

CHANNEL 4 – EQUALITY OBJECTIVES

March 2012

1. Introduction

Channel 4 has always been a different kind of broadcaster. One that broadcasts difference: different voices, perspectives and viewpoints.

On 2nd November 1982 Channel 4 began transmitting as an alternative to the mainstream. This made Channel 4 a natural home for diversity. We like to think that diversity is part of our DNA. Freedom of imagination and diversity of thought fuel our mission with mischief.

Channel 4 has always led the way when it comes to diversity. *Desmond's* was a very popular situation comedy with a predominantly black cast. It provided an insight on the lives of a socially mobile black family. This had not been seen on British screens before.

Brookside which was set in Liverpool, tackled realistic socially challenging storylines. The soap was the first to feature an openly gay character. It also broadcast the first pre-watershed lesbian kiss on British television.

Recent successes that are strikingly diverse television programming includes: *Top Boy*, *My Big Fat Gypsy Wedding*, *Seven Dwarfs*, *One Born Every Minute*, *Sri Lanka's Killing Fields*, *The Promise*, *Katie: My Beautiful Face*, our multi-award winning *Dispatches* and long-running *Shameless*.

The London 2012 Paralympic Games will be the biggest event in Channel 4's history. As the official UK broadcaster, Channel 4 will treat the Paralympic Games as the main event, not a sideshow to the Olympic Games.

We pride ourselves on the wide range of passionate and talented people we employ. Not only does this reflect our audience more accurately, it also promotes creative thinking both on and off screen. By attracting people from all different backgrounds and walks of life, we have created an environment in which everyone feels free to contribute to the way our organisation works. Diversity is not about the colour of someone's skin; it goes way beyond that. Diversity is about being all-inclusive, regardless of culture, nationality, religious persuasion, physical and mental ability, sexual orientation, race, age, background and addressing social mobility.

Diversity of thought and opinion helps us to innovate, be distinctive and encourage people to think in different ways.

2. Channel 4's Public Service Remit and Obligations

Following the coming into force of the Digital Economy Act 2010, the objectives of Channel 4 are set out in section 199(2) of the Communications Act 2003 (as amended) and include, among other things:

- The provision of content on the main Channel 4 service which appeals to the tastes and interests of a culturally diverse society, demonstrates innovation,

experiment and creativity in the form and content of programmes, and exhibits a distinctive character;

- Participating in the making of a broad range of relevant media content of high quality that, taken as a whole, appeals to the tastes and interests of a culturally diverse society;
- Promoting measures intended to secure that people are well-informed and motivated to participate in society in a variety of ways;
- Supporting the development of people with creative talent, particularly at the beginning of their careers;
- Supporting and stimulating well-informed debate on a wide range of issues, including by providing access to information and views from around the world and by challenging established views; and
- Promoting alternative views and new perspectives.

Some of the main provisions relating to Channel 4's public service remit and statutory obligations are set out in full in the annex at the end of this document.

Implicit in all of these objectives is the ambition to positively promote diversity and equality. Therefore Channel 4 welcomes the new Equality Act 2010 which we see as being entirely consistent with Channel 4's own objectives.

3. Background to the Equality Act 2010

The Equality Act 2010 (the Act) replaced previous anti-discrimination laws. The Act is designed to simplify and strengthen anti-discrimination laws and put everything in one place rather than across a range of different statutory instruments. It covers nine protected characteristics which cannot be used as a reason to treat people unfairly. The protected characteristics are: age, disability, gender, marriage and civil partnership, pregnancy and maternity, race, religion and belief, and sexual orientation (the protected characteristics).

4. The Public Sector Equality Duty and the Specific Duties

The public sector equality duty (section 149 of the Act) came into force on 5 April 2011. The equality duty applies to public bodies including Channel 4. Public bodies, when carrying out their functions, must have due regard to three specific matters:

- (a) **Eliminate unlawful discrimination**, harassment and victimisation and any other conduct prohibited by the Act;
- (b) **Advance equality of opportunity** between persons who share a relevant protected characteristic and those who do not; and
- (c) **Foster good relations** between people who share a relevant protected characteristic and people who do not.

The equality duty is intended to "...support good decision making by ensuring that public bodies consider how different people will be affected by their activities, helping them to

deliver policies and services which are efficient and effective; accessible to all; and which meet different people's needs."¹

The equality duty is supported by specific duties, set out in regulations which came into force on 10 September 2011. Public bodies listed in the regulations are required to:

- (a) Publish relevant, proportionate information demonstrating their compliance with the equality duty at least annually. Channel 4, has published this information and it is available at <http://www.channel4.com/info/corporate/legal/diversity>; and
- (b) Set and publish equality objectives, at least every four years. This document deals principally with this requirement.

It is worth noting that the anti-discrimination legislation no longer places any requirement on public bodies to prepare or publish equality schemes, equality action plans, equality impact assessments or separate annual reports on equality.

5. Exclusions applicable to Channel 4

Channel 4's editorial decision making processes are exempt from the anti-discrimination obligations in the Act.² This means that a viewer could not, for example, bring a claim for discrimination against Channel 4 in relation to an editorial decision about what programmes to commission; on what day a specific programme should be shown; or what character should appear in a particular programme.

In addition, in order to ensure that Channel 4's editorial independence from Government is not compromised, Channel 4's content related activities are exempted from the public sector equality duty and the specific obligations required in order to meet it.³ This means that the Act does not require Channel 4 to promote equality in, for example, its news and current affairs output. That is not to say that Channel 4's output is unregulated; it is required to comply with the Ofcom Broadcasting Code.

6. The Ofcom Broadcasting Code and Equal Opportunities

Channel 4 is licensed by the television regulator, Ofcom, which operates The Ofcom Broadcasting Code ("the Code"), The Code contains a number of rules which are relevant to non-discrimination. The Code, amongst other things, ensures that:

¹ Government Equality Office Equalities Act 2010: Specific Duties to Support the equality Duty. What Do I Need to Know? A Quick Start Guide for Public Sector Organisations

² Schedule 3, Part 8, Paragraph 31 of the Act

³ The public sector equality duty is imposed on the public bodies listed in Schedule 19. Schedule 19 lists Channel 4 in the following way:

"The Channel Four Television Corporation, except in respect of –

- (a) functions relating to the provision of a content service (within the meaning given by section 32(7) of the Communications Act 2003), and
- (b) the function of carrying on the activities referred to in section 199 of that Act".

- generally accepted standards are applied to Channel 4's content so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material.
- in applying generally accepted standards, material which may cause offence is justified by context. Such material may include discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation).
- Channel 4 exercises the proper degree of responsibility with respect to religious programming.
- news is reported with due accuracy and presented with due impartiality.

Furthermore, the Communications Act 2003 and Channel 4's public service broadcast licence, requires Channel 4 to make and from time to time review arrangements for promoting equality of opportunity and to publish these arrangements. In fulfilment of this condition, Channel 4 reports annually to the broadcasting regulator, Ofcom on:

- our diversity policies;
- arrangements for promoting equal opportunities in employment;
- the arrangements for monitoring job applicants and the composition of Channel 4 staff;
- supervision and evaluation of the steps taken to promote equal opportunities;
- employment statistics;
- priorities for the promotion of equal opportunities in the forthcoming year; and
- issues relating to on-screen portrayal.

7. Channel 4 as an Employer

The exclusions referred to in section 5 above do not apply to Channel 4's employment obligations under the Act which need to be considered and observed in the context of selecting, removing or replacing on-screen talent (albeit most often through an Independent Production Company) as well as in employment decisions Channel 4 takes in relation to its own staff.

Accordingly, as an employer and potential decision maker in relation to on-screen talent, Channel 4 will still need to ensure that it (i) always acts in accordance with the anti-discrimination obligations contained in the Act, and (ii) never acts in ways when making decisions with regard to staff and/or on-screen talent which are prohibited by the Act.

Channel 4 also retains the broader obligation to advance equality of opportunity. In this regard, Channel 4 publishes annual data which analyses the effect of our policies and practices on the protected groups (available at <http://www.channel4.com/info/corporate/legal/diversity>). In addition, our equality objectives, set out below, have a strong focus on employment equality objectives.

8. Channel 4's Diversity Strategy

As referred to above, the promotion of equality and diversity is hard wired into Channel 4's statutory functions and DNA. Accordingly, Channel 4 believes it is important to have specific and measurable equality objectives regardless of any separate statutory equality duty.

Channel 4's Diversity Strategy will therefore set out our diversity objectives which build on the solid foundations and great work that we have done to date. We will:

1. Continue to diversify creative supply while building on the success of our innovative approach to on-screen diversity.
2. Continue to increase the diversity of Channel 4 staff through programmes such as our Internship Programme, Production Trainee Scheme, All Inclusive 4 events and our involvement in the CDN.
3. Use data captured by our audience research department to continue to inform, and help shape our thinking around diversity.
4. Work with people who share our thoughts on diversity. Continue to use our purchasing power to build and challenge our supplier relationships to share our diversity ambitions.

For each of these strategic goals, Channel 4 will set out: (a) what it considers success will look like; and (b) key annual benchmarks. Accordingly, all of these strategic goals are both specific and measurable.

The detailed plan will be published on Channel 4's website next year.

Annex – Statutory Extracts in Relation to Channel 4’s Public Service Remit and Obligations

Section 199 Communications Act 2003

Functions of C4C

This section has no associated Explanatory Notes

- (1) The activities that C4C are able to carry on include any activities which appear to them—
 - (a) to be activities that it is appropriate for them to carry on in association with the carrying out of their primary functions; and
 - (b) to be connected, otherwise than merely in financial terms, with activities undertaken by them for the carrying out of those functions.
- (2) C4C’s primary functions are—
 - (a) securing the continued provision of Channel 4; and
 - (b) the fulfilment of the public service remit for that Channel under section 265.
- (3) Section 24(5)(b) and (6) of the 1990 Act (power of C4C to establish, acquire an interest in or assist a qualifying company) shall cease to have effect.
- (4) For sub-paragraphs (3) and (4) of paragraph 1 of Schedule 3 to the 1990 Act (power of C4C to do things incidental or conducive to the carrying out of their functions) there shall be substituted—

“(3) The Corporation may do anything which appears to them to be incidental or conducive to the carrying out of their functions.

(4) The powers of the Corporation under sub-paragraph (3) include power, to the extent that it appears to them incidental or conducive to the carrying out of their functions to do so—

 - (a) to borrow money;
 - (b) to carry on activities (other than those comprised in their duty to carry out their primary functions) through Channel 4 companies; and
 - (c) to participate with others in the carrying on of any such activities.”
- (5) Schedule 9 (which makes provision for the approval by OFCOM, and for the enforcement, of arrangements made by C4C about the carrying on of their activities) shall have effect.

Section 265 Communications Act 2003

- (3) The public service remit for Channel 4 is the provision of a broad range of high quality and diverse programming which, in particular—
- (a) demonstrates innovation, experiment and creativity in the form and content of programmes;
 - (b) appeals to the tastes and interests of a culturally diverse society;
 - (c) makes a significant contribution to meeting the need for the licensed public service channels to include programmes of an educational nature and other programmes of educative value; and
 - (d) exhibits a distinctive character.

Section 22 Digital Economy Act

Functions of C4C in relation to media content

(1) Before section 199 of the Communications Act 2003 insert—

“198AC4C’s functions in relation to media content

(1) C4C must participate in—

- (a) the making of a broad range of relevant media content of high quality that, taken as a whole, appeals to the tastes and interests of a culturally diverse society,
- (b) the making of high quality films intended to be shown to the general public at the cinema in the United Kingdom, and
- (c) the broadcasting and distribution of such content and films.

(2) C4C must, in particular, participate in—

- (a) the making of relevant media content that consists of news and current affairs,
- (b) the making of relevant media content that appeals to the tastes and interests of older children and young adults,
- (c) the broadcasting or distribution by means of electronic communications networks of feature films that reflect cultural activity in the United Kingdom (including third party films), and
- (d) the broadcasting or distribution of relevant media content by means of a range of different types of electronic communications networks.

(3) In performing their duties under subsections (1) and (2) C4C must—

- (a) promote measures intended to secure that people are well-informed and motivated to participate in society in a variety of ways, and
- (b) contribute towards the fulfilment of the public service objectives (as defined in section 264A).

(4) In performing their duties under subsections (1) to (3) C4C must—

- (a) support the development of people with creative talent, in particular—
 - (i) people at the beginning of their careers in relevant media content or films, and
 - (ii) people involved in the making of innovative content and films,
- (b) support and stimulate well-informed debate on a wide range of issues, including by providing access to information and views from around the world and by challenging established views,

- (c) promote alternative views and new perspectives, and
 - (d) provide access to material that is intended to inspire people to make changes in their lives.
- (5) In performing those duties C4C must have regard to the desirability of—
- (a) working with cultural organisations,
 - (b) encouraging innovation in the means by which relevant media content is broadcast or distributed, and
 - (c) promoting access to and awareness of services provided in digital form.
- (6) In this section—
- “participate in” includes invest in or otherwise procure;
 - “relevant media content” means material, other than advertisements, which is included in any of the following services that are available to members of the public in all or part of the United Kingdom—
 - (a) television programme services, additional television services or digital additional television services,
 - (b) on-demand programme services, or
 - (c) other services provided by means of the internet where there is a person who exercises editorial control over the material included in the service;

and a film is a “third party film” if C4C did not participate in making it.

- (7) The services that are to be taken for the purposes of this section to be available to members of the public include any service which—
- (a) is available for reception by members of the public (within the meaning of section 361); or
 - (b) is available for use by members of the public (within the meaning of section 368R(4)).”
- (2) In section 199(2) of that Act (functions of C4C), for “C4C’s primary functions are” substitute “In subsection (1) “primary functions” means—
- “(za) the performance of C4C’s duties under section 198A;” and in the heading for that section, at the beginning insert “ Other ”.
- (3) In Schedule 9 to that Act (arrangements about carrying on C4C’s activities)—
- (a) in paragraph 1(1), after paragraph (a) (but before “and”) insert—
- “(aa) as soon as practicable after the day on which section 198A comes into force,”

- (b) in paragraph 10, in the definition of “relevant licence period”, after paragraph (a) (but before “and”) insert—
 - “(aa) in relation to the notification under paragraph 1(1)(aa), the period beginning on the day on which section 198A comes into force and ending on the last day of the first licence period to expire after that day;”, and
 - (c) in that definition, in paragraph (b), for “any other such notification” substitute “any other notification under paragraph 1”.
- (4) Accordingly, in the heading for Part 3 of that Act (television and radio services), at the end insert “ ETC ”.
- (5) In section 24(1) of the Broadcasting Act 1990 (Channel 4 to be provided by C4C), for “The function of the Corporation shall be to” substitute “ The Corporation must ”.
- (6) In paragraph 1 of Schedule 3 to that Act (status and capacity of C4C)—
 - (a) in sub-paragraph (4)(b), for “primary functions” substitute “ Channel 4 functions ”, and
 - (b) after that sub-paragraph insert—
- “(5) In sub-paragraph (4) “Channel 4 functions” means—
 - (a) securing the continued provision of Channel 4, and
 - (b) the fulfilment of the public service remit for that Channel under section 265 of the Communications Act 2003.”