

**MINUTES OF THE TWO HUNDRED AND EIGHTY-FOURTH MEETING OF  
THE OFCOM BOARD HELD ON 23 JUNE 2021  
MEETING HELD VIRTUALLY VIA MICROSOFT TEAMS**

**Present**

Maggie Carver	Interim Chair
Kevin Bakhurst	Executive Member and Group Director, Broadcasting & Online Content
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
David Jones	Non-Executive Member
Graham Mather	Non-Executive Member
Ben Verwaayen	Non-Executive Member

**In attendance**

Martin Ballantyne	General Counsel
Jacqui Gregory	Corporation Secretary
Jenny Leyland	Assistant Corporation Secretary

**Other Ofcom colleagues:**

**Item 1: Declaration of Members’ Interests – oral**

1. No new declarations of interest were notified.

**Item 2: Discussion of recent events – oral**

2. The Chair thanked Members for their contributions to an exercise she had recently undertaken to gain feedback on the procedure that should be followed by the Board as an entity in circumstances where a Board Member was the subject of external allegations or criticism. A draft procedure note was tabled at the meeting. The Board **ASKED** the General Counsel to reflect on comments made in discussion and to revise the draft note accordingly. The General Counsel was also asked to consider with the Corporation Secretary the Governance arrangements to be proposed in the procedure note, for example, the quorum requirement if a Board discussion/meeting needed to be called as a matter of urgency.
3. Currently Maggie Carver was the Interim Chair, leaving Ofcom without a Deputy Chair. As part of the review of the procedure note, consideration would be given to the appropriate arrangements to be put in place for an alternative point of notification if it was not appropriate to refer a particular matter to her as Interim Chair.
4. Maggie Carver advised of her intention to consider with the Chief Executive and the Corporation Secretary the proposed plan for addressing actions identified in the Board Effectiveness Review 2020/21. She would also seek Members’ views on the proposed plan, before making recommendations to the Board. As part of that work, consideration would be

given to a suggestion made during discussion that it would be helpful to make provision in the Board schedule for Non-Executive Member only sessions, to allow time for private discussion and reflection of any relevant matters.

### **Item 3: Chair's Report**

5. Interim Chair/Non-Executive Appointments: Maggie Carver reported that she had been asked by the Secretary of State to continue as Interim Chair until a new Chair was appointed and in post, following his decision to run a new recruitment exercise. Given the delay to the appointment of the permanent Chair, Government was minded to proceed with the recruitment exercise for Tim Suter's successor on the Ofcom Board. Government was also minded to lift the stipulation that the Channel Four Corporation Board non-executive selection process could not go ahead until the new Ofcom Chair was in post, but account would need to be taken that Government had recently announced plans to launch a consultation on the potential privatisation of Channel Four.

6. July and September 2021 Ofcom Board meetings: Maggie Carver confirmed that the next Board meeting on 21 July 2021 would be held virtually. Subject to any COVID-19 restrictions that might remain in place, the 15 September 2021 meeting would be held at Riverside House for those who were able to attend in person, with a joint event planned with members of the Content Board on the evening of the 14<sup>th</sup>.

### **Item 4: Minutes of the meeting held on 26 May 2021 and Matters Arising – Board Minutes 283(21) and Note of Action Points**

7. The minutes of the Ofcom Board meeting held on 26 May 2021 were **APPROVED** for signature by the Chair as an accurate record.

8. A summary of progress against action points had been circulated. Status updates against each of the actions as set out in the summary were duly **NOTED**.

### **Item 5: Chief Executive's Report – Board Paper 51(21)**

9. Melanie Dawes presented her report and provided an update on recent developments, including the following issues.

10. BT: On 11 June 2021 Altice and BT announced that Altice had acquired a 12.1% stake in BT, making it the largest shareholder. Melanie Dawes updated the Board on conversations with the Altice Chair and Chief Executive, and the Board considered the possible implications of this investment.

11. GB News: GB News had launched on 13 June 2021 and Ofcom had received some complaints which were being assessed. The Board was provided with an oral update.

12. Channel 4 Corporation (C4C): On 22 June 2021 Government had announced a consultation on the future of C4C covering both remit and ownership. The consultation would also review regulation of streaming services such as Netflix, Disney+ and Amazon Prime Video and consider whether new rules around impartiality and accuracy were needed for documentaries and news content on the platforms to "level the playing field" with broadcasters who were regulated by Ofcom. The Board discussed the potential implications for Ofcom if its regulatory remit was extended in this regard.

13. On 22 June 2021, Ofcom had published its response to C4C's Statement of Media Content Policy as part of its Channel 4 annual review process. This highlighted C4C's success in meeting, and in some cases exceeding, their remit in the past year, despite COVID.

14. The Digital Regulation Cooperation Forum (DRCF): The DRCF was gathering momentum and demonstrating a joined-up approach to regulation, with a successful event for Parliamentarians held recently and another event planned for July 2021.

15. Post: Melanie Dawes updated the Board on a recent constructive meeting with the BEIS Minister for Regulation whose brief included Post.

16. Scam Texts and Calls: There had been a significant increase in scam texts and calls over the past year, and a rise in media interest. To tackle this increase the various regulators, industries and enforcement agencies needed to work together, and with Government. Melanie Dawes had written to DCMS Ministers on 10 June 2021 setting out what Ofcom was doing in this area. The Board noted that this was likely to be an expanding work area in the months ahead. In answer to a question from the Board, Lindsey Fussell said that, currently, the issue was less about having the resources to address scams and texts and more about the sophisticated nature of the criminal activity involved. Consideration was being given to the future strategy for addressing scams.

17. The Board **NOTED** the report from the Chief Executive.

#### **Item 6: Executive Director Updates – oral**

18. Network Resilience: Lindsey Fussell referred to a recent significant network outage across the Orange (fixed and mobile) network in France which had meant that for several hours calls to the emergency services could not be completed. Ofcom was working with the communications operators to ensure that any relevant lessons for the UK's network resilience were identified and mitigating action taken.

19. Royal Mail: Lindsey Fussell had written to Royal Mail advising that the current emergency period which had applied during the COVID-19 pandemic was expected to conclude at the end of August 2021.

20. BBC: Kevin Bakhurst reported that the BBC Inquiry, led by former BBC Director of Nations and Regions Kevin MacQuarrie, into the rehiring of Martin Bashir as its religious affairs correspondent in 2016 had cleared all those involved in his recruitment, whilst also finding some "shortcomings" in the process. The terms of reference for Sir Nicolas Serota's review of the BBC's oversight of editorial practices and procedures had been published on 14 June 2021, and Ofcom had been invited to meet Sir Nicolas Serota and his panel members.

21. White Paper on Broadcasting: Kevin Bakhurst referred to the recent statement made by the Secretary of State announcing plans to publish a Broadcasting White Paper in autumn 2021. In line with the recommendations previously made by Ofcom, the statement made explicit reference to the White Paper including proposals on how to ensure public service broadcasters would be given sufficient prominence on different online platforms to enable viewers to continue to find and access original and high quality British content.

22. Kevin Bakhurst referred to current standards and fairness and privacy cases including several standards cases involving hate speech.
23. Martin Ballantyne provided an update covering the potential non-payment of a fine and next steps.
24. The Board **NOTED** the updates presented orally at the meeting.

**Item 7: Reports from Non-Executive Members – oral**

25. David Jones referred to the Welsh Government’s “Programme for Government 2021-26” which had been published on 17 June 2021.
26. Bob Downes updated the Board on political developments in Scotland including the appointment of new Ministers, and on a recent meeting with MG Alba, the Gaelic language media service. Bob Downes also referred to the recent political developments in Northern Ireland. Recruitment was underway for a new Content Board member for Northern Ireland.
27. The Board **NOTED** the oral reports from Non-Executive Members.

**Item 8: Report from the Chair of the Risk and Audit Committee – oral**

**Item 8.1: Report on the meeting held on 9 June 2021 - oral**

28. Angela Dean reported on matters discussed at the meeting of the Risk and Audit Committee held on 9 June 2021. There had been one Internal Audit report, on “People, OD and Change”. The report had received a substantive assurance rating with minor observations relating to improving documentation. Both Deloitte and the NAO had confirmed clean audit opinions for the internal and external audits respectively. The Committee had reviewed the Strategic Risk Register noting the addition of a risk relating to cyber security. (A summary of the Strategic Risk Register had been made available to the Board in the online reading room ahead of this meeting.) The Committee had received an update on Ofcom’s work on cyber security including the focus on addressing phishing. The Board **NOTED** the oral update provided by Angela Dean.

**Item 8.2: Risk and Audit Committee Annual Report to the Board – Board Paper 52(21)**

29. Angela Dean presented the Annual Report to the Board from the Risk and Audit Committee which summarised the Committee’s work over the past year, as set out in Board Paper 52(21). The Board noted that the report would form part of the Annual Report & Accounts for 2020/21.
30. The Board **NOTED** the Risk and Audit Committee Annual Report, as set out in Board Paper 52(21).

**Item 9: Ofcom 2020/21 Annual Report and Accounts and Section 400 Licence Fees and Penalties Accounts – Board Paper 53(21)**

31. Curtis Juman introduced this item. The Board had had an opportunity to comment between meetings on an earlier draft of the Annual Report and Accounts (AR&A) for 2020/21.

The Board **NOTED** that an updated version of the AR&A had been circulated as Board Paper 53(21), together with a final version of the letter of representation and the final version of the Section 400 Accounts. Although the report included more content than the 2019/20 report, it was four pages shorter due to sharper drafting. There was some discussion of the target audience for the report. The Board **NOTED** that the Annual Report was Ofcom's key document for accounting for its activities to Parliament. The style of the report also gave a flavour of what Ofcom was like as an organisation, which was helpful for external stakeholders and potential Ofcom employees. The Board **NOTED** that the report would be proof-read, and any final changes made ahead of it being finalised for signature. The Board commended those involved on a well designed and clear report. The Board asked to be updated in due course on the statistics for online viewing of the AR&A.

32. The Board **APPROVED** the AR&A, the letter of representation and the final version of the Section 400 Accounts, with final clearance of the AR&A being **DELEGATED** to the Chief Executive.

#### **Item 10: Interim Manchester Office Location Recommendation – Board Paper 54(21)**

33. Melissa Tatton introduced this item. At the 22 March 2021 meeting the Board had given approval in principle to the establishment of an interim office location in Manchester, primarily to accommodate staff in the target growth areas of online safety and telecoms security, together with staff required to help Ofcom develop its technology, digital and data capability. Since receiving that in principle approval, the executive had conducted an extensive research and evaluation exercise; addressed concerns raised by the Board; considered value-for-money and made a proposal – as set out in Board Paper 54(21) - which provided flexibility to reflect the uncertain post-COVID working environment. A short-list of four sites had been identified as potential locations, subject to entering negotiations to secure the best overall outcome. Having four potential sites mitigated against the danger of significant delay should any of the options come off the market.

34. During discussion the Board was provided with further detail on the reasons for choosing Manchester as a location; on the approach to recruitment and relocating staff to ensure that senior decision makers were located in Manchester; and assurance that the fit out timetable, although tight, should be achievable. The recommendation as set out in Board Paper 54(21) was to agree a 24-month lease. The Board **AGREED to DELEGATE** final lease negotiations for the shortlisted sites to the Chief Operating Officer, in accordance with the existing Financial Approvals Framework (authority up to £2.5m).

#### **Item 11: Ofcom Wide Strategy: Draft Framework - Board Paper 55(21)**

35. Yih-Choung Teh introduced this item. Board Paper 55(21) proposed a draft strategic framework for Ofcom's regulatory work across the communications sectors. This was an iterative process and following this initial discussion with the Board there would be further engagement with colleagues across Ofcom. The framework would be used to develop 'sector strategy' papers focusing on the most significant strategic choices for Ofcom's future work. These pieces of work would be drawn together at the Board Strategy Day in October 2021, with consideration being given at that meeting to the implications for Ofcom's three-year business plan. The three-year business plan would then be developed over the subsequent months. The first of the sector strategy papers for consideration at the July 2021 Board meeting would focus on the Telecoms Sector.

36. Areas referred to during discussion were **NOTED** and included the following:

- Reference was made to the importance to the economy and public services of ensuring network resilience and the digital infrastructure more broadly. This would be included in the strategy for the Telecoms Sector.
- In future there might be more conflict than before between different objectives and duties with a need to adapt regulatory approaches accordingly.
- Alongside protecting consumers from harm Ofcom had a focus on promoting fairness which should be reflected in the framework.
- The framework should include an approach to considering what resources and talent would be needed in future and what would be deprioritised/stopped as choices were made about the priorities to be taken forward.
- The framework having been established the task now was to apply it to the sector strategies, rather than looking to make it more detailed.
- An approach was suggested of thinking back, say five years, to see what had emerged that was not predicted at the time but subsequently transformed a particular area, and then applying the challenge to what is currently known to think about what alternative scenarios might emerge and how flexibility could be built into the regulatory approach to plan for that.
- Reference was made to the influx of non-UK competitors and the challenges as well as benefits that could bring.
- The thinking about Ofcom's functions needed to take a broad view across the market, eg, the potential need to adapt the broadcasting code to apply it to streaming services.
- The need to adapt enforcement approaches to be effective, and to be clear to consumers about where there were constraints on what Ofcom could enforce.

37. The Board:

- **NOTED** the draft framework for developing Ofcom's strategy, including Ofcom's mission, duties, functions and principles, as set out in the Annex to Board Paper 55(21); and
- **AGREED** that it would be useful to continue to develop this thinking through the summer as a framework for analysing future challenges and strategic choices for Ofcom's work, but with a steer that it should be kept broad and high level.

**Item 12: Future of Public Service Media – Small Screen: Big Debate – Board Paper 56(21)**

38. Kevin Bakhurst, Siobhan Walsh and Vikki Cook introduced this item. The objective of the Small Screen: Big Debate ('SS:BD') programme of work was to ensure that, in a rapidly changing media landscape, audiences would continue to receive the benefits of Public Service Media ('PSM') in the future. Board Paper 56(21) included the Executive Summary of the Statement which was planned for publication in July 2021.

39. Areas covered during discussion included the following:

- In a period of transition where technology was changing so rapidly what was being proposed was an interim solution for the next few years. The Executive Summary should instil a sense of urgency.

- The statement was an advisory policy document for Government. The Board discussed the balance to be struck, and whether as drafted the Executive Summary was as dynamic as it might be.
- A key issue to be brought out was the importance of the UK creative economy and the public service broadcasters' role in continuing to support that creative content.
- Although broadcasting was a reserved matter for the UK government, appropriate reference should be included to the devolved administrations.

40. Following discussion and subject to consideration of the comments noted in discussion and summarised in minute no. 39, the Board **DELEGATED APPROVAL** of the Executive Summary for the final statement on the Future of Public Service Media – Small Screen: Big Debate to Kevin Bakhurst.

**Item 13: Reviewing Ofcom's Regulation of the BBC- Board Paper 57(21)**

41. Kevin Bakhurst, Sally Seaton-Jones and Kira Vermang introduced this item. Board Paper 57(21) set out plans for a programme of work reviewing Ofcom's regulation of the BBC, including the first Periodic Review of the BBC (a report to DCMS to support its mid-term Charter review) and plans for evolving the BBC Operating Licence. The programme of work would cover the breadth of Ofcom's BBC responsibilities. Where necessary, it would also look at revising Ofcom's own guidance and processes, as well as making recommendations to Government as part of the Periodic Review. The intention was to publish a high-level consultation on the programme of work in July 2021 in order to gather initial stakeholder input to the programme. Consideration was being given to whether any changes were needed to the content of the programme of work following publication of the Dyson Report.

42. Following discussion, the Board **NOTED** the update provided orally and in Board Paper 57(21).

**Item 14: Six Monthly Update on Key Themes and Emerging Lessons from the Content Board's Input on Editorial Standards Work – Board Paper 58(21)**

43. Sian Bundred and Adam Baxter introduced this item. Board Paper 58(21) provided a six-monthly update to the Board on editorial standards themes being considered by the Content Board. The update focussed on four key emerging strategic themes regarding: offence; harm; due impartiality; and diverging approaches to content standards regulation on different platforms.

44. Following discussion, the Board **NOTED** the latest update on key themes and emerging lessons from the Content Board's editorial standards work up to 31 March 2021, as set out in Board Paper 58(21).

**Item 15: Reappointment of Two Content Board Members - Board Paper 59(21)**

45. The Board **APPROVED** the recommendation set out in Board Paper 59(21) to reappointment Maggie Cunningham and Stephen Nuttall to the Content Board for further three-year terms. Maggie Cunningham's new term would run until 30 September 2024 and Stephen Nuttall's new term would run until 9 December 2024.

**Item 16: Migration to “All IP” Based Voice Services and Copper Retirement: Annual Update - Board Paper 60(21)**

46. Lindsey Fussell introduced this item. Board Paper 60(21) provided the Board with an update on Communication Providers’ (CPs) progress on migration to “All IP” and copper retirement and Ofcom’s programme of work in this area. During discussion, concern was expressed about a lack of awareness of the switch off of the Public Service Telephone Network (PSTN) which was due to be completed by 2025 and the implications of that. The decision to retire the PSTN and migrate customers to IP had been taken by the UK’s telecommunications industry. Openreach and CPs were ultimately responsible for ensuring the transition would run smoothly for their customers and would meet the 2025 deadline. The government and the wider public sector also had an important role to play to help mobilise Critical National Infrastructure (CNI) customers. The Board was updated on recent engagement with DCMS regarding the role that government needed to play. The Board **REQUESTED** a further update in autumn 2021.

**Item 17: Network Security: Telecoms Security Bill Update – Board Paper 61(21)**

47. Board Paper 61(21) provided an update on the current status of the Telecoms Security Bill and the associated telecoms security framework developed by government. Following a brief discussion Melanie Dawes proposed and the Board **AGREED** that it would be helpful to have a discussion at the Board before the end of the year on Ofcom’s readiness to take on the new responsibilities in relation to telecoms security and the scale and scope of that work.

**Item 18: Information Items**

48. The Board **NOTED** the following information items without discussion:

- Monthly Finance Report – Board Paper 63(21).
- Board Work Programme/Forward Agendas – Board Paper 62(21).
- Minutes of the Communications Consumer Panel/ACOD (meeting held on 22 April 2021).
- Minutes of the Election Committee (meeting held on 23 April 2021 and two meetings on 4 May 2021).
- Risk and Audit Committee (meeting held on 11 May 2021).

**Item 19: Any Other Business**

49. There were no additional matters raised at the meeting.

**Item 20: Date of the Next Meeting**

50. The next scheduled Board meeting will be held on 21 July 2021.