



# Broadcasting Act 1990

## 1990 CHAPTER 42

### PART VI

#### THE BROADCASTING STANDARDS COUNCIL

#### **151 The Broadcasting Standards Council.**

- (1) The council which at the commencement of this section is known as the Broadcasting Standards Council shall be, by that name, a body corporate and as such shall be constituted in accordance with, and have the functions conferred by, this Act.
- (2) The Council shall consist of—
  - (a) a chairman and a deputy chairman appointed by the Secretary of State; and
  - (b) such number of other members appointed by the Secretary of State, not being less than four, as he may from time to time determine.
- (3) Schedule 14 to this Act shall have effect with respect to the Council.

#### **152 Preparation by Council of code relating to broadcasting standards.**

- (1) It shall be the duty of the Council to draw up, and from time to time review, a code giving guidance as to—
  - (a) practices to be followed in connection with the portrayal of violence in programmes to which this Part applies,
  - (b) practices to be followed in connection with the portrayal of sexual conduct in such programmes, and
  - (c) standards of taste and decency for such programmes generally.
- (2) This Part applies to—
  - (a) any television or sound programme broadcast by the BBC;
  - (b) any television programme broadcast by the Welsh Authority; and
  - (c) any television or sound programme included in a licensed service.

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- (3) It shall be the duty of each broadcasting or regulatory body, when drawing up or revising any code relating to standards and practice for programmes, to reflect the general effect of so much of the code referred to in subsection (1) (as for the time being in force) as is relevant to the programmes in question.
- (4) The Council shall from time to time publish the code referred to in subsection (1) (as for the time being in force).
- (5) Before drawing up or revising the code the Council shall consult—
  - (a) each broadcasting or regulatory body; and
  - (b) such other persons as appear to the Council to be appropriate.

### **153 Monitoring by Council of broadcasting standards.**

- (1) It shall be the duty of the Council to monitor programmes to which this Part applies with a view to enabling the Council—
  - (a) to make reports on the portrayal of violence and sexual conduct in, and the standards of taste and decency attained by, such programmes generally, and
  - (b) to determine whether to issue complaints in respect of such programmes under section 154(7).
- (2) Subject to section 160(2), the Council may make reports on the matters specified in subsection (1)(a) on such occasions as they think fit; and any such report may include an assessment of either or both of the following, namely—
  - (a) the attitudes of the public at large towards the portrayal of violence or sexual conduct in, or towards the standards of taste and decency attained by, programmes to which this Part applies; and
  - (b) any effects or potential effects on the attitudes or behaviour of particular categories of persons of the portrayal of violence or sexual conduct in such programmes or of any failure on the part of such programmes to attain such standards.
- (3) The Council may publish any report made by them in pursuance of subsection (1)(a).
- (4) The Council shall have the further duty of monitoring, so far as is reasonably practicable, all television and sound programmes which are transmitted or sent from outside the United Kingdom but are capable of being received there, with a view to ascertaining—
  - (a) how violence and sexual conduct are portrayed in those programmes; and
  - (b) the extent to which those programmes meet standards of taste and decency.
- (5) The Council may make a report to the Secretary of State on any issues identified by them in the course of carrying out their duty under subsection (4) and appearing to them to raise questions of general broadcasting policy.

### **154 Consideration by Council of complaints relating to broadcasting standards.**

- (1) Subject to the provisions of this section, it shall be the duty of the Council to consider complaints which are made to them under this section and relate—
  - (a) to the portrayal of violence or sexual conduct in programmes to which this Part applies, or

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- (b) to alleged failures on the part of such programmes to attain standards of taste and decency,  
and to make findings on such complaints, taking into account any relevant provisions of the code.
- (2) Any such complaint must be in writing and give particulars of the matters complained of.
- (3) The Council shall not entertain a complaint which is made—
- (a) where the relevant programme is a television programme, more than two months after the relevant date, or
  - (b) where the relevant programme is a sound programme, more than three weeks after that date,
- unless it appears to them that in the particular circumstances it is appropriate for them to do so.
- (4) In subsection (3) “the relevant date” means—
- (a) the date on which the relevant programme was broadcast by a broadcasting body or included in a licensed service, or
  - (b) where it has been so broadcast or included on more than one occasion, the date on which it was last so broadcast or included.
- (5) The Council shall not entertain, or proceed with the consideration of, a complaint if it appears to them—
- (a) that the matter complained of is the subject of proceedings in a court of law in the United Kingdom, or
  - (b) that the matter complained of is a matter in respect of which the complainant has a remedy by way of proceedings in a court of law in the United Kingdom, and that in the particular circumstances it is not appropriate for the Council to consider a complaint about it, or
  - (c) that the complaint is frivolous, or
  - (d) that for any other reason it is inappropriate for them to entertain, or proceed with the consideration of, the complaint.
- (6) Where, apart from this subsection, there would fall to be considered by the Council two or more complaints which appear to them to raise the same, or substantially the same, issue or issues in relation to a particular programme, the Council may determine that those complaints shall be treated for the purposes of this Part as constituting a single complaint.
- (7) If it appears to the Council to be appropriate to do so, they may of their own motion issue complaints relating to matters falling within subsection (1)(a) or (b).
- (8) Any such complaint shall give particulars of the matters complained of.

## **155 Consideration of complaints.**

- (1) Subject to the provisions of section 154, every complaint made to or issued by the Council under that section shall be considered by them either without a hearing or, if they think fit, at a hearing (and any such hearing shall be held in private unless the Council decide otherwise).
- (2) Before the Council proceed to consider a complaint they shall send a copy of it—

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- (a) to the relevant person; and
  - (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.
- (3) Where the relevant person receives from the Council a copy of the complaint, it shall be the duty of that person, if so required by the Council—
- (a) to provide the Council with a visual or sound recording of the relevant programme or any specified part of it, if and so far as he has such a recording in his possession;
  - (b) to provide the Council with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as he is able to do so;
  - (c) to provide the Council with copies of any documents in his possession, being the originals or copies of any correspondence between him and the complainant in connection with the complaint;
  - (d) to furnish to the Council a written statement in answer to the complaint.
- (4) Where a hearing is held in respect of a complaint, the following persons shall be given an opportunity to attend and be heard, namely—
- (a) the complainant;
  - (b) the relevant person;
  - (c) where the relevant programme was included in a licensed service, the appropriate regulatory body;
  - (d) any person not within any of paragraphs (a) to (c) who appears to the Council to have been responsible for the making or provision of that programme; and
  - (e) any other person who the Council consider might be able to assist at the hearing.
- (5) In a case where the Council have made a determination in respect of any complaints under subsection (6) of section 154, subsection (4)(a) above shall be construed as referring to such one or more of the persons who made those complaints as the Council may determine; and in relation to a complaint issued by the Council under subsection (7) of that section, subsection (4) above shall have effect as if paragraph (a) were omitted.
- (6) The Council may, if they think fit, make to any person who attends a hearing in connection with a complaint such payments as they think fit by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.
- (7) In this section “the relevant person” means—
- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
  - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing that service.

## **156 Publication of Council’s findings.**

- (1) Where the Council have considered and made their findings on any complaint, they may give the following directions, namely—

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- (a) where the relevant programme was broadcast by a broadcasting body, directions requiring that body to publish the matters mentioned in subsection (2) in such manner, and within such period, as may be specified in the directions; and
  - (b) where the relevant programme was included in a licensed service, directions requiring the appropriate regulatory body to direct the licence holder to publish those matters in such manner, and within such period, as may be so specified.
- (2) Those matters are—
- (a) a summary of the complaint; and
  - (b) the Council’s findings, and any observations by them, on the complaint, or a summary of those findings and any such observations.
- (3) The form and content of any such summary as is mentioned in subsection (2)(a) or (b) shall be such as may be approved by the Council.
- (4) A broadcasting or regulatory body shall comply with any directions given to them under this section.
- (5) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body for the purpose of enabling them to comply with any directions given to them under this section.

#### **157 Power of Council to commission research.**

- (1) The Council may make arrangements for the undertaking of research into matters related to or connected with—
- (a) the portrayal of violence or sexual conduct in programmes to which this Part applies, or
  - (b) standards of taste and decency for such programmes generally.
- (2) The matters into which research may be undertaken in pursuance of subsection (1) include, in particular, matters falling within section 153(2)(a) and (b).
- (3) Arrangements made under subsection (1) shall secure that, so far as is reasonably practicable, any research undertaken in pursuance of the arrangements is undertaken by persons who are neither members nor employees of the Council.
- (4) The Council may publish the results of any research undertaken in pursuance of subsection (1).

#### **158 International representation by Council of Government interests.**

The functions of the Council shall include representing Her Majesty’s Government in the United Kingdom, at the request of the Secretary of State, on international bodies concerned with setting standards for television programmes.

#### **159 Duty to publicise Council.**

- (1) It shall be the duty of each broadcasting or regulatory body to arrange for the publication (by means of broadcasts or otherwise) of regular announcements publicising the Council.

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- (2) Any such announcements may contain a statement of the difference between the kinds of complaints that may be considered by the Council and those that may be considered by the Broadcasting Complaints Commission.
- (3) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body in connection with the performance by them of their duty under subsection (1).

## **160 Annual reports.**

- (1) As soon as possible after the end of every financial year the Council shall prepare a report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.
- (2) The report shall include a report by the Council on the matters specified in section 153(1)(a).
- (3) The Council shall send a copy of the report—
  - (a) to each broadcasting or regulatory body; and
  - (b) to every person providing a licensed service.

## **161 Interpretation of Part VI.**

- (1) In this Part—
  - “the appropriate regulatory body”, in relation to a programme included in a licensed service, means the regulatory body by whom that service is licensed;
  - “broadcasting body” means the BBC or the Welsh Authority;
  - “the code” means the code referred to in section 152(1) (as for the time being in force);
  - “the Council” means the Broadcasting Standards Council;
  - “licensed service” means—
    - (a) a television programme service (within the meaning of Part I of this Act), or
    - (b) an independent radio service falling within paragraph (a) or (b) of section 84(1),
 which is licensed under Part I or (as the case may be) Part III of this Act, or so much of any licensed delivery service (within the meaning of Part II of this Act) as is, by virtue of section 79(2) or (4), treated as the provision of a service licensed under Part I of this Act;
  - “regulatory body” means the Independent Television Commission or the Radio Authority;
  - “the relevant programme”, in relation to a complaint, means the programme to which the complaint relates;
  - “sexual conduct” means any form of sexual activity or other sexual behaviour.
- (2) Any reference in this Part to programmes to which this Part applies shall be construed in accordance with section 152(2).

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