

BBC Trust assessment processes **Guidance document**

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Introduction

Purpose of this guidance

The BBC Trust (“the Trust”) is the sovereign body of the BBC and represents the interests of licence fee payers. It is responsible for setting the overall strategic direction of the BBC, including its priorities, and for exercising general oversight of the work of the Executive Board (“the Executive”).¹ The Trust also issues service licences covering every UK Public Service of the BBC.

The Executive has responsibility for (among other things) delivering the BBC’s services in accordance with the priorities set by the Trust and for all aspects of operational management.

In line with these respective responsibilities, it is for the Executive to develop and from time to time modify the range of public services which it provides and the other activities it undertakes. However, in certain circumstances defined by the Charter and Agreement, proposals for such changes cannot proceed without the approval of the Trust. In some cases, the Trust cannot approve a change unless it has first performed a Public Value Test (“PVT”).

This guidance sets out the processes that the Trust will normally adopt when assessing proposals for change from the Executive. It is intended to provide clarity to licence fee payers, the Executive and stakeholders on the Trust’s approach when considering such proposals. It will be updated whenever new assessment processes are agreed by the Trust.

Activities covered by the guidance

This guidance covers the assessment process for both service and ‘non-service’ activities:

- **Services** (UK Public Services): all of the services provided by the BBC in promoting its public purposes. These include all of the BBC television and radio channels broadcast in the UK and the BBC’s online services. Details of the scope and remit of each service are outlined in separate service licences issued by the Trust.²
- **Non-services**: those activities which do not have the characteristics of a service and are not directly covered by service licences but are still relevant to the delivery of the BBC’s public purposes.³

The guidance does not apply to any services or activities which are:

- Commercial Services
- activities that are part of the BBC World Service or otherwise aimed primarily at users outside the UK, or are part of BBC Monitoring

¹ The Trust is supported by the Trust Unit in this task. The Trust Unit is a separate team responsible for supporting and assisting the Trust and is administratively separate from the rest of the BBC’s organisation. The Trust Unit also assists the Trust in the administration of the PVT process.

² A full list of the BBC’s UK Public Services and Service Licences can be found at: www.bbc.co.uk/bbctrust/our_work/service_reviews/index.shtml

³ Agreement clause 22 provides further details on the BBC’s non-service activities.

Where relevant, these matters are considered under separate processes, details of which can be found at www.bbc.co.uk/bbctrust/.

Processes covered by this guidance

The BBC Agreement⁴ recognises that the BBC should be able to make changes to its UK Public Services and to non-service activities, for example, to respond to changes in technology, culture, market conditions or public expectations. References to changes include starting new services (or non-service activities) or modifying or closing existing ones. However, any significant proposal for change must be subject to full and public scrutiny.

One function of the Trust is to conduct such scrutiny, and when the Executive proposes changes to the BBC's UK Public Services or non-service activities, and those changes are "significant",⁵ the Trust will subject them to a Public Value Test. A PVT involves two key assessments:

- A Public Value Assessment ('PVA'), which assesses the likely public value of the proposal, for which the Trust is responsible
- A Market Impact Assessment ('MIA'), which assesses the extent of any likely impact on markets relevant to the proposed change, for which Ofcom is responsible

The Trust will consider the outcome of the PVA and MIA, both of which will be published, and reach its provisional conclusions regarding the proposed change. The Trust will consult on its provisional conclusions before reaching a final decision. The Trust must be satisfied that any likely adverse impact on the market is justified by the likely public value of the change before approving the proposed change.

In addition, a proposed change may call for an amendment to the relevant service licence, whether or not the change is "significant". In that case, the proposal, and the proposed amendment, will need to be considered by the Trust: only the Trust can amend a service licence.

The nature of non-service activities varies; some may have an audience focus and a high degree of relevance to the BBC's public purposes. As with services, the Executive may from time to time propose significant changes to non-service activities (including commencing new ones). The Trust considers that a PVT should be applied to any proposal from the Executive that the Trust deems to be significant, regardless of whether it is classified as a service or a non-service. Thus, whether a proposal relates to a UK Public Service or to a non-service activity, the Trust will first determine whether or not what is proposed is a significant change, and, if it is, will apply a PVT to it.

Note, however, that it is always open to the Trust to decide that a change should not go ahead on grounds other than that a PVT is required first. An example of such a case is where the proposed activity does not fit with the high-level strategies set by the Trust.

Note, too, that where any matter requires Trust approval, the Trust will also look at other issues related to its supervisory functions. This includes ensuring that the proposals

⁴ Clause 25.

⁵ As defined in Clause 25 of the Agreement.

comply with the Competitive Impact Principle⁶ and are compatible with its Fair Trading policies including competition and State aid law.

Proposals that must be referred to the Trust

The Executive Board must seek approval from the Trust for any proposal which in the view of the Executive Board:

- requires an amendment to a service licence
- introduces a change to the BBC's UK Public Services which is potentially significant (which could include starting a new service), or
- introduces a potentially significant new non-service activity or proposes a potentially significant change to an existing one

In some cases an individual proposed change may not in itself be significant. However, the cumulative effect of a series of changes over time could result in a significant change. In considering any proposed changes to services or other activities the Executive must take into account other previous amendments in considering whether the proposal is potentially significant in the context of notifying the Trust.

In general, the Trust will only consider proposals which have been formally submitted to it for approval by the Executive. However, the Trust may at its discretion also require the Executive to provide information on a change which had not previously been referred. Under the Agreement, it is for the Trust to decide whether a change is in fact significant, or whether an amendment is required to a service licence.

The substantive tests used to determine whether or not a change is "significant" are explained in the next section.

Format of the guidance

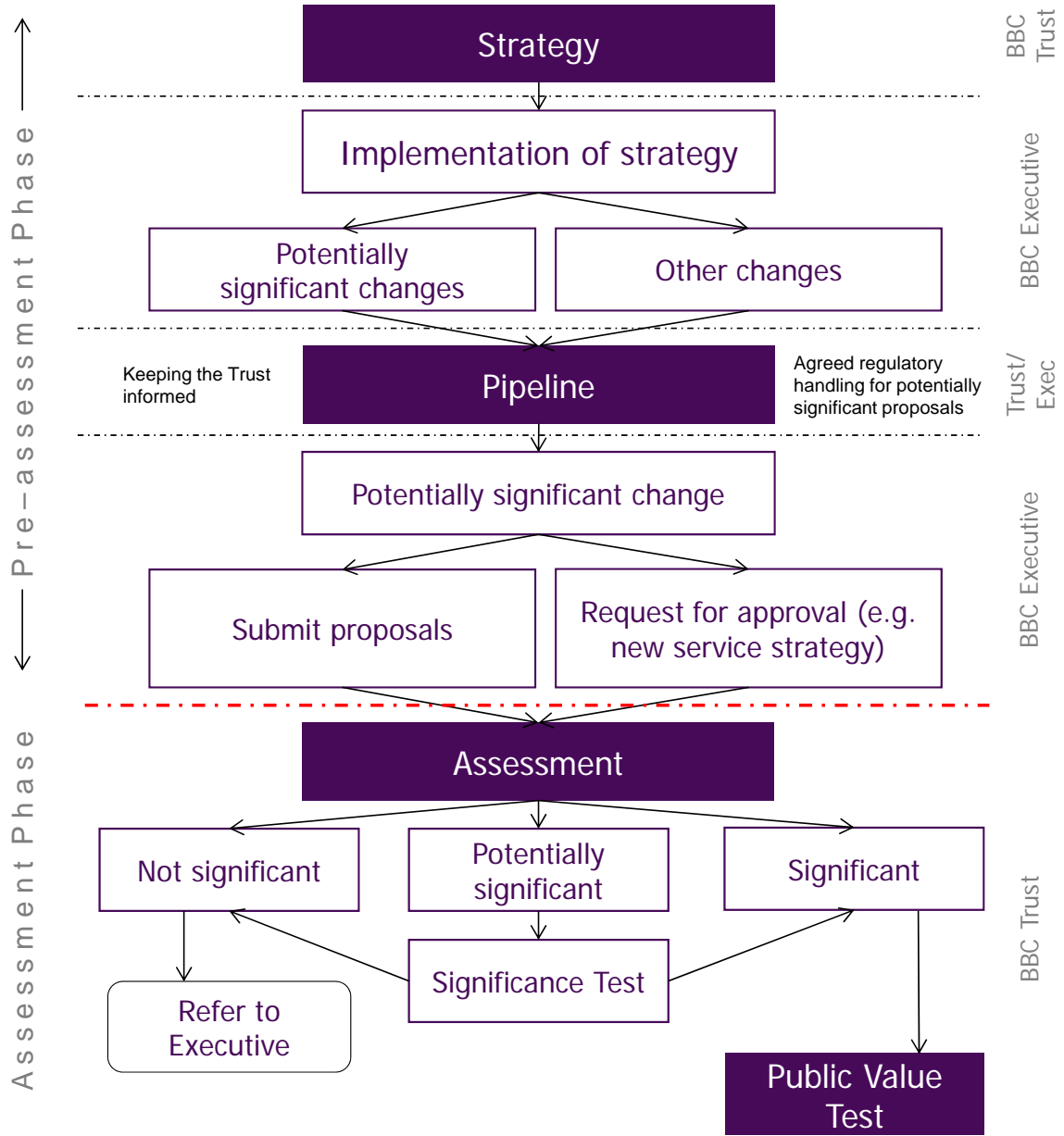
The remainder of the guidance outlines the assessment process and its two separate phases of activity:

- **Part 1: pre-assessment phase:** this stage refers to the development of proposals by the Executive and their formal submission to the Trust for approval
- **Part 2: assessment phase:** this stage refers to the conduct of the approvals process following a decision by the Trust to apply a PVT

Figure 1 below sets out the key stages in the assessment process covered by this guidance:

⁶ The Trust's Competitive Impact Principle requires the BBC to minimise its competitive impact on others whilst ensuring the fulfilment of its Public Purposes and other obligations as set out in the Charter and Agreement

Figure 1: key stages in the assessment process



Pre-Trust assessment

This section sets out the framework within which proposals to change the BBC's UK Public Services or non-service activities are developed and submitted to the Trust for consideration.

Development of proposals

Under the Charter, the Trust has the function of setting the overall strategic direction of the BBC and approving high-level strategy in respect of its services and activities, and exercising general supervision of the Executive. The Executive has responsibility for implementing those strategies and delivering the BBC's services in accordance with the priorities set by the Trust. The Executive is responsible for authorising changes to BBC services and activities, and for referring those it considers to be potentially significant to the Trust for approval.

In line with its general duty to maintain oversight of the BBC's activities, the Trust may ask the Executive for updates on proposals as they are developed (whether or not these are potentially significant or otherwise require Trust approval). In general, the Trust would expect the Executive to notify it of any proposals which might attract public interest or which may, in due course, require Trust scrutiny. The standard mechanism for updating the Trust about such proposals is the regular 'pipeline' meetings between Executive and Trust Unit staff in which the proposed regulatory handling for potentially significant proposals will be agreed.

The Executive may alternatively prepare update papers providing an outline of proposals (which may include, for example, a proposed new plan for implementing the BBC's strategy or a change to existing strategy for a service or collection of services) and submit these to the appropriate Trust committees for noting or other consideration in advance of a formal submission. As with the regular pipeline meetings, the Trust or Trust Unit staff may offer guidance to the Executive at this early stage on, for example, the strategic fit, likely significance and potential regulatory implications of proposals. While the Trust cannot provide a formal opinion until it has received a full submission from the Executive (authorised by the Executive Board), it may express a view on any aspect of the proposals at any stage of development, for consideration by the Executive.

Submission of proposals to the Trust

For planning purposes the Trust should be kept updated on the progress of all proposals which the Executive considers to be potentially significant.

If the Executive does not consider a proposal to be potentially significant, it may use its own internal approvals processes, without recourse to the Trust. If, however, the Executive wishes to pursue a potentially significant proposal, it should prepare a formal application to the Trust, accompanied by supporting evidence, setting out a detailed description of the proposed change, its likely scale, impact and budget. The remainder of this guidance therefore relates mainly to proposals which the Executive has concluded are potentially significant.

Preparing supporting evidence

Prior to submitting a formal application to the Trust, the Executive will provide to the Trust Unit a service proposal and draft research terms of reference, as follows.

- **Service proposal**, providing an outline of the proposal which should include:
 - A summary of the new service or proposed change, including its aims, objectives and potential scale
 - A brief outline of the strategic rationale for the proposal
 - Supporting evidence for the proposal – for example, an assessment of any audience engagement activity that has been conducted
 - An assessment of significance of the proposal
 - An indicative timetable
- **Research terms of reference**, outlining the research that will be (or has been) undertaken in support of a proposal. This should provide details on:
 - The primary and secondary research (including pilots or trials) that will be used to evaluate public value and market impact
 - Existing BBC or external services against which the proposal will be benchmarked (while direct comparisons may not always be possible, high level comparisons should be provided where possible).

The Trust Unit will then work with the Executive to finalise the research terms of reference and ensure sufficient evidence is provided with the formal application.

At this stage, the Executive may also wish to provide the Trust with an update paper, containing both the service proposal and research terms of reference for noting and/or discussion.

Any pilots or trials undertaken in support of an application must comply with the terms of the Trust's Protocol C1 (UK Public Services and Non-service activities) which sets out the handling of public service pilots and trials at section D. It is possible that proposals may evolve in light of responses to trials and pilots or evidence gathered. In any event the Executive is responsible for securing the Trust's approval for any pilots or trials that may result in an application for a new service or non-service activity, or an amendment to an existing one.⁷

Formal applications

If after gathering sufficient evidence the Executive wishes to proceed with its proposals, a formal application must be made to the Trust, which must include a detailed description of the proposed change, its likely scale, impact and budget and service licence implications. This should be accompanied by detailed evidence in support of the proposal, including the Executive's own assessment of whether the proposal in its view is potentially significant.

⁷ BBC Trust Protocol C1 section D at:

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2012/c1_ulk_public.pdf

The Trust Unit will work with the Executive to prepare an agreed description of the proposal. This will serve as the basis for any subsequent assessment by the Trust. Features not explicitly covered in the agreed description will not be considered for approval. A finalised description of the proposals is then submitted along with the full application to the Trust.

Consideration of an application

Significance tests

The requirement to apply the PVT relates only to proposals which the Trust decides are significant. Trust approval is not therefore required for minor changes or routine operational decisions by the Executive. The previous section explained that it is the responsibility of the Executive to refer to the Trust for consideration any proposed changes that are potentially significant, and to keep the Trust appropriately informed of any other planned activities through the pipeline meeting.

Whether any proposal for change meets the criterion of significance is a matter of judgment for the Trust. In exercising that judgment, the Trust must have regard to the following considerations, as set out in Clause 25 of the Agreement:

- **Impact:** the extent to which the change is likely to affect relevant users and others. This should normally include an assessment of the likely scale of impact on users of the proposed change, other BBC services and market participants. This assessment is not designed to be a formal market impact exercise or to assess market impacts in detail
- **Financial implications:** the incremental costs associated with the proposed change. In general, any planned or actual change in annual expenditure of more than 10% in real value of the annual budget contained in a Service Licence requires approval from the Trust
- **Novelty:** the extent to which the change would involve the BBC in a new area of activity for the BBC, as yet untested
- **Duration:** how long the activity will last. In some cases a proposal may be considered to be permanent in nature

Depending on the circumstances, when the Executive submits a proposal to the Trust for consideration, the Trust may either review the analysis of significance that the Executive has provided, and the evidence relied on, and (if satisfied) adopt it; or carry out its own analysis. Whenever the Trust performs a significance test itself, it will invite Ofcom⁸ to provide its view of the potential impact on others of the proposal. These arrangements are set out in an Addition to the Memorandum of Understanding between the BBC Trust and Ofcom⁹.

⁸ Ofcom is the regulator for the UK communications industries

⁹ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/mou_addition_dec2011.pdf

Proposals for the introduction of a new service are subject to a procedural veto by the Secretary of State for Culture, Media and Sport, as set out in Clause 33 of the Agreement. This requires the Trust to inform the Secretary of State for Culture, Media and Sport whenever it begins an assessment of a proposal from the Executive to introduce a new service.¹⁰

The Agreement also requires the Trust to presume that any change that requires a new service licence, or any amendment to the key characteristics of an existing service licence, ought to be subject to a PVT.¹¹ The Trust will also apply such a presumption in the case of any proposed change to a non-service that would (if implemented) require a change to the terms on which the non-service was originally approved. Where this presumption applies, the Trust may still decide that there is no need for a PVT, but in such cases, the onus is on the Trust to justify departing from this presumption.

For example, the Trust may be satisfied that changes in circumstances since the issue of a service licence mean that a particular change to one or more of its key characteristics would not amount to a significant change, contrary to the presumption that a PVT should be applied.

Before exercising its judgment, the Trust must investigate or otherwise inform itself of any facts or considerations which it considers potentially relevant to the exercise of that judgment. What this means in practice will vary according to the circumstances. Sometimes, for example, the proposed change may be so manifestly significant that the Trust will not need to look beyond the nature of the proposed change itself before concluding that it would be a significant change. In other cases, which are less clear cut, the Trust may feel it appropriate to investigate more thoroughly competing arguments for and against the application of the PVT. As a general rule the Trust would not seek external representations at this stage.

Having considered all relevant factors, the Trust may, however, determine that a specific proposal is not significant and therefore does not require a PVT or other detailed assessment process. In cases where the Trust decides not to launch a PVT but where a new service licence is to be issued, it will formally notify the Secretary of State of its decision and the steps taken to reach that decision in order that the Secretary of State can decide whether or not to apply the procedural veto. In all other cases the Trust may refer the proposed change back to the Executive to pursue.

In the event that the Trust determines that a PVT should be applied, it will publicly announce the launch of the process and commence the assessment. The process for undertaking a PVT is set out below.

Consideration of activities not formally notified to the Trust

In general the Trust would only expect to consider proposals where an application has been submitted by the Executive Board. In certain circumstances, however, it reserves the right to review a proposal or change which was assessed by the Executive as not

¹⁰ The 'introduction of a new service' for the purposes of the Secretary of State's procedural veto means anything which the Trust proposes to authorise by a new service licence rather than the amendment of an existing licence (Clause 33(4) Framework Agreement) and does not apply to non-service activities. More detail about the arrangements regarding the procedural veto [can be found here](#).

¹¹ If a change to a service or non-service activity is approved following the PVT, the terms of the approval will be contained within the relevant service licence(s) or non-service approval.

potentially significant or not formally submitted to the Trust for consideration, but which the Trust considers could be potentially significant.

The decision to review a proposal or activity in this way is a matter of judgement for the Trust. The Trust could decide to formally review a proposal (or part thereof) at any stage in its development by the Executive, including as part of the Trust's periodic service or strategy reviews. It may also choose to review a proposal that was not formally submitted to the Trust for approval prior to being implemented. Such a review could also be prompted by a third party concerned about a new or changed BBC activity.

Having decided to review a proposal the Trust will normally ask the Executive to submit details of the change. These will be used to establish significance, using the significance test criteria set out above. During this process, the Trust may require the Executive to suspend or delay the launch of any services or activities pending the outcome of its review.

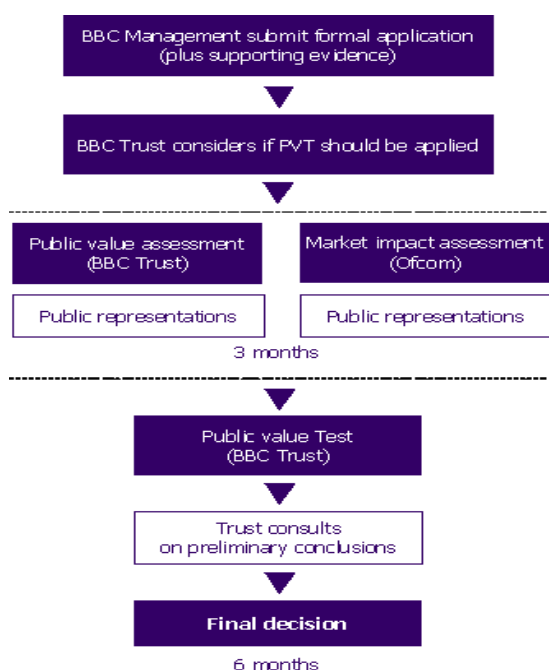
The Public Value Test

This section provides guidance and clarification on the PVT process. In certain circumstances the Trust may decide to modify the application of aspects of this guidance, where not specifically required by the Charter and Agreement.¹²

Summary of PVT process

The section that follows sets out the detailed process that will normally be followed when undertaking a PVT. This process is summarised in figure 2 below:

Figure 2: *summary of PVT process*



¹² In such cases the Trust will explain the steps taken.

Launching a PVT

Where the Trust determines that a proposal is significant and that a PVT should be applied, it will publicly announce the launch of the process and inform the Joint Steering Group (JSG)¹³ of the need for an MIA. At launch, the Trust will aim to publish as much relevant information about the proposal as possible, including the application from the Executive and the agreed activity or service description. It will also inform the Secretary of State for Culture, Media and Sport whenever the Trust applies a PVT to a proposal for the introduction of a new service.

In some cases it may be necessary to make redactions before publishing this information, for example if the application includes information which may be commercially sensitive to the BBC, third parties or suppliers; includes a level of cost detail beyond that normally published by the BBC; or could have an impact on wider policy considerations. The Trust will aim to keep such redactions to a minimum.

At the start of the PVT process the Trust will outline the proposed timetable for completion of the process which must normally be completed within six months. Where necessary, this timetable may be revised during the PVT process. In some cases the Trust, following discussions with Ofcom with respect to the MIA, may agree that it is appropriate to conduct the PVT process in a shorter period of time.

At its discretion, where justified by the circumstances, the Trust may also allow a longer period than six months for the completion of the PVT. Likewise, the JSG, where justified by the circumstances, may allow for a longer period than three months within which to complete the MIA. Possible amendments to the required timetable or process are discussed in the following sections, and the Trust will endeavour to set these out at the start of the PVT process.

In determining the outcome of a PVT, the Trust will take account of both the PVA and MIA. These assessments are considered in the following sections and are normally conducted in parallel during the PVT process.

The Public Value Assessment

The Public Value Assessment provides an assessment of the likely public value that will be created by the proposed change. The PVA is produced by the Trust Unit and adopted by the Trust, and normally commences at the start of the PVT process.

During the PVA process appropriate public consultation will be carried out to help the Trust assess the aspects of public value that are relevant to the proposal. Consultation will normally involve seeking representations on the proposal from licence fee payers, stakeholders, and any particular groups for whom the subject of the proposals may warrant specific input. The Trust is also required to consult with its regional audience councils during the PVT process.¹⁴

¹³ The Agreement (clause 29) requires the JSG to be established by Ofcom and the Trust to carry out certain functions in relation to the conduct of Market Impact Assessments.

¹⁴ Information on the Trust's Audience Councils is available at www.bbc.co.uk/bbctrust/about/audience_councils/audience_councils.shtml

Representations will normally be sought for a period of 28 days. This period may be longer or shorter taking into account matters such as the nature and complexity of the relevant proposals and the need for adequate consultation. The Trust will also consider, in relation to the proposals, whether it should undertake research of its own and/or obtain external expert or professional input. A summary analysis of all inputs received from the consultation will normally be published.

One specific consideration that will be covered by the PVA will be how, and to what extent, the proposals, if implemented, will properly reflect the diversity of the BBC's audience and, in particular, whether the proposals will duly serve particular parts of that audience. This is part of the BBC's Public Purposes, in particular, the obligation on the BBC to represent "the UK, its nations, regions and communities".¹⁵ The BBC's commitment to diversity and equality is set out in the BBC's Diversity Strategy, which was approved by the Trust in 2011.¹⁶ The Strategy may be relevant to the Trust's consideration of the proposals. The Trust must also comply with the general law in this area, including (in respect of some of its functions¹⁷) the public sector equality duty contained in section 149 of the Equality Act 2010. This duty requires the Trust to:

"have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under [the 2010 Act];*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic¹⁸ and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it."*

To perform this duty the Trust will gather and analyse relevant evidence concerning the potential impact of the proposals under consideration upon (in particular) persons with particular protected characteristics, and that analysis will be one of the factors taken into consideration when the Trust reaches its final decision.

The PVA will normally be completed within 12 weeks. However, as noted above, it can be conducted within a shorter or longer period. The Trust will consider such matters as the nature and complexity of the proposals in deciding whether a different timescale is appropriate for the completion of the PVA.

The Trust and Ofcom will aim to publish the final PVA and MIA simultaneously. An advance draft copy of the reports will be shared in confidence with the Executive for fact checking one working day in advance of publication.

¹⁵ Charter, article 4(d).

¹⁶ <http://www.bbc.co.uk/diversity/strategy/documents.html>

¹⁷ For the BBC, the Public Sector Equality Duty does not apply "in respect of functions relating to the provision of a content service". A "content service" is a very broad concept: it covers any content service of the BBC – TV, radio or online.

¹⁸ The "protected characteristics" are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Methodology for the PVA

The BBC's main objective is the promotion of its Public Purposes. The PVA should therefore consider the value which the proposed change would deliver through its contribution to the BBC's Public Purposes. These are presented below in Fig 3:

Figure 3: the *BBC's public purposes, as laid down in the Charter*



In considering the public purposes, the Trust will also assess the proposal in terms of the BBC's wider strategy, including the expectations of licence fee payers and external market developments.

At the outset of each PVA the Trust will consider carefully the aspects of public value which may be relevant to the assessment of the proposal and how those aspects should be explored and evaluated. In general terms, a PVA should include an assessment of:

- The value which the proposed change would deliver to society as a whole through its contribution to the delivery of the BBC's Public Purposes
- The value which licence fee payers would place on the proposed change as individuals
- The value for money of the proposed change and its cost (including the potential financial implications if the proposed change were not to be made)

More specifically, the extent to which a proposed change promotes the Public Purposes and creates public value will usually be assessed with reference to certain key drivers of public value. However, depending on the proposal the Trust may decide to consider other factors if this is more appropriate. An explanation of the steps taken will be provided in the PVA. The four drivers of public value that the Trust will usually consider are outlined below.

Figure 4: *the drivers of public value*



- **Quality** is the proposal high quality and distinctive?
- **Reach** how far will the proposal extend BBC usage and reach?
- **Impact** what are the benefits of the proposals to consumers, citizens and society as a whole?
- **Value for Money** is the proposal an effective use of public money?

The exact definition of each of the drivers of public value will be determined in the PVA and may vary depending on the nature of the proposals. The following however provides a broad guide to the drivers that may be used in the PVA.

Quality and Distinctiveness

The PVA may consider the likely quality outputs of the proposal. This may include the quality of any content to be supplied by the service or the potential impact on quality measures. The PVA will also consider the extent to which the proposal is distinctive from other existing or proposed services. Distinctiveness may be particularly difficult to assess in nascent markets, however, the PVA would need to consider what features could make a proposal distinctive in such markets.

Reach

Reach assesses the projected usage of the service over a given period of time (for example, the number or percentage of adults who would use the service at least once in an average week). Taking into account its duties under the Charter and Agreement and the particular proposal under consideration, the Trust may in some cases wish to focus on a particular consideration of reach, for instance reach by specific audiences and regions or programme genres.

Impact

The impact of a proposal can consist of two components which may be considered separately:

- a) Consumer benefit – this refers to the benefit that an individual user would directly gain from using the proposed service, for example, whether individuals find a proposed new service enriching or challenging. This would also include an assessment of the value which licence fee payers would place on the proposed change as individuals.
- b) Citizen benefits – this refers to benefits which the proposal may create for society as a whole, for example, whether a service might foster a better functioning democracy or understanding and respect between different communities

Cost and Value for Money

This driver assesses the value for money of the proposed change and the cost to the BBC of the proposals (including the potential financial position if the proposed changes were not made). This may involve consideration of the relative efficiency of delivering the proposed change, for instance through comparison with similar services where possible.

Overall Assessment

The PVA will consider the relative strength with which the proposed change supports the relevant drivers of public value and the cost of delivering that value. The outcome will take account of all the factors, although consideration may also be given to isolating those factors which specifically drive the Public Purposes for the proposal in hand.

The PVA may also consider any conditions which would alter the public value of the proposals. Finally, the assessment may also take account of alternative methods of delivering the stated aims of the proposal. However, this would be unlikely to involve an assessment of any alternative options in detail.

Sources of evidence

The Trust will always include appropriate public consultation in exploring and evaluating public value. It may draw on a range of other evidence during the PVA. This includes, but is not limited to:

- Forecasts of demand
- Results from trials or pilots
- Qualitative and quantitative studies including consumer research and deliberative juries
- Internal and external market analysis
- Independent expert advice
- Evidence of impact on particular parts of the audience, and the analysis of such impact (especially as regards, where applicable, compliance with the public sector equality duty).

The Trust will assess the evidence submitted by the Executive and may question the Executive further where necessary. If required, the Trust may also commission additional research.

Coordination with Ofcom

The Trust will liaise with Ofcom throughout the PVA process. Information will be shared between both parties, except where submitted in confidence or where otherwise overtly commercially sensitive, as set out in the JSG constitution.

The Trust and Ofcom will ensure that the PVA and MIA provide a consistent basis on which the Trust can assess the proposal. However, the PVA and MIA perform different roles and the Trust's conclusions on the PVA will be developed independently and without the input of Ofcom, and vice-versa.

The Market Impact Assessment (MIA)

The MIA assesses the effect of the proposed service or activity on the wider market, both now and in the future. The MIA is provided by Ofcom and overseen by the Joint Steering Group (JSG), which consists of three members from Ofcom and three from the Trust. The JSG is responsible for:

- Setting and publishing terms of reference for the MIA
- Agreeing the potential relevant markets for the assessment after considering advice from Ofcom. Where there are a number of potential markets identified by the JSG, the MIA will report on each potential market in the absence of agreement to do otherwise
- Ensuring that the MIA is conducted in a manner appropriate to the nature of the PVT and to a suitable schedule

The JSG will also establish a timetable for completion of the MIA. The MIA process itself begins with the publication of the terms of reference for the MIA and a public consultation. The MIA must be completed within three months, although the JSG, where justified by the circumstances, may allow a longer period. The JSG may also determine that a shorter timetable is appropriate for a particular assessment as set out below. Changes to the MIA timetable part way through an assessment will be announced publicly.

The MIA will be undertaken in accordance with the methodology agreed between Ofcom and the Trust¹⁹. In certain circumstances the JSG may decide to adopt a simplified approach to the MIA, in which case it may be possible to complete the MIA in less than three months. Before deciding on a simplified approach, the JSG will take into account the results of a short public consultation carried out by Ofcom. While the provision of the MIA will be overseen by the Trust, the substantive findings of the assessment remain a matter for the judgment of Ofcom. The final MIA report will be published by Ofcom. The Trust and Ofcom will aim to publish the MIA and PVA at the same time, and in any event at least one week before the provisional PVT findings are published by the Trust.

Conclusion of a PVT

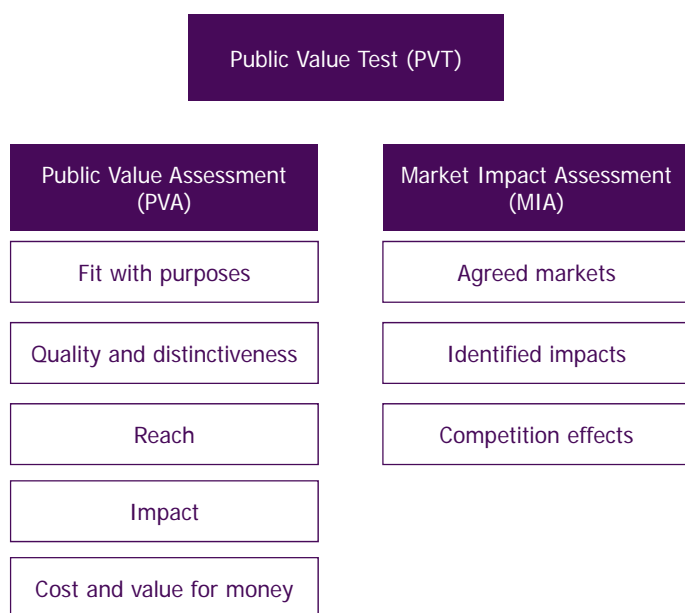
The Trust will consider the final PVA and MIA reports. In deciding whether to grant approval for the proposal, the Trust must satisfy itself that any likely adverse impact on the market is justified by the likely public value to be created. In arriving at its decision, the Trust will also take into account whether any approval would be consistent with the Trust's duties under the Charter and Agreement and competition law (including state aid law)²⁰.

The broad considerations the Trust will generally take into account in the PVT are outlined in figure 5 below.

¹⁹ This is published at <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/bbc-mias/bbc-mia-meth.pdf>

²⁰ The Trust will satisfy itself in this regard on the basis of advice received. Ofcom has no responsibility for providing the Trust with advice on compliance with competition law, either as part of the Market Impact Assessment or otherwise

Figure 5: PVT considerations



In assessing the proposal the Trust may also consider whether any possible amendments to the proposal could increase the public value created or reduce the impact on the wider market. Having considered the PVA and MIA the Trust will draw provisional conclusions on the proposed change.

At least one week after the publication of the PVA and MIA reports, the Trust will publish its provisional conclusions. The Trust will also publish any proposed amendments to service licences or non-service approvals if required by the proposal. Where the proposal requires a new service licence or non-service approval, the Trust will publish this for consultation, at the same time or shortly afterwards. The amended or new service licence or non-service approval will only come into effect when and if final approval is given by the Trust.

The Trust will publicly consult on its provisional conclusions, normally for a period of 28 days. The Trust may, however, consider holding a longer or shorter consultation period, depending on matters such as the nature and complexity of the proposal and the volume of information published at this stage of the process. The Trust will consider and take account of responses received during the consultation before making its final decision.

Following the consultation and having taken account of the responses, the Trust will publish its final decision. Depending on the view reached, the Trust can:

- Approve a proposed change
- Approve a proposed change with conditions
- Reject a proposed change

Similar outcomes are available to the Trust in the case of changes involving non-service activities that have been the subject of a PVT.

The Trust will publish its final decision and at least a summary analysis of all inputs received in connection with the public consultation. It will also publish any amendments to service licences, or new service licences if required, reflecting the Trust's decision and

which were consulted on as part of the PVT process. The final decision will be shared in confidence with the BBC Executive one working day in advance of publication.

The Trust's decision is the last stage in the PVT process and the Trust's decision in relation to the PVT is final.

As noted above, proposals for the introduction of a new service are also subject to a procedural veto by the Secretary of State for Culture, Media and Sport, as set out in Clause 33 of the Agreement.²¹ Once the PVT process has concluded it will formally notify the Secretary of State of its decision and the steps taken to reach that decision in order that the Secretary of State may consider whether or not to apply the veto in a particular case.

²¹ The 'introduction of a new service' for the purposes of the Secretary of State's procedural veto means anything which the Trust proposes to authorise by a new service licence rather than the amendment of an existing licence (Clause 33(4) Framework Agreement) and does not apply to non-service activities. More detail about the arrangements regarding the procedural veto can be found here: [link to exchange of letters].

Ongoing monitoring

Once launched, all BBC activities must comply with relevant regulatory and legal requirements, including the terms of the relevant service licence or non-service approval, and any conditions imposed thereon. The Trust has also put in place a range of regulatory frameworks, including, but not limited to, the following:

- Editorial guidelines
- Statement of policy on fair trading
- Syndication policy

Parties who believe that specific BBC activities are in breach with any of these requirements may complain to the BBC through the relevant complaints processes. In general, complaints are considered by the BBC Executive in the first instance. The Trust may then consider complaints on appeal. Details of the Trust's complaints and appeals processes can be found at:

http://www.bbc.co.uk/bbctrust/contact_us/making_a_complaint.html

Application of the PVT to launched services

The Trust can decide to apply a PVT to any significant change to a UK public service that was not formally notified to the Trust before the change was made. These are expected to be highly exceptional circumstances and the Trust may consider it appropriate to suspend the service pending completion of the PVT.

Service Reviews

The Trust also undertakes a detailed review of each BBC service at least once every five years. This includes public consultation on the performance of the service. Details of the Trust's service reviews can be found at:

http://www.bbc.co.uk/bbctrust/our_work/services/

Strategic Reviews

Under the BBC's Royal Charter it is the responsibility of the BBC Trust to set the overall strategy for the BBC and to determine how the BBC can best fulfil its Public Purposes that as set down in the Charter. Periodically, the Trust will review the overall strategic direction of the BBC to ensure its activities continue in alignment with the BBC's Public Purposes in light of changes in the environment in which the BBC operates.

http://www.bbc.co.uk/bbctrust/our_work/strategy/

Value for Money Reviews

One of the Trust's key responsibilities is to make sure that every pound of the licence fee works as hard as possible. One of the ways we do this is through a programme of in-depth value for money reviews carried out by the National Audit Office and other

independent experts. We always publish these reports and explain how we plan to respond to the recommendations made. You can find the reports using the link below.

http://www.bbc.co.uk/bbctrust/our_work/value_for_money/