



**BBC COMPLAINTS FRAMEWORK AND
PROCEDURES**
**Consultation responses and the BBC's
conclusions**

October 2017

1. Purpose

The BBC held a consultation between 10 July and 16 August 2017 to seek feedback on its draft complaints framework. This document summarises the key themes raised by respondents and the BBC's response.

2. Introduction

The Royal Charter and Agreement¹ require the BBC to set out a framework for handling different types of complaints from the public and from industry in order to reflect the governance and regulatory arrangements that came into effect in April 2017.

The Charter requires that the framework provides “transparent, accessible, effective, timely and proportionate methods of securing that the BBC complies with its obligations and that remedies are provided which are proportionate and related to any alleged non-compliance”.²

Since April 2017, the BBC has operated under an interim complaints framework. In July 2017, following some initial feedback on the interim framework, the BBC published a draft final complaints framework for consultation in line with the requirements set out in the Charter. The draft final framework covered 5 complaints procedures:

1. Editorial complaints
2. General complaints
3. Television licensing complaints
4. Complaints about party election, party political and referendum campaign broadcasts by the parties affected
5. Regulatory complaints

The BBC received 17 stakeholder submissions to the consultation, 4 individual submissions and a further 17 responses from other stakeholders who indicated that they would not be making a submission or had no comment to make on the Framework. We would like to thank all those who responded to the consultation.

The majority of submissions focused on the regulatory or the editorial procedures. One respondent made a comment on the TV Licencing procedure. We received no comments on the Party Election, Party Political or Referendum Campaign Broadcasts Allocation Complaints Procedure.

In line with the BBC's consultation policy, organisational responses to the consultation, where permission has been given, have been published on this [website](#). The BBC does not publish individual responses.

The revised complaints framework can be found [here](#) and is effective from the date of publication, 3 October 2017.

¹ Clause 56 of the Charter

² Clause 56(3) and (4) of the Charter.

3. Key issues raised and the BBC's response

Overall respondents to the consultation felt that the framework was clear with easy to follow procedures for different categories of complaint. There were however a number of issues raised by respondents in the course of the consultation. These are summarised below together with the BBC's response.

a) BBC First process

A number of respondents expressed concern about the BBC First approach to complaints, suggesting it lacks sufficient external scrutiny.

In the case of regulatory complaints, a number of respondents had concerns that this would give rise to conflicts of interest and a lack of independent decision-making at the Executive level within the BBC or where complaints related to ventures in which the BBC is involved (e.g. Freeview).

Several respondents suggested that it was unrealistic to expect competitors to submit commercially sensitive data to the BBC to support their complaints and argued for immediate recourse to Ofcom. Others suggested that it would be helpful to offer some reassurance to the complainant of independence within the BBC of the Executive Complaints Unit (ECU).

There was also a call for more information on how the BBC will report on and publish complaints as well as how the BBC's Board will be informed on the performance of the Complaints Framework.

The BBC's response:

'BBC First' is a requirement of the BBC Agreement³ which sets out that, a complaint should normally in the first instance be resolved by the BBC. The BBC cannot unilaterally change these conditions, which are set out in the Charter and Agreement, as negotiated with the Government.

Regulatory complaints have been brought under the central complaints framework led by the Executive Complaints Unit with a single senior decision-maker. This was done to enable swifter and more agile decision-making (which was also a concern raised in some responses) than was possible under the previously separate Fair Trading complaints process which had the Executive Fair Trading Committee as decision-maker.

On the question of the independence of the ECU in respect of regulatory complaints, the text of the framework has been amended to make clear that the BBC's response will be issued by a BBC senior member of staff who has had no prior involvement in the subject matter of the complaint and that the ECU is supported by BBC Legal where necessary, providing a level of protection for commercially sensitive information. We have also made clear in the framework the ways in which complainants can identify and request confidentiality for commercially sensitive information.

Equally, for consideration of editorial and general complaints at stage 2, it has been made clearer that the ECU is not part of a programme making division of the BBC and is independent of programme makers.

³ Clause 56(4)(a) and (5) of the Agreement

The Head of the ECU reports to the Director of Editorial Policy and Standards and, through him, to the Director-General. The Director of Editorial Policy and Standards and the Director-General are both members of BBC Board's newly formed Editorial Guidelines and Standards Committee. A key part of the Committee's remit is to ensure that the BBC complies with its complaints framework and reports to the Board on the effectiveness of the framework. It is also accountable for reviewing findings and directions from Ofcom with regard to editorial matters, and compliance with the Ofcom Broadcasting Code⁴.

b) The Role of Ofcom

There were a number of misconceptions about what could be considered by Ofcom and when.

Several industry respondents sought reassurance that the BBC will notify Ofcom of all regulatory complaints that it receives. Others suggested some clarification on the grounds and the procedures for referring complaints to Ofcom and further information on where Ofcom may step in in exceptional circumstances.

Similarly, in the case of editorial complaints, several respondents suggested that there was a lack of clarity about when complaints could be appealed to Ofcom. Some expressed concern at the number of complaint stages and hence the length of time before an issue could be appealed to Ofcom. Two respondents suggested merging Stage 1a and 1b to a single stage and enabling complainants to appeal directly to the ECU after the first response.

Content not under Ofcom's purview (e.g. the World Service) was singled out by a couple of respondents and concern was expressed that no route for appeal for complaints on such content exists beyond Stage 2.

The BBC's response:

The scope of Ofcom's role is set by the Charter and Agreement. Ofcom has published an ['Introduction to Ofcom's Operating Framework for the BBC'](#) which describes their role and responsibilities.

The Agreement gives Ofcom power to direct the BBC what to publish by way of information "about the operation and effectiveness" of the complaints procedure and information will be published regularly.

In the case of regulatory complaints, the BBC will notify Ofcom of any regulatory complaint we receive. This is made clear in the framework.

With regard to concerns about recourse to Ofcom and the circumstances in which it might "step in" early (especially with time critical complaints), the final framework provides greater clarity about the point at which such complaints can be escalated to Ofcom. It also makes clear that in 'exceptional circumstances' regulatory complaints may be put to Ofcom in the first instance. Ofcom will consider such complaints on a case-by-case basis⁵.

⁴ See Editorial Guidelines and Standards Committee Terms of Reference
http://www.bbc.co.uk/aboutthebbc/insidethebbc/managementstructure/bbc_sub_committees

⁵ See Ofcom's Procedures for Enforcement of BBC Competition Requirements
https://www.ofcom.org.uk/_data/assets/pdf_file/0010/102520/Procedures-for-enforcement-of-BBC-competition-requirements.pdf

In response to concerns about recourse to Ofcom on editorial complaints, the wording in the framework has been amended to make it clearer that those complaints covered by the Ofcom Code have a right to appeal to Ofcom, even if the Executive Complaints Unit has dismissed an appeal against a 1b closedown.

The BBC notes the comments about stage 1a and 1b and the preference from a couple respondents for a single response direct from programme makers at stage 1. However, we believe that with over 200,000 complaints a year this would drain resource away from programme making. The current system ensures complaints can receive an initial answer quickly, with a further stage 1 reply if dissatisfied.

The BBC notes the concern that some complaints (e.g. those relating to World Service content) will stop at Stage 2 and have no appeal to Ofcom, as Ofcom has no remit over the World Service. As this is a matter set out in the Charter and Agreement, it is not something the BBC is able to change unilaterally.

c) Signposting and accessibility

Whilst not in the scope of the consultation, a number of respondents commented on the prominence of the complaints website. Suggestions included enhanced signposting from the BBC homepage; prominence of current website over legacy sites in search engines and making it easier to find reports on the outcomes of complaints.

There were comments by a couple stakeholders that the webform for making complaints was too restrictive and lacked guidance/prompts and examples for those lacking in digital skills/awareness.

It was also suggested that channels for making a complaint should be expanded to include email. One stakeholder made a specific request that partially sighted and blind audiences be able to make TV licencing enquiries/complaints by email.

Further suggestions included using the same reference number for complaints through each stage of the process; the inclusion of example complaints in the Framework document; making the complaints framework more prominent on the complaints website; and making clearer to telephone complainants that they will not normally receive a response in writing.

The BBC's response:

The BBC does provide links to the complaints website from the BBC Homepage and other feedback pages online. However we are considering further the issues raised around the prominence of the complaints site and signposting to it and have already made some changes based on the feedback received. These include:

- Improved signposting to the Complaints Framework from the Complaints homepage
- More detailed cross-referencing to Ofcom's site within the framework document

We are trying to enhance the current signposting from the BBC's homepage (www.bbc.co.uk), and working to improve the prominence of the complaints site in search engine results to avoid confusion with legacy sites (e.g. those of the former BBC Trust).

The current technology for making complaints online and for the allocation of reference numbers, does not allow for the same reference number to be used by the complainant throughout the process. However, the BBC will endeavour to rationalise this when the current system is due for re-procurement.

With regard to example complaints; the range of possible Editorial and General complaints is too wide to be helpfully illustrated by a small number of examples, whereas TV licensing, PPB/PEB and Regulatory procedures are so specifically defined that examples would serve no practical purpose.

We have made clearer in the framework text that complaints made over the phone will not, usually, receive a response in writing, except to accommodate a disability. It is not possible to offer a written reply as a matter of course for telephone complaints. If a complainant has expressed dissatisfaction with the first reply from the BBC it is important to have the reasons in writing if possible to prevent misinterpretation of the reason the complainant has escalated their complaint.

The BBC does encourage complainants to use the webform at stage 1 of the process. However we also provide a postal address, telephone number and text phone number. The webform allows the BBC to gather information necessary to respond to the complaint efficiently and, as it generates an automatic response, gives complainants evidence that the BBC has received their complaint. It also allows for more accurate record keeping. Therefore the BBC continues to believe that this is an appropriate and proportionate way of meeting the needs of licence fee payers and the BBC.

In response to the specific accessibility concern about email for TV licensing enquiries and complaints, we are now supplying an email address for this category of enquiry and/or complaints. The framework, the Complaints Site and the TV licensing website have been updated to include this.

d) BBC responses and corrections

Two respondents suggested that the use of template responses by the BBC, where it receives large numbers of complaints on a single issue may fail to address significant points raised within a given complaint.

They also suggested it was unfair that complainants are unable to raise new or additional points during the stages of appeal, suggesting this is one-sided as it does not apply to the BBC and allows it to re-formulate arguments. The same respondents also questioned whether it was fair to allow the BBC/content makers to comment on the ECU's draft appeal findings before they are finalised, but does not allow the same for the complainant

They also questioned the BBC's approach to the publication of corrections, suggesting that the Framework allows the BBC too much discretion.

The BBC's response:

The use of generic responses to large numbers of complaints on a same issue was introduced by the BBC in an earlier review of the complaints framework as a way of speeding up the process of replying to complaints⁶. We continue to believe that this is the most efficient and timely way of dealing with high volume complaints on the same subject. Complainants who receive a generic response will continue to be notified that their complaint is being dealt with in this way, and why, and they continue to have the ability to escalate their complaint should they feel that a particular issue raised in their original complaint has not been addressed.

⁶ 2012 Complaints Framework Review

In response to the question of complainants being unable to raise “new points” during the appeal stage; the process does not allow for new issues of complaint during the appeal stages, as there would have been no opportunity to address them at the previous stage. However, it does not preclude new arguments in favour of the points already made.

With regard to the point about commenting on draft findings; it would be unusual not to permit the subject of the complaint to comment at that stage. However, it should be noted that the ECU’s finding are phrased in a way which allows for complainants to comment if they wish to do so.

The BBC acknowledges the importance that the public is made aware of corrections and the outcome of significant complaints. The BBC has a corrections and clarifications page⁷ and the complaints website has a dedicated complaints reports page⁸ where it publishes responses the BBC has made to issues of wide audience concern which have either generated significant numbers of complaints or raised significant issues.

e) Time limits on complaints and word count limits

Some respondents to the regulatory procedure had concerns about the uncertainty that could arise in cases where the BBC has the power to extend deadlines and suggested that more specificity was required around timeframes on complex cases. Another remarked that for time sensitive competition complaints, the process needs to be speedier as the damage could already be done before stage 1 is complete.

With regard to editorial complaints, two respondents raised the issue of the 30-day time limit around complaints relating to online material, suggesting that the complaints procedure contradicts the BBC’s own guidelines on *Removal of BBC Online content* – in that if the content is still on the BBC website the complaint should still be admissible.

A number of respondents raised the 1000 word count limit on complaints suggesting that this could be insufficient in relation to complex complaints.

There was also a suggestion that stricter response times should be imposed on the BBC as well as the complainant. Issue was taken with wording *the BBC aims to respond* (emphasis added).

The BBC’s response:

We have clarified in the regulatory procedure that where the BBC does extend a deadline, the complainant will be informed of that new deadline and will be entitled to treat that as the ‘BBC deadline’ for the purposes of their right to escalate a complaint to Ofcom.

As explained in our response to the *Role of Ofcom* above, we have clarified that regulatory complainants may be able to refer their complaint direct to Ofcom in ‘exceptional circumstances’ and that Ofcom will consider those on a case-by-case basis.

We have deleted the 1,000 word limit in the regulatory complaints procedure, as the detail around some regulatory complaints, we acknowledge, is difficult to state fully within 1,000 words.

For editorial and general complaints, we are satisfied that the character limit in the online form and word count limit for complaints in writing should remain as is. The framework does make clear that

⁷ www.bbc.co.uk/helpandfeedback/corrections_clarifications/

⁸ www.bbc.co.uk/complaints/complaint/

lengthier complaints will be considered in certain circumstances. This approach reduces the risk that multiple complaints are included in one submission. It should be noted that the overwhelming majority of complaints are well within the character limit of the webform.

In response to the issue raised about 30-day time limit for editorial complaints (especially in relation to online material), the BBC has reviewed the text and concluded that the current wording is sufficient as it states that complaints may be considered after that date if there is a particular reason for this. This should give assurance to licence fee payers that complaints about online material more than 30 days old will be dealt with appropriately. The wording also makes clear that first-party complaints of unfair treatment or infringement of privacy in online material can be submitted at any time.

On the BBC's response times, these are met in over 90% of complaints but we use the term *aim* as we recognise that in complex cases it may take longer to investigate a complaint and give a considered response. In such cases the complainant will receive a holding response.

Achievement against response times is normally published in the BBC's Annual Report and Accounts.

f) The evidentiary burden on complainants

Some respondents to the regulatory procedure questioned whether there would be too high a burden on complainants to provide evidence in their complaint of the BBC's conduct particularly with regard to potential harm to competition.

The BBC's response:

The requirement on complainants alleging a breach of a competition requirement to submit details of the markets affected by the BBC's alleged breach including evidence of actual or potential effect on competition or consumers in those markets is based on Ofcom's approach⁹.

The language of the framework has been amended to make it clear that this obligation, in cases where there is not yet an actual effect, will be met where they submit evidence of either potential or actual effects on competition.

g) Categorisation of complaints

One respondent was concerned that complainants may not always categorise complaints correctly (for example submitting a regulatory complaint as a general complaint) and sought clarification that the BBC would not dismiss such complaints on procedural grounds.

The BBC's response:

The framework has been amended to make clear that the BBC will look at the contents and substance of all complaints it receives and categorise them accordingly rather than seek to dismiss a complaint on procedural grounds if it has been inadvertently mislabelled.

⁹ See for example Ofcom's requirements of stakeholders in respect of BCRs at 4.3 of its Operating Framework - Procedures and Guidance for Assessing the impact of the BBC's public service activities

4. Further information

Ofcom have also consulted on their procedures for handling complaints about the BBC. These are as follows:

- a) Procedures for handling content standard complaints, investigations and sanctions for BBC programmes www.ofcom.org.uk/__data/assets/pdf_file/0030/99570/BBCprogrammes.pdf

- b) Procedures for enforcement of BBC competition requirements.
www.ofcom.org.uk/__data/assets/pdf_file/0010/102520/Procedures-for-enforcement-of-BBC-competition-requirements.pdf