



# **BBC COMPLAINTS FRAMEWORK**

**Consultation on amendments to the BBC's  
Complaints Framework and Procedures**

**February 2020**

**Consultation document and guidance for submissions**

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## 1. Purpose

The BBC has opened a consultation in order to seek feedback on amendments to its Complaints Framework and Procedures.

This document explains why we are consulting, what we are consulting on and how to respond. It should be read alongside the current published [Framework](#).

The consultation is open from **24 February** until **3 April 2020**.

## 2. Introduction

In October 2017, following a [public consultation](#), the BBC published a Complaints [Framework](#) for handling different types of complaints. The Framework reflects the governance and regulatory arrangements that came into effect in April 2017. Under these arrangements, the BBC Board has responsibility 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 requirement<sup>1</sup> such as the conditions imposed on the BBC by the Operating Licence set by Ofcom)

This consultation concerns proposed amendments to **two** of the Framework's procedures:

- **Editorial complaints**
- **General complaints**

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<sup>1</sup> Agreement, clause 59.

In accordance with the BBC Charter and Framework Agreement, we are required to consult Ofcom<sup>2</sup> and the public before making changes to or setting new procedures.

### 3. Background to the proposed changes

The BBC has examined its handling of the [BBC Breakfast](#) complaint (17 July 2019) and the current complaints process. The lessons from this exercise suggest changes to the Complaints Framework aimed at providing more transparency as well as some other amendments. A number of these recommendations require changes to the current Framework and are set out below.

[Ofcom's Annual Report on the BBC](#) and their [assessment](#) of the *BBC Breakfast* programme (17 July 2019) were published in October 2019. Whilst Ofcom considered the 'BBC First' Process<sup>3</sup> 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.

In particular, the report highlighted the need for the BBC to provide more transparency in the way it communicates and explains the decisions made by its Executive Complaints Unit<sup>4</sup> (ECU). As set out in the Complaints Framework, the ECU is responsible for assessing Editorial complaints at Stage 2 of the complaints process. Ofcom's findings closely align with the BBC's and the BBC has consulted with Ofcom on these changes prior to issuing the public consultation.

We are also using this consultation exercise 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.

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<sup>2</sup> Consultation with Ofcom is required only on those procedures that relate to complaints in the areas where Ofcom regulates the BBC.

<sup>3</sup> 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.

<sup>4</sup> The ECU is tasked with considering complaints impartially and independently of the interests of the programme makers/content providers.

## 4. Proposed changes

The proposed changes set out below are limited to the Editorial and General complaints procedures and should be read in conjunction with the current provisions of the [Framework](#).

### Introduction – page 4

We propose to insert the words ‘where appropriate’ in bullet 4 in paragraph 3:-

- *Where we agree that the BBC is at fault, we will say so and **where appropriate** take action to correct it.*

We are of the view 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.

We are of the view that this change will give greater clarity to complainants and the general public when specific action has been taken in response to a complaint.

### Question:

**Do you agree that the ECU should publish a note of the action only in circumstances where a specific action has been taken and it is appropriate to do so?**

### Stage 1a – What happens when I make a complaint?

#### Page 11 – Timing

We propose to insert the following sentence into paragraph 1 on the timing of complaints to reflect the greater availability of material on BBC iPlayer and BBC Sounds for a longer time period (up to 12 months).

*Complaints about BBC iPlayer and BBC Sounds should be made within 30 working days of the content ceasing to be available.*

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. With that in mind, we have 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.

**Question:**

**Do you agree that the timeframe for complaints about BBC iPlayer and BBC Sounds should be extended [up to 1 year and 30 working days] to reflect the longer availability of programmes on both platforms? If you do not agree with this proposal, what are your reasons for this view?**

**Stage 2 – The Executive Complaints Unit (ECU)**

**Page 15 – Investigations by the ECU**

We propose to insert the following sentence into paragraph 3 which sets out the basis on which the ECU will consider a complaint.

*The ECU may also investigate elements of the complaint which, in its judgement, have not been dealt with.*

We are of the view that the ECU should be given the power to assess whether the 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 current 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 will 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.

**Question:**

**Do you agree that the ECU should be able to consider complaints at all stages of the process, including both Stage 1a and 1b?**

We also propose to delete the paragraph:

*If the ECU proposes to find that the complaint has been upheld or resolved, it gives the people responsible for the content an opportunity to comment on its finding before finalising it and sending it to you. The finding will include information about how to contact Ofcom if you wish to take your concerns further. This will be the BBC's final response, unless the ECU modifies it as a result of any comments you make. If you wish to make comments on the finding, the ECU will consider them so long as they are received within 10 working days of the date on which the finding was sent to you. If you wish to comment but are unable to do so within that time limit, please give the ECU your reasons for requesting an extension.*

and insert the following paragraph into the section on Stage 2, 'Investigations by the ECU' below the existing paragraph "Having investigated your complaint, the BBC then decides whether there has been a breach of the BBC's editorial standards".

*The ECU's findings will normally be the BBC's final response to your complaint, except for first-party complaints of unfair treatment and infringement of privacy, where you will be invited to comment on the finding. In such cases, the ECU will consider your comments so long as they are received within 10 working days of the date on which the finding was sent to you. If you wish to comment but are unable to do so within that time limit, please give the ECU your reasons for requesting an extension.*

The effect is 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 consider that only further input from those directly affected is likely to warrant further consideration by the ECU and impact the final outcome.

We consider therefore 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.

**Question:**

**Do you agree that representations should only be invited on findings for first-party complaints? If you do not agree, please explain your view?**

## Page 16

Under the current Framework, the ECU sends a complainant a draft finding in a letter and only a summary of their findings are published online. In line with Ofcom's recommendation, we propose 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 will also include not upheld findings when there are particular reasons for publishing them.

We therefore propose to delete the following paragraph:

*When a complaint has been upheld or resolved, the ECU will publish a summary of the matter on the complaint pages of [bbc.co.uk](http://bbc.co.uk) (unless it is inappropriate to do so for reasons of privacy or confidentiality). In the case of upheld findings, it will include a note of the action taken as a result of the finding. The ECU will let you know when the summary has been published.*

and replace it with the following paragraph:

*The BBC will publish a fortnightly report which includes appropriately reasoned versions of upheld, partly upheld and resolved findings. There may also be occasions when it includes not upheld findings. Actions taken by the BBC management as a result of ECU findings will be published when relevant and appropriate. The BBC may withhold information for reasons of privacy or confidentiality, or which it is otherwise under a legal obligation not to disclose.*

We are of the view that the proposed change will address Ofcom's point about the need to provide greater transparency on the reasons for the ECU's decisions on compliance to the public. This will also ensure that there is no difference between the reasons given to the complainant for its decision and those published on the complaints website.

### **Question:**

**Do you agree with the proposal to publish one consolidated fortnightly report which includes all reasoned findings as opposed to only summaries of findings?**

## **Annex A page 44 - Complaints which fall outside the scope of the framework**

We propose to insert the following clause into the first paragraph under ‘*Complaints where there is recourse to the law.*’

*The BBC may likewise decline to accept, or cease consideration of, a complaint whose subject matter is, or appears likely to be, the subject of legal action by another party.*

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.

### **Question:**

**Do you agree with our proposal to bring the BBC’s procedures in line with Ofcom’s guidelines on handling Fairness and Privacy complaints?**

Additionally: The technology supporting the complaints process has changed and therefore some references and footnotes are now redundant. We will take the opportunity to either remove or update these in the revised Framework. Given they are not substantial or involve changes to the procedures themselves we are not proposing to consult on them.

## 5. How to respond

**The consultation is open from 24 February to 3 April 2020.**

If you would like to respond to this consultation, please email your response to [complaints.framework2020@bbc.co.uk](mailto:complaints.framework2020@bbc.co.uk) or write to BBC Corporate Affairs, Room 5045, BBC Broadcasting House, Portland Place, London W1A 1AA.

When submitting your response please read, complete and return with your submission the [confidentiality and data protection statement](#).

## 6. What happens next?

The BBC Board will, taking account the consultation responses we receive, consider whether further changes are required. Once agreed by the Board, the BBC will publish its revised Framework in Spring 2020.