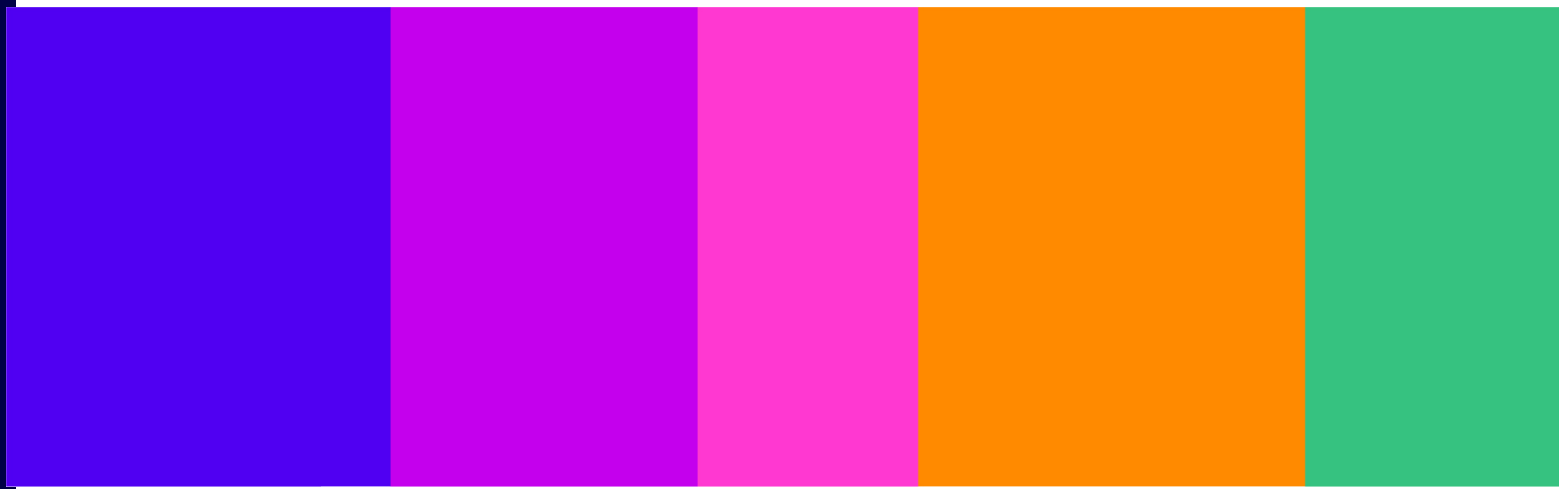


General procedures for investigating breaches of broadcast licences

Statement on Ofcom's proposal to revise the procedures

Statement

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1. Overview

- 1.1 This document sets out changes that Ofcom is making, following consultation, to the General procedures for investigating breaches of broadcast licences (“General Procedures”). These procedures set out the process we follow when assessing and investigating possible breaches of most licence conditions, unless other specific procedures apply.
- 1.2 Ofcom has a general duty to secure the availability throughout the United Kingdom of a wide range of television and radio services, as well as more specific duties relating to broadcasting. We carry out our duties by granting broadcast licences which include licence conditions we think are appropriate to help us carry out our duties. The enforcement of most of these licence conditions are governed by the General Procedures.
- 1.3 We consulted between December 2024 and February 2025 on four proposed substantive changes to the General Procedures (see details below) as well as proposing to restructure them to make them easier to follow, and simplifying, updating and clarifying some of the language.
- 1.4 In our consultation we explained that the General Procedures were last updated in April 2017. Since then, there have been developments in the types of broadcasters we regulate, changes in our approach to regulation, and a general increase in activity under the General Procedures. In the context of these developments, we considered it appropriate to review and update our General Procedures to ensure they remain fit for purpose and that we are making the best use of our resources.
- 1.5 We received eight responses to the consultation, [which have been published \(in whole or in part\) on our website](#).

What we have decided – in brief

Many responses supported our proposals and others did not raise new points we had not already considered. Taking all responses into account, we have decided to go ahead and revise the General Procedures to:

- publish a detailed administrative priorities framework;
- clarify that we will usually only share a summary of the issues raised with the broadcaster and not usually share the complainant’s name; and
- set a 20-working day time limit for making complaints relating to broadcast content.

We have also restructured the procedures to make them easier to follow and have simplified, updated and clarified some of the language.

We originally proposed not to respond to complainants with the outcome of our assessments. We have listened to respondents’ concerns and have decided to revise our proposal and instead continue informing complainants of the outcome of our assessments. However, we will now send a more concise response to the complainant stating that the case has either not been pursued, or that we have opened an investigation.

- 1.6 We have published the [updated version of our General Procedures](#) alongside this Statement. These General Procedures apply to any new complaints received and/or assessments and investigations opened from the date of this Statement.

The overview section in this document is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.

2. Background

- 2.1 Ofcom is the independent regulator for the UK communications sector, which includes the broadcasting sector. We have a range of powers that enable us to carry out our functions relating to this sector including powers in the Broadcasting Acts 1990 and 1996 and the Communications Act 2003.
- 2.2 Ofcom has a general duty to secure the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both high quality and calculated to appeal to a variety of tastes and interests. Ofcom also has more specific duties to: apply rules restricting those who may hold broadcasting licences; and ensure certain requirements are set out in broadcasting licences, for example the provision of television access services.
- 2.3 We carry out our duties by granting, to certain radio and television broadcasters, licences which include licence conditions we think are appropriate to help us carry out our duties.
- 2.4 When carrying out our duties, we are also required to have regard to:
 - a) the relevant needs and interests of specific groups of persons identified in section 3(4) of the Communications Act; and
 - b) our public sector equality duties, including advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- 2.5 A full background and detailed legal framework, as well as a full rationale for our proposals, is set out in the [consultation document](#).

Why we decided to review the General Procedures

- 2.6 The General Procedures were last updated in April 2017. Since then, there have been developments in the types of broadcasters we regulate, changes in our approach to regulation, and a general increase in activity under the General Procedures. In the context of these developments, we considered it appropriate to review and update our General Procedures to achieve the following aims.

Making the General Procedures more user-friendly to reflect a change in the broadcasters we regulate

- 2.7 Since 2017, we have introduced small-scale DAB and community digital sound programme licences and made changes to how we license restricted radio services. This means we now regulate a greater number of smaller broadcasters, many of which are run by volunteers. The majority of complaints we receive each year under the General Procedures relate to radio services and particularly those run by smaller broadcasters. Therefore, we considered there was particular value in amending the procedures to make them more user-friendly.

Achieving proportionality and flexibility following streamlining our approach to Key Commitments

- 2.8 Most of the assessments we carry out under the General Procedures relate to the programming commitments set out in community radio licences, known as “Key

Commitments”. In November 2024, we published our [statement on our future approach to Key Commitments](#), which led to the simplification and streamlining of analogue community radio licences (those broadcasting on AM and FM) by removing certain quotas and requirements from the Key Commitments. We also published [compliance principles for Key Commitments](#) alongside that statement. These amendments are likely to result in a significant change to the type of complaints we receive, and we therefore considered it was an appropriate time to review our approach to assessing complaints received under these procedures.

Targeting our resources as complaints and enforcement activity increase

- 2.9 There has been an increase in complaints and associated enforcement of the “relevant requirements” under the General Procedures which include requirements to:
- a) broadcast certain types of content and fulfil certain production and programming quotas usually set out in the licence;
 - b) provide Ofcom with information and/or recordings it has requested;
 - c) pay annual licence fees; and
 - d) comply with Ofcom’s codes and rules and have adequate compliance procedures in place to achieve this.
- 2.10 The increase in cases dealt with under these procedures has in turn created an increased regulatory burden for broadcasters, particularly community radio broadcasters, in providing Ofcom with recordings of content and information during the assessment process and providing formal representations during the investigation process.
- 2.11 While the increase in complaints and associated enforcement in itself was not a reason for change, we considered it would be appropriate to review our procedures to ensure that we target our resources at the cases where we think our enforcement of the requirements is most likely to produce good outcomes for citizens and consumers. As a result of targeting our resources in this way, we considered there would also likely be a reduction in the regulatory burden on broadcasters.

The changes we proposed in the consultation

- 2.12 In our [consultation, published in December 2024](#), we sought views on our proposals to make the following substantive changes to the General Procedures:
- i) publishing a detailed administrative priorities framework;
 - ii) clarifying our position on sharing information about complaints with the broadcaster;
 - iii) no longer informing complainants directly of the outcome of our assessments; and
 - iv) setting a time limit for making complaints.
- 2.13 We also set out in the consultation that we were proposing to take the opportunity to:
- i) restructure the procedures to make them easier to follow; and
 - ii) simplify, update and clarify some of the language to reflect our day-to-day experience of enforcement activity, and clarify the procedural steps we intend to follow in each case.

3. Responses to the consultation and Ofcom's decisions

- 3.1 We received eight responses to the consultation, from a variety of groups and individuals. We received responses from the representative bodies for the community radio sector, the Community Media Association ('CMA') and the UK Community Radio Network ('UKCRN'), as well as two community radio stations (Horizon Radio and Skylark). We also received responses from S4C (the Welsh language television channel), one small-scale DAB operator (NN DAB), and two individuals.
- 3.2 The relevant points made in response to each proposal are summarised below, together with our consideration of these points and our decision regarding each proposal.

Proposal 1: Administrative priorities

- 3.3 In our consultation, we set out a proposal to publish a detailed administrative priorities framework in the General Procedures, to provide more transparency and clarity about how we carry out an initial assessment of complaints and how we consider these priorities throughout our enforcement work. We explained that this change would help broadcasters and complainants understand the type of cases where we consider our resources are best used and that we are likely to target.
- 3.4 We proposed to set out three main administrative priority factors that we would generally consider in deciding whether to continue beyond an initial assessment and, if relevant, launch an investigation into a broadcaster's compliance with relevant requirements. We explained that this will provide additional transparency and clarity around the factors we consider when deciding whether to launch an investigation.
- 3.5 The three factors we set out are as follows:
- a) The risk of harm or seriousness of the alleged conduct. For example:
 - i) the risk to the interests of citizens or consumers, e.g. audiences and, in some cases, volunteers and the target community, resulting from the alleged breach(es) (including whether that risk is immediate or not and whether it is direct or indirect), and the direct and indirect benefit to citizens and consumers of our taking action (e.g. to deter similar conduct by others);
 - ii) whether the conduct is on-going;
 - iii) whether the allegation concerns conduct that appears to be a repeated, reckless and/or a deliberate breach¹;
 - iv) whether the broadcaster in question has a history of breaches of the same licence condition, or a demonstrated record of poor compliance more generally. We may also consider previous decisions made under our administrative priorities framework where we decided not to launch an investigation; and

¹ We would, for example, consider whether there is evidence that the alleged breach occurred as a result of matters outside of the broadcaster's control or whether the broadcaster notified us of an issue in advance of any complaint being made.

- v) the risk that the conduct could significantly lessen citizen and consumer trust in the regulatory regime.
 - b) The likely impact of addressing the alleged conduct and whether alternative actions are likely to achieve the same ends. For example:
 - i) whether an investigation would help clarify the regulatory or legal framework for stakeholders;
 - ii) the extent of any impact on equality groups including how an investigation may help advance equality of opportunity for audiences, volunteers and the target community where applicable;
 - iii) whether the issue directly relates to Ofcom's broader strategic goals or priorities (including those within Ofcom's Annual Plan of Work); and/or
 - iv) whether there are other alternative actions that are likely to achieve the same ends or deal with the same issues as continuing the assessment and, if relevant, conducting an investigation.
 - c) The resource implications of continuing the assessment and, if relevant, conducting an investigation. For example, what resources (particularly specialist resources) are required, given the need to serve the interests of all parties likely to be affected.
- 3.6 We explained that:
- a) Where appropriate, we will consider any relevant additional factors.
 - b) We will consider our administrative priorities throughout the assessment and investigation process and may decide at a later stage not to pursue a case based on the above factors.
 - c) The above administrative priorities will also be taken into account when launching an assessment on our own initiative.
- 3.7 In our consultation we explained that we expect the overall impact of this proposal to be positive for both citizens and consumer groups, complainants and broadcasters. These impacts included ensuring that we can continue to target our resources at cases which concern the greatest potential for harm and providing clarity and transparency in our decisions relating to our assessment and investigation of cases.

Responses

- 3.8 We received a mixed response to our proposed administrative priorities framework.
- 3.9 Four respondents agreed with the proposal: the CMA, Skylark, S4C and the UKCRN.
- 3.10 The CMA commended the focus on filtering out vexatious complaints. It also urged Ofcom to continue to focus our investigations on "genuine breaches" rather than "isolated or ambiguous issues".
- 3.11 Skylark agreed that greater transparency is needed and submitted that dealing with complaints is often not a good use of either broadcasters' or Ofcom's time.
- 3.12 Two respondents disagreed with the proposal: Horizon Radio and an individual.
- 3.13 While the individual did not provide reasoning for their disagreement with our proposal, Horizon Radio added that Ofcom's time should not be spent assessing complaints from people who are not genuine listeners, and asked for more detail about what the criteria are for and what constitutes a 'substantive issue'.

- 3.14 Two respondents (NN DAB and an individual) did not state whether or not they agreed with the proposal.

Decision

- 3.15 Most respondents who provided a view welcomed our proposed administrative priorities framework, and did not raise any new points which we had not already taken into account. We have therefore decided to implement the framework as proposed.
- 3.16 The administrative priority factors that we will consider are designed to ensure that we continue to act in an efficient and effective way that is evidence-based, proportionate, consistent, accountable, transparent and targeted at cases where action is needed. As set out in our consultation, we expect that introducing these factors will enable us to use our discretion to a greater extent and allow us to more effectively and transparently rely on the above factors when deciding whether or not to go beyond an initial assessment, for example by asking the broadcaster for recordings and/or information for us to assess, and/or launching an investigation. The administrative priority factors we will take into account, in combination with the recent changes we have made to analogue community radio stations' Key Commitments, should provide reassurance to the CMA that we intend to continue to target our resources at cases which concern the greatest potential for harm.
- 3.17 This proposal was not designed to filter out vexatious complaints (a potential benefit highlighted by the CMA) because we have always assessed whether a complaint raises a substantive issue and only taken forward those complaints that do. However, we recognise that publishing a clear set of factors that we will use to assess and investigate a broadcaster's compliance with relevant requirements may result in fewer complaints being submitted because complainants are more likely to understand the types of complaints that we will take forward.
- 3.18 Regarding Horizon Radio's question about what constitutes a 'substantive issue', we consider this at initial assessment stage, prior to applying our administrative priorities framework. In determining whether an issue is substantive, we will assess whether the evidence indicates that a broadcaster may have failed to comply with one or more of its relevant requirements (see paragraph 2.9 above and paragraphs 4.2 and 4.3 of our General Procedures). We will also consider whether the evidence we have justifies assessing the issue(s) further, taking into account the nature and extent of any evidence provided by a complainant. We have decided to amend paragraph 4.6 of the General Procedures on which we consulted to clarify this.
- 3.19 Regarding Horizon Radio's point that Ofcom should only assess complaints from "genuine listeners", the identity of the complainant is not relevant to our assessment of whether a broadcaster has complied with a relevant requirement. We use complaints to help us assess whether there may have been a breach of a relevant requirement in a particular case. If we decide that a complaint raises a substantive issue which is an administrative priority for us to assess, our assessment is based on recordings and/or information provided by the broadcaster. While we would consider the nature and extent of any evidence provided by a complainant, issues of complainants' credibility and motives are not relevant to our assessment, particularly where the matter complained about is a measurable fact.
- 3.20 For clarity, we have amended the text of the administrative priorities framework consulted on (paragraph 4.10 of the General Procedures) to add that, should we consider launching an investigation on our own initiative, we will take our administrative priorities into account

as we do when assessing complaints. We have added this to clarify our policy intent that we would consider these administrative priorities throughout the assessment and investigation process.²

Proposal 2: Sharing information about complaints with the broadcaster

- 3.21 We proposed to clarify in the General Procedures that, generally, Ofcom will:
- a) only share a summary of the issues raised with the broadcaster; and
 - b) not share the complainant's name.
- 3.22 We recognised that, even where we do not disclose the name of the complainant, disclosing actual wording from a complaint could reveal to the broadcaster the identity of the complainant if, for example, the complaint includes references to their gender or age. We explained that we intend to take this into account when deciding what information to include in the summary of the issues raised, although in most cases we expect it will only be necessary to state the relevant requirement(s) that we are assessing.
- 3.23 We also explained that there may be some circumstances where we consider it necessary to share the actual wording of the complaint or the name of a complainant. We expect these circumstances to be rare, but they could include where we consider having access to the actual wording of a complaint or the name of a complainant to be necessary for:
- a) the broadcaster to properly exercise their right of defence (including to fully understand the nature of the complaint and relevant context that we consider necessary to provide us with any relevant information or representations); or
 - b) Ofcom to properly assess a complaint and carry out our functions.
- 3.24 This is more likely to be the case where a complaint relates to the treatment of an individual. We may also be required by law to share the actual wording of a complaint or the name of a complainant with a third party, for example, where required by a Court or Tribunal in relation to civil or criminal proceedings.
- 3.25 We set out that in the rare circumstances where we consider it necessary to disclose the actual wording of a complaint or the complainant's name, we will decide what information we consider is necessary to disclose and will carefully consider the need to disclose against any concerns or objections the complainant may have. If we consider it necessary to disclose information the complainant considers to be confidential, including their name, we proposed that we would first explain to the complainant our intention to disclose this information and seek the complainant's consent and/or any objections they may have to our justification for disclosing the information. Where the information is not confidential, we proposed that we will not seek consent to share this.
- 3.26 In cases where there is a disagreement as to whether the information should be disclosed, we proposed that we will generally try and resolve the issue with the complainant to agree what can be disclosed. However, if the complainant continues to object, we proposed that the complaint (or relevant part of the complaint) would not normally form part of any

² See, for example, paragraphs 3.8, 3.9 and 3.12 of the consultation and paragraph 1.7 and 4.9 of the draft procedures.

assessment or investigation except in rare cases where we need to share the information to carry out our functions properly.

- 3.27 In our consultation, we explained that we expect this proposal to have a positive impact in clarifying our existing practice. We said that we consider the proposal may encourage vulnerable complainants who may share one or more protected characteristics to complain to Ofcom about the most harmful conduct by a broadcaster, and therefore incentivise or require broadcasters to ensure compliance. We considered the risk that we may receive more vexatious complaints but concluded that this is an existing risk under the current procedures.

Responses

- 3.28 We received seven responses relating to this proposal and respondents had mixed views.
- 3.29 On the first aspect of the proposal to share a summary of the issues raised with the broadcaster rather than the full text of the complaint, three respondents agreed with our proposal.
- 3.30 The CMA endorsed the provision of a summary of the issues raised to streamline investigations and allow Ofcom to focus on genuine compliance issues. The UKCRN, while agreeing with the proposals, highlighted the need to provide specific details about the complaint because it considered that provision of “vague detail” has led to broadcasters spending a lot of resource to provide a response to a “vague issue”.
- 3.31 Four respondents requested that the full complaint text is provided to the broadcaster. While three of those respondents did not provide reasoning for this response, S4C reasoned that not providing the complaint could remove facts or comments that seem irrelevant but are in fact relevant to those working at the broadcaster. S4C also questioned the purpose of not sharing the full complaint text with the broadcaster.
- 3.32 On the second aspect of the proposal to not share the name of the complainant with the broadcaster, five respondents agreed with our proposal to not share the name of the complainant with the broadcaster, apart from in exceptional circumstances.
- 3.33 An individual agreed that the name of the complainant is irrelevant to any investigation of the complaint. The CMA highlighted the belief of its members who have been subject to complaints they consider vexatious that disclosure of the name of the complainant to the broadcaster would have prevented these complaints, but it recognised that Ofcom has an External Contact Policy to deal with vexatious complaints. The CMA also submitted that “anonymity could prevent potential harassment or misuse of the complaints process”. The UKCRN found the proposal fair given the need for balance between enabling broadcasters to understand the nature of complaints and holding broadcasters accountable in a way that allows potential complainants to raise concerns freely. The UKCRN also stated the need for Ofcom to be more pragmatic about possible vexatious complaints.
- 3.34 S4C raised the difficulty for broadcasters to defend fairness and privacy complaints without the details of the complainants but had no objection to confidentiality in other contexts.
- 3.35 The UKCRN asked about the status of volunteer whistleblowers, as volunteers in the community radio sector may know about stations who are not fulfilling the requirements of the licence and want to hold them to account without retribution.

- 3.36 Two respondents disagreed with our proposals and submitted that the broadcaster should receive the complainant's name, but did not provide reasoning for their responses.

Decision

- 3.37 For the reasons set out below, we have decided to proceed with our proposals to usually only share a summary of the issues raised with the broadcaster and not usually share the complainant's name.
- 3.38 We recognise that there can be benefits for broadcasters in receiving the full text of a complaint, and other information given by the complainant, so the broadcaster can respond to these allegations fully. We understand that this can also provide useful feedback to the broadcaster about the issues its audience is complaining about and enables the broadcaster to provide Ofcom with additional context related to the complaint.
- 3.39 However, we consider that these benefits rely upon the complainant only raising issues related to relevant requirements it considers the broadcaster is not complying with. Often complainants provide other information which does not relate to a relevant requirement or which Ofcom decides is not relevant to our assessment of the broadcaster's compliance with its relevant requirements, or is not an administrative priority to assess. In such cases, providing the full text of the complaint to the broadcaster is usually unhelpful because it distracts from the relevant requirements we are assessing and may result in wasted effort on the part of the broadcaster providing information that is not relevant to Ofcom's assessment. In addition, summarising complaints avoids broadcasters being exposed to unpleasant complaints.
- 3.40 However, we will make our correspondence as clear and accessible as possible to assist broadcasters in providing sufficient and relevant detail to us, including setting out how they have complied with their requirements. For example, we may align the questions we ask community radio broadcasters with the [compliance principles for Key Commitments](#).
- 3.41 We considered the responses we received regarding our proposal to not share the name of the complainant with the broadcaster, apart from in exceptional circumstances. While we recognise the CMA's suggestion that vexatious complaints could be avoided if the name of the complainant was disclosed to the broadcaster, we do not consider that this is a compelling reason to disclose this information. If we do this, there is a risk that complainants would be deterred from raising complaints about the most harmful conduct by broadcasters. We are also aware that vexatious complainants could complain anonymously, use an alias, or ask others to complain on their behalf, meaning that the potential benefit would be negated.
- 3.42 As stated above under proposal 1, we use complaints to help us assess whether there may have been a breach of a relevant requirement in a particular case. If we decide that a complaint raises a substantive issue which is an administrative priority for us to assess, our assessment is based on recordings and/or information provided by the broadcaster. While we would consider the nature and extent of any evidence provided by a complainant, issues of complainants' identity, credibility and motives are not relevant to our assessment, particularly where the matter complained about is a measurable fact. More generally, our administrative priorities will enable us to target our resources at cases which concern the greatest potential for harm which should help us identify and filter out vexatious complaints.

- 3.43 For all these reasons, we do not consider the potential for vexatious complaints to be a reason why we should disclose the name of the complainant with a broadcaster.
- 3.44 We acknowledge that fairness and privacy complaints, do require information about the complainant to be shared with the broadcaster. However, fairness and privacy complaints are handled under our [Procedures for the consideration and adjudication of Fairness and Privacy complaints](#), not the General Procedures, and we consider it rare that complaints under the General Procedures would require complainant information to be shared with the broadcaster.
- 3.45 We also recognise that individuals may wish to complain about broadcasters they work for who they consider are not complying with the requirements of the licence. As set out in our whistleblowing policy, individuals can contact Ofcom with a whistleblowing disclosure if they are working in a sector which Ofcom regulates and have concerns about potential wrongdoing at their own organisation. It is for the individual to determine if they fall into the definition of a whistleblower. Whether or not a complaint is made as a whistleblowing disclosure, we intend to take all practicable steps to maintain the individual's anonymity. However, a broadcaster may independently identify a complainant or whistleblower.

Broadcaster-first approach

- 3.46 We did not propose a broadcaster-first approach in our consultation and set out our view that introducing a broadcaster-first approach to complaints would not enable us to best carry out our duties across the broadcasting sector or be of benefit to broadcasters or complainants (as well as audiences and, in some cases, the volunteers and target communities that a station serves). This was based on: the impact on complainants being unable to complain directly to Ofcom about the most harmful conduct; the burden on broadcasters having to deal with increased numbers of complaints; and the additional cost to broadcasters of retaining recordings.

Responses

- 3.47 Although it was not proposed, five respondents suggested introducing a broadcaster-first approach to complaints.
- 3.48 The CMA advocated for complaints to be addressed by broadcasters first, to both save Ofcom resource and support community radio's role as locally focused. The CMA and Skylark both suggested that complaints should only be passed to Ofcom if they cannot be resolved or where the potential for harm is more severe. Skylark added that complaints are an opportunity for services to learn and grow and that community radio services should have a clear complaints procedure, which Ofcom could advise them on.
- 3.49 An individual said that a station they had been involved with had been the subject of "12 aggressive complaints" to Ofcom which showed that complaints should be raised with the broadcaster first, in line with the BBC First process³. The individual submitted that the

³ Under Ofcom's [Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS](#), other than in exceptional circumstances (for example if the BBC broadcast content involving potentially serious harm to the public), Ofcom can only consider complaints where the complainant has completed the BBC's complaints process first.

current process is weighted against broadcasters and the outcome is “unreasonable” and “flawed”, as well as being resource intensive for Ofcom.

- 3.50 The CMA submitted that many complaints stem from motives of individuals rather than wider concerns about a broadcaster and recommended that Ofcom considers verifying whether a complainant has already contacted the broadcaster about a complaint.

Ofcom’s view

- 3.51 Although we did not propose or consult on a broadcaster-first approach, we have considered the responses we received that suggested we should implement one. We remain of the view that it would not be appropriate to implement a broadcaster-first approach for the reasons we set out below.
- 3.52 We acknowledge the potential benefit of a broadcaster-first approach set out by the respondents, particularly for community radio services, in maintaining their local focus and enabling them to learn and grow. We have also identified the following potential benefits not referred to in our consultation:
- the ability for broadcasters to set their own procedures and response times, to suit their operating model;
 - reduced engagement between broadcasters and Ofcom where complaints are resolved by the broadcaster;
 - fewer vexatious complaints because complainants would have to first contact the broadcaster; and
 - better understanding for the broadcaster about its audience’s concerns.
- 3.53 However, we consider that a broadcaster-first approach is also likely to have the following negative impacts on broadcasters:
- a) **Resource burden:**
- i) We require broadcasters to have compliance processes in place and be able to deal with content standards and fairness and privacy complaints, and would expect responsible broadcasters to do the same in respect of the relevant requirements covered by the General Procedures. However, there is no specific requirement in licences for broadcasters to handle and resolve complaints about relevant requirements or to keep records of these complaints and any responses. We consider that imposing such a requirement would unnecessarily increase the regulatory burden on broadcasters, particularly those that are smaller and/or run by volunteers. Further, we consider that amending licences to include such a requirement would be undesirable due to:
 - the resource required by Ofcom to vary around 2,000 licences; and
 - the impact on broadcasters having to engage in the licence variation process, because Ofcom would require representations from broadcasters to vary their licence(s).
 - ii) Currently we only contact broadcasters about issues relating to relevant requirements that are an administrative priority to assess. Under a broadcaster-first approach, broadcasters would have to respond to all complaints relating to a relevant requirement and may also feel they need to consider and respond to

complaints that do not relate to a relevant requirement. Dealing with an increase in complaints may require broadcasters to hire additional staff (or volunteers in the case of community radio stations), increase hours for individuals with the expertise to deal with complaints, and/or require broadcasters to provide additional training to those individuals.

- iii) An increase in directly received complaints could divert broadcasters' attention from compliance with other regulatory requirements.
 - iv) Broadcasters would potentially be required to respond to both complainants and Ofcom if the complainant contacted Ofcom after the broadcaster had concluded its consideration of the complaint. This would have a considerable impact where complainants may decide to contact Ofcom even if the broadcaster considers it has resolved the complaint appropriately.
- b) **Retention of recordings:** A broadcaster-first approach may require broadcasters to retain recordings of their output on receipt of any complaint made to them beyond the retention period set out in their licence. There would be a financial impact on broadcasters having to store more content for a longer period. There would be a particular financial impact on community radio stations, because Ofcom usually assesses a week's worth of content when assessing community radio station's compliance with their Key Commitments. Many community radio stations have told us that they have found the economic climate of recent years challenging, so to require them to invest in retaining content for longer is undesirable.
- c) **Wellbeing:** Broadcasters may be exposed to unpleasant complaints which would otherwise have been sent straight to Ofcom. As detailed above, Ofcom may close the complaint without contacting the broadcaster because it does not raise a substantive issue under the relevant requirements or is not an administrative priority to assess. If we do need to contact the broadcaster to assess the complaint, we would usually summarise the complaint.

- 3.54 While a broadcaster-first approach may enable broadcasters to address some complaints regarding the provision of the licensed service (and, in the case of community radio, some aspects of their output and social gain provision), we consider that it would be harder for broadcasters to reach an unbiased view on their own compliance with more subjective requirements such as a community radio station's compliance with its character of service. In addition, we do not see any value in requiring complaints about regulatory requirements such as maintaining and producing recordings to be made directly to the broadcaster before being raised with Ofcom.
- 3.55 A broadcaster-first approach would not guarantee a reduction in complaints received by Ofcom and would require us to collect more information from broadcasters when a complaint is made, including correspondence between the broadcaster and complainant(s), to assess the broadcasters' compliance with the relevant requirements. Therefore, we disagree that a broadcaster-first approach would reduce the use of Ofcom's resources to assess complaints.
- 3.56 In advocating for a broadcaster-first approach one respondent referred to the BBC First process. Under the BBC First process, complainants have a clear point of escalation to Ofcom. If a broadcaster-first approach was implemented for the 1,200 broadcasters we license there would be up to 1,200 different complaint processes, which would not provide the same clear point of escalation. Therefore, it may be unclear to complainants at which

point in the broadcaster's process they could approach Ofcom. One consequence may be an increase in complaints to Ofcom relating to the nature of the complaints process followed by individual broadcasters.

- 3.57 We continue to hold the view that some complainants may be concerned that complaining to a broadcaster could lead to some form of detriment to them and would be unable to complain straight to Ofcom about the most harmful conduct by broadcasters under a broadcaster-first approach. We consider Ofcom is best placed to assess these complaints and, where appropriate, ensure the relevant conduct is remedied as soon as possible and an appropriate sanction is imposed on a broadcaster. While Skylark suggested that complaints about the most harmful conduct could be sent directly to Ofcom, it is difficult to prescribe what might be considered harmful in relation to all the relevant requirements and there would therefore be no clarity on what should and should not be addressed directly to Ofcom.
- 3.58 Taking all of the above into account, we remain of the view that introducing a broadcaster-first approach would not have an overall benefit to broadcasters or potential complainants, or enable us to carry out our duties effectively.
- 3.59 Regarding the CMA's suggestion of verifying whether a complainant has already contacted the broadcaster about a complaint, this could be implemented without the need for a broadcaster-first approach and we welcome information from complainants about contact they have had with the broadcaster, to provide additional context. As set out above, we use complaints to help us determine which relevant requirements we should consider in a particular case. We have however decided to amend our complaints form (and paragraph 3.10 of the procedures we consulted on) to ask complainants to provide us with any correspondence they have had with a broadcaster, but whether or not a complainant has already contacted the broadcaster will not determine whether we take a complaint forward.

Proposal 3: Communication with complainants

- 3.60 We proposed to no longer routinely notify the complainant of the outcome of their complaint, given that the outcomes of complaints are available online in our Broadcast and On Demand Bulletin ("the Bulletin").
- 3.61 We also proposed to amend our automatic email response to complainants who have submitted their complaint using our online form to inform them of this and explain how to find the outcome of their complaint.
- 3.62 Where complaints are made by phone, text relay (for deaf or speech impaired complainants) or video relay (for complaints made in British Sign Language), we proposed that we will consider how we can replicate the provision of this information, such as asking call handlers to provide it verbally, or sending an automated email where the complainant provides an email address.
- 3.63 We proposed to make clear in the procedures that where complainants cannot access the internet, they can contact Ofcom via a range of methods to request the outcome of their complaint. We stated that we will also make clear in the procedures that complainants who require the Bulletin to be provided in alternative format can contact Ofcom via the same methods, by [contacting our Digital Team using an online form](#), or by emailing accessibilityrequests@ofcom.org.uk.

- 3.64 In rare cases, we do not publish the outcome of a complaint in the Bulletin because we consider it would be inappropriate to publicise the matter complained of, for example because the issues raised are particularly sensitive and/or publicity could have a detrimental impact on third parties. In such cases, we proposed to notify the complainant of the outcome directly.
- 3.65 We considered that this change could have both a positive and adverse impact on stakeholders. Positively, it would ensure we make best use of our resources, but it may also impact those groups that are unable to use, or are not confident in using, the internet. To mitigate this impact, we proposed to provide the outcome of a complaint to those complainants who request this.

Responses

- 3.66 There were mixed views on our proposal to no longer notify complainants of the outcome of their complaint. Three respondents agreed and four respondents disagreed with the proposal. One respondent did not comment on this proposal.
- 3.67 The CMA considered the proposal may encourage direct communication between complainants and broadcasters to resolve issues effectively, and that there would be no significant benefit in Ofcom corresponding with complainants beyond an automatic response about the process and acknowledging receipt. S4C also appreciated the need to prioritise resources.
- 3.68 While two respondents did not provide reasoning for their response, an individual and the UKCRN raised concern that Ofcom's website is hard to navigate and difficult to use easily on a mobile device. The individual felt that as part of its duty to protect audiences Ofcom should communicate with complainants.
- 3.69 The UKCRN added that complainants want to know they have been heard, which could be satisfied by receiving a response to confirm that Ofcom has investigated their complaint with brief details about this. Without a response, it felt that complainants may continue to submit complaints which would have an additional impact on community radio broadcasters, including where a complaint is outside the scope of Ofcom's remit.

Decision

Outcome of a complaint/assessment

- 3.70 Taking into account respondents' concerns, and for the reasons set out below, we have decided to revise our proposal and continue responding to complainants about the outcome of their complaint.
- 3.71 As set out in the consultation, no longer notifying the complainant of the outcome of their complaint would ensure we continue to make the best use of Ofcom's resources, which was recognised by some respondents. While communicating with stakeholders about complaints forms part of how we fulfil our duty to protect audiences, providing a detailed response to every complainant setting out the process we have followed and, in some cases, the reasoning for our decision, does not make best use of our resources and may prevent us from undertaking other activities which would fulfil this duty. We also recognise the benefit raised by the CMA that not responding to complaints may encourage direct communication between complainants and broadcasters, which we would welcome.

- 3.72 We acknowledge respondents' concerns about accessing the Bulletin, particularly on a mobile device. We also recognise that, while we aim to complete an assessment within 15 working days, the time it takes to assess compliance following a complaint can vary which may result in complainants having to repeatedly access the Bulletin to check if the outcome of their complaint had been published.
- 3.73 We have therefore decided to revise our proposal and send a concise response to the complainant when we close an assessment to inform them that we have either not pursued their complaint and/or that we will be launching an investigation into the broadcaster's compliance with its relevant requirements. This is the same level of detail we publish in the Bulletin. We do not intend to provide any further details about our assessment to the complainant, nor do we intend to enter into any correspondence with the complainant about the outcome. We will usually not respond to any further contact from the complainant unless they provide further evidence that a broadcaster has not complied with a relevant requirement. We have amended paragraphs 3.25 and 3.26 of the procedures we consulted on to reflect this decision.
- 3.74 We acknowledge the points raised by the UKCRN about complainants wanting to feel heard which may lead to complainants making further complaints. We consider that our decision to send a concise response balances some complainants' need to feel heard with reducing the resource needed from Ofcom to respond to complaints with a detailed response. This decision will also mitigate the impact on individuals who are not confident in using the internet.
- 3.75 We also consider that it is appropriate to differ from the [Procedures for investigating breaches of content standards for television and radio](#) (the "Standards Procedures"), where complainants are not notified of the outcome of their complaint. Complaints under the Standards Procedures usually relate to a specific programme broadcast at a specific time and date and it is easier to identify the outcome of such complaints in the Bulletin, than complaints made under the General Procedures which are usually about compliance with a licence condition and do not usually relate to a specific date or time. Further, the volume of complaints received under the Standards Procedures is far greater than under the General Procedures.

Outcome of an investigation

- 3.76 Under the existing procedures, we do not notify complainants of the outcome of investigations, and we did not propose to change this in the revised procedures. However, given the consultation responses received concerning difficulty finding the outcome of complaints in the Bulletin, we have considered whether maintaining the position of not communicating the outcome of investigation cases to complainants is acceptable.
- 3.77 We consider that notifying a complainant that we have launched an investigation in response to the issues raised in their complaint and providing a link to the Bulletin for them to check the outcome of the investigation is reasonable. For those complainants signed up to receive notifications when the Bulletin is published, the notification email summarises investigations where we have recorded a breach decision, and a simple click through to the Bulletin itself sets out those cases that have either been found not in breach or discontinued. As there are far fewer investigation cases than assessment cases published as closed in each Bulletin, it is much easier for complainants to locate the outcome of General Procedures investigations. Further, we have not received any feedback from complainants about their inability to locate the outcome of our investigation cases.

Proposal 4: Time limits for making a complaint

- 3.78 We proposed that, where complaints relate to broadcast content, complaints should be made within 20 working days of the broadcast of the relevant content. Where complaints solely relate to off-air matters, we proposed to continue to request these to be made as soon as possible.
- 3.79 We proposed to state in the General Procedures that we may consider it appropriate (in the interests of fairness and/or properly to carry out an investigation) to amend or adapt the 20 working-day deadline in a specific case. In any case, we proposed that any complainant seeking an extension to the deadline should explain to Ofcom why they believe it is appropriate in their complaint submission.
- 3.80 We anticipated that the impact of this proposal would be minimal due to the small numbers of complaints received after 20 working days, but that it should benefit broadcasters and complainants in enabling us to obtain recordings closer to the date of broadcast and ensuring what we expect of complainants and broadcasters in our procedures is clear.

Responses

- 3.81 All respondents to this question agreed with our proposal to add a time limit, with three respondents suggesting it may be appropriate to adapt the 20 working-day deadline in a specific case.
- 3.82 Skylark considered the proposal may help to avoid malicious complaints and asked what might constitute a specific case where the deadline could be amended, suggesting that it might be appropriate where a complainant has experienced multiple issues over a period of time which subsequently leads to them submitting a complaint. The UKCRN highlighted the impact on community radio stations' resources when a complaint is received long after the issue or broadcast occurred, particularly when Ofcom is expecting the station to respond quickly.
- 3.83 The CMA highlighted that the proposal would ensure a timely and accurate assessment of complaints and asked if there would be an impact on the retention period for recordings.
- 3.84 An individual considered that 20 days seemed like an arbitrary number and that this might not be long enough, but agreed with the principle of a time limit.

Decision

- 3.85 We welcome the positive response to our proposal and have decided to set a 20 working-day deadline for complaints that relate to broadcast content. This should help to avoid malicious complaints made considerably after the broadcast of the relevant content. It should also have a positive impact on resources for broadcasters in responding to complaints closer to the broadcast date.
- 3.86 In terms of a specific case where the deadline could be amended, we outlined some potential reasons in our consultation but do not consider this to be an exhaustive list. As we ask complainants to explain why they believe it is appropriate to make a complaint after the 20 working-day deadline, we would take this explanation into account in deciding whether to assess the issues raised in the complaint. Depending on the circumstances, reasons to extend the deadline could include:

- a) delays to postal complaints being received;
 - b) where we consider that a complaint raises issues likely to cause significant harm; or
 - c) where the complaint, at its heart, relates to issues taking place over a prolonged period of time.
- 3.87 We continue to consider that 20 working-days is an appropriate limit to:
- a) Allow sufficient time for complaints to be made following the broadcast of the relevant content.
 - b) Ensure that we do not request content close to the end of the broadcasters' recording retention period which would risk us not being able to obtain the content at all.
 - c) Ensure that the content and circumstances around its broadcast remain familiar for the broadcaster to provide information about/defend itself if the case leads to an investigation.
 - d) Bring the General Procedures in line with the Standards Procedures and [Procedures for the consideration and adjudication of Fairness and Privacy complaints](#).
- 3.88 We did not propose to change, and are not making changes to, the period broadcasters are required to retain recordings of their broadcast output.

Additional changes: restructuring the procedures, and simplifying, clarifying and updating language

- 3.89 In addition to the proposed changes outlined above, we took the opportunity to propose amendments to the General Procedures to make them easier to follow by restructuring the document to make it easier to navigate and simplifying the language where appropriate. We also proposed changes to reflect our practical day-to-day experience of assessments and investigations, and the experience of both broadcasters and complainants.
- 3.90 While we proposed to modify some of the language in the procedures, our general approach to these matters has not substantively changed. Ofcom will continue to ensure that: any enforcement action is conducted fairly and transparently; broadcasters have an opportunity to respond to Ofcom during assessments and investigations; and cases are completed efficiently and as promptly as possible.
- 3.91 Below we set out the key changes we proposed in the consultation to the language and structure of the General Procedures document.
- a) Introducing sections and additional headings and a contents page to enable users to easily navigate to the most appropriate section of the procedures.
 - b) Adding an 'Overview' section to provide a high-level plain English summary of the procedures, and a flowchart to provide a visual summary of the process we follow.
 - c) Setting out Ofcom's duties in the 'Introduction' section (previously under 'Statutory framework') and then setting out what the General Procedures cover; who they apply to; and their status. We also proposed to simplify the content of this section where the language was unnecessarily complex.
 - d) Introducing a 'Submitting a complaint' section setting out how to make a complaint, including how Ofcom handles complainants' personal information (not previously included in the procedures).
 - e) Amending the 'Assessments' section to include information about own-initiative assessments (which was previously referred to at the end of the document), the

assessment process (including a more structured explanation of the process we follow) and our administrative priorities.

- f) Amending the 'Investigations' section setting out how we open investigations and request representations; prepare our Preliminary View; and make our final Decision. We also proposed to include text about disclosure of information in this section.
- g) Introducing a 'Further action following an investigation' section which would include new information about monitoring and compliance meetings, as well as including information from the existing procedures about directions and sanctions.
- h) Moving information on time limits from the end of the document to the relevant sections about assessments and investigations.
- i) Adding information about potential outcomes for both assessments and investigations.

3.92 We considered that the changes set out above would benefit anyone that may struggle to read or understand the current procedures.

Responses

3.93 Only one respondent, the CMA, provided comments on the proposed additional changes to the General Procedures. The CMA welcomed the additional changes, including the flowchart, presentation of the revised procedures and reference to the External Contact Policy.

Decision

3.94 We continue to consider the additional changes set out above to be beneficial to users of the procedures. We have therefore decided to implement the additional changes as proposed.

3.95 In addition to the changes set out above and elsewhere in this document, we have also added a footnote to paragraph 2.5(b) to confirm where our public sector equality duties are set out in legislation.

Impact assessment

3.96 In our consultation we provided our assessment of the likely impacts of our proposals, including on groups with protected characteristics under equality legislation.⁴ Two responses specifically referenced our impact assessment, one of which agreed with our impact assessment and one suggested additional impacts. Below, we have summarised the potential impacts we identified and the responses relating to these impacts.

3.97 In our consultation, we explained that we expected our proposals would have an overall positive impact on broadcasters, citizens and consumers. In particular, we expected our proposals to:

- a) provide clarity and transparency and aid consistency in our decisions relating to assessments and investigations under the General Procedures;
- b) ensure that we can continue to target our resources at cases which concern the greatest potential harm; and

⁴ Our legal obligations relating to impact assessments were set out in Annex 1 of our consultation.

- c) advance equality of opportunity where complaints are made about participation in a licensed service.
- 3.98 We also explained that we expected that our proposals were likely to have a particularly positive impact on the following groups of persons compared to the general population and help advance equality of opportunity:
- a) Vulnerable complainants who may share one or more protected characteristics may feel more able to complain about the most harmful conduct by a broadcaster and, if they do so, this may incentivise compliance with requirements including those relating to participation in the licensed service.
 - b) Stakeholders who may struggle to read or understand the current procedures may benefit from procedures that are easier to understand and follow. These groups could include older people, those who are neurodiverse, and those for whom English (or Welsh) is not a first language.
- 3.99 We explained that we expected that our proposals may have an adverse impact on some groups of complainants, particularly those groups that are unable to use, or are not confident in using, the internet. This may include older individuals; disabled people; people on low incomes; and those in rural areas (who may share one or more protected characteristics under equality legislation) with limited access to the internet. We set out our consideration that these groups are likely to be affected in a different way to the general population, given that we were proposing to no longer notify complainants about the outcome of their complaints because this information is available online in our Bulletin.

Responses

- 3.100 None of the consultation respondents disagreed with our assessed impacts.
- 3.101 In response to the consultation, the CMA was supportive of Ofcom's impact assessment and the recognition of the unique challenges faced by community radio stations being volunteer run and providing social gain. It highlighted the reduction in unnecessary administrative burdens and improvement of regulatory efficiency in empowering community radio broadcasters to deliver their core mission.

Decision

- 3.102 Overall, we remain of the view that our proposals are likely to have a particularly positive impact on broadcasters (and their volunteers) as well as complainants, audiences and target communities.
- 3.103 As explained above, we have decided to continue to notify complainants of the outcome of their complaint, which will mitigate the potential negative impact we had identified for groups that are not confident in using the internet. We will also continue to make clear in the procedures that complainants who require the Bulletin to be provided in alternative format can contact Ofcom via the same methods, by [contacting our Digital Team using an online form](#), or by emailing accessibilityrequests@ofcom.org.uk.

Other impacts

- 3.104 The UKCRN highlighted potential impacts of our proposals, and the procedures in general, which were not specifically addressed in our consultation. The UKCRN set out that our complaints process can have an impact on broadcasters' resources and the mental health

and wellbeing of their staff and volunteers, particularly in providing a response to Ofcom within five working days and in awaiting a response from Ofcom about the outcome of a complaint. The UKCRN added that Ofcom needs to directly engage with possible impacted groups to ensure there will be no significant negative impact on specific groups, especially considering access and equality.

- 3.105 Our impact assessment is focused on the likely impact of our proposals rather than the impact of our General Procedures more generally. However, we acknowledge the wider impacts that the UKCRN have set out, particularly the impact on the health and wellbeing of staff and volunteers. We understand that dealing with any complaint can be worrying and corresponding with a regulator can be daunting for those who are less experienced at this. One way of reducing the mental health impact of dealing with complaints is through providing clear information about the process we are following, which we intend to achieve through the amendments to the structure and language of the General Procedures. Where there is a significant impact on resources, mental health and wellbeing, we would encourage broadcasters to get in touch with us once a request is received to discuss this.
- 3.106 Regarding direct engagement with impacted groups, we regularly meet with the representative bodies for the community radio sector (the CMA and UKCRN) and have discussed the General Procedures at such meetings. During general engagement with broadcasters prior to the consultation some broadcasters raised views and suggestions relating to the General Procedures, which we have considered in formulating our policy.

Welsh language impacts

- 3.107 In our consultation, we explained that our proposals to:
- a) translate the procedures into Welsh; and
 - b) confirm within the procedures that complaints can be made in Welsh in both the English and Welsh versions of the complaint form;
- would have a positive impact on opportunities for people to use the Welsh language.
- 3.108 We considered that these proposals would have both a positive impact on opportunities for complainants and broadcasters to use the Welsh language and ensure the Welsh language is treated no less favourably than the English language.

Responses

- 3.109 Most respondents, who are based outside of Wales, did not have a view on the impacts on the Welsh language. Of those who did respond, most supported enabling the use of the Welsh language and did not identify any changes to the proposals that could increase positive effects or reduce negative effects on opportunities to use the Welsh language and treating the Welsh language no less favourably than English.
- 3.110 S4C asked if there would be a delay in response by Ofcom to complaints received in Welsh, for example to allow translation time within Ofcom.
- 3.111 Two respondents, Horizon Radio and an individual, questioned Ofcom's role in the use of the Welsh language and the use of Ofcom's resources in translating documents into Welsh.
- 3.112 The CMA suggested that broadcasters and complainants should retain the autonomy to use their own language(s) and that guidance should consider the diversity of languages

represented within community radio and not be limited to Welsh and English. The CMA also suggested that there should be guidance on balancing Welsh and English programming.

Decision

- 3.113 We have decided to proceed with translating the procedures into Welsh and confirming within the procedures that complaints can be made in Welsh using both the English and Welsh versions of the complaint form.
- 3.114 We recognise the concern raised by S4C regarding potential delays in responding to complaints made in Welsh due to translation requirements. We will monitor response times for Welsh and English language complaints to ensure parity. Consistent with our obligation to treat the Welsh language no less favourably than the English language, we assess all complaints in the same way, regardless of whether they are made in English or Welsh. This means that the timeframes identified in paragraph 4.12 of our General Procedures for completing our assessments apply to both complaints made in English and Welsh. We also have a Welsh language automatic response to incoming complaints, and will ensure that the response sent at the closure of a complaint is translated into Welsh.
- 3.115 While there are resource implications for providing opportunities for people to use the Welsh language and treating the Welsh language no less favourably than English, we consider that this is justified by the status of Welsh as an official language in Wales and required for us to comply our legal obligations under the Welsh Language (Wales) Measure 2011. This approach aligns not only with the Welsh Language (Wales) Measure 2011 but also with the principles of the Welsh Language Standards, which emphasise the right of Welsh speakers to receive services in Welsh and to live their lives through the medium of Welsh.
- 3.116 We acknowledge the use of other languages by community radio services raised by the CMA. We do not consider that it would be a good use of our resources to routinely publish our procedures and guidance in languages other than English and Welsh. We expect at least individuals responsible for compliance at a broadcaster to have appropriate proficiency at English (or Welsh) to understand the requirements of holding an Ofcom licence. Where guidance would be particularly relevant to a minority language, we may consider publishing the guidance or a summary of it in a language other than English and Welsh.
- 3.117 Regarding the CMA's suggestion of guidance for balancing Welsh and English programming, this was not the subject of our consultation and is an editorial decision for broadcasters, taking into account the relevant requirements of their licence(s).

Other responses

- 3.118 We set out below the responses received that do not directly relate to our proposals set out above, and our views in relation to them.

Complaints and assessment process

Responses

- 3.119 The CMA, Skylark and the UKCRN made additional suggestions regarding our complaints and assessment process.
- 3.120 The CMA submitted that:

- a) Ofcom should consider additional verification of the identity of complainants in line with the External Contact Policy; and
- b) it has long-standing concerns about vexatious complaints and unclear compliance expectations which it has previously raised with Ofcom.

3.121 Skylark:

- a) recommended that Ofcom work to build good relationships with broadcasters and deal with complaints in a compassionate manner;
- b) highlighted how on-air output in community radio can reflect the qualities of the off-air relationships, and suggested that there is a need to have a greater focus on inclusion, learning and transparency; and
- c) stated its desire was for Ofcom not to punish breaches of licence conditions through “name-and-shame”, taking away licences and fines, but instead to make specific recommendations, such as holding AGMs or inviting new volunteers from different demographics, and then provide broadcasters a timescale to make the recommended changes.

3.122 The UKCRN:

- a) called for a more realistic and supportive timetable and communication with broadcasters, and an extension of the five working day deadline for response from broadcasters to support overworked staff and broadcasters who are under-resourced with volunteers; and
- b) favoured better communication about the process and progress of complaints, with a set timeframe established at the start of each complaint so that broadcasters do not wait for months for an outcome or discover the outcome of a complaint via the Bulletin and not directly from Ofcom.

Ofcom's view

3.123 As set out in our consultation and elsewhere in this statement, the credibility or motives of a complainant are not relevant to our assessment of whether a broadcaster has complied with relevant requirement(s). We therefore do not consider it necessary to verify the identity of complainants beyond confirming personal details where required, unless we need to use our External Contact Policy.

3.124 We acknowledge the CMA’s long-standing concerns about vexatious complaints and unclear compliance expectations. We have discussed vexatious complaints above in the context of why we do not consider it appropriate to disclose a complainant’s name to reduce the potential for such complaints and how some of the changes we have made to our General Procedures - particularly our administrative priorities framework - should reduce the number of vexatious complaints. In terms of making our compliance expectations clear, we will continue to consider how we can best explain the compliance issues we have found in our published decisions and in our correspondence with broadcasters.

3.125 We recognise the need for compassion in our interactions with broadcasters. We understand the request for a compassionate approach to broadcasters when carrying out our regulatory functions. However, we are mindful that Ofcom is required in law to protect citizens and consumers. Therefore it may be necessary for some correspondence to be more formal or contain legal or regulatory terminology. However, where possible we will seek to correspond with broadcasters in an accessible manner.

- 3.126 We recognise that on-air content is only a part of a community radio station's compliance with its Key Commitments and will always consider the off-air elements of compliance in addition to any content requested.
- 3.127 We acknowledge Skylark's position that Ofcom should make recommendations instead of recording breaches of licence conditions. We may remind a broadcaster of their obligations where we consider that an issue raised is not an administrative priority. However, where we do consider an issue to be an administrative priority, we do not consider it appropriate to make recommendations before, after or instead of recording a breach for the following reasons.
- a) Under our administrative priorities, we would only be assessing and investigating compliance issues that we consider to be particularly harmful or serious. One of the factors we will also generally consider is whether alternative actions are likely to achieve the same ends. We do not consider that making a recommendation would be suitable if we think it is an administrative priority to investigate, as this risks the continuation of potentially harmful conduct for a sustained period of time. For example, if we were to make a recommendation, it would be important to allow time for that to be implemented, which could take considerable time for smaller, volunteer-run broadcasters. If this was not implemented appropriately or ignored, the conduct would have continued for longer than if a breach had been recorded.
 - b) It is important that we follow the process set out in our General Procedures to decide whether or not a broadcaster is in breach and whether we consider it appropriate to take any further action. We do not consider it would be appropriate to make recommendations without following this process and first establishing what went wrong and whether or not the broadcaster is in breach.
 - c) It would not be appropriate for Ofcom to set out exactly what is needed to address an issue, such as holding an AGM or inviting new volunteers from different demographic groups as suggested by Skylark. While these are good examples of how to ensure accountability (a requirement for community radio services), they may not be a suitable means for every community radio broadcaster to achieve this requirement. We also consider that once a lack of compliance has been brought to a broadcaster's attention, the broadcaster is best placed to decide the ways in which it can most effectively meet its requirements, taking into account its audience/target community and its particular circumstances. Similarly, where on-air programming falls short on a relevant requirement, how to address this is an editorial decision for the broadcaster, consistent with broadcasters' right to freedom of expression. Further, to provide prescriptive advice would fetter Ofcom's discretion when regulating a broadcaster's output.
- 3.128 We acknowledge the request from the UKCRN for Ofcom to extend the five working day deadline for a response from broadcasters to mitigate the impact the current deadline has on broadcasters, particularly those that are run by volunteers. We need to set timescales that are manageable for both Ofcom and broadcasters, while also ensuring that our assessments and investigations are carried out in a timely way. The majority of material requested from broadcasters is provided to Ofcom within five working days, and we consider that the streamlining of community radio Key Commitments should reduce the amount of written information requested because we will need less quantitative information about quota-based requirements. We therefore do not consider there to be a case for increasing the five working day deadline for broadcasters to respond to a request by Ofcom. However, as proposed in our consultation, we have included wording in the revised General Procedures to clarify our existing practice of amending or adapting the time

limits in a particular case and requiring broadcasters seeking an extension to the deadline to explain in writing why it believes an extension is appropriate.

- 3.129 We acknowledge the points made about Ofcom’s communication with broadcasters, particularly around the process for assessing complaints and communicating the outcome of our assessments and investigations and the speed at which they are concluded. We consider that the revised General Procedures will help broadcasters to understand the process, particularly the inclusion of a flowchart for an ‘at-a-glance’ view of each stage of the process.
- 3.130 If we have contacted the broadcaster for information or recordings of its output to assist in the assessment of an issue, we will continue to notify the broadcaster of our decision before it is published (and did not propose any change to our current practices). We do not contact broadcasters about every complaint and they therefore may see a complaint closed in the Bulletin as ‘not pursued’ or ‘out of remit’ that they have not been contacted about.
- 3.131 We set out how long we expect to take to complete our assessments and investigations in paragraphs 4.12 and 5.4 of the revised General Procedures, but the duration will vary on a case-by-case basis depending on the issue(s) under consideration. We will consider where we might be able to provide clearer indicative timelines in our individual communications with broadcasters as cases progress. However, we do not consider setting a timeframe at the outset of each case would be of benefit, because there may be a good reason for a case to take more or less time than originally anticipated, for example, needing to seek further material from the broadcaster, a third-party or within Ofcom.

Impact on community radio

Responses

- 3.132 The CMA highlighted the distinctiveness of community radio and its difference from commercial radio in being not-for-profit, enabling social gain and being uniquely tailored to the local area. It raised concerns about diluting the local focus of community radio. Skylark also noted the focus on community radio compliance in the consultation and its concern that Ofcom’s approach does not tackle problems at a systemic level or solve the problems faced by community radio broadcasters, such as lack of finances or volunteers.
- 3.133 Skylark was concerned that the proposed changes to the General Procedures may result in a “reduction in Key Commitment reporting” as well as a “risk a loss of accountability within the community radio sector”, which should be strengthened in other ways. It felt that Ofcom should lead on what accountability should look like, and gave examples of this.

Ofcom’s view

- 3.134 We confirm that this statement is about our General Procedures and is not designed to address the problems outside of these procedures faced by the community radio sector, or to make specific changes that would disproportionately affect the sector more broadly.
- 3.135 We do not consider that the changes to the General Procedures, or our recent changes to analogue community radio stations’ Key Commitments, will cause a loss of accountability within the community radio sector. In terms of what accountability could look like, we set out some examples in our [compliance principles for Key Commitments](#).

Other topics

Responses

- 3.136 The CMA encouraged the Government to allocate additional resource and support to both Ofcom and community radio stations. Skylark also called for better education and more funding to promote best practice for community radio.
- 3.137 The CMA set out that it was prepared to support events and training sessions to raise awareness and help stations adapt to changes following the consultation. It also encouraged Ofcom to provide additional resources or training for broadcasters.

Ofcom's view

- 3.138 We welcome the CMA's offer to support events and training in relation to the changes to our General Procedures. However, we do not consider there to be a specific need for training for broadcasters on these changes because our substantive changes mainly have an operational impact on complainants and Ofcom itself rather than broadcasters.
- 3.139 Regarding the allocation of additional resource and support for Ofcom and community radio stations, this is a matter for Government.
- 3.140 It is not Ofcom's role to provide education or funding for its regulated sectors, other than where this relates to our other duties, such as where we might need to explain changes to regulations or administering the Community Radio Fund on behalf of DCMS.

Summary of our decisions

- 3.141 For the reasons explained above, and taking into account the response we received, we have decided to go ahead and revise the General Procedures to:
- publish a new and more detailed administrative priorities framework;
 - clarify that we will usually only share a summary of the issues raised with the broadcaster and not usually share the complainant's name; and
 - set a 20 working-day limit for making complaints relating to broadcast content.
- 3.142 We have also restructured the procedures to make them easier to follow and simplified, updated and clarified some of the language.
- 3.143 Listening to respondents' concerns, we have decided to send a concise response to complainants to inform them that we have either decided not to pursue their complaint or we have decided to launch an investigation into the broadcaster's relevant requirements.
- 3.144 We consider our decisions to be proportionate taking into account our relevant duties, impact assessment and consultation responses.

4. Next steps

- 4.1 Alongside this statement, we have published an [updated version of the General Procedures](#).
- 4.2 As the changes will not require broadcasters to change their processes, the new version of the General Procedures have now come into force, alongside their publication.
- 4.3 Assessment cases initiated by a complaint are opened on the date that the complaint is received which means that the new version of the General Procedures will apply to any complaints received from the date of this Statement. Any assessments or investigations (either as a result of a complaint or Ofcom-initiated) opened before the date of this Statement will be dealt with under the version of the General Procedures that was in force at the time the case was opened.

A1. Revised General Procedures

[This annex is published as a separate document.](#)