

**PUBLICATION MINUTES OF THE THREE HUNDRED AND THIRD MEETING OF
THE OFCOM BOARD HELD ON 19 APRIL 2023
AT RIVERSIDE HOUSE, SE1 9HA AND VIA MICROSOFT TEAMS**

Present

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| Michael Grade | Chair |
| Maggie Carver | Deputy Chair |
| Kevin Bakhurst | Executive Member and Group Director, Broadcasting & Media (item 1) |
| Karen Baxter | Non-Executive Member |
| Melanie Dawes | Executive Member and Chief Executive |
| Angela Dean | Non-Executive Member |
| Bob Downes | Non-Executive Member |
| Lindsey Fussell | Executive Member and Group Director, Networks & Communications |
| Will Harding | Non-Executive Member |
| David Jones | Non-Executive Member |
| Ben Verwaayen | Non-Executive Member (items 1-7 and 9-18) (via Teams) |

In attendance

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| Martin Ballantyne | General Counsel |
| Veronica Branton | Corporation Secretary |
| Francesca Carter | Head of Governance (via Teams) |
| Sharon Malley | Governance Manager |
| Kevin Bakhurst | Group Director, Broadcasting and Media (item 1) |
| Gill Whitehead | Group Director Online Safety (item 5) (via Teams) |
| Jon Higham | Online Safety Policy Development Director (item 5) |
| Dan Mount | Online Safety Policy Principal (item 5) |
| Hannah Green | Senior Policy Manager (item 5) |
| Nihal Newman | Director of Network Security (item 6) |
| Gerry McQuaid | Director of Telecoms and Internet Security (item 6) (via Teams) |
| Melissa Tatton | Corporate Group Director (item 7) |
| Aneen Blackmore | Finance Director (item 7) |
| Luisa Affuso | Group Director Economics and Analytics (item 8) |
| Fergal Farragher | Director of Telecoms and Consumer Protection (item 8) |
| Tania van den Brande | Economics Director (item 8) |
| Yih-Choung Teh | Group Director Strategy and Research (item 9) |
| Camilla Bustani | International Policy Director (item 9) |
| Owen Bennett | International Policy Lead (item 9) |
| Mark Bunting | Online Safety Strategy Director (item 9) (via Teams) |
| Deirdre Gordon | Legal Director (item 10) |
| Nuala Cosgrove | Legal Director (item 10) |

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| <p>Item 1: Declaration of members' interests</p> <p>1. The Chair noted the resignation of Kevin Bakhurst as Group Director Broadcasting and Media in order to take on the position of Director General at RTE. He said that although RTE was not regulated by Ofcom, it competed with Ofcom-regulated firms and it had been agreed that Kevin would begin gardening leave from 19 April 2023. In addition, he would no longer be a member of the Ofcom Board.</p> | |

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| <p>2. The Board recorded its thanks to Kevin for his transformative work over seven years at Ofcom, including three years as an executive member of the Board, and wished him well for the future. Kevin thanked Board members for their support, advice and collaboration, before leaving the meeting.</p> <p>3. No new interests were declared.</p> | |
| <p>Item 2: Minutes of the meeting held on 15 March and matters arising – Board minutes 302(23) and note of action points</p> <p>4. The minutes of the Ofcom Board meeting held on 15 March 2023 were APPROVED for signature by the Chair as an accurate record.</p> <p>5. A summary of progress against action points was NOTED.</p> | |
| <p>Item 3: Chair’s report</p> <p>6. The Chair updated the Board on his activities. He said he had exchanged correspondence with the Secretary of State at the Department for Science, Innovation and Technology on amendments to the Online Safety Bill and these were being worked through. Ofcom was carrying out an extensive programme of engagement on the Online Safety Bill with interested Parliamentarians and he had held a productive meeting with Lord Parkinson, the Minister for Culture, Communications and Creative Industries in the Lords. The Chair said the Bill had now reached the Committee stage in the Lords and he expected that the Government would set out its position on amendments at the Report stage.</p> <p>7. The Chair said he had also held a positive meeting with the Chair of BT.</p> | |
| <p>Item 4: Chief Executive’s report – Board paper 36(23)</p> <p>8. Melanie Dawes presented paper 36(23) on her activities and current issues and drew attention to the following:</p> <ul style="list-style-type: none"> • The Media Bill had now been published and was likely to be introduced in the fourth Parliamentary session in the autumn. • Work was continuing to prepare for the introduction of the Online Safety regime. She had written to peers explaining Ofcom’s latest plans for implementation. There was a risk that proposed amendments to the Bill could mean significant changes in the operation of the regime by Ofcom and these would take time to work through. Colleagues were working closely with DSIT to manage these risks. • A positive meeting had been held with the Secretary of State for DSIT on the Government’s developing wireless infrastructure strategy. This may lead to Ofcom undertaking new areas of work, which could have resource implications. These were being discussed with DSIT officials. <p>9. Lindsey Fussell updated the Board on work in relation to telecoms affordability. Ofcom’s latest research would be published on 24 April, accompanied by a campaign to promote social tariff awareness. Ofcom was giving evidence to the Lords Committee on</p> | |

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| <p>Digital Exclusion on 25 April and expected to be asked about issues such as pricing, affordability and mid-contract price rises.</p> <p>10. Lindsey Fussell also updated the Board on the position in relation to Royal Mail. Both management and the union have confirmed that they have reached a deal in their dispute at negotiator level. The deal had not yet been published and would need to be put in a ballot to union membership. Engagement continued with government about Royal Mail's financial position, including on contingency planning for different scenarios. Ofcom would shortly receive Royal Mail's quality of service performance for 2022-23; if targets had not been met, we would then decide whether to open a formal investigation.</p> <p>11. The Board discussed the Online Safety update and noted the need for Ofcom to be clear about how the user experience would improve under the new regime.</p> <p>12. The Board noted the Chief Executive's recent visit to Washington DC and the positive reception Ofcom received from US officials and lawmakers.</p> <p>13. The Board noted Ofcom's recent statement on its distinction between news programmes and current affairs in relation to presentation by serving MPs and that the issue was under active consideration.</p> <p>14. The Board NOTED paper 36(23).</p> | |
| <p>Item 5: Update on fraud and scams – Board paper 37(23)</p> <p>15. Hannah Green introduced paper 37(23) on fraud and scams and Ofcom's forthcoming duties under the Online Safety Bill. She set out Ofcom's position as one of a number of agencies working in this space and the need for a comms strategy that managed the expectations of what could be delivered under the Bill. She hoped to be able to consult on Ofcom's position in the Autumn.</p> <p>16. The Board noted Ofcom's work on telecoms scams and the forthcoming consultation on scam calls. It would be important to be able to demonstrate the effect of Ofcom's activity in protecting consumers, such as putting limitations on spoofing phone numbers, while recognising the scale of the problem meant work would continue to be ongoing.</p> <p>17. The Board discussed the importance of aligning incentives and the Online Safety Bill offered an opportunity to look at this again.</p> <p>18. The Board noted there was still a tendency in some areas to understate the extent of the harm caused by online fraud and scams. Telecom companies provided the infrastructure that fraudsters took advantage of but had no current responsibilities for compensating victims, with banks generally footing the bill. The Financial Conduct Authority was keen that other players in the system bore some of these costs.</p> <p>19. The Board discussed other aspects of online fraud and phone scams, including the exploitation of UK phone numbers on lines that emanated from abroad, and noted the need to balance the introduction of protections for consumers against the detriment and friction that these protections would lead to in the consumer experience.</p> <p>20. The Board NOTED the progress to date in relation to telecoms scams and online fraud; the preparations for Ofcom's forthcoming responsibilities under the Online Safety</p> | |

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| <p>Bill; the plans for developing a longer-term holistic approach to tackling fraud across telecoms and online; and the key challenges and how Ofcom would address them. It was agreed that the Board would receive an update on this topic later in the year.</p> | <p>Corp Sec</p> |
| <p>Item 6: Telecoms security framework implementation update – Board paper 38(23)</p> <p>21. Nihal Newman introduced paper 38(23), setting out progress on Ofcom’s implementation of the Telecommunications (Security) Act 2021, which came into force in October 2022. She said the regime was complex and its key objective was to improve levels of security across the telecoms sector. Ofcom would use its information gathering powers to gain an understanding of levels of compliance across the industry. It would take some time to understand how the 280 measures in the framework were being implemented. The team would continue to work closely with DSIT and the National Cyber Security Centre. A significant challenge, for Ofcom and the wider industry, was recruiting teams with the requisite skills and experience in the field.</p> <p>22. The Board discussed the paper and noted the importance of Ofcom working across the ecosystem, such as vendors and standards bodies, and not limiting itself to regulated telecoms companies and of ensuring that operational management of the regime protected the confidential information Ofcom received. The ongoing work and continued dialogue with operators was noted.</p> <p>23. The Board NOTED the paper.</p> | |
| <p>Item 7: Update on Ofcom’s Estates Strategy – Board paper 39(23)</p> <p>24. Aneen Blackmore introduced paper 39(23) updating the Board on progress with Ofcom’s Estates Strategy. The Chair noted the pre-Board discussion on this topic by the non-executive Board members and highlighted the uncertainties for employers in relation to their estates strategies post-Covid. He also noted uncertainties relating to future employment patterns and that the estates strategy needed to be aligned to future business planning.</p> <p>25. Aneen Blackmore said the analysis supported the current space size in Manchester as right for the organisation and therefore that the first option would be to seek a reversionary lease in the Manchester office. On London, there was still uncertainty about Online Safety resourcing and future numbers of people, and what the future pattern of working would look like post Covid. For this reason, no further change was proposed in the occupancy level at Riverside House¹ for the next period but to re-evaluate this alongside the business planning programme.</p> <p>26. The Board noted that it would be helpful to have more information on different models of office attendance and the impact of releasing part of the third floor rather than the whole floor. The continued uncertainty around occupancy needs in London was noted. It was agreed that the Board would receive an update on Connected Working following the PMB discussion in October, with estates strategy feeding into the 2024/25 budget process.</p> <p>27. The Board NOTED progress of our Estates Strategy and the current areas of focus for 23/24, in particular:</p> | <p>Corp Sec</p> |

¹ Beyond continuing to market the rest of the fourth floor.

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| <ul style="list-style-type: none"> • London: ICO sub-let commenced 8 February 2023, remaining 4th floor space on the market; • Edinburgh: Lease completed 13 March 2023 for new office on Quartermile; • Manchester: Lease ends May 2024 with a decision needed before May 2023 on whether to extend our presence at our current site or pursue an alternative. <p>28. The Board AGREED that:</p> <ul style="list-style-type: none"> • To secure a longer-term presence in Manchester beyond May 2024 we pursue a reversionary lease to stay in our current location, with lease negotiations delegated to the Chief Operating Officer. • We retain our Warrington presence in the short-medium term (to lease end in 2026, revisiting in 24/25 for a decision on extending/ending our current presence, including any business case for/against merger with longer term Manchester presence). • We pursue a space-sharing arrangement in Edinburgh. • We do not release another floor in London, but instead hold this as an option that forms part of our 24/25 FY business planning. | |
| <p>Item 8: Market study on the supply of cloud services in the UK – Board paper 40(23)</p> <p>29. Lindsey Fussell introduced paper 40(23), setting out the findings of Ofcom’s interim report on its cloud market study and next steps. She said this was Ofcom’s first market study and followed the decision in the three-year plan to lean into this area.</p> <p>30. The Board discussed the paper and NOTED the finding that Ofcom was minded to refer the public cloud infrastructure market to the CMA for further investigation.</p> | |
| <p>Item 9: Comparing the Online Safety Bill and EU Digital Services Act – Board paper 41(23)</p> <p>31. Yih-Choung Teh introduced paper 41(23), comparing the key provisions of the Online Safety Bill (OSB) and the EU’s Digital Services Act (DSA). He explained that the fact the DSA was already being implemented meant platforms were already investing in DSA compliance and that there were risks that different approaches between the Commission and Ofcom could lead to regulatory divergence.</p> <p>32. The Board noted that the Commission, which was a political body, would act as regulator under the DSA and this could have consequences on how the regime operated and was perceived.</p> <p>33. Ofcom had been looking at how the regimes might interact and the paper offered views based on the team’s experience as well as conversations with the Commission and other stakeholders. The interaction between the regimes would probably be iterative and it was possible that the two regimes would begin to converge after a period of operation. The Board noted the benefits of Ofcom and the Commission sharing experiences and learning from each other.</p> | |

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| 34. The Board NOTED the paper. | |
| <p>Item 10: Annual litigation update – Board paper 42(23)</p> <p>35. Martin Ballantyne introduced paper 42(23), updating the Board on Ofcom’s litigation position. He said actual or threatened litigation remained active across most of Ofcom’s sectors with the greatest focus in broadcasting and telecoms and this was likely to continue. Enforcement activity in the online safety field was likely to pick up, in particular as Ofcom continued to work with smaller and inexperienced companies to try to achieve compliance.</p> <p>36. It was noted that the legal team may need additional resource to manage any future large cases but this would be addressed when necessary.</p> <p>37. The Board NOTED the paper.</p> | |
| <p>Item 11: Reappointment to the Board of MG ALBA – Board paper 43(23)</p> <p>38. The Board APPROVED the reappointment of Marion Sinclair to the Board of MG ALBA for a term of four years from 1 June 2023; NOTED that, in line with the provisions of the Scotland Act 2016 (“the 2016 Act”), the reappointment is subject to final approval by Scottish Ministers; and NOTED the five further terms that will be coming to an end on the Board of MG ALBA in the next year.</p> | |
| <p>Item 12: National Advisory Committee for Scotland reappointments – Board paper 44(23)</p> <p>39. The Board APPROVED the re-appointments to the Advisory Committee for Scotland (ACS) of Elizabeth Partyka for a two-year term from 1 September 2023 until 31 August 2025; and Jess McBeath for a three-year term from 1 September 2023 until 31 August 2026.</p> | |
| <p>Items 13-16: Information items</p> <p>40. The Board NOTED the following information items:</p> <ul style="list-style-type: none"> • Non-executive member updates – Board paper 45(23). David Jones advised the Board that the Welsh Government had shown some interest in PSTN switch-off and that a report on the potential devolution of broadcasting would be due in May. • Performance update – Board paper 46(23) • Board work programme – Board paper 47(23), and publications schedule – Board Paper 48(23) • Minutes of the Communications Consumer Panel (23 February 2023) and Risk and Audit Committee (1 March 2023). | |
| <p>Item 17: Any other business</p> | |

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| <p>41. The Chair noted that David Jones’s term of office on the Ofcom Board had been extended by nine months while an open search for candidates could take place.</p> <p>42. Four non-executive directors of Channel 4 Corporation were in the process of being appointed.</p> <p>43. The appointment team at DSIT were getting up to speed and looking at appointments to the Ofcom Board, the most urgent of which was Angela Dean’s reappointment.</p> | |
| Item 18: Date of the next meeting | |
| <p>44. The next scheduled Board meeting would be held on Wednesday 17 May 2023.</p> <p>45. The meeting concluded at 12.20 pm.</p> | |

Approved: _____
 Chair