

**Note: This response was submitted both to the Annual Plan 2014/15: Invitation to Comment consultation and also to the General Procedures for investigating breaches of broadcast licences consultation. The latter consultation asked the following questions:**

**Question 1: Do you agree with Ofcom's proposal to publish the General Procedures?**

**Question 2: Do you agree with the key changes to our current approach identified at paragraph 2.11 of the consultation document?**

**Name:** Ian Nockolds

### **Response**

I am responding to this as an individual. My interest in this subject comes from my voluntary role as a presenter on Somer Valley FM. I am also an employee of a business that sponsors Somer Valley FM.

**Question 1: Are there areas of Ofcom's overall strategic approaches and purposes, outlined in last years' annual plan that may need to change?:**

In last year's annual plan (2013/14) Ofcom committed to "promote the opportunity to participate in society for consumers and citizens through the availability and use of a wide range of communications services." One such service is Community Radio, which Ofcom's own website refers to as providing "a new voice for hundreds of local communities across the UK".

Community Radio should be considered to be an important strategic partner for Ofcom, both in terms of engaging people with communications services and promoting the development of opportunities for the training and retraining of people within the broadcasting industry, a statutory duty of the regulator set out in the 2003 Communications Act .

**Question 2: What are the issues and areas that should form Ofcom's priorities or major work areas in 2014/15?:**

Since the start of 2010, Ofcom has received 147 complaints concerning Community Radio stations, of which 89 were not considered worthy of investigation .

Does this demonstrate a lack of understanding amongst the public as to the role of the communications regulator, or does this indicate a more sinister practice of vexatious complaints being targeted at the Community Radio sector?

One show on Somer Valley FM, the community radio station where I volunteer, has received 6 complaints since 2011, all of which were classified "Not Investigated". Across the UK last year, 39 complaints went through this process, rising from 20 in 2011 and 15 in 2010.

The classification of a complaint as "Not Investigated" actually represents something of a misnomer, as for a complaint to be classified as such, it still requires investigation. In terms of a Community Radio complaint, Ofcom will contact the station manager, who will then be required to identify and make available the audio in question, quite possibly contacting the relevant presenters. Once no wrong doing has been established, only then is the complaint classified as "Not Investigated".

Processing these baseless complaints would be a waste of resources for any organisation, including Ofcom. Yet given the good will and unpaid time that Community Radio relies upon, this waste of effort, not to mention the damage done to confidence and morale, is all the more intolerable.

Whilst the community sector must appreciate that complaints should be investigated on a case by case basis, the regulator should appreciate that unlike commercial broadcasters or the BBC, community radio is delivered predominantly by amateurs, volunteering their own time. Ofcom's own website references the fact that community radio stations are run as not for profit organisations, operating, on average, "with 74 volunteers who together give around 214 hours of their time a week". Indeed, with cut backs being made in local radio, the broadcasters of tomorrow are more likely than ever to be coming from the community sector.

Given the strategic importance that Ofcom has placed on the public's participation in society through the use of communication services, as well as its own statutory responsibility for the development of training opportunities within the broadcasting industry, should its attitude towards Community Radio not reflect the very different expertise and resources the sector has at its disposal?

**Question 3: Are there any specific areas for deregulation or simplification in the coming year? :**

Whilst Ofcom has a duty to protect the public from offensive or harmful material and unfair treatment, it is also required to perform its regulatory activities in a way that is "transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed."

Considering the principles of proportionality and action taken only where it is needed, I believe there are three key practices that Ofcom should consider adopting into their approach to handling complaints concerning Community broadcasters, all of which are currently operated by other regulatory agencies:

**1. Informal Complaint Resolution**

The Advertising Standards Agency has the facility to informally resolve complaints. This might not be appropriate to every case, but this mechanism is clearly far more proportionate in its administrative burden to the limited resources available to Community Radio.

**2. Challenging the "Veil" of Anonymity**

Complaints made to the Press Complaints Commission involve the PCC sending a copy of the complaint to the editor of the publication concerned. Unless there are exceptional circumstances, complainants are identified to those they are complaining about.

Whilst there might be good reason for a concerned member of the public to go straight to the regulator, the lack of accountability within the current system serves to encourage rather than discourage frivolous complaints. The regulator should have the power to challenge whether the complainants behaviour has been reasonable, including whether they have sought to remedy their concern with the radio station in question.

**3. Vexatious Complaints Policy**

The Office of the Independent Adjudicator for Students in Higher Education has a policy on Frivolous or Vexatious Complaints. Such a policy would provide Ofcom with a mechanism through which it could legitimately disregard obsessive, persistent, harassing, prolific, repetitious complainants.

Ofcom's Annual Plan for 2014/15 should recognise the important role the Community Radio

sector has to play in helping it meet its strategic and regulatory objectives. Community Radio should not be subject to different regulatory controls to the commercial and public broadcast sectors, rather Ofcom's approach to it should be proportionate to the resources it has at its disposal.

Recognising the value that comes from volunteering, bringing communities together and training the broadcasters of tomorrow, Ofcom should seek to educate and support a sector that its regulatory processes are currently being used to undermine. The community sector has as much right to be protected from harm as the listeners it serves.

The suggestions I have made don't only need to apply to Community Radio; rather they could benefit all broadcasters currently under Ofcom's remit. Indeed, Ofcom itself might find that by challenging frivolous and vexatious complainants, it has more resources that can be focused on achieving its own strategic objectives.