not checked in accordance with [the Licensee's] established subtitling procedures" by the freelance subtitler responsible. The Licensee said that the services of this freelancer were no longer being used.

As a result of this incident, the Licensee said that it had implemented "additional checks to ensure all...inappropriate content is correctly removed" from re-versioned subtitle files.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to provide adequate

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

protection for members of the public from the inclusion of offensive and harmful material in programmes.

Rule 1.14

Rule 1.14 states that the most offensive language must not be broadcast before the watershed in the case of television.

Ofcom's 2016 research on offensive language² indicates that the word "fuck", and variations of this word, are considered to be the strongest language and unacceptable pre-watershed.

In this case, the subtitles for this programme broadcast at 18:30 included 14 uses of the most offensive language. Therefore, our Decision is that Rule 1.14 was breached.

Rule 2.3

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes, for example, the editorial content of the programme, the service on which it is broadcast, the time of broadcast, the likely expectation of the audience and any warnings given to viewers.

As set out above, Ofcom's research on offensive language indicates that the word "fuck" and its variations are considered by audiences to be the strongest language.

Ofcom therefore considered whether the potentially offensive content was justified by the context.

We acknowledged that the audience for this reality programme may have expected it to include content that reflects language used in everyday life. However, we considered that the repeated broadcast of the words "fuck" and "fucking" in the programme's subtitles was likely to have exceeded viewers' expectations for a programme broadcast on a music and entertainment service during the early evening. Our Decision is therefore that the broadcast of offensive language in this programme was not justified by the context, in breach of Rule 2.3 of the Code.

Breaches of Rules 1.14 and 2.3

²https://www.ofcom.org.uk/data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

In Breach

Kiss Fresh with Alex

Kiss Fresh, 23 October 2018, 11:22

Introduction

Kiss Fresh is a radio station available on Freeview and DAB in London. It broadcasts exclusive first plays of club tracks. The licence for this service is held by Bauer Radio Limited ("Bauer" or "the Licensee").

Ofcom received a complaint that this programme played the track *Lucky You (Featuring Joyner Lucas)* by Eminem, when young children could be listening, and that it included "very strong language".

The track included 13 uses of the word "fuck" or its variations which appeared to have been poorly masked. It was broadcast during what was half-term for many schools.

We considered this broadcast raised potential issues under the following Code rules:

Rule 1.14: "The most offensive language must not be broadcast when children are particularly likely to be listening..."

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

We therefore requested comments from the Licensee about how the content complied with these rules.

Response

Bauer said that Kiss Fresh had received a radio edit of the song with the words masked, which it had added to its playlist after further editing. It said it was "clear to [it] that the words [were] reversed" but accepted that "with the speed of the rap...the masking may not [have] fully disguise[d] the swear words adequately...". The Licensee added that "despite the track being available to consumers and audiences unedited elsewhere – including You Tube, Spotify, Apple Music etc – [it] accept[ed] that [its] objective of masking the phrases which may cause offence, could have been better crafted". It said it would "review [its] production techniques on the small number of tracks where edits [were] required".

Bauer said that although it had not received any other complaints, it would remove the track from the Kiss Fresh playlist. The Licensee added that "... Kiss Fresh treads a careful line between ensuring it reflects an authentic and up to date mix of the best targeted music for its specialist target audience and ensuring that it complies with the Ofcom codes". It said that "Kiss Fresh apologise[d] for any offence caused".

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

Rule 1.14

This rule states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening.

The programme included ineffectively masked uses of the word “fuck” and its variations. Ofcom’s 2016 research² on offensive language clearly indicates that this word is considered by audiences to be among the strongest examples of offensive language.

The Code states that the times “when children are particularly likely to be listening” to radio are “the school run and breakfast time, but might include other times”. Ofcom’s guidance on offensive language on radio³ states that:

“...broadcasters should have particular regard to broadcasting content...between 06:00 and 19:00...during school holidays”.

We therefore considered that the ineffectively masked uses of the word “fuck” and its variations at 11:22 on 23 October 2018, which was for many schools during half-term, was an example of the most offensive language being broadcast at a time when children were particularly likely to have been listening.

We took into account the steps being taken by the Licensee to improve its compliance. However, Ofcom’s Decision is that the broadcast was in breach of Rule 1.14.

Rule 2.3

This rule requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast; and the likely expectation of the audience.

As outlined above, Ofcom’s research on offensive language indicates that the word “fuck” and its variations are considered by audiences to be among the most offensive language. Therefore the ineffectively masked use of the word and its variations in this case clearly had the potential to cause offence to listeners.

¹ See: <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² On 30 September 2016, Ofcom published updated research in this area. See: [Attitudes to potentially offensive language and gestures on television and on radio](#).

³ See: [Ofcom Guidance: Offensive language on radio](#)

Ofcom therefore considered whether the content was justified by the context.

Our guidance on offensive language in radio states that “in reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast”. In our view, the majority of listeners of Kiss Fresh would be unlikely to expect to hear a music track containing repeated ineffectively masked uses of the most offensive language at the time this song was broadcast.

We took into account the steps being taken by the Licensee to improve its compliance. However, Ofcom's Decision is that this broadcast also breached Rule 2.3.

Breaches of Rules 1.14 and 2.3

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with 'Key Commitments'

Secklow Sounds CIC, 10 to 16 September 2018

Introduction

Secklow Sounds is a community radio station licensed to provide a service for people in Milton Keynes. The licence is held by Secklow Sounds CIC ("Secklow Sounds" or "the Licensee").

As with all community radio stations, Secklow Sounds is required to deliver the 'Key Commitments' which form part of its licence¹. The station's Key Commitments set out how the station will serve its target community and includes a description of the service.

Ofcom received three complaints that Secklow Sounds was not broadcasting the service described in its Key Commitments, in particular, that it was not delivering its programming requirements relating to the provision of speech content and original output. We therefore requested a programme schedule and recordings of three days of Secklow Sounds' output from 13, 14 and 15 September 2018.

Having listened to the recordings, and having assessed the programme schedule provided by the Licensee for the week 10 to 16 September 2018, it appeared that Secklow Sounds was not delivering the following of its Key Commitments:

"The service provides original output² for a minimum of 100 hours per week".

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to Secklow Sounds' 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

"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 requested comments from Secklow Sounds on how it was complying with these conditions, with reference to the specific Key Commitment set out above.

¹ The Key Commitments are contained in an annex to Secklow Sounds' licence. They can be viewed in full at <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr100777.pdf>

² Original output is output that is first produced for and transmitted by the service, and excludes output that was transmitted elsewhere before. Original output can be live or voice-tracked. Repeat broadcasts of original output do not count towards the minimum requirement.

Response

In its response, Secklow Sounds confirmed that across the week 10 to 16 September 2018 the station had broadcast a total of 87 hours output of original content as defined by Ofcom, rather than the minimum amount of 100 hours a week required by its Key Commitments. It said that this was due to a combination of some of its presenters being on extended leave due to health issues and other business commitments, and that it was currently in the process of replacing them.

Secklow Sounds explained that it had since adopted a new strategic plan that aimed to restore its original output quota over the next six months. Additionally, that as of 22 October 2018 its output of original content had increased to 112 hours a week and that it planned to raise this figure to 122 by the end of November 2018 and to 124 hours by January 2019.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the licensed service specified in their Key Commitments.

During the week 10 to 16 September 2018, Secklow Sounds failed to deliver its Key Commitments relating to the number of hours of original output. The service was required to broadcast a minimum of 100 hours of original output. However, the Licensee confirmed to Ofcom that it had broadcast 87 hours.

Ofcom noted Secklow Sounds' explanation that it was unable to meet the minimum requirement of original output over the specified week because a number of its presenters were on extended leave at the time. We also noted the steps taken by Secklow Sounds to replace these presenters and increase its output of original content. However, the Licensee did not meet its Key Commitment to broadcast a minimum of 100 hours of original programming during the specified week. Ofcom's Decision is therefore that Secklow Sounds is in breach of Licence Conditions 2(1) and 2(4).

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Secklow Sounds CIC; licence number CR100777

In Breach

Providing a service in accordance with ‘Programming Commitments’ *Sheffield Live!, Sheffield Local Television Limited, 2017*

Introduction

Sheffield Live! is the local TV service for Sheffield and the surrounding area. The licence is held by Sheffield Local Television Limited (“SLTV” or “the Licensee”).

As with all local TV services holding a Local Digital Television Programme Service licence, SLTV is required to deliver ‘Programming Commitments’ which form part of its licence.¹

The Licensee responded to Ofcom’s annual request for information relating to compliance with Programme Commitments and revenue information, for the period 1 January 2017 to 31 December 2017. The Licensee reported that it had broadcast 397 hours of first run local programming per in peak time (i.e. between 18:00 and 22:30) instead of the required 1579 hours and 30 minutes set out in Annex A to its licence.

Condition 5(1) of the Licence states:

“For the duration of the Licence, the Licensee shall maintain the character of the Licensed Service in accordance with the programming commitments set out in the annex”.

We therefore asked the Licensee for its comments on how it had complied with Condition 5(1) of its licence.

Response

The Licensee accepted that it had not met its Programming Commitment in relation to the number of hours of first run local programming in peak time (18:00-22:30) during 2017.

It explained that it had “considered the options available to remedy this situation” but had decided that “the repeat use of high quality local programme output at peak time is more consistent with the achievement of the intended character of service as a whole than would be the broadcast at peak time of first run local programming of lower quality”.

The Licensee continued that apart from its news content, its peak time production “is entirely produced by volunteers or contributed at no extra cost by local independent producers and filmmakers”. It said that “volunteer producers have found it challenging to produce weekly episodes of a high quality on a year round basis”. It added that because “considerable effort...has gone into the production of short series (including original drama, comedy, local music, studio debates, magazine shows etc.)...producers and viewers would like an opportunity for this content to be broadcast more than once at peak time”. The Licensee argued that “the overall character of service and the public interest is better served

¹ The Programming Commitments are contained in Annex A to SLTV’s licence. They can be viewed in full at https://www.ofcom.org.uk/data/assets/pdf_file/0009/41031/Sheffield-L-DTPS-Licence-Granted-7-August-2014-PDF.pdf

by repeating this high quality production at peak time rather than replacing it with alternatives available to us”.

SLTV said that it had “substantially exceeded” its Programming Commitments in relation to hours of first run local programming, repeated local programming in peak time, and hours of local news and current affairs programming (both first run and repeats).

Decision

Ofcom has a duty to ensure that the character of the licensed service, as proposed by a licence holder when making the application for a licence, is maintained for the duration of the Licence.

SLTV admitted that it had not met its Programming Commitment to broadcast 1579 hours and 30 minutes of first run local programming in peak time 2017, instead broadcasting 397 hours. Ofcom noted the Licensee’s submission that it had instead chosen to repeat what it considered to be its higher quality local programming during peak time – therefore exceeding the number of repeated hours it was required to broadcast during peak time – because it considered that this met the overall character of service and was in the “public interest”.

However, Ofcom took into account that the Licensee drafted its own Programming Commitments when it applied for the licence and it is a licence requirement that it must adhere to them. As SLTV significantly under-delivered against its Programming Commitment in relation to first run local programming during peak time, Ofcom found the Licensee in breach of licence condition 5(1) of its Licence.

Breach of Licence Condition 5(1) in of the Local Digital Television Programme Service licence held by Sheffield Local Television Limited (licence number L-DTPS000011)

In Breach

Providing a service in accordance with ‘Programming Commitments’ Bay TV Swansea, Bay TV Swansea Limited, 2017

Introduction

Bay TV Swansea is the local TV service for Swansea and the surrounding area. The licence is held by Bay TV Swansea Limited (“Bay TV” or “the Licensee”).

As with all local TV services holding a Local Digital Television Programme Service licence, Bay TV is required to deliver ‘Programming Commitments’ which form part of its licence.

The Licensee responded to Ofcom’s annual request for information relating to compliance with Programme Commitments and revenue information, for the period 1 January 2017 to 31 December 2017. The Licensee reported that it had under-delivered against five out of the six quantitative Programming Commitments set out in Annex A to its licence. The table below sets out how many hours of local programming were required and how many hours were broadcast.

Description of Programming Commitment	First run or Repeats	Number of hours required by Programming Commitments	Number of self-reported hours
Hours of local programme per day/week	First run	936 hours, 4 minutes	611 hours
	Repeats	1979 hours, 26 minutes	1648 hours
Hours of local programming per day/week in peak time (18:00 to 22:30)	First run	548 hours, 17 minutes	332 hours
	Repeats	579 hours, 56 minutes	347 hours
Hours of local news and current affairs programming	First run	814 hours, 49 minutes	546 hours
	Repeats	0 hours	671 hours

Condition 5(1) of the Licence states:

“For the duration of the Licence, the Licensee shall maintain the character of the Licensed Service in accordance with the programming commitments set out in the annex”.

We therefore asked the Licensee for its comments on how it had complied with Condition 5(1) of its licence.

Response

Bay TV explained that the service launched in July 2016 and that within the first year it became apparent to the management that it would be “challenging to maintain the service”. The Licensee said that in 2017 “the character of the licensed service was honoured in

spirit...notwithstanding the under-delivery of certain local programming hours within the year". Bay TV pointed to the "significant over-delivery" of repeated local news and current affairs programming.

The Licensee stated that it had merged with a larger broadcasting group, That's Media Limited, in December 2017 and the new management had introduced "new systems and procedures to enable the requisite local programming hours to be delivered going forwards. In addition, in March 2018, Ofcom agreed to a request from the Licensee to reduce some of its Programming Commitments.

Decision

Ofcom has a duty to ensure that the character of the licensed service, as proposed by a licence holder when making the application for a licence, is maintained for the duration of the Licence.

Bay TV admitted that it had not met five of its six quantitative Programming Commitments in 2017. While Ofcom acknowledged that changes have been made to enable the Licensee to broadcast the required amount of local programming going forwards, we found the Licensee in breach of condition 5(1) of its Licence for not delivering its Programming Commitments in full in 2017.

Breach of Licence Condition 5(1) in of the Local Digital Television Programme Service licence held by Bay TV Swansea Limited (licence number L-DTPS100082)

Fairness and Privacy Adjudication

Not Upheld

Complaint by Mr Ram Ladsawut

Can't Pay? We'll Take it Away!, Channel 5, 21 June 2017

Summary

Ofcom has not upheld this complaint of unwarranted infringement of privacy made by Mr Ram Ladsawut about the above programme.

The programme included footage of Mr Ladsawut at his place of work as he engaged with two High Court Enforcement Agents (“HCEAs”) who were there to enforce a Writ of Control (“Writ”) against a tenant of the commercial property that Mr Ladsawut managed. The majority of the footage shown in the programme of Mr Ladsawut was recorded by the body cameras worn by the HCEAs, but belonging to the programme makers, although a very small amount of footage was filmed by the programme makers’ main TV camera.

Ofcom considered that in the particular circumstances of this case, Mr Ladsawut had a legitimate, albeit limited, expectation of privacy in relation to the filming and the subsequent broadcast of the footage of him. However, we also considered that his limited legitimate expectation of privacy did not outweigh the broadcaster’s right to freedom of expression and the public interest. Therefore, Mr Ladsawut’s privacy was not unwarrantably infringed in both the obtaining and broadcast of the footage included in the programme.

Programme summary

On 21 June 2017, Channel 5 broadcast an edition of *Can't Pay? We'll Take it Away!*, a series which follows HCEAs (“HCEAs”) as they attempt to resolve debt disputes through negotiated settlements and asset seizures. In this edition, HCEAs Mr Max Carracher and Mr Paul Bowhill visited an “exclusive office building in one of London’s premier financial districts” to recover a debt owed by a letting company, Flatsgo, to a previous tenant. The programme’s narrator introduced this section of the programme:

“In Britain, more than 350,000 new businesses are set up every year. Each invests an average of £20,000 to cover essential costs. However, nearly a quarter experience a loss in profits in the first 12 months, while almost one in ten have had to let their staff go to free up funds”.

A caption said: *“Nearly 50% of small businesses launched annually in the UK fail within the first five years”.*

The HCEAs were shown driving to the office building in east London. The narrator explained that:

“HCEAs Paul Bowhill and Max Carracher are in the Isle of Dogs in east London, to recover over £2,000 owed by a letting agency to an unhappy tenant”.

Mr Carracher said:

“We’re off to see Flatsgo Limited, we’re looking to collect £2,240.99”.

Mr Bowhill said:

“This is a trade debt. So presumably, we’re going to business premises”.

The narrator explained:

“The agents have already visited two other addresses, but failed to find company director, Hugo de Sousa. Max and Paul have been given another address for him at an exclusive office building in one of London’s premier financial districts. Today they are hoping they will finally come face-to-face with the elusive businessman”.

The HCEAs were shown as they arrived at a building, which was owned by the CEC Group. The HCEAs entered the reception area where Mr Ladsawut, the complainant, was shown unobscured standing behind a reception desk. The following exchange took place between Mr Ladsawut and the HCEAs:

Mr Carracher: *“Hello Sir, we are here to see Flatsgo Limited.*

Mr Ladsawut: *Flatsgo, I don’t think they are in yet.*

Mr Carracher: *That’s not a problem, if you would just take us up”.*

Mr Ladsawut was shown leading the HCEAs up the stairs of the building, where they stopped outside the door of one of the offices. The exchange between Mr Ladsawut and the HCEAs continued:

Mr Ladsawut: *“Let me check first before I contact them. That’s the office there, they are not in yet.*

Mr Bowhill: *This office here? That’s not a problem. Could you open the door for me please?*

Mr Ladsawut: *No, I need to get confirmation first.*

Mr Bowhill: *What time do they come in?*

Mr Ladsawut: *Anytime, from now until anytime”.*

The narrator explained:

“Once again, Mr De Sousa is nowhere to be seen. But, as this is a commercial premises, the agents have the right to call a locksmith and force entry into his office”.

Mr Ladsawut: *“So what are you telling me, are you allowed to force entry? Right now?*

Mr Carracher: *Yes, absolutely. Right now. Immediately.*

Mr Ladsawut: *This is not their building.*

Mr Carracher: *They are the lawful tenants in here?*

Mr Ladsawut: *Yeah.*

Mr Carracher: *Therefore, we can.*

Mr Bowhill: *We accept that what you say is perfectly reasonable, but we are just making the point that we don't have eight hours to wait for them to come back".*

The narrator said:

"Rather than cause damage to the premises, the building manager gives the agents access".

Mr Ladsawut was shown opening the door to the office and asking the HCEAs to "just take care" as they went inside.

The narrator said:

"But as the agents enter the office, they are in for a surprise. It seems the property operating here is not Flatsgo, but Privilege Property Managers...Max discovers that Privilege is a new company owned by Hugo, the director of the debtor company, Flatsgo. If Flatsgo is no longer trading, the agents can't enforce the Writ. But then, Max finds some paperwork".

Mr Carracher was shown handling several utility bills in a pile of paperwork. He said:

"Flatsgo Limited, the gas is overdue, the electricity is overdue, the council tax is overdue".

Mr Bowhill asked:

"Here?"

Mr Carracher replied:

"Everywhere..."

The narrator explained:

"With evidence that the debtor company is also trading from the office, the agents can seize company assets to offset the debt if Mr de Sousa doesn't show up. But just then, one of Hugo De Sousa's employees arrives".

Mr Ladsawut was shown standing next to Mr De Sousa's employee. The HCEA explained that the assets inside the office, which belonged to Privilege Property Managers, would be seized to offset the debt of Flatsgo because Mr De Sousa was listed as a director for both companies. Mr De Sousa's employee called Mr De Sousa and handed the phone to the HCEA.

The HCEA's phone conversation with Mr De Sousa was then summarised by the narrator:

“Mr De Sousa claims that all the assets in the office belong to his other company, but with no proof that this is true, Max starts an inventory...Finally, over an hour after the agents arrived, the director of the debtor company, Hugo De Sousa, arrives at the office”.

Mr De Sousa was shown entering the office and explaining the relationship between the two companies to the HCEAs. Again, this was summarised by the narrator:

“Hugo insists that the assets belong to another company, Privilege Property Managers, but the agents haven't seen any proof”.

Mr De Sousa was shown attempting to handle some of the goods which had been seized and placed outside in the hallway, at which point the HCEAs explained that they would call for police assistance if he continued. Before police assistance was requested, Mr de Sousa agreed to settle the outstanding debt with the HCEAs directly. Once the debt had been settled, the HCEAs were shown leaving the property, bringing an end to this section of the programme.

Mr Ladsawut, who was not named in the programme, was not shown again in the programme.

Summary of the complaint and broadcaster's response

The complaint

- a) Mr Ladsawut complained that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because footage of him was filmed without his consent. Mr Ladsawut said that he had asked the programme makers to stop filming at the time, but they had refused.
- b) Mr Ladsawut also complained that his privacy was unwarrantably infringed in the programme as broadcast because footage of him was included in the programme without his consent.

The broadcaster's response

Background

Channel 5 said that it is not the law in the United Kingdom that people have a right not to be on television. Nor is it the law that footage or photographs of persons cannot be taken and then broadcast without their consent. The broadcaster said that what matters in every case is whether or not rights are being infringed, and, if they are, whether there are good reasons for those rights to be infringed. Channel 5 said that this requires the balancing of the rights of privacy against the right to freely broadcast matters of public interest.

The broadcaster said that there is well-established methodology discernible from the Strasbourg case-law in relation to the balancing of Article 8 and Article 10 rights. It referred in particular to the Grand Chamber cases of *Von Hannover v Germany (No 2)*¹, *Axel Springer v*

¹ [2012] ECHR 228.

*Germany*², and *Couderc v France*³. It said that these cases identify the factors which must be considered when conducting the balancing exercise between the competing Article 8 and Article 10 rights. The first issue, to which the case law attributes particular importance, is whether the information is capable of contributing to a debate of general interest, there being little scope under Article 10 for restrictions on freedom of expression when a matter of public interest is at stake. Channel 5 said that the decisive question is whether the broadcast is capable of contributing to a debate of public interest.

Channel 5 said that the broadcast of the segment concerning Mr Ladsawut was clearly capable of contributing to a debate of public interest, namely the manner in which civil judgments are enforced, the powers granted to HCEAs, and the consequences of not paying proper attention to personal debts. The broadcaster said that where, as in this case, the subject matter of a broadcast contains information which is of public interest, and the broadcast of the material is capable of contributing to a debate of general interest, then this should be accorded significant weight when conducting the balancing exercise.

Channel 5 said that the form of the expression, i.e. broadcasting the unobscured footage of the interactions with the HCEAs, was also protected under Article 10. It said that *Jersild v Denmark*⁴ emphasised that it is not for the national authorities to:

“...substitute their own views for those of the press as to what technique of reporting should be adopted by journalists. In this context the Court recalls that Article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed”.

This principle, according to Channel 5, was recently reaffirmed in *Khuja v Times Newspapers Ltd and others*⁵:

“...Does the public interest extend to PNM’s identity? This case differs from earlier cases in which the same question has arisen because the order sought by PNM would not prevent the identification of a party to the criminal proceedings or even of a witness. To my mind that makes it even more difficult to justify an injunction, for reasons which I have given. But in any event, I do not think it can be a relevant distinction. The policy which permits media reporting of judicial proceedings does not depend on the person adversely affected by the publicity being a participant in the proceedings. It depends on (i) the right of the public to be informed about a significant public act of the state, and (ii) the law’s recognition that, within the limits imposed by the law of defamation, **the way in which the story is presented is a matter of editorial judgment, in which the desire to increase the interest of the story by giving it a human face is a legitimate consideration. PNM’s identity is not a peripheral or irrelevant feature of this particular story**”. [emphasis added by Channel 5].

² [2012] EMLR 15.

³ [2015] ECHR 992.

⁴ [1994] 19 EHRR 1.

⁵ [2017] UKSC 49.

The broadcaster said that the Article 10 rights of it and the programme maker to impart, and the audience to receive, the information in *Can't Pay? We'll Take It Away!* must weigh heavily in the balancing exercise. It said there must be very weighty privacy interests at stake if any restriction is to be placed on those Article 10 rights.

Channel 5 said that this should not be taken as suggesting that its Article 10 rights (and those of the audience) automatically take priority over any Article 8 right enjoyed by Mr Ladsawut – neither right trumps the other. However, it said that, in the particular circumstances of this case, and the fact that the broadcast was capable of contributing to a debate of general interest, as opposed to other broadcasts where, say, the purpose of the broadcast is light entertainment or popular comedy, the case law establishes that very weighty privacy interests must be at stake if the intense focus on the interaction of the rights will swing against the Article 10 considerations.

Channel 5 submitted that when properly considered, the balancing equation must be between the heavily weighted public interest in broadcasting the programme, including the margin of appreciation to include footage of Mr Ladsawut unobscured, and “such Article 8 rights as might arise in relation to the footage”. Channel 5 said that *Campbell v MGN Ltd*⁶ provided clear authority on this. It said that the photographing of Ms Naomi Campbell by a camera of which she was unaware, was not, of itself, a breach of her privacy. That was because she was not engaged in any private activity when the photographs were taken: she was walking along a public road (as per Lord Nicholls at paragraph 73 and Lord Hope at paragraphs 93 and 94). Channel 5 also noted that Lord Hope recognised the “vital role of public watchdog” played by the press and that it is not for the courts “to substitute their own views... as to what technique of reporting should be adopted by journalists... [as] article 10 protects not only the substance of the ideas and information expressed, but also the form in which they are conveyed” (paragraphs 107 and 108). Citing a further passage from same judgment, the broadcaster said that Article 8 does not confer an unqualified right of privacy (Lady Hale at para 154: “We have not so far held that the mere fact of covert photography is sufficient to make the information contained in the photograph confidential. The activity photographed must be private”). What it does confer is a right to “respect” for privacy rather than an absolute right: *M v Secretary of State for Work and Pensions*⁷. It said that it was neither possible nor desirable to seek to give individuals complete autonomous control over information that relates to them (see *O'Halloran v UK*⁸). Channel 5 also said that, “in addition, sub-article (2) provides that the right conferred by (1) should not be interfered with by a public authority unless such interference is lawful and necessary in a democratic society in the interests of, inter-alia, the economic well-being of the country, the prevention of disorder, and for the protection of the rights and freedoms of others”.

Channel 5 said that it is only if the claimant establishes that her or his Article 8 rights are engaged, that the court must perform a balancing exercise and weigh the claimant's Article 8

⁶ [2004] 2 AC 457.

⁷ [2006] 2 AC 91 at para 83.

⁸ [2008] 46 EHRR 21.

rights against the defendant's rights under Article 10⁹. It said that if the complainant had no reasonable expectation of privacy, Article 8 is not engaged, and the claim fails at the outset.

For these reasons, Channel 5 said, no aspect of the activities of Mr Ladsawut carrying out his duties as "administrator of premises" accessible by the public could properly be regarded as private. No right thinking, ordinary, reasonable person could think that such activities were private. It said that the filming of those activities was not filming of anything private. Channel 5 said that just as the method and procedure of slaughtering animals in *Lenah Game Meats* was not confidential or private, nor was the manner in which Mr Ladsawut performed his ordinary duties as an employee with a public facing role.

Channel 5 said that in this case, the sequence in the programme which featured Mr Ladsawut concerned the activities of the HCEAs conducting official court business, specifically executing a Writ of Control which permitted them to seize goods, chattels and other property of FlatsGo Limited in order to satisfy a judgment debt. It said that there can be no doubt that the activities of the HCEAs were matters of intense public interest. It also said that the manner in which the law is utilised or ignored was a matter of acute public interest, and that the kinds of difficulties the HCEAs face when executing their duties was also a matter of acute public interest. The broadcaster said that the impact of the activities of HCEAs performing their duties on the lives of those who are affected by those duties was a matter of acute public interest too.

Channel 5 said that, for all of these reasons, it took the view that, generally speaking, it was appropriate and reasonable to include footage of people interacting with the HCEAs in the programme. It said that each case will turn on its own facts, and that matters such as the unusual vulnerability of a particular person or situation could impact on decisions to include particular footage in particular programmes. It said that in the case of *Can't Pay? We'll Take It Away!*, each story, in each programme, was considered by the external legal adviser for the programme makers and at the highest levels within Channel 5. The broadcaster said that no legitimate right of privacy was ever intentionally infringed.

Filming of Mr Ladsawut

Channel 5 said that the execution of a Writ issued by the High Court is a public matter; it is not a private matter. Particularly, it said that the execution of the Writ in this case was not a matter connected with Mr Ladsawut's private life; it was a public matter that involved a tenant in a building managed by Mr Ladsawut's employers.

The broadcaster said that the interactions involving the HCEAs at Mr Ladsawut's place of work were not a part of any private life protected by Article 8. It said that Mr Ladsawut was in a public facing role and did not say, or do, anything private to him. However, it said that the communications about those interactions were protected by Article 10. It said that the Writ of Control authorised the HCEAs to enter the premises where Mr Ladsawut was employed and to seize any goods in the premises rented by the debtor which could not be proven to be the property of a person other than the debtor. As the programme demonstrated, in this case, the HCEAs were successful in executing the Writ.

⁹ Channel 5 cited the following cases: *Murray v Express Newspapers plc* [2009] Ch 481 at para 27; *Associated Newspapers Ltd v HRH the Prince of Wales* [2008] Ch 57; *McKennitt v Ash* [2008] QB 73 at para 11.

Channel 5 said that there was no breach of any privacy rights of Mr Ladsawut involved in the HCEAs recording their activities by using body cameras, especially as at no time were the cameras hidden or concealed. Even if it were otherwise, Channel 5 said that there was clear authority for the proposition that covert filming does not, of itself, breach Article 8. It said that while the body cameras were owned by the programme makers, they were not imposed on the HCEAs who would have worn body cameras when attending the enforcement whether the programme makers were present or not. Channel 5 said that, in other words, whether or not the programme was in production, the interaction between Mr Ladsawut and the HCEAs would have been filmed by the HCEAs.

Channel 5 said that all footage filmed, whether on the main TV cameras or the body cameras, was thoroughly reviewed by the programme makers to determine whether or not there was sufficient public interest in the filmed material, given the editorial context of the programme series, to consider including the footage in a broadcast. After that initial review, the footage was reviewed at least two more times by senior members of the production team to consider the content, the context and the relevant public interest. It said that the footage was then edited for the purposes of broadcast and reviewed by the programme makers' independent lawyer to ensure the edited footage complied with the Ofcom Broadcasting Code ("the Code") and the general law. Finally, the edited footage was reviewed by a senior member of the Channel 5 commissioning team as well as a senior member of the Channel 5 Content Legal Advice team. It was only after all those separate considerations had occurred that the decision to broadcast the footage was made.

The broadcaster said that this was the identical process that would be undertaken if the programme makers were obtaining access to footage filmed by the HCEAs before the programme makers became aware of the existence of the footage. The footage of Mr Ladsawut was scrutinised and considered in exactly the same way as it would have been had the programme makers not been present and the HCEAs wearing their own body cameras.

Channel 5 said that although Mr Ladsawut did ask the programme makers to remove themselves and their TV cameras from the premises, which, as law abiding citizens they did, he did not object to the filming by the HCEAs. It said that Mr Ladsawut was aware of the programme *Can't Pay? We'll Take It Away!* and discussed it with the HCEAs who openly explained their use of the cameras and the availability of the footage to Channel 5.

Channel 5 said that, importantly, the first images of Mr Ladsawut which appear in the programme, and therefore identify him as the manager of the premises and the one who will deal with the HCEAs initially, were filmed openly on the main TV camera by the programme makers before any objection to the filming was taken by Mr Ladsawut. Those images, Channel 5 said, were not obtained in a covert way.

Channel 5 submitted that the footage of Mr Ladsawut did not disclose or capture any information about Mr Ladsawut which was private or sensitive in nature, or that would afford him a legitimate expectation of privacy. It said that he had a public facing role on a day to day basis and that any person who was in the office where he worked could have seen and heard his interactions with the HCEAs. Those interactions were limited to formal questions about the HCEAs' duties and taking them to, and giving them access to, the premises which the Writ of Control authorised them to enter and search and, if necessary, remove assets. The broadcaster said that there was nothing private about any of those interactions.

The broadcaster said that the programme made no adverse statements or inferences about Mr Ladsawut, and that while Mr Ladsawut may have preferred not to be included in the broadcast programme, embarrassment or distress about that was insufficient to create enforceable privacy rights under Article 8.

Broadcast footage of Mr Ladsawut

Channel 5 said that the broadcast contained scenes involving Mr Ladsawut greeting the HCEAs, answering their queries and escorting them to the premises to which they required access. He was not depicted talking about or indicating anything that was private to him or to anyone else. Channel 5 said that it did not accept that Mr Ladsawut had any right of privacy infringed by the broadcast. It said that he was not shown in a bad light or shown doing or saying anything which might be considered private. It also said that Mr Ladsawut occupied an outward facing role in which it would be entirely normal for him to interact with the public, or answer queries or be otherwise seen as he goes about his duties.

Channel 5 said that although Mr Ladsawut's image was included in the broadcast without his consent, nothing flowed from that. The broadcaster said that the law in the United Kingdom does not provide that individuals have a right to prevent their appearance in television broadcasts. Where, as in this case, the broadcast of an image of a person is part of the actual circumstances the subject of the broadcast and does not, and cannot, be considered detrimental to the person, there is no violation of any Article 8 right. Channel 5 said that the *Campbell* case was relevant in this respect in that the photograph of Ms Campbell that was published was not, in itself, actionable. It said that the issue was that the photograph, coupled with information about her health, crossed a line. No such line was crossed in this case. No information about Mr Ladsawut whatsoever, apart from his image and occupation, was communicated as part of this segment of the programme.

Channel 5 said that while Mr Ladsawut may feel embarrassment or distress as a result of being included in the broadcast, it said that the law of privacy was not designed to protect the unduly sensitive. If it were otherwise, then privacy would become "an unacceptable chilling effect on free speech".

For the reasons already given above, Channel 5 said that there is a clear public interest in seeing the activities of the HCEAs in the course of executing their official duties. That public interest extends to including shots of Mr Ladsawut in the broadcast where to do so does not involve anything other than disclosing that Mr Ladsawut was at the premises performing his ordinary duties when the HCEAs attended to execute the Writ.

Channel 5 said that in this case, the sequence in which Mr Ladsawut appeared made several things clear to the public, all of which it is in the public interest for the public to know:

- High Court Writs can be executed at any time, without notice;
- when a Writ of Control has been issued, goods and chattels which belong to anyone at the place where the debtor resides can be taken into possession by the HCEAs unless proof of ownership of those goods or chattels can be immediately produced;
- HCEAs may force entry to commercial premises if access is impeded;
- significant costs can be incurred if the various stages of the execution of the Writ of Control are reached;

- failure to pay judgment debts, or failure to respond to calls from those collecting judgment debts, can lead to the property of entities other than the judgment debtor being seized, disrupting ordinary business activities; and,
- judgment debts cannot and should not be ignored.

Channel 5 said that the broadcast of the programme was entirely in the public interest and by including the footage that was shown, the broadcast did not exceed what was necessary and appropriate to make viewers understand the situation and the ramifications of what the HCEAs were doing.

It said that nothing private to Mr Ladsawut was revealed by the broadcast, and that, in conclusion, it did not believe that Mr Ladsawut had a legitimate expectation of privacy in connection with either the filming or broadcast of the footage concerning him.

In conclusion, Channel 5 said that it did not believe that the complainant's privacy was infringed by either the making of the programme or its broadcast.

Supplementary material

Ofcom's consideration of Mr Ladsawut's complaint was put on hold pending the conclusion of our investigation into a complaint made by Miss F about a separate edition of *Can't Pay? We'll Take it Away!*¹⁰. During our investigation into Miss F's complaint, Channel 5 provided Ofcom with supplementary material that included details of arrangements between the HCEA company and the programme makers for the provision and use of the body cameras worn by the HCEAs and the subsequent use of the material recorded (both visual and audio) on those body cameras. Channel 5 confirmed to Ofcom that these arrangements were also in place at the time that Mr Ladsawut was filmed and the programme broadcast.

In a document entitled "Main Contributor Release Form" ("Release Form") it was agreed between the programme makers and the HCEA company that:

- the body cameras would be provided to the HCEAs by the programme makers and that the HCEAs would film in the way that they would do normally (i.e. with their own cameras when not engaged in activities with the programme makers);
- the entire copyright in the material recorded by the body cameras belonged to the programme makers for the purposes of the programme; and,
- reasonable access to view the body camera material would be given to the HCEA company upon request, but that material remained the property of the programme makers.

Channel 5 also provided Ofcom with the programme production "bible" which provided further detail about the relevant practices and procedures governing the activities of the production team in making *Can't Pay? We'll Take It Away*. In particular, the document stated that:

¹⁰ Complaint by Miss F, made on her own behalf and on behalf of her uncle, and her parents about *Can't Pay? We'll Take it Away!*, Channel 5, 20 April 2016.
https://www.ofcom.org.uk/_data/assets/pdf_file/0018/107433/issue-340-broadcast-on-demand-bulletin.pdf

- each HCEA wore a body camera and a microphone with sound fed to a central recorder unit with an additional boom microphone. Both the camera and the microphone recorded continuously while they dealt with a case;
- while HCEAs routinely wear body cameras, they are of low quality. Therefore, the programme makers replace them with their own, better quality body cameras and ensure that there is always a sound recordist on the shoots;
- the production team maintain the body cameras while filming and ensure that replacement batteries are carried, and the data backed up;
- if a “debtor” queries the use of the body cameras, the programme makers should respond that they are worn for the HCEAs' security, but that the material may be made available to the programme makers if it is in the public interest to show it; and,
- Ofcom does not view the filming by the HCEAs on the body cameras or the subsequent broadcast of the filmed footage as being surreptitious filming and so it can “be treated for all intent and purpose as being the same as your (i.e. camera crew) filming in most cases”.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both the complainant and the broadcaster were given the opportunity to make representations on the Preliminary View. The parties’ representations are summarised below.

Complainant’s representations

In so far as Mr Ladsawut’s representations were relevant to the complaint considered by Ofcom, Mr Ladsawut, who disagreed with Ofcom’s Preliminary View, made the following comments:

Mr Ladsawut said that since the broadcast of the programme, people had asked him questions such as: “I saw you on the TV with the bailiffs, why?”, and “why did the bailiffs come to see you?”, which, he said, was very annoying, disturbing, frustrating and had caused him a significant loss of dignity. He reiterated that he did not give his consent for the broadcast and had told the programme makers on the day of filming that the footage must not be broadcast. He said that he had been told by the HCEAs that they wore the body cameras to protect themselves, not to record footage for a TV series.

Mr Ladsawut said that he clearly had nothing to do with the enforcement and, as such, the unobscured footage filmed of him was intrusive. He questioned Ofcom’s assessment of the public interest and said the footage of him should not have been broadcast. Mr Ladsawut said that as a result of the programme, he decided to move away from where he worked.

Broadcaster’s representations

Channel 5’s said that its only representation in relation to the Preliminary View related to Ofcom’s finding that there was surreptitious filming. It reiterated that it did not agree with Ofcom's analysis of the footage taken on the HCEAs' body cameras was surreptitious under the terms of the Code. In particular, Channel 5 said that neither the question of the ownership of the body cameras, nor the fact that the body cameras were worn by the HCEAs under a prior arrangement, could turn footage which would otherwise not have been deemed to be surreptitious by Ofcom to be, in fact surreptitious.

The broadcaster said that other than recording and restating its view in relation to surreptitious filming, already set out in detail in its earlier submissions, it had no further representations to make.

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 this decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and the unedited footage, transcripts of all the footage, and both parties' written submissions and supporting documentation. Ofcom also took careful account of the representations made by both 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 these representations, we considered the points raised did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

In Ofcom's view, the individual's right to privacy under Article 8 of the ECHR has to be balanced against the competing rights of the broadcaster's right to freedom of expression and the audience's right to receive information under Article 10. 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.

In addition to this rule, Section Eight (Privacy) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or the making of programmes. Following these practices will not necessarily avoid a breach of Rule 8.1 and failure to follow these practices will only constitute a breach where it results in an unwarranted infringement of privacy.

- a) Ofcom considered Mr Ladsawut's complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme as broadcast as set out under the "Summary of the complaint" section above.

Ofcom had regard to Practices 8.5, 8.7 and 8.9 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 8.7 states that if an

individual or organisation's privacy is being infringed, and they ask that the filming, recording or live broadcast be stopped, the broadcaster should do so, unless it is warranted to continue. Practice 8.9 states that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme. Ofcom also had regard to Practice 8.13 which states that surreptitious filming or recording should only be used where it is warranted.

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

The unedited footage showed that Mr Ladsawut was filmed in his place of work, a large business premises for which he was the building manager. Initially, he was filmed in the public reception area by both the body cameras worn by the HCEAs and the TV camera used by the programme makers. The majority of the rest of the footage of Mr Ladsawut was obtained by body cameras worn by the HCEAs while he carried out his duties. In particular, Mr Ladsawut was filmed interacting directly with the HCEAs as they entered the public reception area of the building and then as he led them into an office occupied by the debtor's company in the interior of the building. Mr Ladsawut was filmed as he expressed concern to the HCEAs about their plans to force entry into the debtor's office, which he explained would cause damage to the building itself. He was filmed attempting to contact the debtor on behalf of the HCEAs and as he opened the office to allow the HCEAs to gain entry after unsuccessfully attempting to contact the debtor. It was not clear from the footage whether the location of the office in the interior of the building was publicly accessible, or whether Mr Ladsawut would ordinarily be expected to be observed by others or deal with the public.

Channel 5 said in its submissions that Mr Ladsawut was aware of the programme *Can't Pay? We'll Take It Away!* and discussed it with the HCEAs who openly explained their use of the cameras and the availability of the footage to Channel 5. Ofcom observed from examining the unedited footage that Mr Ladsawut did say to one of the HCEAs that he had seen the programme on television, but we could find no evidence to support Channel 5's assertion that the issue of the use of the body cameras and the availability of the footage to Channel 5 was raised at all with Mr Ladsawut. The only time in which these issues were touched on was during a conversation in the unedited footage between the HCEAs and two female employees of the debtor. This took place while the HCEAs waited for the debtor to arrive. Crucially, however, Mr Ladsawut was not present during this conversation.

By contrast, it was evident from the unedited footage that Mr Ladsawut had been aware of, and had asked about, the presence of the TV camera used by the camera crew to film the HCEAs. He had made it clear that he did not want the programme makers to film him or the inside of his employers' business premises. In particular, the following conversation took place when the HCEAs arrived at the premises and were allowed into the reception area by Mr Ladsawut:

Mr Ladsawut: *"And he's filming now, can I know why?"* [referring to the TV camera].

Mr Carracher: *Yes, absolutely sir. They're filming us.*

Mr Ladsawut: *Not me? Are they allowed to film our office? ...Because Flatsgo is nothing to do with this here.*

Mr Carracher: *OK, I'm an enforcement agent sir and I'm [interrupted by Mr Ladsawut].*

Mr Ladsawut: *No, I understand that.*

Mr Carracher: *I'm here with a High Court Writ.*

Mr Ladsawut: *But before you're filming, I understand you need to ask for permission.*

Mr Carracher: *Ask them any questions about that.*

Programme maker: *Yeah, it's up to you, we're making a documentary following these gentlemen.*

Mr Ladsawut: *No no, but you're filming our building.*

Programme maker: *Yeah is that OK?*

Mr Ladsawut: *No, because I need to ask permission.*

Mr Carracher: *Yeah that's fine, you can ask them to leave. You can't really ask us to leave. Thanks very much.*

Mr Ladsawut: *I thought you were all together sir?*

Mr Carracher: *No. I'm here with my colleague Mr Bohill.*

Mr Ladsawut: *...Oh, they're nothing to do with you? Are they just?*

Mr Carracher: *They can film us, but they won't film if you say you don't give permission.*

Mr Ladsawut: *Why are they filming you?*

Mr Carracher: *Why do they film us? They're making a programme, a documentary.*

Mr Bohill: *On the work that we do.*

Mr Ladsawut: *But they can't film without our permission. They can't. They can't film us.*

Mr Bohill: *They're going outside, they're in a public area now.*

Mr Ladsawut: *...If it's illegal they should ask first.*

Mr Bohill: *No, no. Well they've done that, and you've said no so they've gone outside.*

Mr Carracher: *They've gone sir.*

Mr Ladsawut: *On top of that, if you're an enforcement agency...it looks a bit bad on you because I mean it's like they are coming together with [interrupted by Mr Bohill].*

Mr Bohill: *Sorry, can we have this conversation like after we've found out if they're in?"*

Later in the enforcement, Mr Ladsawut went outside the building to speak to the programme makers about the filming. Mr Ladsawut asked about the purpose of the filming and was told by one of the programme makers: "...it's for Channel 5". He was also told that the question as to what footage was used and appeared in the programme would be a matter for Channel 5 to decide. The programme maker also said that she would make Channel 5 aware of Mr Ladsawut's concerns about the filming and gave him a business card with the production company's contact details. Nothing was said in this conversation with the programme makers, or in any other conversation that they or the HCEAs had with Mr Ladsawut, about the filming by the body cameras worn by the HCEAs, or that the footage filmed by them would be available to the programme makers.

In considering the way this material was obtained, we took account of Practice 8.13 which states that "surreptitious filming or recording should only be used where it is warranted. Normally, any infringement 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".

Ofcom was told by Channel 5 in its statement that the HCEAs routinely wore body cameras during their work "for their safety and in case of complaint or inquiry" and that these cameras "were not hidden". However, in this instance, the body cameras being worn were, in fact, provided to the HCEAs by the programme makers with a view to potentially including all or part of the HCEAs' interactions with Mr Ladsawut in the programme as broadcast.

In considering the way this material was obtained, we took account of Practice 8.13 which states that "surreptitious filming or recording should only be used where it is warranted. Normally, any infringement 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".

The Code defines "surreptitious filming and recording" as including "the use of long lenses or recording devices, as well as leaving an unattended camera or recording device on private property without the full and informed consent of the occupiers or their agent. It may also include recording telephone conversations without the knowledge of the other party, or deliberately continuing with a recording when the other party thinks that it has come to an end".

Ofcom considered that it was apparent from the arrangements identified in the Supplementary Material provided by Channel 5 that the body cameras were not being worn by the HCEAs solely for their own benefit. Rather, the provision of the cameras by

the programme makers and their ownership of the footage unequivocally showed the existence of an advance arrangement between the programme makers and the HCEA company which provided the programme makers with unfettered access to the footage recorded by the body cameras. A fundamental purpose of the cameras, therefore, was for the programme makers to obtain and retain footage for potential broadcast. The ownership and operation of the cameras guaranteed them exclusivity to the material recorded and enabled free, uninhibited access to Mr Ladsawut's place of work as they interacted with the HCEAs. This afforded the programme makers a level of access that exceeded substantially any exposure which anyone in the complainant's position could possibly have expected at the time. As a consequence, the programme makers acquired access to unguarded interactions and disclosures within the business premises and were able to observe and record exchanges between the HCEAs and Mr Ladsawut.

As we have explained above, from the unedited footage provided by Channel 5 we observed that at no time during the filming was Mr Ladsawut made aware that the body cameras and the material recorded by them belonged to the programme makers and could subsequently be used in the television programme. We considered that this was not something he could reasonably have foreseen or appreciated, particularly as the actions of the programme makers in agreeing to leave the building at Mr Ladsawut's request gave every indication that this was not the case. We recognised that broadcasters often obtain material for broadcast from third parties, but in this case, programme makers were visibly present and agreed to withdraw from filming in the building (see extract above). We took into account from examining the unedited footage that no further reference was made to the body cameras, or to the fact that filming was taking place despite the withdrawal of the TV camera.

In our view, the conversation between Mr Ladsawut, the HCEAs, and the programme makers at the beginning of the enforcement and the subsequent action of the programme makers in withdrawing from the premises would have sent a clear message to Mr Ladsawut that his interactions with the HCEAs would not be filmed by the programme makers for potential use in a television programme. We also took into account that when Mr Ladsawut later spoke to the programme makers outside the building, again no mention was made to him about the body cameras and what the principal purpose of the filming was. This, in our view, was misleading as it was in direct contrast to the actual position in light of the programme makers' access to the material recorded by the body cameras.

In these circumstances, taking all the factors above into account, Ofcom considered that the material recorded of Mr Ladsawut by the body cameras had been obtained by the programme makers surreptitiously, notwithstanding the fact that the body cameras themselves were worn openly. An intrinsic purpose of the filming from these cameras was to obtain footage for potential broadcast and Mr Ladsawut was not made aware of this, irrespective of whether or not he was nevertheless aware of the body cameras. As a result, Mr Ladsawut would not have understood the full significance of the body cameras, particularly as he understood that the TV camera belonged to the programme makers who had gone outside. In these circumstances, the actions of the programme makers were akin to deliberately continuing with a recording when the other party thinks that it has come to an end. Similarly, by not making Mr Ladsawut aware of the full significance of the body cameras, the method in which this footage and the accompanying audio was obtained was akin to the programme makers leaving an

unattended camera or recording device on private property without the consent of the occupiers.

Channel 5 submitted that the execution of a Writ issued by the High Court is a public matter and that in this case, the execution of the writ was not a matter connected with Mr Ladsawut's private life. It also said that the activities of HCEAs, the kinds of difficulties they face when executing their duties, the way the law is utilised or ignored and the impact on the lives of those affected by the activities of HCEAs are all matters of acute public interest. However, in Ofcom's view, none of these arguments pointed to a *prima facie* story in the public interest of a type or order which would ordinarily warrant the use of surreptitious filming (as envisaged by Practice 8.13).

Ofcom's view on the issue of surreptitious filming has regard to the fact that an advance arrangement was in place between the programme makers and the HCEA company. This arrangement provided the programme makers with unfettered access to the footage recorded by the body cameras for the purposes of broadcast before any footage had been captured and in the absence of any *prima facie* evidence in this case of a sufficient public interest which would justify any privacy intrusion which would potentially arise from obtaining access to the official footage in question.

For the sake of clarity, while the ownership of the body cameras and the copyright in the footage was a notable feature of the arrangement, it was the fact that the body cameras were worn with the prior objective of obtaining footage for the purpose of broadcast, rather than the fact of the ownership itself, which was the material consideration in this part of Ofcom's analysis (not least as it served to define the purpose for which the footage was obtained in the first place and allowed the programme makers unfettered access to, and use of, the footage which was recorded as a consequence).

The fact that the body cameras were worn with the prior objective of obtaining footage for the purpose of broadcast was not something which was explained to Mr Ladsawut, nor would it have been something which he could reasonably have foreseen or appreciated. After taking into account all the relevant factors and Channel 5's submissions and representations in relation to the issue of surreptitious filming, Ofcom took the view that it was justified in classifying the manner in which footage was obtained as "surreptitious" in the sense envisaged by the Code. This would not have been the case if Mr Ladsawut had been made aware at the outset that the footage was to be used for the purposes of potential broadcast (rather than simply for the HCEAs' own official use).

It is important for Ofcom to stress that the Code does not prohibit the use of surreptitious filming. Indeed, it can be an important means of enabling broadcasters to obtain material evidence where, as envisaged by Practice 8.13, 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. These important prior considerations, which arise because of the potentially significant privacy consequences which surreptitious filming may cause are designed to ensure that broadcasters do not use such methods indiscriminately, or without due cause in the speculative hope of gathering material for potential broadcast.

In this case, however, Ofcom does not accept that the public interest arguments submitted by Channel 5 were of sufficient order and weight to warrant filming of this nature in the circumstances. Mr Ladsawut was not himself the subject of the High Court enforcement process, as he reiterated in his representations on Ofcom's Preliminary View and was filmed carrying out his duties and assisting the HCEAs. However, in Ofcom's view, neither that fact, nor the public interest in programming which seeks to shed light on the issues and difficulties encountered by HCEAs, warranted the decision of the programme makers and Channel 5 to obtain footage of these particular events in this manner.

However, it is also important to emphasise that a failure to follow any of the practices in the Code will only constitute a breach of the Code where it results in an unwarranted infringement of privacy. In other words, a finding that a broadcaster has failed to follow Practice 8.13 (in relation to surreptitious filming) does not, in and of itself, automatically lead to an unwarranted infringement of privacy. Ofcom therefore proceeded to consider whether Mr Ladsawut held a legitimate expectation of privacy in relation to the obtaining of the footage.

Ofcom recognises that a person may have a legitimate expectation of privacy in relation to activities of a private nature undertaken in their workplace, and that these warrant protection from unwanted intrusion (for example, a discussion about personal matters with a colleague, or carrying out a business function in a workplace to which the public do not have open access).

In this case, we took into account that Mr Ladsawut was filmed carrying out his day to day tasks as the property manager of the building. These included assisting visitors to the building. The HCEAs had come to the premises to visit a debtor who was a tenant in the building and they sought access to that tenant's office in order to enforce the debt. Mr Ladsawut was initially filmed in the reception area, which was accessible to the public. However, Mr Ladsawut was also filmed during the enforcement in a part of the building that would not ordinarily be accessible to the general public. He and the HCEAs largely spoke about practical steps he could take in the debtor's absence to help the HCEAs to make contact with the debtor, and to help them gain access to the debtor's office. At one point, Mr Ladsawut disclosed to one of the HCEAs that he was "British, but French" and that his parents spoke French; he also referred briefly to a "tribunal" case he had been involved with, but he did not speak about this in any detail or disclose any private or sensitive personal information.

In considering whether Mr Ladsawut had a legitimate expectation of privacy Ofcom also took account of the fact that he was filmed surreptitiously by the HCEAs and that such filming took place despite Mr Ladsawut being clear from the outset that he did not give permission for the programme makers to film in the building. As discussed above, Mr Ladsawut was told and understood about the purpose of the filming by the main TV camera, but he was not made aware that he was being filmed by body cameras belonging to the programme makers and that the footage was being recorded for potential broadcast. In such circumstances, we took the view that it would have been reasonable for Mr Ladsawut to believe that his conversations with the HCEAs were not being held openly and that he could speak freely and frankly with them. He would not have expected his conversations were being recorded for potential inclusion in a nationally broadcast television programme, with the attendant exposure this provided.

For these reasons, we considered that Mr Ladsawut had a legitimate expectation of privacy.

The broadcaster confirmed in its submissions that Mr Ladsawut's consent was not obtained in connection with the filming of him and Mr Ladsawut reiterated this point in his representations on Ofcom's Preliminary View. Therefore, Ofcom went on to consider whether the infringement of Mr Ladsawut's legitimate expectation of privacy in the obtaining of the material of him was warranted without his consent.

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

Ofcom carefully balanced Mr Ladsawut's rights to privacy with regards to the obtaining of the footage with the broadcaster's right to freedom of expression.

We acknowledged that the public interest was engaged in making programmes that highlight the serious issue of debt. We considered that the filming in this case showed the activities of the HCEAs while executing their official duties, the interactions they routinely engage in, and the difficulties they face, as well as the experience of those like Mr Ladsawut who are not themselves the debtor.

On the facts of this case, we took into account that while Mr Ladsawut was not the subject of the enforcement process himself, it was necessary for the HCEAs to engage with him in the process of dealing with a debt owed by one of the tenants in the building he managed. We considered that Mr Ladsawut's part in the enforcement was incidental and that as he was not the debtor subject to the enforcement, he was not in a position where he had to reveal anything about himself, or his own financial situation. As we have said above, the footage filmed of Mr Ladsawut did not reveal any personal information about him and his private life. Therefore, on the particular facts of this case, Ofcom considered that the interference with Mr Ladsawut's right to privacy was limited: while the filming was obtained surreptitiously at his workplace, nothing of a particularly private or sensitive nature to Mr Ladsawut was filmed.

Given these factors, and having taking into account Mr Ladsawut's representations on Ofcom's Preliminary View, we considered, for the reasons already given above, that, on balance, the level of interference with the legitimate expectation of privacy of Mr Ladsawut was not significant and of such a nature and gravity as to outweigh the public interest in programming of this nature and the wider Article 10 rights of the broadcaster and programme makers.

Notwithstanding this view, Ofcom considered that the material had not been obtained proportionately in all the circumstances for the purpose of Practice 8.9, as the footage filmed by the HCEAs' body cameras was obtained surreptitiously, as set out above. Nevertheless, having taken all the relevant factors into account, Ofcom considered that, on balance, the broadcaster's right to freedom of expression and the public interest in

the obtaining the footage of Mr Ladsawut in this instance outweighed his limited legitimate expectation of privacy in relation to the filming of him. Therefore, we considered that Mr Ladsawut's privacy in connection with the obtaining of material included in the programme was not unwarrantably infringed.

Therefore, Ofcom's Preliminary View is that there was no unwarranted infringement of Mr Ladsawut's privacy in connection with the obtaining of material included in the programme.

- b) We next considered Mr Ladsawut's complaint that his privacy was unwarrantably infringed in the programme as broadcast because footage of him was included in the programme without his consent.

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

We assessed whether Mr Ladsawut had a legitimate expectation of privacy regarding the broadcast of footage of him included in the programme. We applied the same objective test set out in head a) above.

As set out in detail above at head a) and in the "Programme summary" section, footage of Mr Ladsawut at work talking to and assisting the HCEAs in his capacity as the property manager of the building was included in the programme. Mr Ladsawut appeared briefly in the programme and was not the focus of the enforcement. He was not named in the programme, but his face was shown unobscured and his voice was not disguised. This, we considered, rendered Mr Ladsawut identifiable in the programme.

Practice 8.14 states that "Material gained by surreptitious filming and recording should only be broadcast when it is warranted". As explained in detail at head a) above, Ofcom considered that most of the footage filmed of Mr Ladsawut had been obtained surreptitiously by the body camera worn by the HCEAs.

For the reasons set out in head a) above, Ofcom considered that most of the footage included in the programme (i.e. the footage solely captured on the HCEAs' body cameras and the very brief footage filmed on the main TV camera by the programme makers at the beginning of the enforcement) was filmed without Mr Ladsawut's knowledge and/or consent. In these circumstances, we considered that the inclusion of this material in the programme as broadcast constituted an interference with Mr Ladsawut's privacy rights.

As in head a) above, we understood from Channel 5's submissions that Mr Ladsawut's consent was not obtained in relation to the broadcast of the programme. We therefore went on to consider whether the broadcast of this material without consent was warranted under the Code.

We again carefully balanced Mr Ladsawut's right to privacy regarding the inclusion of the relevant footage in the programme with the broadcaster's right to freedom of expression and the audience's right to receive the information broadcast without unnecessary interference. We also took into account that the footage depicted Mr Ladsawut as he interacted with the HCEAs in dealing with a debt owed by one of the tenants in the building he managed and that his image was not obscured. The footage of him that

appeared in the programme was brief as he went about assisting the HCEAs in trying to contact the debtor and letting them into the debtor's rented office. We considered that the programme as broadcast did not involve a significant intrusion into Mr Ladsawut's privacy as nothing of a private or sensitive nature relating to Mr Ladsawut's personal life was disclosed in the programme.

As above in head a) we took into account Channel 5's argument and its representations that there was a public interest in broadcasting the footage in that it showed the activities of the HCEAs while executing their official duties.

As previously, we acknowledged that the public interest was engaged in broadcasting programmes that highlight the serious issue of debt and the issues which the HCEAs encounter when seeking to enforce court orders made in that regard. We also recognised that the inclusion of named or identifiable individuals may enhance that public interest by making the broadcast footage more accessible or engaging to the watching audience¹¹.

In weighing up the competing rights of the parties, Ofcom took particular account of the fact that the footage of Mr Ladsawut broadcast in the programme did not disclose anything that could reasonably be regarded as being private or sensitive to him in nature, or as revealing anything about his personal life. We therefore considered that the interference with Mr Ladsawut's rights to privacy was limited, particularly in light of the circumstances in which the footage was obtained and the need for the HCEAs to engage with Ladsawut in his capacity as property manager. Having taken all the factors above into account, including Mr Ladsawut's representations on Ofcom's Preliminary View, Ofcom considered that, on balance, the interference with the rights to privacy of the complainant in this case was not significant and was not of a nature and gravity as to outweigh the public interest in programming of this nature and the wider Article 10 rights of the broadcaster and programme makers.

For all the reasons set out above, Ofcom considered that Mr Ladsawut's privacy was not unwarrantably infringed in the programme as broadcast.

Ofcom has not upheld Mr Ladsawut's complaint of unwarranted infringement of privacy in connection with the obtaining of the material included in the programme and in the programme as broadcast.

¹¹ In *re S* (identification: Restrictions on Publication); and, In *re Guardian News & Media Ltd*.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 26 November and 9 December 2018 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 General Procedures for investigating breaches of broadcast licences

Licensee	Licensed service	Categories
Cuillin FM Ltd	Cuillin FM	Provision of licensed service

For more information about how Ofcom conducts investigations about broadcast licences, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 26 November and 9 December 2018 because they did not raise issues warranting investigation.

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission Date	Categories	Number of complaints
First Time Call Girl	5Star	08/11/2018	Generally accepted standards	1
Twilight of the Porn Stars	BBC Brit	24/11/2018	Gender discrimination/offence	1
One Love Breakfast Show	BCFM Radio Bristol	09/10/2018	Generally accepted standards	1
The Economist advertisement	BT Sport 1	01/12/2018	Political advertising	1
Capital Breakfast with Adam & JoJo	Capital FM (Yorkshire)	13/11/2018	Harm	1
3rd Rock from The Sun	Channel 4	20/11/2018	Offensive language	1
Celebrity Hunted	Channel 4	06/11/2018	Dangerous behaviour	1
Celebrity Hunted	Channel 4	06/11/2018	Generally accepted standards	19
Celebrity Island with Bear Grylls	Channel 4	30/09/2018	Animal welfare	1
Channel 4 News	Channel 4	11/11/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	14/11/2018	Due impartiality/bias	4
Channel 4 News	Channel 4	15/11/2018	Due accuracy	1
Channel 4 News	Channel 4	16/11/2018	Due accuracy	1
Channel 4 News	Channel 4	22/11/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	24/11/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	27/11/2018	Due impartiality/bias	2
Continuity announcement	Channel 4	27/11/2018	Race discrimination/offence	1
Don't Tell the Bride	Channel 4	14/11/2018	Nudity	1
First Dates	Channel 4	26/11/2018	Generally accepted standards	2
Formula One Abu Dhabi Grand Prix: Live Build Up	Channel 4	25/11/2018	Undue prominence	1
Gogglebox	Channel 4	23/11/2018	Generally accepted standards	3
Gogglebox	Channel 4	30/11/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Lego Masters	Channel 4	20/11/2018	Under 18s in programmes	2
Lego Masters	Channel 4	04/12/2018	Promotion of products/services	1
Naked Attraction	Channel 4	22/11/2018	Generally accepted standards	1
Naked Attraction	Channel 4	25/11/2018	Nudity	1
Naked Attraction	Channel 4	06/12/2018	Generally accepted standards	2
No Offence	Channel 4	13/09/2018	Disability discrimination/offence	1
The Last Leg	Channel 4	16/11/2018	Due impartiality/bias	1
The Last Leg	Channel 4	16/11/2018	Generally accepted standards	1
Tin Star	Channel 4	18/11/2018	Under 18s in programmes	1
Trans Kids: It's Time to Talk	Channel 4	21/11/2018	Transgender discrimination/offence	33
Walks with My Dog	Channel 4	04/12/2018	Animal welfare	1
5 News	Channel 5	22/11/2018	Race discrimination/offence	1
5 News	Channel 5	29/11/2018	Dangerous behaviour	1
James Bulger: The New Revelations	Channel 5	14/11/2018	Generally accepted standards	19
Jeremy Vine	Channel 5	23/11/2018	Generally accepted standards	1
Jeremy Vine	Channel 5	29/11/2018	Offensive language	1
London Has Fallen	Channel 5	11/11/2018	Generally accepted standards	3
Neighbours	Channel 5	06/11/2018	Generally accepted standards	1
Robbed by My Relatives	Channel 5	15/11/2018	Under 18s in programmes	1
UK's Strongest Man 2018	Channel 5	28/11/2018	Generally accepted standards	1
News at Ten	CHSTV	12/08/2018	Due accuracy	1
Scrambled!	CITV	24/11/2018	Generally accepted standards	1
Bowie at Breakfast	Clyde 1	27/11/2018	Generally accepted standards	1
South Park	Comedy Central	29/11/2018	Disability discrimination/offence	1
Would I Lie to You	Dave	05/12/2018	Offensive language	1
Wheeler Dealers	Discovery Turbo	18/11/2018	Dangerous behaviour	1
Channel ident	E4	19/11/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Hollyoaks	E4	03/12/2018	Materially misleading	1
Paddy Power's Sponsorship of The Walking Dead	FOX	19/11/2018	Age discrimination/offence	1
Paddy Power's sponsorship of The Walking Dead	FOX	26/11/2018	Age discrimination/offence	1
Heart Breakfast with Ben and Mel	Heart Radio (Wiltshire)	19/11/2018	Generally accepted standards	1
Vanakkam Tamil Walthamstow, Sri Katpaga vinayagar, Makotsavam	IBC Tamil	05/09/2018	Generally accepted standards	1
Britain's Busiest Motorway	ITV	19/11/2018	Materially misleading	1
Coronation Street	ITV	14/11/2018	Advertising/editorial distinction	1
Coronation Street	ITV	14/11/2018	Harm	1
Coronation Street	ITV	21/11/2018	Generally accepted standards	1
Coronation Street	ITV	30/11/2018	Generally accepted standards	1
Coronation Street	ITV	30/11/2018	Product placement	1
Dickinson's Real Deal (trailer)	ITV	15/11/2018	Generally accepted standards	1
Emmerdale	ITV	30/11/2018	Crime and disorder	1
Emmerdale	ITV	03/12/2018	Generally accepted standards	6
Emmerdale	ITV	05/12/2018	Generally accepted standards	2
Emmerdale / Coronation Street	ITV	30/11/2018	Sexual material	1
Good Morning Britain	ITV	02/11/2018	Disability discrimination/offence	2
Good Morning Britain	ITV	05/11/2018	Generally accepted standards	3
Good Morning Britain	ITV	09/11/2018	Generally accepted standards	1
Good Morning Britain	ITV	12/11/2018	Generally accepted standards	1
Good Morning Britain	ITV	20/11/2018	Offensive language	7
Good Morning Britain	ITV	26/11/2018	Generally accepted standards	1
Good Morning Britain	ITV	27/11/2018	Due impartiality/bias	3
Good Morning Britain	ITV	27/11/2018	Generally accepted standards	2

Programme	Service	Transmission Date	Categories	Number of complaints
Good Morning Britain	ITV	27/11/2018	Transgender discrimination/offence	11
Good Morning Britain	ITV	28/11/2018	Generally accepted standards	6
Good Morning Britain	ITV	28/11/2018	Offensive language	1
Good Morning Britain	ITV	28/11/2018	Scheduling	1
Good Morning Britain	ITV	04/12/2018	Religious/Beliefs discrimination/offence	1
Good Morning Britain	ITV	05/12/2018	Disability discrimination/offence	1
Good Morning Britain	ITV	05/12/2018	Gender discrimination/offence	1
Good Morning Britain	ITV	05/12/2018	Generally accepted standards	9
HSBC advertisement	ITV	05/12/2018	Political advertising	1
I'm a Celebrity...Get Me Out of Here!	ITV	28/09/2018	Religious/Beliefs discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	04/11/2018	Gender discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	18/11/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	19/11/2018	Animal welfare	1
I'm a Celebrity...Get Me Out of Here!	ITV	19/11/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	20/11/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	21/11/2018	Animal welfare	3
I'm a Celebrity...Get Me Out of Here!	ITV	21/11/2018	Generally accepted standards	2
I'm a Celebrity...Get Me Out of Here!	ITV	22/11/2018	Gender discrimination/offence	7
I'm a Celebrity...Get Me Out of Here!	ITV	22/11/2018	Generally accepted standards	6
I'm a Celebrity...Get Me Out of Here!	ITV	23/11/2018	Disability discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	24/11/2018	Animal welfare	30
I'm a Celebrity...Get Me Out of Here!	ITV	24/11/2018	Disability discrimination/offence	12
I'm a Celebrity...Get Me Out of Here!	ITV	24/11/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	24/11/2018	Harm	1

Programme	Service	Transmission Date	Categories	Number of complaints
I'm a Celebrity...Get Me Out of Here!	ITV	24/11/2018	Race discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	25/11/2018	Animal welfare	1
I'm a Celebrity...Get Me Out of Here!	ITV	25/11/2018	Dangerous behaviour	1
I'm a Celebrity...Get Me Out of Here!	ITV	25/11/2018	Disability discrimination/offence	8
I'm a Celebrity...Get Me Out of Here!	ITV	25/11/2018	Generally accepted standards	38
I'm a Celebrity...Get Me Out of Here!	ITV	26/11/2018	Generally accepted standards	14
I'm a Celebrity...Get Me Out of Here!	ITV	27/11/2018	Animal welfare	2
I'm a Celebrity...Get Me Out of Here!	ITV	27/11/2018	Disability discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	27/11/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	28/11/2018	Animal welfare	3
I'm a Celebrity...Get Me Out of Here!	ITV	28/11/2018	Drugs, smoking, solvents or alcohol	1
I'm a Celebrity...Get Me Out of Here!	ITV	28/11/2018	Generally accepted standards	3
I'm a Celebrity...Get Me Out of Here!	ITV	28/11/2018	Offensive language	2
I'm a Celebrity...Get Me Out of Here!	ITV	28/11/2018	Sexual orientation discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	29/11/2018	Generally accepted standards	2
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Dangerous behaviour	1
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Drugs, smoking, solvents or alcohol	1
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Generally accepted standards	3
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Harm	1
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Race discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	30/11/2018	Voting	10
I'm a Celebrity...Get Me Out of Here!	ITV	01/12/2018	Animal welfare	10
I'm a Celebrity...Get Me Out of Here!	ITV	01/12/2018	Drugs, smoking, solvents or alcohol	2

Programme	Service	Transmission Date	Categories	Number of complaints
I'm a Celebrity...Get Me Out of Here!	ITV	01/12/2018	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	02/12/2018	Animal welfare	5
I'm a Celebrity...Get Me Out of Here!	ITV	02/12/2018	Generally accepted standards	5
I'm a Celebrity...Get Me Out of Here!	ITV	02/12/2018	Promotion of products/services	1
I'm a Celebrity...Get Me Out of Here!	ITV	02/12/2018	Race discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	02/12/2018	Religious/Beliefs discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	03/12/2018	Animal welfare	1
I'm a Celebrity...Get Me Out of Here!	ITV	03/12/2018	Disability discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	03/12/2018	Sexual material	1
I'm a Celebrity...Get Me Out of Here!	ITV	04/12/2018	Animal welfare	5
I'm a Celebrity...Get Me Out of Here!	ITV	04/12/2018	Disability discrimination/offence	2
I'm a Celebrity...Get Me Out of Here!	ITV	05/12/2018	Animal welfare	1
I'm a Celebrity...Get Me Out of Here!	ITV	05/12/2018	Voting	1
International Football Highlights	ITV	18/11/2018	Product placement	1
ITV News	ITV	03/12/2018	Due accuracy	1
ITV News	ITV	09/11/2018	Generally accepted standards	1
ITV News	ITV	12/11/2018	Religious/Beliefs discrimination/offence	5
ITV News	ITV	16/11/2018	Due accuracy	1
ITV News	ITV	16/11/2018	Gender discrimination/offence	1
ITV News	ITV	26/11/2018	Due accuracy	1
ITV News	ITV	28/11/2018	Due accuracy	4
Judge Rinder's Crime Stories	ITV	16/10/2018	Scheduling	1
Loose Women	ITV	13/11/2018	Gender discrimination/offence	1
Loose Women	ITV	14/11/2018	Generally accepted standards	1
Loose Women	ITV	15/11/2018	Materially misleading	1

Programme	Service	Transmission Date	Categories	Number of complaints
Loose Women	ITV	27/11/2018	Generally accepted standards	2
Loose Women	ITV	28/11/2018	Generally accepted standards	1
Loose Women	ITV	29/11/2018	Due impartiality/bias	1
Loose Women	ITV	29/11/2018	Fairness	1
Loose Women	ITV	04/12/2018	Generally accepted standards	2
Lorraine	ITV	06/12/2018	Generally accepted standards	1
Play to the Whistle	ITV	03/11/2018	Generally accepted standards	1
Saturday Morning with James Martin	ITV	24/11/2018	Dangerous behaviour	2
Saturday Morning with James Martin	ITV	24/11/2018	Generally accepted standards	1
The Chase	ITV	04/11/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	16/11/2018	Generally accepted standards	1
The X Factor	ITV	03/11/2018	Voting	1
The X Factor	ITV	18/11/2018	Sexual material	1
The X Factor	ITV	24/11/2018	Generally accepted standards	1
The X Factor	ITV	24/11/2018	Under 18s in programmes	1
The X Factor	ITV	24/11/2018	Undue prominence	1
The X Factor	ITV	25/11/2018	Sexual material	5
The X Factor	ITV	25/11/2018	Voting	1
The X Factor	ITV	02/12/2018	Generally accepted standards	1
The X Factor	ITV	02/12/2018	Offensive language	1
The X Factor	ITV	02/12/2018	Promotion of products/services	1
The X Factor	ITV	02/12/2018	Race discrimination/offence	1
This Morning	ITV	07/11/2018	Materially misleading	1
This Morning	ITV	27/11/2018	Disability discrimination/offence	1
This Morning	ITV	27/11/2018	Generally accepted standards	20
This Morning	ITV	29/11/2018	Generally accepted standards	2
This Morning	ITV	30/11/2018	Gender discrimination/offence	1

Programme	Service	Transmission Date	Categories	Number of complaints
Tombola Arcade's sponsorship of I'm a Celebrity...Get Me Out of Here!	ITV	18/11/2018	Sponsorship	1
Tombola Arcade's sponsorship of I'm a Celebrity...Get Me Out of Here!	ITV	03/12/2018	Sponsorship	1
We Are Most Amused and Amazed	ITV	13/11/2018	Due impartiality/bias	1
We Are Most Amused and Amazed	ITV	13/11/2018	Religious/Beliefs discrimination/offence	1
ITV News London	ITV London	12/11/2018	Due accuracy	1
Family Guy	ITV2	20/11/2018	Race discrimination/offence	1
I'm a Celebrity: Extra Camp	ITV2	21/11/2018	Generally accepted standards	1
I'm a Celebrity: Extra Camp	ITV2	25/11/2018	Sexual material	1
The Mummy Diaries	ITVBe	28/11/2018	Race discrimination/offence	1
The Real Housewives of Cheshire	ITVBe	13/11/2018	Generally accepted standards	1
Botched	Kanal 11 (Sweden)	30/11/2018	Gender discrimination/offence	1
Tom Green	Kiss FM	08/11/2018	Sexual orientation discrimination/offence	2
The Acupressure Show	KTV	13/09/2018	Harm	1
Iain Dale	LBC 97.3 FM	12/11/2018	Generally accepted standards	1
Iain Dale	LBC 97.3 FM	21/11/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	16/09/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	02/11/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	15/11/2018	Generally accepted standards	2
James O'Brien	LBC 97.3 FM	20/11/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	23/11/2018	Commercial communications on radio	1
James O'Brien	LBC 97.3 FM	26/11/2018	Due impartiality/bias	1

Programme	Service	Transmission Date	Categories	Number of complaints
James O'Brien	LBC 97.3 FM	26/11/2018	Generally accepted standards	2
James O'Brien	LBC 97.3 FM	27/11/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	27/11/2018	Materially misleading	1
James O'Brien	LBC 97.3 FM	28/11/2018	Disability discrimination/offence	1
James O'Brien	LBC 97.3 FM	28/11/2018	Generally accepted standards	4
James O'Brien	LBC 97.3 FM	29/11/2018	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	05/12/2018	Offensive language	1
Nick Ferrari	LBC 97.3 FM	27/11/2018	Due impartiality/bias	1
Nigel Farage	LBC 97.3 FM	03/10/2018	Race discrimination/offence	1
Nigel Farage	LBC 97.3 FM	17/10/2018	Due accuracy	1
Nigel Farage	LBC 97.3 FM	18/11/2018	Generally accepted standards	1
Shelagh Fogarty	LBC 97.3 FM	31/10/2018	Religious/Beliefs discrimination/offence	1
Shelagh Fogarty	LBC 97.3 FM	28/11/2018	Offensive language	1
Shelagh Fogarty	LBC 97.3 FM	30/11/2018	Generally accepted standards	1
Steve Allen	LBC 97.3 FM	14/11/2018	Crime and disorder	1
Come Dine with Me	More4	25/11/2018	Sexual orientation discrimination/offence	1
Teen Mom: Young & Pregnant	MTV	21/11/2018	Under 18s in programmes	1
The Force: Essex	Pick	14/11/2018	Generally accepted standards	1
Wyburn & Wayne	Radio Cardiff	06/11/2018	Commercial communications on radio	1
Kevin the Landlord	Radio Tircoed	13/11/2018	Commercial communications on radio	1
Programming	Sky F1	25/11/2018	Advertising/editorial distinction	1
HSBC advertisement	Sky Arena	27/11/2018	Political advertising	1
Volvo's sponsorship of CSI: Crime Scene Investigation	Sky Atlantic	20/11/2018	Sponsorship credits	1
Scottish Premier League	Sky Main Event	03/11/2018	Due impartiality/bias	1
F Y I	Sky News	17/11/2018	Due impartiality/bias	1
Lunchtime Live	Sky News	03/12/2018	Due impartiality/bias	1

Programme	Service	Transmission Date	Categories	Number of complaints
Paper Review	Sky News	30/11/2018	Due impartiality/bias	1
Sky News	Sky News	08/11/2018	Generally accepted standards	1
Sky News	Sky News	15/11/2018	Due accuracy	1
Sky News	Sky News	23/11/2018	Gender discrimination/offence	1
Sky News	Sky News	24/11/2018	Gender discrimination/offence	1
Sky News	Sky News	Various	Due impartiality/bias	1
Sky News Special Report: Brexit Britain	Sky News	16/11/2018	Due impartiality/bias	1
Sophy Ridge on Sunday	Sky News	18/11/2018	Generally accepted standards	1
Live Usyk v Bellew	Sky Sports Box Office	10/11/2018	Generally accepted standards	3
The Russell Howard Hour	Sky1	22/11/2018	Due impartiality/bias	1
Tin Star (trailer)	Sky1	01/11/2018	Scheduling	1
News	Smooth Radio (West Midlands)	16/11/2018	Race discrimination/offence	1
Grampian News	STV North	14/11/2018	Due accuracy	1
Paul Ellery	Sunshine Radio	26/10/2018	Commercial communications on radio	1
Matthew Wright	Talk Radio	30/10/2018	Due impartiality/bias	1
Mike Graham	Talk Radio	19/10/2018	Generally accepted standards	1
The Late Night Alternative with Iain Lee	Talk Radio	19/11/2018	Offensive language	1
Alan Brazil Sports Breakfast	Talksport	15/11/2018	Generally accepted standards	1
Alan Brazil Sports Breakfast	Talksport	16/11/2018	Due impartiality/bias	1
Alan Brazil Sports Breakfast	Talksport	20/11/2018	Gender discrimination/offence	1
Kim Robson	The Eagle	04/12/2018	Offensive language	1
Docta Flex	Ujima FM	10/11/2018	Crime and disorder	1
The Rock Show with Javro	Zack FM 105.3	01/11/2018	Competitions	1

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Service	Transmission Date	Categories	Number of complaints
BBC News	BBC	22/07/2018	Due impartiality/bias	1
BBC News	BBC 1	08/11/2018	Due accuracy	1
Question Time	BBC 1	04/10/2018	Disability discrimination/offence	1
Reporting Scotland	BBC 1 Scotland	08/07/2018	Due accuracy	1
Reporting Scotland	BBC 1 Scotland	06/08/2018	Due accuracy	1
Victoria Derbyshire	BBC 2	15/08/2018	Due impartiality/bias	1
Victoria Derbyshire	BBC 2	15/08/2018	Generally accepted standards	1
Today	BBC Radio 4	28/06/2018	Due accuracy	1
Good Morning Scotland	BBC Radio Scotland	29/04/2018	Due accuracy	1
Good Morning Scotland	BBC Radio Scotland	15/07/2018	Due impartiality/bias	1
Newsdrive	BBC Radio Scotland	06/08/2018	Due accuracy	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

Complaints assessed under the General Procedures for investigating breaches of broadcast licences

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 26 November and 9 December 2018 because they did not raise issues warranting investigation.

Licensee	Licensed service	Categories	Number of complaints
Alpha Radio Ltd	Rathergood Radio	Other	1
CBS AMC Networks UK Channels Partnership	Horror Channel	Television Access Services	1
Hit Mix Radio Limited	HitMix	Key Commitments	2
Secklow Sounds CIC	Secklow 105	Other	1
Sky UK Limited	Challenge	Television Access Services	1

For more information about how Ofcom assesses complaints about broadcast licences, go to: https://www.ofcom.org.uk/data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints assessed under the Procedures for investigating breaches of rules for On Demand programme services

Service provider	Categories	Number of complaints
RedTV	Crime and disorder	1

For more information about how Ofcom assesses complaints about on demand services, go to: https://www.ofcom.org.uk/data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf

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 or on demand adverts or an on demand service that does not fall within the scope of regulation.

Programme	Service	Transmission Date	Categories	Number of complaints
Al Arabiya News	Al Arabiya	20/11/2018	Outside of remit	1
Rugby Union: Scotland v Argentina	BBC 1	24/11/2018	Outside of remit	1
Programming	BBC channels	Various	Due impartiality/bias	1
Chris Evans Breakfast Show	BBC Radio 2	26/11/2018	Outside of remit	1
Brexit debate	BBC / ITV	n/a	Outside of remit	1
Advertisement	Channel 4	29/11/2018	Advertising content	1
Channel 4 News	Channel 4	03/11/2018	Outside of remit	1
Kirsty's Handmade Christmas	Channel 4	01/12/2018	Outside of remit	1
Advertisement	Channel 5	22/11/2018	Advertising content	1
Advertisement	Classic FM	29/11/2018	Advertising content	1
Advertisement	Comedy Central	28/11/2018	Advertising content	1
Impractical Jokers	Comedy Central	03/12/2018	Outside of remit	1
Advertisement	Discovery	05/12/2018	Advertising content	1
Advertisement	Fox	05/12/2018	Advertising content	1
Only Fools and Horses	Gold	30/11/2018	Outside of remit	1
Advertisement	ITV	25/11/2018	Advertising content	1
Advertisement	ITV	02/12/2018	Advertising content	2
Advertisement	ITV	03/12/2018	Advertising content	2
Advertisement	ITV	04/12/2018	Advertising content	2
Advertisement	ITV	05/12/2018	Advertising content	2
I'm a Celebrity...Get Me Out of Here!	ITV	18/11/2018	Outside of remit	1
I'm a Celebrity...Get Me Out of Here!	ITV	22/11/2018	Outside of remit	2
I'm a Celebrity...Get Me Out of Here!	ITV	25/11/2018	Outside of remit	2
I'm a Celebrity...Get Me Out of Here!	ITV	01/12/2018	Outside of remit	1
I'm a Celebrity...Get Me Out of Here!	ITV	Various	Outside of remit	1
ITV News	ITV	28/11/2018	Outside of remit	1
The X Factor	ITV	25/11/2018	Outside of remit	1
Advertisement	ITV3	30/11/2018	Advertising content	1
n/a	ITV News Website	29/11/2018	Hatred and abuse	1
Advertisement	More4	25/11/2018	Advertising content	1
Advertisement	n/a	03/11/2018	Advertising content	1

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisements	n/a	01/12/2018	Advertising content	1
Non-editorial (technical)	Netflix	04/12/2018	Non-editorial	1
Advertisement	NOW TV	03/12/2018	Advertising content	1
Non-editorial (billing)	NOW TV	02/12/2018	Non-editorial	1
Advertisement	Pick	04/12/2018	Advertising content	1
QVC Celebrate 25th anniversary Promotion	QVC	15/09/2018	Teleshopping	1
Advertisement	Sky News	27/11/2018	Advertising content	1
Sky News website	Sky News website	09/10/2018	Outside of remit	1
Black Sails	Sky On-Demand	24/11/2018	Sexual material	1
Advertisement	Sky Sports News	01/12/2018	Advertising content	1
Advertisement	Talking Pictures TV	21/11/2018	Advertising content	1
Non-editorial (subscription)	TVplayer.com	01/06/2017	Non-editorial	1
n/a	Twitter	13/11/2018	Outside of remit	1
Advertisement	Various	Various	Advertising content	1
Amazing Animals The Most Poisonous Spiders	YouTube	07/12/2018	Animal welfare	1

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

BBC First

The BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the independent regulator of the BBC.

Under the BBC Agreement, Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision (the 'BBC First' approach).

The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
BBC News	BBC	29/11/2018	Due impartiality/bias	1
The Brexit Debate	BBC	09/12/2018	Due impartiality/bias	1
BBC News	BBC 1	28/11/2018	Due impartiality/bias	1
BBC News	BBC 1	29/11/2018	Due impartiality/bias	1
BBC News at Ten	BBC 1	27/11/2018	Due impartiality/bias	1
BBC Question Time	BBC 1	22/10/2018	Generally accepted standards	1
Doctor Who	BBC 1	02/12/2018	Dangerous behaviour	1
EastEnders	BBC 1	23/11/2018	Generally accepted standards	4
EastEnders	BBC 1	29/11/2018	Materially misleading	1
Mrs Brown's Boys	BBC 1	10/11/2018	Generally accepted standards	1
Question Time	BBC 1	06/12/2018	Due impartiality/bias	1
Strictly Come Dancing	BBC 1	24/11/2018	Race discrimination/offence	1
Strictly Come Dancing	BBC 1	24/11/2018	Voting	1
Strictly Come Dancing	BBC 1	25/11/2018	Generally accepted standards	1
Strictly Come Dancing	BBC 1	25/11/2018	Voting	1
The Andrew Marr Show	BBC 1	25/11/2018	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	02/12/2018	Race discrimination/offence	1
The Long Song (trailer)	BBC 1	03/12/2018	Violence	1
The One Show	BBC 1	05/12/2018	Due impartiality/bias	1
This Week	BBC 1	29/11/2018	Generally accepted standards	1
Gun No 6	BBC 2	02/12/2018	Violence	1
Masterchef	BBC 2	28/11/2018	Dangerous behaviour	1
Newsnight	BBC 2	19/10/2018	Due impartiality/bias	1
Newsnight	BBC 2	19/11/2018	Due impartiality/bias	1
Newsnight	BBC 2	23/11/2018	Materially misleading	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Newsnight	BBC 2	26/11/2018	Due impartiality/bias	1
Newsnight	BBC 2	26/11/2018	Materially misleading	1
Newsnight	BBC 2	27/11/2018	Materially misleading	1
Newsnight	BBC 2	30/11/2018	Materially misleading	1
Politics Live	BBC 2	26/11/2018	Due impartiality/bias	1
The Mash Report	BBC 2	27/11/2018	Due impartiality/bias	1
Programming	BBC channels	Various	Dangerous behaviour	1
Newsnight	BBC iPlayer	28/11/2018	Materially misleading	1
Newsnight	BBC iPlayer	29/11/2018	Due impartiality/bias	1
Newsnight	BBC iPlayer	29/11/2018	Materially misleading	1
BBC News	BBC News Channel	26/11/2018	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	20/11/2018	Generally accepted standards	1
Jeremy Vine	BBC Radio 2	27/11/2018	Generally accepted standards	1
The Chris Evans Breakfast Show	BBC Radio 2	08/10/2018	Due accuracy	1
Today	BBC Radio 4	24/11/2018	Generally accepted standards	1
Any Questions	BBC Radio 4 / iPlayer	15/11/2018	Due impartiality/bias	1
BBC Radio Scotland	BBC Radio Scotland	05/12/2018	Generally accepted standards	1
John Beattie	BBC Radio Scotland	22/11/2018	Due impartiality/bias	1
The Brexit Debate	n/a	n/a	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 26 November and 9 December 2018.

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date
The X Factor	ITV	17/11/2018
Football League: Sheffield Utd v Sheffield Wednesday	Sky Main Event	09/11/2018
Father of Man	Together	04/11/2018

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf