



BBC COMPLAINTS FRAMEWORK AMENDMENTS 2020

**Consultation responses and the BBC's
conclusions**

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1. Purpose

The BBC held a consultation between 24 February and 3 April 2020 to seek feedback on a number of proposed amendments to the BBC's Complaints Framework and Procedures. The consultation concerned changes to both Editorial and General Complaints procedures contained in the Framework. This document summarises the responses we received and the BBC's decision.

2. Introduction

The BBC's current Complaints Framework was published in October 2017, following a public consultation. The Framework reflects the BBC's governance and regulatory arrangements established under the current BBC Royal Charter and Agreement. Under these arrangements, the BBC Board is responsible for oversight of the Complaints Framework and Procedures. The Framework covers five complaints procedures:

1. Editorial complaints (complaints about a particular item broadcast or published)
2. General complaints (covers complaints that fall outside of the categories listed)
3. Television licensing complaints (covering standards of customer service and also the legal framework within which the licence fee collection operates)
4. Complaints about party election, party political and referendum campaign broadcasts by the parties affected
5. Regulatory complaints (breach of competition requirements placed on the BBC by Ofcom to regulate the impact of the BBC's activities on competition or breach of any other relevant requirement¹ such as the conditions imposed on the BBC by the Operating Licence set by Ofcom)

In February 2020, the BBC opened a consultation on proposed changes to two of the complaints procedures - Editorial Complaints and General Complaints. These changes arose out of the BBC's examination of its handling of the BBC Breakfast complaint (17 July 2019) and the current complaints framework. The lessons from this exercise suggested changes to the Complaints Framework aimed at providing more transparency as well as other amendments to improve the complaints process.

The proposed changes also took into account Ofcom's Annual Report on the BBC (2018-19) and their assessment of the BBC Breakfast programme (17 July 2019). Whilst Ofcom considered the 'BBC First' Process² to be working well, they identified the need for greater transparency to ensure public confidence in the operation and effectiveness of the BBC's complaints procedures.

¹ Agreement, clause 59.

² The 'BBC First' process allows the BBC a chance to resolve complaints effectively and efficiently in the first instance, without the need for further escalation. However, if a complainant has completed the BBC's own process and remains unhappy with the BBC's final decision, they can refer the matter to Ofcom.

The BBC also used the consultation to update two other areas of the Complaints Framework to bring them in line with Ofcom's regulations in relation to On Demand Programme Services (ODPS) and Ofcom's guidelines for Fairness and Privacy complaints handling.

The BBC received nine consultation responses - four responses from stakeholder organisations, five responses from members of the public (four in writing, one by phone). Three of the stakeholder organisations that responded commented directly on the consultation. In addition, there were four submissions from other stakeholders who indicated that they would not be responding to the consultation or had no comment to make.

In line with the BBC's consultation policy, organisational responses to the consultation, where permission has been given, have been published. The BBC does not publish individual responses from members of the public.

The BBC has reviewed the responses received during the consultation and, taking those comments into account, the BBC Board has approved the revised [Complaints Framework](#) which is effective from the date of publication, 8 June 2020.

3. Consultation responses and the BBC's decisions

Set out below are the proposed changes, a summary of points raised by stakeholders and the BBC's response to these.

Proposed change: The BBC's Editorial Complaints Unit should publish a note of the action only in circumstances where a specific action has been taken and it is appropriate to do so.

The BBC proposed that the mandatory requirement to publish a note of the 'action taken' in all summaries of findings (i.e. upheld, partly upheld and resolved) should be ended and replaced with a general statement on the BBC complaints website about how the BBC learns from its mistakes and findings.

As a matter of course, relevant teams responsible for output will always discuss the matter and take appropriate action. The ECU findings should only refer to action when it is appropriate and relevant to do so e.g. where an apology has been given, a mistake has been corrected or an online article has been taken down.

Wireless Group remarked that whilst efforts to reassure the public when a specific action has been taken were to be welcomed, it was unclear how this particular change would give greater clarity to complainants.

Four respondents – the Voice of the Listener and Viewer, BBC Watch and two other respondents did not agree with the proposal. There were concerns that the use of the word ‘appropriate’ was too subjective. It was suggested that this could lead to less transparency and harm public confidence.

BBC Watch disagreed with the proposal stating that complainants should be informed directly of actions taken relating to their complaint. They also stated that a general statement on the BBC’s website about how ‘the BBC as an organisation learns from its mistakes and findings’ was insufficient, arguing that it would provide less detail on actions taken in relation to specific complaints.

The VLV stated that it believed that the mandatory requirement to publish a note of the ‘action taken’ in all summaries of findings (i.e. upheld, partly upheld and resolved) should remain in place.

BBC Response:

The BBC proposed this change to give greater clarity to complainants and the general public when a specific action has been taken in response to a complaint e.g. where an apology has been given, a mistake has been corrected or an online article has been taken down. The intention for making this change was to speed up the internal process where actions can take a long time to agree because they require discussion with the programme team before being disseminated.

However, we have taken note of the comments raised in response and as a consequence we will continue to publish action points for all upheld, partly upheld and resolved findings, as requested by VLV and others.

Proposed change: The timeframe for complaints about BBC iPlayer and BBC Sounds should be extended up to 30 working days after the item has been removed to reflect the longer availability of programmes on both platforms.

Under Ofcom’s rules, On Demand Programme Service (ODPS) providers are required to retain copies of programmes for at least 42 days after the programme ceases to be available. The BBC has made clear that whilst complainants should act promptly when becoming aware of material a complaint can be made within 30 working days of the material being taken down from BBC iPlayer or BBC Sounds. Complaints in relation to content on linear television or online should still be made within 30 working days of the date on which the content was broadcast or published.

All respondents that answered this question – BBC Watch, the VLV, Wireless Group and one other respondent - agreed to the proposed timeframe change.

BBC Watch made additional points, notably that the timeframe for complaints about content on BBC websites should be extended for as long as the material is available online; and that the BBC News website should have a dedicated corrections page.

BBC Response:

The amended timeframe has been adopted in full.

The BBC understands the importance of corrections and has a dedicated corrections and clarifications page which publishes the BBC's responses to editorial, technical and corporate issues. It includes apologies, significant corrections, statements and responses across all BBC outlets and platforms. If BBC News online makes a significant amendment to an article it is required to note it at the bottom of the page and, if it is the result of a finding, provide a link to it.

The BBC acknowledges there is an apparent anomaly in the timeline within which complaints can be made about online material and Ofcom's provisions for complaints about on-demand services, which the BBC's proposed amendment reflects. However, many programmes on BBC iPlayer and BBC sounds are promoted periodically after first being made available, for example by featuring on the homepage of a genre or channel. This can expose a programme to substantial new audiences, unlike online articles which generally are only prominent and relevant on BBC online for a few days at most.

Where content is unlikely to attract substantial new audiences sometime after initial publication, we continue to regard the 30 working day time limit as the appropriate time limit. However, in the case of iPlayer and Sounds we have chosen to follow Ofcom's provisions for on-demand programme services so that this period will commence when the material ceases to be available. In light of the comments submitted in response to the consultation, the BBC will keep this under review.

Proposed change: The ECU should be able to consider complaints at all stages of the process, including both Stage 1a and 1b?

The BBC proposed that the ECU should be given the power to assess whether a complaint has been adequately answered at Stage 1a and Stage 1b in respect of editorial matters. Where, in its judgement, there are parts of the complaint that have not been adequately dealt with, the ECU should ensure that these form part of its investigation and finding.

The 2017 Framework asks the complainant to specify when appealing to the ECU to "include the points raised at 1b that you want the ECU to reconsider". These are the points that form the main of basis of an ECU investigation. However, the proposed change would allow the ECU to consider a complaint at all stages of the complaints process rather than limiting itself to the ground of appeal. If it is evident that the complainant is satisfied that an issue has been dealt with, then the ECU should not reinvestigate.

All respondents to this question agreed to the proposed change. One respondent suggested that some additional wording should be added for clarity. "If it is evident that the complainant is satisfied that an issue has been dealt with, then the ECU should not reinvestigate."

BBC response:

The BBC Board has approved the proposed change to allow the ECU to assess whether a complaint has been adequately answered at Stage 1a and 1b. Furthermore, the suggested drafting change above that ‘the ECU should not reinvestigate’ will be included with one small amendment to make clear that ‘the ECU should not *normally* reinvestigate’ if the complainant is satisfied that an issue has been dealt with. This will allow for occasions where the complainant may be satisfied but the BBC is not, and therefore may want to reinvestigate matters.

Proposed change: Representations should only be invited on findings for first-party complaints?

The BBC proposed that we would no longer routinely invite representations on unpublished findings from complainants except in first-party complaints (i.e. complaints from the people directly affected) over unfair treatment or infringement of privacy. By that stage of the process we considered that only further input from those directly affected is likely to warrant further consideration by the ECU and impact the final outcome.

The BBC believes that limiting this further recourse to instances where the direct impact of the BBC’s output is at the heart of the complaint is proportionate and will speed up the complaints process, including by allowing earlier recourse to Ofcom’s complaints procedures.

The VLV agreed with the proposed change. Another respondent also agreed with the proposed change. They also suggested a drafting change that the procedure should also make clear that representations on unpublished findings from complainants would no longer be invited except in first-party complaints.

Wireless Group responded that the BBC should pass all first-party fairness or privacy complaints of any merit directly over to Ofcom to adjudicate, arguing that that there is a conflict of interest and the BBC is unlikely to find that they have treated someone unfairly or invaded their privacy.

BBC Watch disagreed with the change arguing that complainants should have the right to respond to ECU findings and any related decisions concerning action to be taken.

Both Wireless Group and the VLV however asked the BBC to make clear that in the procedure that complainants, if they are unsatisfied with the outcome, would be able to appeal to Ofcom. The VLV suggested the wording is retained from the 2017 version of the complaints framework.

BBC Response:

As set out in the original rationale, the BBC continues to believe that this change will help speed up the complaints process and allow earlier recourse to Ofcom's complaints process. The BBC Board has approved the change. Following the comments made by the VLV and Wireless Group, it has also reinstated the following wording:

The finding will include information about how to contact Ofcom if you wish to take your concerns further.

On the question of whether the BBC should pass all first-party privacy and fairness complaints directly to Ofcom, the 'BBC First' principle 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 subject to negotiation with the Government at the time of Charter renewal.

Proposed change: To publish a consolidated fortnightly report that includes all reasoned findings rather than only summaries of findings

Under the 2017 Framework, the ECU sends a complainant a draft finding in a letter and only a summary of their findings is published online. In line with a recommendation from Ofcom, the BBC proposed that the ECU publish a combined fortnightly complaints report which includes reasoned findings on all complaints where a breach of editorial standards has been acknowledged (i.e. upheld, partially upheld and resolved findings). It would also include not upheld findings when there are particular reasons for publishing them.

Both the VLV and Wireless Group agreed with this proposal. Wireless Group made the additional point that the report should be given a public profile and the general public should be able to subscribe to it.

BBC response:

The BBC Board has approved the proposed change. As set out in the consultation document, the BBC believes that the change addresses the point made by Ofcom about the need to provide greater transparency on the reasons for the ECU's decisions on compliance to the public.

A combined fortnightly report will replace the ad hoc publication of individual summaries and the change will ensure that there is no difference between the reasons given to the complainant for its decision and those published on the complaints website.

The BBC has no plans to have an email subscription for the fortnightly report. However all reports are linked to very clearly on the front page of the BBC Complaints website.

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

Proposed change: To bring the BBC's procedures in line with Ofcom's guidelines on handling Fairness and Privacy complaints

At present, if a complainant makes, or indicates an intention of making, a legal complaint against the BBC (including its employees and commercial subsidiaries) the BBC may decline to accept the complaint via the Complaints Framework or may otherwise stop handling the complaint.

We consider that this approach of not allowing editorial and legal complaints to be pursued simultaneously is appropriate but that the current wording which focusses on the complainant and not on the underlying issues is illogical and insufficient in order to achieve this end. Our proposal therefore extends the existing provision to cover cases where the subject-matter of the complaint is, or is likely to be, subject to legal proceedings initiated by parties other than the complainant. This in line with Ofcom's guidelines on the handling of Fairness and Privacy complaints which state that the matter(s) complained of must not be the subject of proceedings in a court of law in the UK or be more appropriately resolved by legal proceedings in the UK.

The VLV agreed with the proposed change stating that "that the approach of not allowing editorial and legal complaints to be pursued simultaneously is appropriate and that the current wording is illogical and insufficient in order to achieve this end".

BBC Watch disagreed arguing that unless a legal complaint has actually been made, the complaints process should proceed as normal. They argue that the phrase "or is likely to be" is both 'vague' and 'problematic' questioning who would determine this.

BBC Response:

The BBC Board has approved this change. The BBC believes that bringing these procedures into line with Ofcom's guidelines on handling Fairness and Privacy complaints which state that the matter(s) complained of must not be the subject of proceedings in a court of law in the UK or be more appropriately resolved by legal proceedings in the UK is the most appropriate and consistent approach and will aid transparency.

4. Further stakeholder comments:

There were a number of other issues raised by respondents that were outside the scope of this consultation.

Wireless Group and the National Federation of the Blind UK (NFBUK) and two other respondents called for a wider review of the BBC Complaints handling system. The comments from Wireless Group and the NFBUK were made in the context of the BBC's handling of complaints made by the organisation and/or its membership. Wireless Group

suggested that responsibility for BBC complaints should be given to Ofcom. Both Wireless Group and BBC Watch argue that the current system is too protracted.

As set out above, the BBC's complaints framework and the 'BBC First' principle is a requirement of the BBC Agreement⁴ 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 subject to negotiation with the Government at the time of Charter renewal. Ofcom, in their Second Annual Report on the BBC (2018/19) reported that they believed overall the BBC First system was generally working well.

BBC Watch, the NFBUK and one other respondent commented on the third-party handling of the BBC's complaints procedure at stages 1a and 1b. All were critical of the handling of complaints and the quality of responses given at these stages.

The BBC's use of template responses was raised by BBC Watch which they felt could fail to address points made by individual complainants. They also commented that response times to complaints had deteriorated at stages 1a and 1b, citing that in the past 12 months these stages have failed to meet required standards.

Generic responses to large numbers of complaints made on the same issue was introduced by an earlier review of the complaints framework to speed up response times. The BBC believes that this continues to be the most effective way of handling such complaints. Complainants who receive this type of response are notified that their complaint has been dealt with in this manner and why.

Response times have suffered in recent months after a spike in complaints. As required by Ofcom, the BBC publishes fortnightly totals of received complaints on its website. These figures make clear the unprecedented number of complaints received, particularly during the 2019 General Election period which are being addressed. More complaints were submitted to the BBC in the 6 months up to April 2020 than during the entire previous year 2018-19, which affected service performance. Response times are now returning to more normal levels.

The NFBUK also suggested that the BBC was failing to note and action issues raised through the complaints process. Their comments largely focused on complaints made to the BBC about the closure of the Red Button text service.

Colleagues working on the review of the Red Button text service have been liaising with the NFBUK to address their concerns and proactively arranging discussions with them and other interested parties to understand the implications of the closure of the service on specific user groups. This review has been suspended during the coronavirus crisis, which these groups have been made aware of.

The VLV requested better signposting and prominence of the complaints website both on the BBC Homepage and in the BBC's search engine results.

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

The BBC has improved signposting – “Contact the BBC” is on the bottom of every BBC webpage and it has consolidated the enquiries, comments and complaints services into one portal.

Another stakeholder organisation asked the BBC to consider the reporting mechanism for complaints and issues related to subtitles. The BBC is responding separately to this question.

Additionally, the NFBUK raised concerns about how blind and partially sighted people can participate in BBC consultations and questioned generally how the BBC raises awareness of consultations.

In common with many public bodies, the BBC publishes its consultations on its corporate website, we also directly engage with a wide range of stakeholders during the consultation period. The BBC does supply alternative formats of consultation documentation upon request.

5. Conclusion

The BBC Board would like to thank all respondents for the time and consideration they have given in making submissions to this consultation.

As a result of the feedback received, the BBC has made a number of drafting changes to the document taking on board comments made by respondents.

Those issues that were raised by respondents but that were not relevant to the Complaints Framework consultation will be brought to the Editorial Standards and Complaints Committee (ESCC) for further discussion.

We have published the revised Complaints Framework which is effective immediately from publication. The first fortnightly report under the revised Framework will be published on 26 June 2020.

ENDS.