

# Statement of Operational Separation

## Introduction

In accordance with [Ofcom's trading and separation rules](#), this document updates the previous Statement of Operational Separation published in July 2023, and sets out the arrangements the BBC implemented to comply with Ofcom's operational separation requirements A.1 to A.5 inclusive ("Ofcom's operational separation requirements") during the 2023/2024 financial year.

## Effectiveness of the BBC's measures, controls and processes during 2023/2024 financial year

The BBC's measures, controls and processes were implemented and operated effectively throughout 2023/24, ensuring compliance with Ofcom's operational separation requirements. There were no reported areas of non-compliance during this period.

Examples of ensuring and improving effective implementation and operation by the BBC during 2023/24 included:<sup>1</sup>

- Regular review of mandatory Fair Trading training compliance rates, including senior level engagement to ensure completion, sponsored messages and other reminders and reports sent via BBC Academy, and reporting to the Fair Trading Committee;
- Provision of ad hoc advice to the BBC Group on issues around operational separation throughout the year, including:
  - Advising on sharing of information/data with BBC Studios (including audience data), including ensuring that equivalent data would be made available under similar circumstances to other producers and/or distributors;
  - Advising on sharing of information/data with third parties;
  - Running bespoke sessions on information sharing on request, to various parts of the BBC Group, including Product Group and Children's Commissioning.

## Ensuring Operational Separation

Ofcom's Trading and Separation rules put in place a number of operational separation requirements in order to ensure that the commercial subsidiaries do not, as a result of their relationship with the UK Public Services, trading activities or non-service activities distort the market or gain an unfair competitive advantage. These requirements are set out below:

### Ofcom's Operational Separation requirements

*A.1 The BBC must not directly undertake any Commercial Activities. All Commercial Activities must be undertaken through Commercial Subsidiaries at arm's length from the Public Service and on commercial terms.*

*A.2 The BBC must have in place appropriate measures, controls and processes to ensure that its Commercial Subsidiaries and Joint Ventures do not have access to information about the Public Service's strategy, priorities and activities that is not available to third parties, other than:*

<sup>1</sup> These actions were undertaken by various parts of the BBC, primarily the Regulation team in BBC Policy and the Competition and Regulatory Legal team.

- a) *information that is necessary to ensure that the Commercial Activities fit with the BBC's Mission and Public Purposes;*
- b) *information that is necessary for the fulfilment of any contract; or*
- c) *information, that if shared, does not carry any risk that Commercial Subsidiaries or Joint Ventures could, as a result of having access to that information, distort the market or gain an unfair competitive advantage.*

*A.3 The BBC must have in place appropriate measures, controls and processes to ensure that information falling within Requirements A.2(a) and A.2(b) is only used for the specific purpose for which it was obtained.*

*A.4 The Commercial Subsidiaries must be run by boards and executive committees of directors which are distinct and separate from the BBC Board and its executive committees. These boards and executive committees must also consist of an appropriate number of directors who are not members of the BBC Board and/or its executive committees.*

*A.5 The BBC must have in place appropriate measures, controls and processes to ensure that where a director serves on the board and/or executive committee of both the Public Service and a Commercial Subsidiary or Joint Venture, any potential conflicts of interest are identified, recorded and addressed.*

In order to ensure that the BBC is compliant with Ofcom’s requirements in this area, the BBC has adopted a risk-based approach, identifying areas where there is a risk of non-compliance, and imposing controls to mitigate any such risks.

We set out below the areas of risk and the controls that we have put in place. This document should be read in conjunction with the annual Fair Trading Report, published in the BBC’s Annual Report and Accounts.

Specific staff members in overall BBC Group functions (including Policy, Legal and Secretariat) are responsible for identifying these areas of risk, through their knowledge and experience of the BBC’s governance arrangements and the day-to-day functioning of the BBC. Other employees may also raise issues with these divisions that are then identified as areas of risk where a control may be appropriate. The areas of risk relate primarily to three types of activity which carry different levels of risk:

Activity	Required separation
Commissioning activity	The most sensitive area of risk – the BBC must ensure there is no inappropriate relationship between commissioning teams and either BBC Studios or in-house production teams. Employees involved in production, either in-house or BBC Studios, should not have preferential access to information regarding commissioning strategy and decisions, which could give them an advantage over external production companies.
Other UK Public Services activity	Some separation required – the commercial subsidiaries should not have access to information which gives them an unfair competitive advantage or distorts the market, for example certain information about the strategy and/or business plans of the UK Public Services which could give them an advantage in the market. This could include information about competitors, such as information on pricing from independent producers or studios facilities businesses.

Other BBC Group activity

Some separation required – the UK Public Services, commercial subsidiaries and other Group functions are all accountable to the BBC Board. It is appropriate for some information relating to all entities to be shared between parties.

## Areas of Risk

### Information sharing

There is a risk that information from the UK Public Services, which is not appropriate to be shared with the commercial subsidiaries, may be accessed by or shared with employees of the commercial subsidiaries, providing the commercial subsidiaries with an unfair competitive advantage.

In order to manage this risk, the BBC has put in place and published an [Information Sharing Protocol](#). It sets out:

- a) principles to guide decisions around sharing information;
- b) specific types of information that can be shared between the UK Public Services, trading activities and non-service activities, and the commercial subsidiaries;
- c) specific types of information that cannot be shared; and
- d) what should happen in the event that it is determined that information cannot be shared.

This protocol was established following the publication of Ofcom’s updated trading and separation requirements, and was approved by the BBC Board in March 2019. The protocol is owned by the BBC Company Secretary and Assistant General Counsel, and changes require approval by the BBC Board before being implemented.

Commissioning is a key area of risk. The BBC must ensure that in-house production (e.g. News and Current Affairs), BBC Studios (including BBC Global News and UKTV) and other production companies in which BBC Studios holds an interest do not gain preferential treatment in relation to commissioning decisions made by the UK Public Services. The information sharing protocol contains further specific provisions defining the types of information that may not be shared in relation to commissioning. Our [commissioning framework](#) provides further detail on how we ensure operational separation regarding commissioning, and how commissioning is conducted on fair, reasonable and non-discriminatory terms.

The BBC Secretariat monitors information sharing around each meeting of any of the decision-making bodies set out in the protocol (e.g. BBC Board etc.), or any other business relating to these. All information exchanged for the purposes of these meetings is controlled by the BBC Secretariat to ensure appropriate distribution. There have been no instances of mis-sharing of information since the protocol was implemented (or under the tenure of the BBC Board).

In addition, the Regulation and Legal teams, together with commissioners (where it concerns programme data/information), provide advice to different areas of the BBC Group on a regular basis to make sure the BBC does not share inappropriate information with the commercial subsidiaries, in particular BBC Studios. Where information may be shared, safeguards (e.g. non-disclosure agreements, technical walls, only sharing with a specific limited set of people) are often put in place to ensure no onward distribution and that the information is only used for a specific purpose. Additionally, tailored sessions have been run for teams within both the BBC and BBC Studios (including UKTV), focused on providing staff with an overview of the BBC’s regulatory and legal obligations in relation to information sharing.

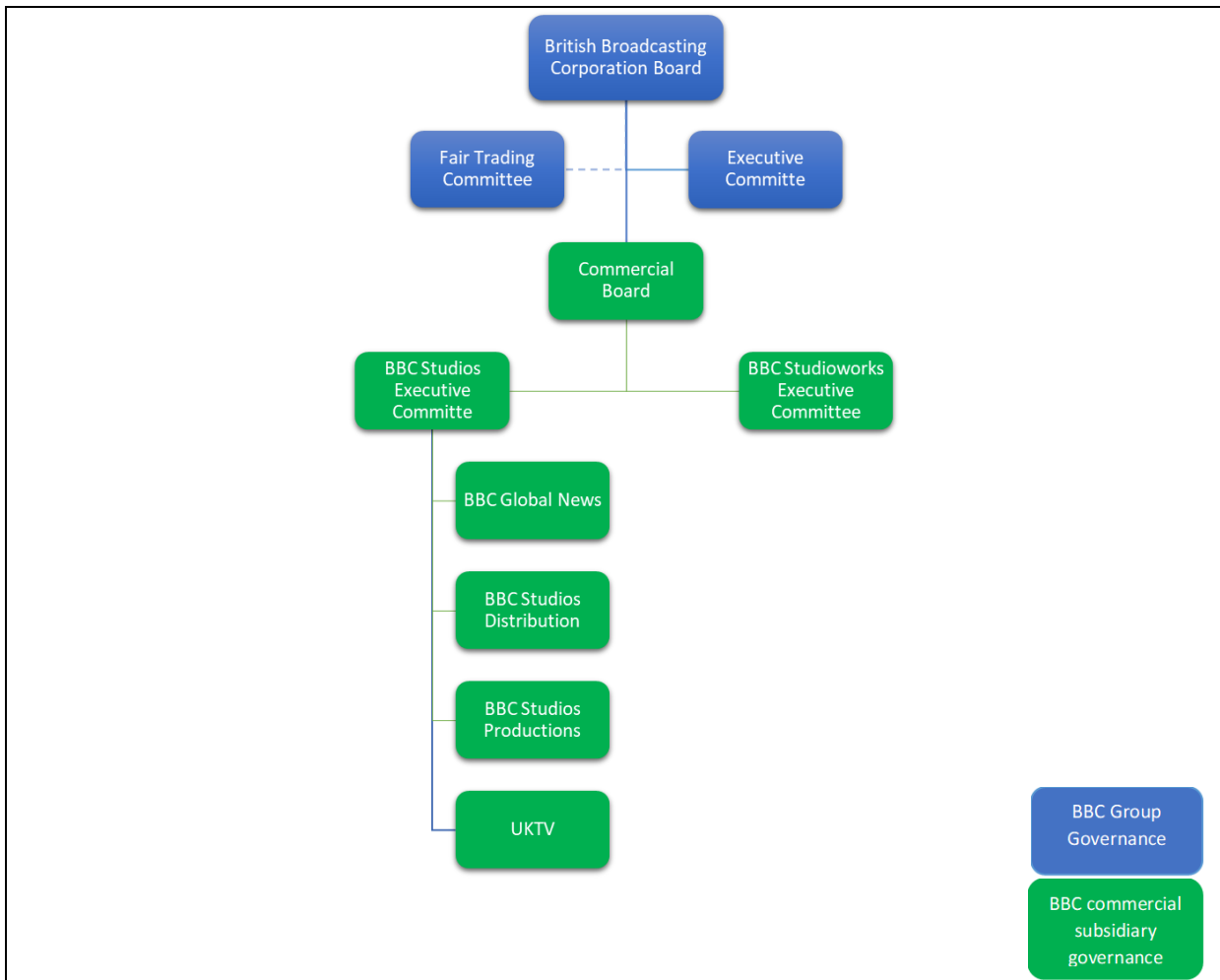
There is also ongoing monitoring by BBC Internal Audit, including a biannual Trading and Separation Risk Report to the Fair Trading Committee. This report covers all areas of compliance with Ofcom’s trading and separation rules, including review and noting of any issues regarding the Information Sharing Protocol or information sharing more generally.

### Governance and conflicts of interest

The BBC Board governs the BBC, which includes the UK Public Services, trading activities, non-service activities, other services (e.g. the World Service), Group functions (e.g. the BBC Legal department), and the commercial subsidiaries through the BBC Commercial Board.

Each commercial subsidiary has its own Executive Committee which are accountable to the Commercial Board. This structure is set out below, with further information on our [website](#).

#### *Governance of BBC commercial subsidiaries*



Previously the BBC Commercial Holdings Board, as of 1 April 2022 the Commercial Board’s composition reflects Ofcom’s requirement for commercial subsidiaries’ boards to be distinct and separate from, and consist of an appropriate number of directors who are not members of, the BBC Board and/or its executive committees. The new Commercial Board features a majority of external non-executive directors, two of whom are also members of the BBC Board, as well as three executive directors, being the Chief Operating Officer of the BBC and the CEO and CFO of BBC Studios. The Commercial Board oversees the delivery of the BBC’s commercial ambitions, reporting

to the BBC Board on the delivery of the commercial subsidiaries’ objectives in line with the BBC’s overall commercial strategy.

The principal functions of the BBC Board are set out in the [Charter](#) and include securing the effective and efficient management of the BBC and its commercial subsidiaries. From September 2020, on the arrival of Tim Davie as Director-General, the CEO of BBC Studios has no longer been a member of the BBC Board. There are still representatives from BBC Studios on the BBC’s Executive Committee and as set out above, the Commercial Board. This may lead to opportunities for such employees to gain access to information relating to, or from, the UK Public Services, which would not be accessible to other private companies.

As a result, controls are in place to preserve appropriate separation of the commercial subsidiaries from the UK Public Services. The Board has a clearly defined and published Code of Practice which sets out guidance and requirements for all Directors on conflicts of interest. Conflicts of interest are managed centrally by the Company Secretariat, and are a standing item on the agenda of every governance committee, where each item on the agenda is assessed by the relevant personnel for potential conflicts. Should there be any conflicts, these are declared and the conflicted employee is required to excuse themselves from the relevant item. Access to papers, or parts of papers, is also restricted, and conflicts are noted in the minutes.

## IT systems

The BBC has a number of mechanisms in place to prevent inappropriate information sharing in relation to the use of IT systems, including technical separation, access policies, Terms of Use, and non-disclosure agreements.

Different levels of IT access across different systems are granted to employees depending upon their function and location within the BBC structure. This ensures that employees cannot access material which could risk breaching Ofcom’s requirements. For example, restricted access for certain commissioning, production or distribution staff may apply to resources such as the Audiences Portal, Archive Products, and cloud storage like Dropbox and OneDrive. Given the particular concern around commissioning, when staff leave or move to other parts of the BBC, it is ensured that their level of access is checked and amended or terminated if necessary.

The Audiences Portal is an online resource for BBC employees and production companies working on BBC commissions that provides audience information (e.g. viewing figures, appreciation index scores) on BBC and other PSB programmes. Employees in BBC Studios Production and external producers can access information only regarding the programmes they produce for the BBC.

The following table lists key IT systems where there is differential access for BBC Studios Production and external producers, and the justification for this:

System	Use	BBC Studios Production access	External producer access	Justification
<b>ACON</b>	Artist, contributor, agent and location contract/rights and payment management system used to contract on-air talent and copyright as well as make primary and secondary (re-use) payments to talent/rights holders (via SAP)	Business and Legal Affairs teams generate talent/copyright contracts and make payments (via SAP)	None	Access is provided only to those who need it for business purposes, and on opening ACON, before proceeding users must read and tick a notice about confidentiality and separation

System	Use	BBC Studios Production access	External producer access	Justification
<b>BBC Musicbox</b>	Tool for accessing, clearing and downloading music	To identify music for BBC commissioned programmes, run clearances for any TV use, and then download. 12 month access	As per Studios Production, except with 6-month access	All users require initial PS approval and re-approval on expiry (if access is still needed). Longer access for Studios Production on the basis that they require more continuous access than external producers
<b>C3PO</b>	For recording business with third party distributors	Small pool of users in genre funding teams to track investment relating to BBC Studios' IP or existing BBC PS IP where Studios has current ongoing investment	None	No unfair competitive advantage, as the small number of Studios' users cannot access BBC PS titles or deals
<b>Dira</b>	Audio production tool via third party licence	For purposes of fulfilling a BBC commission. Access via Gateway on Reith network	Available when using BBC studios to fulfil a BBC commission	No unfair competitive advantage, as external producers are also able to access the tool for BBC commissions
<b>Infax</b>	Catalogue of BBC Archive Radio and TV programmes (up to June 2012), which users may research to identify specific programmes. Data only, no files to browse or download	For purposes of fulfilling a BBC commission. Access via Gateway on Reith network	For purposes of fulfilling a BBC commission. The data held on Infax is available via Archive Search	No unfair competitive advantage, as external producers are also able to access the information via Archive Search for BBC commissions
<b>Protools</b>	Audio tool to create, record, edit and mix audio	For purposes of fulfilling a BBC commission. Access via Gateway on Reith network	Available when using BBC studios to fulfil a BBC commission	No unfair competitive advantage, as external producers are also able to access the tool for BBC commissions
<b>PTK Compliance</b>	Logging of programme compliance details prior to broadcast/publication	Submission and self-approval (through a two-tick system) of BBC programme compliance details	Submission of BBC programme compliance details, approved by BBC PS	Slightly enhanced access for self-approval to mirror the process for PS in-house production teams; for operational efficiency
<b>Sirsi</b>	To browse and order material from BBC Archives': 1) physical recorded commercial music collection on CD, vinyl and 78; and 2) sheet music collection (only used by the BBC's Performing Groups)	For purposes of fulfilling a BBC commission. Access via Gateway on Reith network	For purposes of fulfilling a BBC commission. Mediated access via the Music Library inbox	No unfair competitive advantage, as external producers are also able to access the information via a (free of charge) mediated service, for BBC commissions
<b>Silvermouse</b>	Production reporting tool to submit programme paperwork	Submission and self-approval of BBC programme paperwork	Submission of BBC programme paperwork, approved by BBC PS	Slightly enhanced access for self-approval to mirror the process for PS in-house production

System	Use	BBC Studios Production access	External producer access	Justification
				teams; for operational efficiency

Each BBC system has its own Terms of Use, which sets out the terms under which users agree to access the system, and restricting their use of any data or other (e.g. archive) material on the system. In addition, where we do not have the technology to restrict access, relevant staff are asked to sign non-disclosure agreements. This is the case for BBC Studios staff in its distribution division who may be able to see information on transactions agreed with the UK Public Services.

The Product Group is responsible for the BBC’s core IT systems, and relevant teams seek input from the Regulation and Legal teams as required, for example on potential safeguards for commercial subsidiaries’ access to certain systems (e.g. the editorial compliance system). This input includes providing documentation, for example drafting access policies and/or terms of use (e.g. for archive products).

### Co-location of people

The BBC operates in a range of buildings across the UK, and in the interests of cost efficiency, there are instances where employees of the commercial subsidiaries share office space with employees of the UK Public Services. Each commercial subsidiary has a property licence agreement with the BBC, which sets out which buildings, and parts of buildings, the subsidiary may occupy. The following table lists the sites the BBC licenses the commercial subsidiaries to occupy:

Commercial Subsidiary	Sites
<b>BBC Studios</b>	<ul style="list-style-type: none"> <li>• New Broadcasting House, London – BBC Studios Production and BBC Global News</li> <li>• Park Western, London</li> <li>• Elstree, Borehamwood</li> <li>• Drama Village, Birmingham</li> <li>• Units 18 and 19 Stirchley Trading Estate, Birmingham</li> <li>• BBC Media City UK, Bridge House, Salford</li> <li>• Broadcasting House, Bristol</li> <li>• Dunsfold Airfield, Cranleigh</li> <li>• Roath Lock, Cardiff</li> <li>• Pacific Quay, Glasgow</li> <li>• BBC Production Village, Dumbarton</li> <li>• Aberdeen Broadcasting House, Aberdeen</li> </ul>
<b>BBC Studioworks</b>	<ul style="list-style-type: none"> <li>• Elstree, Borehamwood</li> </ul>

We consider there is limited risk arising from BBC Studioworks operating at Elstree, as there is a limited presence of employees from the UK Public Services.

In relation to co-location, we consider the risk arising from BBC Global News being part of BBC Studios to be unchanged from previous years. Given the function of BBC Global News is to distribute news content and channels worldwide, we consider it appropriate for such employees to have a presence in London’s New Broadcasting House where news content is produced and broadcast. The risk of inappropriate information being shared is primarily of concern in television commissioning, where production teams (whether in-house or part of BBC Studios) may work in close proximity to BBC commissioners.

Departments that include television commissioning activity, i.e. Content (which includes Drama, Comedy, Entertainment, Factual, and Children’s programming), Sport, Current Affairs, and Nations and Regions, are responsible for communicating Ofcom’s trading and separation requirements to their staff and enforcing required measures. We set out below specific measures at each building where there is co-location of relevant commissioners and production staff (either in-house, BBC Studios or external):<sup>2</sup>

Site	Co-located employees	Measures in place
<b>Broadcasting House, London</b>	<ul style="list-style-type: none"> <li>▪ Current Affairs in-house production staff</li> <li>▪ Current Affairs commissioning editor</li> <li>▪ Content commissioning staff</li> <li>▪ BBC Studios production staff</li> </ul>	<ul style="list-style-type: none"> <li>▪ Commissioning editor located on separate floor with Factual commissioners</li> <li>▪ Communication around independent production slate confined to controlled areas, and kept separate from in-house production slate</li> <li>▪ Content commissioning and production located in separate parts of the building</li> <li>▪ BBC Studios production staff are a self-contained team and do not regularly pitch for business from BBC Content Commissioning teams</li> </ul>
<b>Bridge House, Salford</b>	<ul style="list-style-type: none"> <li>▪ Children’s in-house production staff</li> <li>▪ Children’s commissioner</li> </ul>	<ul style="list-style-type: none"> <li>▪ In-house production team based on first floor, separate from main Children’s floor including commissioning on second floor</li> <li>▪ Access to the commissioner is regularly assessed to ensure parity of access between in-house and independent producers</li> </ul>
<b>Quay House, Salford</b>	<ul style="list-style-type: none"> <li>▪ Sport in-house production staff</li> <li>▪ Sport commissioning staff</li> </ul>	<ul style="list-style-type: none"> <li>▪ Verbal and written protocols on who works in commissioning and production teams, and what information each can access</li> <li>▪ No discussions allowed about contested programming with both commissioning and production staff present</li> <li>▪ If in-house production bids for a tendered programme, bid team must relocate to different BBC building for duration of tender process</li> </ul>
<b>Pacific Quay, Glasgow</b>	<ul style="list-style-type: none"> <li>▪ In-house multi-platform production staff</li> <li>▪ Multi-platform commissioning staff</li> <li>▪ BBC Studios production staff</li> <li>▪ Independent production staff</li> </ul>	<ul style="list-style-type: none"> <li>▪ Formal commissioning process established following internal audit</li> <li>▪ Commissioning and production (in-house, BBC Studios, and independent) located in separate parts of the building</li> <li>▪ Computer systems frequently reviewed to ensure appropriate access</li> <li>▪ Independent production staff granted equivalent building access as BBC Studios’ production staff</li> </ul>

During 2023/24 no changes were made to the allocations of the above teams or the layouts of the areas they occupy. The BBC promotes a person centred, business led approach to flexible working practices and policies which support and respect work life balance. The flexible working policy

<sup>2</sup> The BBC keeps a database of all of its sites across the BBC’s property portfolio, including occupants on those sites. This database was used to check for co-locations against the 2020/21 version of this Operational Separation Statement in the process of updating it for 2021/22.



describes the range of flexible working options the BBC may be able to offer employees (regarding how long, where and when an employee works) whilst allowing the BBC the scope and flexibility to adapt the changing demands of a 24/7 service.

### **Staff movement processes**

Staff movements between the BBC Public Service and BBC Studios are relatively infrequent, and any move that could provide BBC Studios with a competitive advantage is not permitted.

Temporary staff moves are assessed on a case by case basis, and are restricted where either party would be privileged to information through the course of their temporary move which would then give them a competitive or commercial advantage back in their substantive post. Temporary staff moves are not permitted between Commissioning and BBC Studios' production teams.

Permanent moves between the BBC PS and BBC Studios are all conducted as part of a formal recruitment process, or a process like TUPE if it relates to the transfer of activity and therefore people. There are no restrictions on permanent moves for any staff – including commissioning/production – like there are for temporary moves; these moves are permanent and therefore there is no risk that people could 'take back' information that may be sensitive.

There are no stand down periods or post-termination restrictive covenants in standard non-Senior Leader BBC employment contracts. These are typically used by employers to prevent harm to an organisation resulting from, for example, the disclosure of information to a competitor – and this does not reflect the relationship of the BBC PS and BBC Studios.

All BBC employment contracts include confidentiality clauses which prohibit staff from disclosing – both during and after employment – secret or confidential information relating to the BBC which comes to their knowledge in the course of their employment.

### **Training and guidance**

There is an ongoing risk that staff members across the BBC Group are not aware of the BBC's regulatory obligations, and may inadvertently breach Ofcom's requirements by, for example, inappropriately sharing information. In order to mitigate this risk, staff in relevant roles, undertake mandatory Fair Trading training developed by the Regulation team and BBC Academy, the BBC's learning and development department. There are three key courses:

1. Our BBC and You – launched in June 2023, the Our BBC and You online training course is mandatory for all 18,500+ BBC Public Service staff, and must be completed every two years. The course includes a section on Fair Trading;
2. Fair Trading Awareness – a 20 minute online course outlining the basic principles of Fair Trading. Due to the introduction of Our BBC and You, this course is no longer mandatory but continues to be available to complete;
3. Fair Trading Advanced – an 80 minute online course consisting of seven modules providing in-depth training on Fair Trading obligations under Ofcom's Trading and Separation rules. This training is mandatory for those directly involved in (e.g. negotiating, approving) commercial or trading activities, dealings with third parties (including commercial organisations) and/or assessing the BBC's market impact.

The mandatory training courses include material covering:

- a) at a high level, the BBC's regulatory obligations under the Charter and Agreement, Ofcom's Operating Framework, and state aid and competition law;
- b) the differences between the UK Public Services, commercial activities and trading activities; and
- c) Ofcom's Trading and Separation requirements, including transfer pricing, and how the BBC ensures operational separation. The Advanced course includes a 10 minute module on operational separation.

BBC Public Service UK staff mandatory training requirements are aligned and automatically assigned to relevant roles within the BBC's Career Path Framework, a process managed by BBC Academy. Assignments are updated every day, thereby capturing individuals who have started new roles or moved roles.

The Fair Trading Advanced training course must be taken at least once every three years. Fair Trading training compliance is monitored by Regulation, BBC Academy, and the Fair Trading Committee. Various communications around mandatory training are sent by Regulation (Controller of Regulation) and BBC Academy on a regular basis to team leaders, the Chief Operating Officers of the BBC's divisions, and individuals. The Fair Trading Advanced course was completed by 727 workers in 2023/24 (compared with 614 in 2022/23). The Our BBC and You course was completed by 9,064 workers in 2023/24.

The Regulation team also provides more bespoke face-to-face training sessions upon request. All Fair Trading advice provided by the Regulation team across the BBC Group, including advice relating to operational separation, is retained and provided to Deloitte as part of the annual external Fair Trading assurance.

Employees in BBC Group functions which include Strategy, Legal, Policy, Finance and Commercial Rights and Business Affairs, will sometimes require access to information from both the commercial subsidiaries and the UK Public Services in order to efficiently conduct their work. Through guidance and training from the Regulation and Competition and Regulatory Legal teams, the BBC ensures that these employees are aware of the sensitivity of such information, and the associated risks if such information were made available to the commercial subsidiaries.

All BBC staff are also required to complete Data Protection training, and are therefore mindful of the dangers of mishandling commercially sensitive information.

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1.0	02/07/2019
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4.0	12/07/2022
5.0	12/07/2023
6.0	23/07/2024

### Amendments from version 5.0

Under *Effectiveness of the BBC's measures, controls and processes during 2023/24 financial year*:

- Addition of examples of ensuring and improving effective implementation and operation by the BBC during 2023/24;
- Deletion of examples from previous version of the Operational Separation Statement.

Under *Areas of Risk*:

- IT systems – updated to provide more detail, in particular the addition of a list of key IT systems where there is differential access for BBC Studios Production and external producers, and the justification for this.
- Co-location of people – updated to delete Mailbox and Blackstaff House, as BBC Studios did not occupy these buildings during 2023/24.
- Addition of new section on Staff movement processes
- Training and guidance - updated as follows:
  - Updated to include the Our BBC and You mandatory training course, and clarification that the Fair Trading Awareness course is no longer mandatory.
  - Updated completion rate for the Fair Trading Advanced course for FY23/24;
  - Addition of completion rate for the Our BBC and You course for FY23/24.

Various minor changes to formatting and tidying up language.