

Reference: 01975208

Information Requests  
[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

16 April 2025

## Freedom of Information request: Right to know request

Thank you for your request for information about transgender complaints that were not investigated.

We received this request on 19 March 2025 and we have considered your request under the Freedom of Information Act 2000 ("the FOI Act").

### Your request

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*On your online broadcast bulletins you list two sets of complaints:*

*Service Programme Transmission Date Issue Complaints*

*GB News Dewbs & Co 24 January 2025 Transgender discrimination/offence 78*

*LBC 97.3 FM Shelagh Fogarty 20 February 2025 Transgender discrimination/offence 1*

*You claimed you did not launch an investigation in regards to these complains. Please provide the reasoning which did not "warrant and investigation" in both instances, furthermore please provide the reasoning for considering hate speech, dehumanization and misinformation towards trans people not worthy of investigation more generally.*

*Can you also include the text of the complaints (with personal information removed).*

### Our response

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By way of background, Ofcom assesses every complaint it receives. Based on an initial assessment of the complaint and a consideration of the related content, Ofcom will consider whether there may have been a breach of the [Ofcom Broadcasting Code](#) ("the Code") or other Ofcom codes or licence conditions. In cases where Ofcom considers there may have been a breach, it will launch an investigation. The possible outcomes of an investigation are that we judge an issue is in breach, resolved or not in breach of the Code rules.

In both of the cases mentioned in your request, Ofcom assessed the material under Section 2 of the Code, which requires broadcasters to ensure that material which may cause offence is justified by the context. Context is judged by reference to a range of factors such as: the time of broadcast; the nature of the content; and the likely audience expectations for this programme and service. In reaching our decisions in this area, we must also take account of freedom of expression – the broadcaster's right to transmit information and ideas and viewers' and listeners' right to receive them – under Article 10 of the European Convention on Human Rights. For further information on

how we conduct assessments relating to Section 2, please refer to [Section 2 of the Code](#) and the relevant sections of our [Guidance Notes for Section 2](#).

In both cases, although Ofcom recognised the potential for offence, we considered the relevant comments were clearly presented as a personal view, in line with freedom of expression, and subject to appropriate challenge and alternative views.

We are unable to disclose the text of the complaints or provide further, detailed information about our initial assessments, as this information is exempt under section 44(1) of the FOI Act. Section 44(1) of the FOI Act provides that information is exempt from disclosure if its disclosure is prohibited by or under any enactment. The enactment that prohibits the disclosure of this information is section 393(1) of the Communications Act 2003 (“the Communications Act”). Under this section, we are prohibited from disclosing information with respect to a particular business (in this case, GB News and LBC) that has been obtained in the exercise of our regulatory functions, unless that business consents or one of the statutory gateways under section 393(2) of the Communications Act is met, neither of which apply here. Section 44 of the FOI Act is an absolute exemption and therefore is not subject to the public interest test.

If you have any further queries, then please send them to [information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk) – quoting the reference number above in any future communications.

Yours sincerely,

## Information Requests

### Request an internal review

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team ([information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)) to request an internal review.

### Taking it further

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner’s Office](#).