



Ofcom ref: 02038467, Good Law Project complaints re Talk

From Ofcom Standards Team [REDACTED]

Date Wed 17/09/2025 09:17

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02038467

Classification: Confidential

Dear Good Law Project

Thank you for your email and letter of 11 September 2025.

You have sought an explanation from Ofcom for not pursuing Good Law Project's complaints about 11 programmes on Talk. In your view, the programmes failed to comply with the rules in the Broadcasting Code relating to due impartiality because guests and presenters in the programmes "expressed gender-critical views" and "nobody supporting trans rights appeared in any of these discussions".

Ofcom carefully assessed each of the 11 programmes in question. Each programme included a number of discussions on current affairs topics with some related to issues of sex and gender. These included discussions on the following topics: BBC news presenter Martine Croxall amending a reference in her autocue from "*pregnant people*" to "*women*"; commentator Montgomery Toms discussing his arrest for wearing a placard which stated that "trans" was a "mental disorder"; and interim guidance by Police Scotland about the appropriate process for searching trans people.

As these were not "news programmes" and the discussions within them were not "news", Rule 5.1 (which requires news to be reported with due accuracy and presented with due impartiality) did not apply. Therefore, we assessed the content primarily under Rule 5.5 which states that: "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service... This may be achieved within a programme or a series of programmes taken as a whole".

The Code sets out that matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters

relating to current public policy need not be the subject of debate but may relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf. Whether a matter of political or industrial controversy and matter relating to current public policy is being dealt with in a programme will depend on a range of factors.

Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the European Convention Human Rights ("ECHR"). Decisions at both a domestic level and before the ECHR make clear the scope for restrictions on freedom of expression is likely to be especially limited in two overlapping fields, namely political speech and on matters of public interest. Accordingly, a high level of protection of freedom of expression will normally be accorded, with the authorities having a particularly narrow margin of appreciation. When assessing the content about which these complaints were made, Ofcom therefore took into account the broadcaster's and audience's Article 10 rights.

It is also important to point out that the Code makes clear that "due is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section two: Harm and offence of the Code, is important^[1]".

As a result, and reflecting Article 10, it is an editorial matter for the broadcaster as to how due impartiality is preserved, as long as the Code is complied with, and there are a range of editorial techniques which can help ensure this. It is not the case under the Code that because a strong viewpoint is expressed in a programme, someone who holds the alternative view must also be included in the same programme – there are other editorial techniques open to the broadcaster to preserve due impartiality.^[2]

In these cases, we did not consider that these programmes were concerned with broad debates within society about sex and gender. To the extent that Rule 5.5 did apply, these programmes were focused on more discrete issues (such as those listed above) and we considered whether due impartiality was maintained in the context of these specific issues. We recognised that some may have found views in the programmes challenging and potentially offensive. However, taking into account the right to freedom of expression and all relevant contextual factors – including the editorial content of the programme, the service on which it was broadcast, the likely expectation of the audience, as well as the extent to which challenge to the views expressed and alternative views were represented, we concluded that these programmes did not raise substantive issues warranting further investigation.

We understand the strength of feeling about the issues raised, and that you are likely to disagree with this outcome, but we hope this clarifies our position.

Yours sincerely,

Ofcom Standards Team

Content Standards and Enforcement

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