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Ofcom
Riverside House
2a Southwark Bridge Rd
London
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Dear Sirs,

Re: Panorama Programme: *Private ADHD Clinics Exposed*

We are writing to Ofcom to raise our concerns about the above BBC Panorama programme which was broadcast on 15 May 2023 and remains available on BBC iPlayer.

We have previously raised our concerns directly with the BBC, both prior to and following the broadcast. We received a final outcome decisions from the Executive Complaints Unit. ADHD UK is not satisfied with the BBC's response for the reasons set out below, and considers that the Panorama programme breaches the Broadcasting Code. We are, therefore, now registering this complaint with Ofcom.

ADHD UK's complaint

In summary terms, the Panorama programme was not reported or presented with due accuracy and impartiality. The broadcast was unjust and unfair to those with ADHD, failing to provide them with opportunity to contribute or fairly represent their views.

Description of original complaint

ADHD UK became aware that Panorama would be broadcasting a programme about ADHD clinics. We wrote to the BBC on 11 May 2023, before this programme was broadcast, to outline our concerns [see pages 1-6 in the attached bundle].

In that letter we explained that many members of the ADHD community were concerned about the upcoming programme and that it may cause stigma and discrimination to those with ADHD. We noted that it is important that ADHD assessments are authoritative and trusted. Our letter made it clear that overly sweeping negativity for the private ADHD Assessment sector would risk harm to individuals with ADHD.

We pointed out that there is a significant issue with ADHD diagnosis in the UK and that NHS resourcing failures mean that for many individuals private assessments are the only option. We highlighted the risk that the programme would tarnish and cast doubt on all private diagnoses and that this would not only misrepresent the truth but also cause harm.

We received responses from the Panorama Editor and Producer [pages 7-8]. Despite our serious concerns, the programme was broadcast and we lodged a complaint with the BBC on 22nd July 2023 setting out how the programme failed to meet required editorial standards for due accuracy, due impartiality and privacy guidelines.

We identified how the programme lacked balance in representing private ADHD clinics and failed to give proper prominence to the difficulties that long NHS waiting lists create. We explained that Panorama disproportionately focussed on private assessments when confidence levels in the NHS are equal to those expressed in relation to private assessments and there was evidence in support of this. We also noted that the data we hold suggests the concerns identified represent a tiny fraction of experiences in private clinics but that this was not shown proportionately, therefore creating the misleading impression that there was a much wider issue with private clinic assessments compared with the NHS.

Reason for dissatisfaction with the outcome of the BBC's final response

The response to our complaint confirms that the ECU had '*received 28 complaints about the programme, many of which made similar points*', BBC data shows that complaints in fact rose to over 1,639.

The response itself summarises the '*various points of concern*' that have been made as follows:

- 1. The programme focussed on a small number of private clinics and did not subject NHS provision to the same level of examination. It should have compared NHS consultations with the private sector.*
- 2. It should have included the testimony of patients with positive experiences of the private sector.*
- 3. The evidence basis for the investigation was too small to justify the lengths to which the programme went, in particular in carrying out secret filming*
- 4. Panorama breached privacy when making the programme by individually approaching ADHD sufferers who were part of a restricted social media group.*
- 5. The comparison with the NHS was unfair because the health service representative, Dr Mike Smith was aware that he was being filmed, and the duration of his consultation with the reporter was untypically long.*
- 6. The reporter presented differently to the private clinics than he did to Dr Smith.*
- 7. The description of the stimulants typically prescribed to ADHD sufferers as "powerful drugs" is misleading.*
- 8. Following the broadcast some people report that their NHS prescriptions under "shared care" have been withdrawn, potentially causing harm to patients.*
- 9. That overall the programme had the effect of undermining people who have ADHD by casting doubt on the reliability of diagnoses, causing them to suffer stigma.*

We endorse each of these points.

Whilst it is the case that Panorama has positively benefited people with ADHD by uncovering **some** poor practices, this is outweighed by the serious and real harm caused to the ADHD community and individuals with ADHD by the broadcast.

Our research, from over 2,200 people evidences that:

90%	88%	89%	84%	75%
People with ADHD think ADHD Stigma has increased due to Panorama's show	People with ADHD think Panorama's show wasn't fair in how it represented ADHD	People with ADHD think Panorama's show lacked balance in its representation of private clinics	People with ADHD think Panorama's show will stop people with symptoms seeking an ADHD Assessment	People with ADHD think Panorama's show will negatively impact them personally

Dr Mike Smith, an NHS Consultant Psychiatrist specialising in neurodevelopmental disorders, who featured in the programme has since acknowledged in a [Guardian interview](#) on 17 May 2023 that:

"There is obviously a need to deal with the way the market is currently organised and to improve things. But there has also been a huge emotional fallout from the show, which speaks to the polarising nature of the debate around ADHD – its validity, the stigma and how to effectively manage this very real condition, which has undergone a surge in awareness in recent years.

Understandably, many in the ADHD community feel that giving credence to any suggestions of an overdiagnosis problem within the private sector fuels the cynicism that has plagued this condition for decades. Since the documentary aired, I have heard from people concerned that GPs could now be more likely to question legitimate diagnoses. Others are questioning whether their own diagnosis is trustworthy.

But as an NHS psychiatrist it is clear to me that the root of this issue is not overdiagnosis. Instead, we are facing the combined challenges of remedying decades of underdiagnosis and NHS services that were set up when there was little awareness of ADHD."

This clarification is helpful and we have also been informed by Dr. Smith that he did in fact inform Panorama that he was of the view that the real issue was the NHS being unable to suitably resource ADHD assessments. The fact that Dr Smith has had to issue a statement published by the Guardian is, in and of itself telling. Irrespective of this, and in any event, ADHD UK consider that the BBC should have been well-aware of the potential impact of the programme, particularly on individuals who have protected characteristics and whom may be considered vulnerable. Such impact caused by the unbalanced content of their broadcast.

The BBC's response to the complaints fails to properly engage with the serious issues that have been raised namely:

(1) A failure to act with due impartiality and accuracy (s.5);

This matter has significant public interest and the requirement to present it with due accuracy is correspondingly higher. Guidance on the Code is clear that broadcasters should take care before making any unequivocal interpretations or statements about contentious issues, which may be dependent on nuance and open to different interpretations. Broadcasters should also take account of all relevant facts, including the nature of the coverage and whether there are varying viewpoints on a particular item and this was clearly not done.

The BBC failed to ensure that the views expressed and broadcast in Panorama were challenged critically within the programme and presented in a partisan manner. The language used is sensationalist and lacking in empirical evidence. The programme content was clearly skewed in a manner which undermines any impartiality.

Whilst not an exhaustive list we provide the following examples:

- 1) The language – 'powerful drugs' and the connotations that this creates. The word 'medication' could have been used.
- 2) The sensationalist title 'Private ADHD Clinics Exposed' when it was a very small proportion of clinics rather than the majority or whole of an industry being 'exposed'. This is misleading.
- 3) 'The scale is massive'. This is highly misleading and could have tempered this with 'potentially large-scale'.
- 4) The suggestion that 'online' diagnosis was somehow diminishing the quality of diagnoses. This is also misleading and provocative, particularly in light of the fact that many healthcare professionals are making diagnosis online following the pandemic and digitisation of services.

(2) Unjust and unfair treatment of those with ADHD and representative groups (s.7);

The Code requires that broadcasters avoid unjust or unfair treatment of individuals or organisations. The programme did not include anyone with ADHD or the groups that represent their interests. Despite ourselves and others having raised concerns ahead of the broadcast, no attempt was made to include the viewpoints of those with ADHD or representative groups.

The BBC failed to take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and failed to provide an opportunity to contribute.

The correspondence from the ECU confirms that "*Panorama accepts that in some cases patients diagnosed privately with ADHD have had their prescriptions called into question*" and that in "*some cases the arrangements under "Shared Care" in which prescriptions can be provided through the NHS have been interrupted*".

This is a very concerning admission, particularly where those with ADHD are a group of people with a recognised disability or long-term health condition, which requires protection under the Equality Act 2010, and that some individuals with ADHD are extremely vulnerable.



As we set out above, ADHD UK considers that the Panorama programme breaches the Broadcasting Code.

Yours sincerely

Henry Shelford
CEO, ADHD UK

[I'm a person with ADHD. Diagnosed privately initially, then (at GP request) re-diagnosed by the NHS.]