

Reference: 01675117

Information Requests
information.requests@ofcom.org.uk

23 October 2023

Freedom of Information request: Right to know request

Thank you for your request for information concerning GB News and Ofcom. Your request was received on 25 September 2023 and we have considered it under the Freedom of Information Act 2000 ('the FOI Act').

Your request and our response

Please note, our responses to your questions will reflect any relevant period in the question up to the date of your request.

1. *In respect of the persons responsible for making final decisions to escalate complaints received by Ofcom to investigations, please state:*

- (i) *The procedure for deciding which complaints will be escalated from complaints into Ofcom investigations;*

This process is set out in paragraphs 1.22 – 1.24 of [Ofcom's procedures for investigating breaches of content standards for television and radio](#). We have taken your questions below to cover assessments and investigations which fall under these procedures.

- (ii) *A job title/role description of the individuals responsible for the procedure for deciding which complaints will be escalated from complaints into Ofcom investigations;*

A range of colleagues in Ofcom's Standards and Audience Protection (S&AP) Team are involved with the initial assessment of cases, ranging from staff at Associate, Senior Associate and Principal levels, including advice from colleagues in our legal team where relevant. S&AP Directors are the decision makers responsible for making the decision to launch an investigation.

- (iii) *Whether the individuals making the decision to escalate complaints to investigations hold any other roles within Ofcom; and*

We have taken this question to be asking whether the S&AP Directors are employed by Ofcom to carry out roles other than that of an S&AP Director. We can confirm that is not the case.

- (iv) *Whether those individuals have held or currently hold membership of any political organisation or campaign/pressure group and, if so, which political party and/or pressure group.*

Ofcom has a Conflict of Interest policy in place. This policy includes that it is essential for colleagues to carry out their roles in accordance with the seven principles of public life and governs participation in political activities or campaign/pressure groups. We can neither confirm nor deny if we hold any further information in respect of this question as it is exempt from disclosure under S40 of the FOI Act, which relates to personal information.

2. *In respect of the Content Board and 'first decision makers' please state:*

Please note Ofcom has taken 'first decision makers' to refer to members of the Ofcom Executive in the S&AP team who are decision makers at the Preliminary View stage.

- (i) *The number of individuals sitting on the Content Board who have provided direct advice in respect of Preliminary View decisions relating to GBNews since March 2023;*

As stated in paragraph 1.30 of [Ofcom's Procedures for investigating breaches of content standards](#), all draft Preliminary Views will be provided to a panel of Ofcom's Content Board members for their advisory opinion. The decision on Ofcom's Preliminary View will be taken by a senior member of Ofcom's Executive with appropriate Board-delegated authority.

A panel consists of two Content Board members. Over the course of GB News investigations to date, three different members have provided advisory opinions on Preliminary Views.

- (ii) *Whether those individuals sitting on the Content Board have ever held or currently hold any other roles within Ofcom and what those roles are;*

As at the date of this request, none of these members have held, or hold, any other roles within Ofcom. However, as well as the appointed Members of the Advisory Committee for England, a Content Board Member is invited to attend Advisory Committee Meetings - see:

<https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/committees/england>

- (iii) *Whether members of the Content Board have ever held or currently hold membership of any political organisation or campaign/pressure group and, if so, which political parties and/or campaign/pressure group;*

Ofcom's register of disclosable interests sets out the external interests and commitments of those who sit on Ofcom's Boards, Committees and Panels, and the interests of their partners and any dependents: <https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/register-disclosable-interests>.

- (iv) *The number of persons who are 'first decision makers' in accordance with Ofcom's Formal Published Procedures and any other roles they currently hold at*

Ofcom;

There are two people carrying out that role individually on respective cases.

- (v) *Whether first decision makers hold or have held any other role within Ofcom and what those roles are; and*

See above under Q1 (iv).

- (vi) *Whether first decision makers hold or have held membership of any political parties or campaign/pressure groups and, if so, which political parties/campaign pressure groups.*

See above under Q1 (iv).

3. In respect of the Second Content Board Panel:

- (i) *The number of individuals sitting on the Second Content Board Panel;*

We have taken this to refer to investigations at the final Decision stage. A panel consists of two Content Board members. Five different members have provided advisory opinions on final Decisions relating to GB News to date. The final Decision in each case has been made by a senior member of Ofcom's Executive, with appropriate Board-delegated authority, who had not been involved in the investigation to date.

- (ii) *What internal procedures are in place to ensure separation of decision making as per Ofcom's Formal Published Procedures;*

Ofcom has a process and practices in place to ensure that no Decision makers or Content Board members providing advisory opinions at final Decision stage have been involved in the investigation and/or the preparation of the Preliminary View in the same case. We abide by the principle of separation as set out in our procedures.

- (iii) *Their job title/role description;*

Job title is Member of the Content Board. One is also a member of the Ofcom Board.

- (iv) *Whether members of the Second Content Board Panel hold or have held other roles within Ofcom;*

They have not and they do not, except one who is also a member of the Ofcom Board.

- (v) *Whether those persons hold or have held membership of any political party or campaign/pressure group, and if so, which political parties and/or campaign/pressure group; and*

Ofcom's register of disclosable interests sets out the external interests and commitments of those who sit on Ofcom's Boards, Committees and Panels, and the interests of their partners and any dependents: <https://www.ofcom.org.uk/about-ofcom/how-ofcom-is-run/register-disclosable-interests>.

- (vi) *whether any Second Content Board Panel member has had knowledge of or been involved in any other GBNews related investigation at the Preliminary View, Board Content or final decision making stage.*

No Second Content Board Panel member has been involved in any GB News-related investigation at the Preliminary View stage.

A group of Content Board members provide advisory opinions to the Executive on draft Preliminary Views on a rota basis. Another group of Content Board members provide advisory opinions on draft Decisions on a rota basis. Therefore Content Board members may provide advisory opinions at the same stage across different cases. This applies to one Content Board member at the draft Decision stage in the relevant GB News investigations covered by this request.

The final Decision in each case has been made by a senior member of Ofcom's Executive with appropriate Board-delegated authority who had not been involved in the investigation to date.

4. *In respect of the final decision makers, on matters involving investigations relating to GBNews since March 2023, please state:*
(i) the number of Senior Members of Ofcom's executive with Board delegated authority who have been involved in making the final decisions; and

There has been one.

- (ii) whether any final decision maker has had knowledge of or been involved in any other GBNews related investigation at the Preliminary View, Board Content, Second Board Content stage.*

The final Decision Maker has not been involved in any related investigation at the Preliminary View stage of any of the relevant GB News investigation cases covered by this request.

As set out in 4(i), the final decision in these cases was made by the same final Decision Maker. Therefore that individual took account of the advisory opinions provided by Content Board members in all GB News cases, covered by this request, in which they made the final decision.

5. *Please state:*

- (i) percentage of complaints that have been escalated since January 2022, and the percentage which have been upheld;*

Individual complaints received by Ofcom are assigned to cases. A case is opened when Ofcom is assessing a specific programme or issue and may consist of one or more complaints. It is not clear on

this question if you are referring to complaints about GB News, or complaints more generally, so we have provided both sets of data below.

GB News

From January 2022 to 25 September 2023 Ofcom received 5,801 standards complaints (1,513 cases) about GB News, of which 537 complaints (17 cases) were referred for investigation (9.2 % of complaints (1.1% of cases)).

Of the five investigations concluded in this period (four related to GB News and one related to GB News Radio) three relating to GB News and the GB News Radio investigation were found in breach of the Code, which represents 0.3 % of total cases received about GB News.

All broadcasters:

From January 2022 to 25 September 2023 Ofcom received 71,422 standards complaints (12,894 cases), of which 1,277 complaints (129 cases) were referred for investigation (1.7 % of complaints (1% of cases)).

Of the 115 investigations concluded in this period 74 were found in breach of the Code, which represents 0.1 % of total complaints received.

(ii) the number and percentage of complaints which have been reconsidered under s.1.29 of Ofcom's Published Procedures;

As made clear in paragraph 1.29 of our procedures, Ofcom's Preliminary View is only provisional and may be subject to change in the light of subsequent representations/material provided by the broadcaster.

Between January 2022 and 25 September 2023 there has been a total of four cases, across all broadcasters, which have reached a different outcome at final Decision stage to that at Preliminary View stage.

(iii) of these decisions reconsidered under s.1.29, please state the final outcome (breach/additional breach/no breach etc); and

Two cases were discontinued and two were found to be not in breach of the Broadcasting Code.

(iv) percentage of complaints from lobby groups/political activists/pressure groups/groups affiliated political party.

We do not hold this information in a searchable format.

6. Please provide all internal guidance, since January 2022 in respect of communication with the press and third parties about:

(i) Complaints received;

(ii) On-going investigations;

(iii) Preliminary Views; and

(iv) Decisions.

We have taken this question to refer to any internal documents or other information we hold that set out, or refer to, the approach that Ofcom's Communications team takes in handling external communications on the points listed. We do not hold internal guidance that sets this out. We have robust sign off processes for all external communications activity, and we operate in accordance with our published procedures on investigating breaches of content standards. Our communications activity is mostly based on the regular publication of the Audience Complaints Bulletin and the Broadcast and On Demand Bulletin. We do not publish Preliminary Views.

7. Please state whether internal action, including disciplinary action has ever been taken in respect of breach or potential breach of the policies and internal guidance in respect of communication with the press or third parties.

We note you have not included a timeframe for this question, so we have assumed a timeframe in line with other questions in this request of January 2022 to the date of the request. I can confirm there has been none.

8. Please provide Minutes of the Ofcom Content Board Meetings for June, July, August and September 2023 (which appear to be currently unpublished and would be minutes of the 183rd, 184th, 185th, and 186th meetings).

Firstly, to clarify, details of open investigations at either Preliminary View or final Decision stages are never discussed during Content Board meetings to preserve the separation in our procedures.

Content Board minutes are published when they have been approved, the most recent set of minutes being for the meeting that took place on 2 May 2023 (the 182nd meeting). The Content Board meets six times a year and more recently it met on 4 July 2023 (183rd meeting) and on 3 October 2023 (184th meeting). The July minutes were approved at the October meeting. Our process for publication also involves review of minutes and should it be the case that they contain sensitive material, we may delay publication or redact. Since Ofcom does not release minutes in advance of approval, the October minutes will become available at the earliest following the 185th meeting on 21 November 2023.

Ofcom therefore considers that some of the information requested falls under the exemption contained in section 22 of the Act, namely that the information is intended for future publication and that it would be against the public interest to release the information at this time. The attached annex to this letter sets out the exemption in full, as well as the factors Ofcom considered when deciding where the public interest lay.

9. Please provide details, including dates and identities of organisations represented that Ofcom (including but not limited to members of the Content Board or Second Content Panel or Executive Board) have met either in person or remotely with since March 2023 and the purpose of the meeting in relation to its regulatory activities.

This question is unclear. We emailed you on 3 October 2023 to seek clarification.

10. Please provide the number of press releases involving GBNews, excluding Ofcom's website bulletins, that have been released by Ofcom since March 2023, and the circulation list of such press releases;

Out of 79 articles hosted on our news centre since 1 March 2023, seven mention GB News.

11. What percentage of all press releases released by Ofcom relate to GBNews since March 2023.

News centre articles that mention GB News account for 8.9% of the total number of articles published since 1 March 2023.

12. Please state Ofcom's monitoring procedures and policies for broadcasters including which organisations have been monitored since January 2023 and for what periods.

Ofcom undertakes a programme of monitoring, ensuring at all times our approach is proportionate and fair. We do not disclose details of our approach, as that would defeat the purpose of Ofcom's monitoring.

When Ofcom is carrying out monitoring, we obtain the relevant content and review it in the same way that we would content about which we had received a complaint. If the content raises an issue which we consider warrants investigation, we include the case in a list of our new investigations, published in our Broadcast and On Demand Bulletin. We would then investigate as set out in our published procedures. When we publish our decision, we make clear whether the investigation was as a result of a complaint received or from routine monitoring.

Information relating to which organisations have been monitored since January 2023, and for what periods, is exempt from disclosure under Section 44 of the FOI Act. Under this section, information which we hold on this subject is exempt from disclosure since it was obtained in exercise of a statutory power and disclosure is prohibited under section 393(1) of the Communications Act 2003. Section 44 is an absolute exemption under the FOI Act and does not require a public interest test.

13. Please state how many complainants since January 2023 in relation to GBNews have made more than:

- (i) 1 complaint;*
- (ii) more than 5 complaints; and*
- (iii) in excess of 10 complaints.*

This information is not held in a searchable format.

14. Please state who administers Ofcom's Twitter/X account and is responsible for public comments on Twitter/X.

Ofcom's Communications team.

15. Please state who is responsible for the written guidelines for Twitter/X and other social media regarding Ofcom's current investigations and licence holders.

Ofcom's Communications team are responsible for content posted on Ofcom's social media channels. In determining whether to proactively or reactively post about standards investigations involving licence holders, we take account of evaluation metrics, including the level of online conversations and broader media/public interest.

16. Please provide Ofcom's internal written guidelines or instructions defining "News" contained within "Current affairs" programmes.

Ofcom's [guidance to Rule 5.1 states](#):

1.8 In terms of this section of the Code (i.e. the requirement for 'due impartiality' and 'due accuracy'), news in whatever form would include news bulletins, news flashes and daily news magazine programmes. Just because material is broadcast on a 'rolling news' channel does not necessarily mean that the material would be characterised as 'news' content.

Ofcom's News Centre article of 21 March 2023 also sets out some factors around considerations of programmes as news: <https://www.ofcom.org.uk/news-centre/2023/can-politicians-present-tv-and-radio-shows-how-our-rules-apply>

17. Please confirm the number of complaints under Rule 5.1 of "current affairs" programmes of channels other than GBNews since January 2022.

Rule 5.1 relates to due accuracy and due impartiality in news and does not apply to non-news or "current affairs" content.

18. Please provide the number of complaints that were made under Rule 5.1 of "current affairs" programmes on channels other than GBNews since January 2022, and how many of those were escalated to investigations.

Rule 5.1 relates to due accuracy and due impartiality in news does not apply to non-news or "current affairs" content.

19. Please provide any documents relating to Ofcom's original internal guidelines as to the definition of "news", and also, in the context of Rule 5.1, "news, in whatever form".

We do not hold this information.

20. Please provide any documents relating to Ofcom's existing internal guidelines as to the definition of "news", and also, in the context of Rule 5.1, "news, in whatever form".

We do not hold this information.

21. Please state the number of Ofcom staff who are:

(i) wholly allocated to GBNews, or

(ii) partially allocated to GBNews.

Staff involved with content standards work across all of Ofcom’s licensed services. There is no individual or part of that team which deals exclusively with GB News.

If you have any further queries, then please send them to information.requests@ofcom.org.uk quoting the reference number above in any future communications.

Yours sincerely

Information Requests

Annex

Section 22: Information Intended For Future Publication

Section 22 may apply if there is an intention to publish the requested information at some future date. This ensures that the FOI Act does not force public authorities into premature publication of information.

Key points:

- Section 22 may apply even if the specific date for publication has not yet been determined but the proposed publication timetable must be **reasonable** in all the circumstances;
- Section 22 will only apply if a public authority has decided, before the request is received, to publish the information concerned;
- Section 22 is subject to a public interest balance.

Factors for disclosure	Factors for withholding
<ul style="list-style-type: none">• Open policy making and public confidence in regulated activities	<ul style="list-style-type: none">• Ofcom intends to publish the requested documentation when they have been approved as detailed in our answer to question 8.
Reasons why public interest favours withholding information	

- Ofcom has a process for ensuring that the content of published Board minutes is appropriate. It would not be in the public interest for Ofcom's processes to be determined by the existence or otherwise of specific FOI requests.

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office
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