

Complaints and Appeals Board Findings Appeals to the Trust considered by the Complaints and Appeals Board

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Remit of the Complaints and Appeals Board

The Complaints and Appeals Board (CAB) is responsible for hearing appeals on complaints made under all complaints procedures, as set out in the BBC Complaints Framework, other than editorial complaints and complaints about the Digital Switchover Help Scheme. Its responsibilities are set out in its Terms of Reference at:

http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2011/cab_tor.pdf

All Trustees are members of the Board; Richard Ayre is Chairman. The duties of the CAB are conducted by Panels of the Board consisting of at least two Trustees, including the Chairman of the CAB and other Trustees as required. The Board is advised and supported by the Trust Unit.

The Board considers appeals against the decisions and actions of the BBC Executive in relation to general complaints, fair trading, TV licensing and other matters including commissioning and procurement but not including editorial complaints and Digital Switchover Help Scheme complaints, as defined by the BBC Complaints Framework and Procedures. The Board will also consider complaints about the BBC Trust.

The Board will consider appeals concerning complaints which fall within the BBC's complaints process as set out in the BBC Complaints Framework and which:

- raise a matter of substance – in particular, that there is sufficient evidence to suggest that the complaint has a reasonable prospect of success and there is a case for the BBC Executive to answer
- have already been considered by the BBC Executive under stages 1 and 2 of the BBC's general complaints procedures and which are now being referred to the Trust on appeal as the final arbiter on complaints (unless it is a complaint about the BBC Trust)

The Board will aim to reach a final decision on an appeal within the timescale specified in the relevant Procedures. An extended timescale will apply during holiday periods when the Board does not sit. The complainant and BBC management will be informed of the outcome after the minutes of the relevant meeting have been agreed.

The findings for all appeals considered by the Board are reported in this bulletin, Complaints and Appeals Board: Appeals to the Trust.

As set out in the Complaints Framework and Procedures, the Board can decline to consider an appeal which in its opinion:

- is vexatious or trivial;
- does not raise a matter of substance;
- is a complaint where the complainant has recourse to the law;
- is a complaint where the complainant has recourse to other external authorities, for example the Information Commissioner or the Office of Fair Trading; and
- is a Human Resources complaint as defined by the Complaints Framework and Procedures.

The Board also reserves the right to decline to hear an appeal whilst it relates to matters which are the subject of or likely to be the subject of, or relevant to, legal proceedings. The Board will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.

Any appeals that the Board has declined to consider under the above criteria are reported in the bulletin.

The bulletin also includes any remedial action/s directed by the Board.

It is published at bbc.co.uk/bbctrust or is available from:

The Secretary, Complaints and Appeals Board
BBC Trust Unit
180 Great Portland Street
London W1W 5QZ

Summary of findings

Local radio station

Summary of finding

The complainant alleged that a local radio station had dealt unsatisfactorily with her complaints about: the loss of the donation she had made to the Radio Station for its charitable partner; an unsolicited phone call from a member of staff at the Radio Station related to the loss of her donation; and her unsuccessful attempts to contribute to one of the Radio Station's phone-in programmes.

The Panel concluded that:

- the BBC had a duty of care to look after the charitable donation sent by the complainant
- the complainant should be paid two hundred pounds to compensate for the loss of the missing charitable donation (the value of the donation being estimated at £200) and a further forty pounds to offset the postage and telephone costs incurred during the course of making the complaint and appeal.
- the donation logging procedures subsequently put in place by the Radio Station did not adequately address the risks involved in handling donations from the public.
- the current procedures or guidance applicable to individual charitable appeals do not adequately address the risk involved in handling donations directly from the public.
- it would require that the BBC Executive ensures that guidance is written and promulgated to all local radio stations (and regional television stations) for the handling of charitable donations made directly to them.
- it had no reason to believe the Radio Station was failing to give the complainant an equal opportunity to contribute to its phone-ins alongside other callers.
- the measures the Radio Station had put in place to limit contact between the complainant and a particular member of the station's staff in order to better manage their relationship were far from satisfactory for the complainant or the member of staff.
- the Radio Station, together with the Director of HR or the Director's representative, must consider the additional steps required to facilitate the effective management of potential phone-in contributions from the complainant.
- the BBC should report back to the Panel with details of the remedial action implemented to deal with this matter.
- the Radio Station should make proportionate efforts to record calls to its phone-in numbers to ensure an accurate contemporaneous record of conversations between the station and its listeners.

- the poor aspects of the handling of this complaint were sufficiently acknowledged and apologised for by the BBC and were therefore resolved.

It wished to add its apologies to the complainant for the distress caused by the original loss of her donation and for the handling of the complaints linked to the missing wallet.

Finding: Resolved with remedial action required.

For the finding in full see pages 6 to 9.

Fair trading appeal

Summary of finding

In March the Trust concluded its investigation into a fair trading appeal concerning the BBC's arrangements for the supply of television studio services in the London area and has now communicated its decision with the parties. At the request of the appellant, details of the appeal are not being published. The Trust's decision requires the BBC Executive to review within 6 months its arrangements for television studio supply in the London area and to ensure any new arrangements for studio supply are in full compliance with the Trust's Fair Trading Policies and Framework.

This statement is reproduced on page 10 in the findings in full section.

Appeal Findings

Local radio station

The Complaint

The complainant made a donation of a wallet containing old British silver coins and notes requesting that these be auctioned in aid of a charitable appeal being run by a local radio station.

The complainant initially contacted the BBC to ask how much money was raised by her donation. The complainant received no reply and contacted the Radio Station again to ask what had happened to her donation.

The complainant received a response from the Radio Station advising her that the wallet had gone missing and that they had carried out an investigation as to what had happened. It established the wallet had been received at the station; that it had been kept on reception for some time with the aim of asking for an expert valuation of the coins, but that unfortunately it had disappeared.

The Managing Editor of the Radio Station apologised for both the lack of care it had showed towards the donation and the lack of response to her original contact on the matter. The Managing Editor also said the Radio Station was reviewing the way the station handled donated items to prevent a similar occurrence in the future.

The complainant subsequently wrote directly to a member of staff at the Radio Station to express her sadness and anger about being let down by the station in general and by that staff member in particular. This prompted an unsolicited phone call from that member of staff to the complainant which in turn prompted a further complaint to the Radio Station. The complainant received no response on this occasion.

The complainant contacted BBC Complaints explaining that the Radio Station had lost her charitable donation and adding that she felt she was no longer being allowed to contribute to one of the station's phone-ins.

BBC Complaints wrote to the complainant, and included the previous response sent by the Radio Station which informed her that there had been a thorough investigation into what may have happened to the missing wallet but that it had not been located. It also apologised for the loss and for the lack of response to her original letter to the Radio Station.

The complainant replied to BBC Complaints to say she was not satisfied with its findings and that she wanted a personal apology from the member of staff to whom she had entrusted the wallet. She also requested the return of one specific coin included in the donation, which she said she had offered to the same member of staff as a gift and which she believed had been accepted.

BBC Complaints wrote to the complainant to say there was nothing further to add at Stage 1 of the BBC's complaints process and to advise that the complainant could contact the relevant Head of Regional and Local Programmes (HRLP) if she wanted to proceed further with her complaint.

The complainant wrote to the HRLP. She outlined details of her correspondence with the Radio Station and BBC Complaints and again asked for an investigation into how it was

possible for a charitable donation of a wallet and enclosed coins and notes to disappear. She also asked for an apology from the member of staff to whom she had entrusted the wallet as well as the return of the coin which she alleged had been offered to and accepted as a gift by the same staff member.

The HRLP apologised for the fact that the Radio Station had lost the donation; he said the matter had been taken very seriously and thoroughly investigated and that systems had been put in place to make sure the same thing could not happen again. He explained that while he could not prove what had happened, staff at the Radio Station believed the wallet had been lost. He said that the member of staff denied taking the one coin as a gift. He also apologised for the distress caused to the complainant by the unsolicited phone call she had received. The member of staff had been told it was wrong to have made the call and that the complainant's letter should have been referred instead to the Managing Editor.

The complainant was sent a hand written letter of apology from the member of staff who made the unsolicited phone call to her. It was accompanied by a letter from the Managing Editor of the Radio Station which again expressed regret at the station's lack of care for the donation, said it had been a misjudgement that the donation had not been put in a safe place, and expressed the hope that a line could be drawn under 'this unfortunate situation'.

The complainant contacted BBC Complaints to say she was being passed straight to the producer whenever she phoned the Radio Station's phone-in number and she felt she was now blacklisted from contributing to the station's phone-in programmes. She again asked for an apology from the Radio Station and the member of staff who made the unsolicited phone call to her.

BBC Complaints responded to say that as the matter of the missing wallet had been investigated at length; as she had received apologies from both the Radio Station and the HRLP; and that as she was not banned from contacting the Radio Station or from featuring on air; that it felt it had responded as fully as it could. It advised the complainant that she could contact the BBC Trust if she wanted to proceed further with her complaint. Further correspondence followed between the complainant and BBC Complaints, other staff at the Radio Station and the BBC's Director of Human Resources before the complainant phoned the BBC Trust to lodge her appeal.

Appeal to the Trust

The complainant's appeal to the Trust made it clear she was very unhappy with the way the BBC had dealt with her complaints about:

1. the loss of the donation she had made to the Radio Station for its charitable partner;
2. an unsolicited phone call from a member of staff at the Radio Station related to the loss of her donation; and
3. her unsuccessful attempts to contribute to one of the Radio Station's phone-in programmes.

The Panel's decision

In considering the complaint and reaching its decision, the Panel took full account of all the available evidence, including (but not limited to) a report by an independent adviser to the Trust and the subsequent submissions from the Radio Station and the complainant.

The Panel first considered the matter of the loss of the complainant's donation. The Panel noted that in these specific circumstances the BBC had a duty of care to look after the charitable donation sent by the complainant. It noted that the complainant was unable to put a precise valuation on the coins and notes although a figure of two hundred pounds had been mentioned on several occasions. It also noted that a calculation undertaken by the editorial adviser, which took account of the estimated postage cost of the item and the value of silver at the time, also came up with an estimated figure of two hundred pounds as the value of the donation.

The Panel agreed that the complainant should be paid two hundred pounds to compensate for the loss of the missing charitable donation and a further forty pounds to offset the postage and telephone costs she had incurred during the course of making her complaints to the BBC and her appeal to the BBC Trust.

The Panel noted that as a result of the disappearance of the wallet and its contents the Radio Station put in place new logging procedures to try and prevent such a loss occurring in the future. Any items brought into the station by listeners on loan now have to be logged and the log signed and dated by the listener. The log should also say when the listener will collect their item (if applicable) and all such items are kept in a particular place.

The Panel noted however that it was not clear how this new logging procedure specifically applies to cash donations or other items brought into the station by listeners in response to a charity appeal. It noted that at present all charitable appeals run in the English Regions must be referred to BBC Finance to ensure the correct procedures are followed when dealing with appeal donations. The English Regions Charities guidelines and the English Regions Appeals Policy are available on the BBC's intranet.

The Panel also noted that, although the Policy recommends all money handling is dealt with by the charity, there is no explicit procedure in place for dealing with cash donations or donations of other items made directly to a local station.

The Panel also noted that if stations specifically ask for guidance on handling cash donations made directly to them, they are advised to follow the best practice procedures for dealing with cash, such as those contained in the Children in Need Guidelines. So, although best practice procedures and guidelines covering donations of currency made in person to BBC staff or premises are distributed to BBC staff in the context of the Children in Need appeals, this guidance does not appear to have been explicitly translated into policy applicable to appeals for external charities nor is it applicable in the context of this appeal as it does not cover donations of other items.

The Panel considered that the logging procedures put in place by the Radio Station did not adequately address the risks involved in handling donations from the public. It also considered that the current procedures or guidance applicable to individual charitable appeals do not adequately address the risk involved in handling donations directly from the public. It therefore agreed to require that the BBC Executive ensures that guidance is written and promulgated to all local radio stations (and regional television stations) for the handling of charitable donations made directly to them, whether cash or other items.

The Panel noted that the complainant believes she has been banned from contributing to the Radio Station's phone-ins. However, it agreed that the complainant had been correctly informed by both BBC Complaints and the Radio Station that it is a matter of editorial judgement for the Radio Station whether or not a caller to a phone-in is put on air.

The Panel agreed it had no reason to believe the Radio Station was failing to give the complainant an equal opportunity to contribute to its phone-ins alongside other callers, but it did note that, prior to the events surrounding the disappearance of her wallet, she had made a number of on-air contributions, though she had not subsequently appeared on air. However it did observe that the measures the Radio Station had put in place to limit contact between the complainant and a particular member of the station's staff in order to better manage their relationship were far from satisfactory for the complainant or the member of staff.

The Panel agreed that the Radio Station, together with the Director of HR or the Director's representative, must consider the additional steps required to facilitate the effective management of potential phone-in contributions from the complainant. It also agreed that the BBC should report back to the Panel with details of the remedial action implemented to deal with this matter.

The Panel noted that the Radio Station had considered recording all calls made to the station phone-in lines to protect both staff and listeners but this had not been implemented, largely due to the cost. The Panel agreed that the Radio Station should make proportionate efforts to record calls to its phone-in numbers to ensure an accurate contemporaneous record of conversations between the station and its listeners, but recognised that this might not always be practicable or cost-effective.

The Panel noted that the BBC had apologised repeatedly to the complainant and several of these apologies had been made by the Radio Station and BBC Complaints as well as one from the HRLP. The Panel considered that the poor aspects of the handling of this complaint were sufficiently acknowledged and apologised for by the BBC and were therefore resolved.

The Panel wished to add its apologies to the complainant for the distress caused by the original loss of her donation and for the handling of the complaints linked to the missing wallet.

Finding: Resolved with remedial action required.

Fair trading appeal

In March the Trust concluded its investigation into a fair trading appeal concerning the BBC's arrangements for the supply of television studio services in the London area and has now communicated its decision with the parties. At the request of the appellant, details of the appeal are not being published. The Trust's decision requires the BBC Executive to review within 6 months its arrangements for television studio supply in the London area and to ensure any new arrangements for studio supply are in full compliance with the Trust's Fair Trading Policies and Framework.

Rejected Appeals

Appeals rejected by the CAB as being out of remit or because the complaints had not raised a matter of substance and there was no reasonable prospect of success.

Decision of the BBC not to pursue a story regarding concerns about nursing home care and accountability of the care system

The complainant asked the Complaints and Appeals Board (CAB) to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Panel.

Complaint

2010 correspondence:

The complainant originally contacted the BBC in 2010. He wrote to the Director-General on 11 July 2010 stating that he had sent a 39 page letter to the Panorama investigations team but had not received a response. His letter had requested that Panorama investigate a story which he considered of national significance, which related to the care given to his mother after she suffered a stroke both in hospital and subsequently in a nursing home.

Audience Services replied to the complainant on 18 August 2010 and included a response from the Panorama team, outlining that they had been unable to find the letter.

"As the letter was sent unsolicited and apparently untracked, it's difficult for the programme to comment further as they simply haven't received it."

2013 correspondence:

The complainant wrote to the Deputy Director, News and Current Affairs on 28 September 2013. He considered the care system was in crisis and he repeated his request that Panorama investigate his concerns.

A reply on 4 October 2013 informed him his complaint had been passed to the Editor of Panorama.

The complainant contacted Audience Services by telephone on several occasions during October. He repeated that the case was of national importance and he was angry that his concerns had not been addressed. He felt they were not being taken seriously.

Audience Services wrote to the complainant on 28 October 2013, stating that they were aware he had been in contact with a number of people about his concerns, including the Deputy Director of BBC News. They explained that:

- while it had been indicated to the complainant that someone would try and call him back, it was important to be clear that on any given day they dealt with multiple contacts from the public, including submissions for potential news stories. They did

not typically pass those submissions to every BBC programme or news outlet for consideration.

- after the complainant contacted the Deputy Director of BBC News, his correspondence was passed to the Editor of Panorama as a story they might wish to cover given their specific remit for investigative documentary journalism and there was no specific commitment to respond except in the event that Panorama were going to follow up on the information the complainant had provided.
- their reading of the complaint was that Panorama had by that stage explained that the BBC took the complainant's concerns very seriously and the Panorama team had given it a great deal of consideration but unfortunately did not feel able to take the complainant's particular experience further.
- they acknowledged that the complainant had contacted others in BBC News and should feel free to continue to do so but there was nothing further they could add to his previous correspondence.

Following receipt of this letter, the complainant contacted Audience Services again twice in November to express his concern that no-one was taking the issue seriously and his main complaint was that no-one at the highest level of the BBC was ringing him.

Appeal to the BBC Trust

The complainant telephoned the BBC Trust on 13 November 2013 to escalate his concerns which he said related to the Care Quality Commission and the Health Ombudsman.

He explained that his mother had passed away in a nursing home. He said her death was due to the equipment used and he subsequently conducted an investigation into care homes which he claims has led to the discovery of serious information he feels should be brought to the attention of the public.

He said he had contacted various media outlets and ITV had run a brief news item on the issue, as well as Radio 4, on 11 October 2012.

He said the Radio 4 report was factually inaccurate and as a result of a follow-up to this report on Channel 4, the inaccuracy was replicated. He said he did not complain at the time about this because he did not want to cause a problem.

He had written to the Deputy Director of BBC News and he felt that she had failed to address his actual complaint. He considered the content of his letter had been ignored and she had not made an actual decision.

Decision of the Senior Editorial Complaints Adviser

The Trust's Senior Editorial Complaints Adviser (the Adviser) replied to the complainant explaining that the relevant correspondence had been reviewed by the Trust Unit and she did not consider that the appeal had a reasonable prospect of success.

The Adviser carefully read the correspondence that had passed between the complainant and the BBC.

The Adviser acknowledged the strength of the complainant's feelings and was aware that

he had spent many hours carrying out his own investigations and seeking to bring his concerns to a wider audience because this was such a significant matter.

The Adviser noted that the complainant had first sought to bring these matters to the attention of the BBC in 2010. However, she noted that more than three years had passed before he raised the matter again, and therefore she would consider the appeal on the basis of his 2013 correspondence.

The Adviser noted that the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" was specifically defined in the Charter (article 38, (1) (b)) as a duty that was the responsibility of the Executive Board, and one in which the Trust did not get involved unless, for example, it related to a breach of the BBC's editorial standards which did not apply in this case. Decisions relating to the choice of stories to be investigated by Panorama, or covered by BBC News, fell within the "editorial and creative output" of the BBC and were the responsibility of the BBC Executive.

Therefore the Adviser considered it would not be appropriate for this element of the appeal to be put before Trustees, because it was a decision which rested with the BBC Executive.

The Adviser then considered the appeal in terms of the handling of the complaint, to determine whether the complainant had received reasonable and timely responses to his concerns.

The Adviser acknowledged the complainant's frustration in not obtaining the responses he would have liked from both Panorama and the Deputy Director of BBC News, but she noted that multiple contacts had been made by the complainant to different areas of the BBC and believed this may have contributed to the complainant's perception of unacceptable delays in receiving answers to some of the complainant's concerns.

The Adviser noted that Audience Services endeavoured to respond to complaints at stage 1 of the complaints process within 10 working days.

She noted that the complainant expressed dissatisfaction that the issues he had raised were only being considered of possible interest to the Panorama team and not the News team. However, she noted that in his letter of 28 September 2013, marked for the attention of the Deputy Director of BBC News, he had stated that he was writing to her in the hope that in her position at the BBC she could contact the Editor of Panorama and send him a copy of the complainant's letters because everyone was telling him that what he had uncovered was "something for Panorama", as well as BBC National News. It appeared from the letter from Audience Services dated 28 September 2013 that the complainant's concerns had been passed to Panorama as he had requested.

The responses sent to the complainant indicated that both Panorama and BBC News were aware of his concerns, but the editorial teams in both departments had chosen, as they were entitled to do, not to follow up on the story at the present time. Audience Services had pointed out in their letter of 28 October that

While it had been indicated to the complainant that someone would try and call him back, it was important to be clear that on any given day [BBC News] dealt with multiple contacts from the public, including submissions for potential news stories. They did not typically pass those submissions to every BBC programme or

news outlet for consideration.

The Adviser considered that Trustees would be likely to conclude that the complainant had received responses from Audience Services within an acceptable time frame, and that the responses to the complainant's concerns had been reasoned and reasonable.

Therefore, in terms of complaints handling, the Adviser considered this element of the appeal too did not have a reasonable prospect of success and she did not propose to put it before Trustees.

The Adviser noted the comments made by the complainant in his appeal to the Trust, that his concerns had been given coverage on Radio 4, but that this report, however, had included some inaccuracies.

She listened to the report on the Today programme and noted that it was a pre-recorded interview with the complainant and his father in which they described their concerns about the care given to the complainant's mother and also their concerns about accountability within the care system. She noted the pre-recorded item was followed with a further interview from Age UK which looked more generally at nursing care and issues of accountability in the nursing home sector.

The Adviser noted the complainant's statement that the Radio 4, Today programme report was inaccurate. However, she also noted the item had been broadcast over a year ago and the complainant had said he had decided at the time not to complain about it. The Adviser noted the Complaints Framework stated that complaints about BBC output should be made within 30 working days of broadcast and that the BBC should respond in the first instance. She considered that she could not address the complainant's comment about inaccuracies in the Radio 4 output as part of his appeal as it was out of time and had not have received any earlier response from the BBC. She considered that, nonetheless, although the complainant was concerned that the item included some inaccuracies, listeners would have gained the overwhelming impression from the Today programme report that the complainant had voiced very legitimate concerns about the care given to his mother and about the mechanisms that existed to raise concerns about care in the nursing home sector.

For all the reasons set out above, the Adviser did not consider the appeal had a reasonable prospect of success and did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal and consider two issues:

- he wanted "somebody from the BBC hierarchy" to contact him and discuss the matter.
- why the BBC, "one of the world's busiest media outlets, cannot find an investigative journalist/reporter to look into this 4 year investigation that proves the parliamentary ombudsman and CQC are not fit for purpose to investigate and regulate private nursing homes powerfully enough".

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser and the complainant's letter asking the Panel to review

her decision.

The Panel noted that the complainant was seeking to bring his concerns to a wider audience because they were about a very significant matter of which he had personal experience. However, the Panel agreed that choices about which stories should be covered by the BBC's investigative journalists for programmes such as Panorama were editorial ones, and were decisions for the BBC Executive to make. The Panel was not of the view that evidence had been presented that would be likely to lead it to conclude that the editorial decisions taken in this case raised any issues with regard to the Editorial Guidelines. In view of this, the Panel agreed that the responses given by the BBC had been adequate and appropriate to the issues raised.

The Panel agreed that there was no evidence that the BBC had failed to respond appropriately to the complainant and that it was an operational matter for the BBC as to whether a reply came from Audience Services or from within News Management.

The Committee therefore decided that this appeal did not qualify to proceed for consideration.

Coverage of the report by the Riots, Communities and Victims Panel into the impact on communities of the riots of 2011

The complainant requested that the Complaints and Appeals Board (CAB) review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration on appeal.

Complaint

The complainant made two separate complaints to the BBC regarding the coverage of certain topical news stories. Regarding this complaint, the complainant first contacted the BBC on 4 August 2013. He considered that there had been inadequate coverage of the Government's response to the report by the Riots, Communities and Victims Panel into the impact of the riots in England in 2011. The complainant considered this was a matter of significant public interest and in particular considered there should have been coverage of the extent to which the Government had acted on the recommendations of the report. He queried whether the Government had requested that the BBC limit coverage of the findings and, if so, asked for an explanation.

BBC Audience Services replied on 14 August and stated:

"Choosing the stories to include in our bulletins, the order in which they appear and the length of time devoted to them is a subjective matter and one which we know not every viewer will feel we get right every time.

"Factors such as whether it is news that has just come in and needs immediate coverage, how unusual the story is and how much national interest there is in the subject matter will all play a part in deciding the level of coverage and where it falls within a bulletin."

The complainant was not satisfied with the response and wrote again on 21 August, stating:

"This reply is not adequate. I did not contact you about BBC News. I contacted you about general coverage. There is no response to the points raised in my letter."

The complainant also wrote on 5 September, noting that as each letter he had been sent had been given a different reference number and did not give the date of the letter it was responding to, it was very difficult to follow the correspondence trail. He criticised the complaints system.

BBC Audience Services sent a further response on 9 September which stated:

"We're sorry that our previous response did not address the initial points you had raised.

"We have covered the story of the riots and their aftermath in considerable detail over the past two years, including the 'After the Riots' report and the political debates surrounding the report. Here are a few very recent examples, the first of which covers in some detail the issues you have outlined:

<http://www.bbc.co.uk/news/uk-england-london-23585425>

<http://www.bbc.co.uk/news/uk-england-manchester-23633558>

<http://www.bbc.co.uk/news/uk-england-london-23592281>"

After confusion about which complaint was still being considered by BBC Audience Services and which had been closed down, the complainant received a response from Audience Services on 7 November which stated:

"As was outlined previously, we have covered the story of the riots, the aftermath, the After the Riots report and the political debates surrounding the report in considerable detail over the past two years. In addition to the examples provided in our previous response, on 6th August, the two year anniversary of the London riots, we provided coverage throughout the day on the BBC News Channel. This included talking to Trevor Reeves, whose Croydon furniture store was destroyed in the flames, and to Pauline Pearce, the so-called 'Hackney heroine' who confronted rioters in her local area.

"We believe that our coverage of these issues has been full, fair and accurate."

The complainant was advised that he could escalate his complaint to stage 2 of the process if he wished by writing to the Director of News. He did this on 22 November and on 13 December received a stage 2 response from the Head of Editorial Compliance and Accountability, BBC News. This apologised that the previous responses had not addressed the complainant's principal concern about a lack of coverage of the Government's reaction to the report by the Riots, Communities and Victims Panel that had been published in July 2012. It drew the complainant's attention to a Radio 4 report which led *The World This Weekend* on 4 August 2013 and stated that it: "...illuminates why this story received so little coverage".

The letter quoted from part of the script of the report which indicated the Government had acted in a way that reduced the likelihood of the story being picked-up.

"There was no ministerial statement. The media didn't report it – perhaps because, as far as we can tell from the Department of Communities & Local Government, it didn't even merit its own separate press release."

The letter also drew the complainant's attention to BBC regional coverage which referred to criticism of the Government for failing to act on the Panel's recommendations. The Head of Editorial Compliance and Accountability, BBC News, noted that when she had discussed this matter with the BBC's Local Government Correspondent, he had been unaware that the Government response had been published. She stated:

"I think it is understandable there was so little coverage and it may be more appropriate for you to raise your concerns with the Department for Communities and Local Government."

Appeal to the BBC Trust

The complainant appealed to the Trust on 2 January 2014. He was unhappy with the responses he had received and considered the BBC should have done more to hold the

Government to account over its response to the report by the Riots, Communities and Victims Panel.

Decision of the Senior Editorial Complaints Adviser

The Senior Editorial Complaints Adviser (the Adviser) noted the stage 2 response which had drawn the complainant's attention to the BBC Radio 4 report that had focused on the way the Government had responded to the report. She noted the stage 2 response had also referred to regional coverage that was critical of the Government's response to the Panel's recommendations and located a further regional report which included criticism of the Government's response: <http://www.bbc.co.uk/news/uk-england-london-23585425>.

She noted that the stage 2 response had acknowledged the BBC's Local Government Correspondent had not been aware that the Government had published its response to the report.

The Adviser acknowledged that the complainant would have preferred the story to have had wider coverage. However, she noted that, as set out above, editorial decisions about what stories to cover or not to cover are matters which rest with the BBC. She also noted that, although the Government had published its response in a way that might have been intended to reduce press pick-up, the story had, none-the-less, been the lead item on that day's edition of The World This Weekend and had also been reported elsewhere on the BBC's regional pages. Therefore, she considered Trustees would be likely to conclude there was no evidence that the BBC's Editorial Guidelines had been breached and it would not be appropriate for it to consider the appeal. Therefore she did not consider the appeal had a reasonable prospect of success and did not propose to put it before Trustees.

Finally, the Adviser considered the complainant's concerns about the complaints process. She acknowledged the frustration that he had experienced in receiving responses from the BBC where it had not been clear which complaint they related to.

The BBC Trust has oversight of the BBC's complaints process and had introduced changes that were intended to make it faster and easier to use. She understood that the BBC received more than a million contacts each year and its computer system gave an electronically generated reference number for each individual contact. She accepted that in a case such as this, where the complainant had two complaints being considered by the BBC simultaneously, it had become confusing and she regretted this. However, she hoped the complainant might be reassured to some extent by having seen the care that had been taken to unpick the confusion – as the complainant had acknowledged in his letter of 26 October. The Adviser also thought the complainant might be interested to know that the Trust had recently carried out a mystery shopping exercise to assess how the complaints process worked at stage 1. The results of this exercise has been published on the Trust's website: <http://www.bbc.co.uk/bbctrust/>

The points the complainant made regarding reference numbers and a failure to link letters by date were useful ones and the Adviser would bring those to the attention of Trustees. She was also sure that Trustees would wish her to extend their apologies too for the delays the complainant had experienced once he had come to the Trust.

Request for review by Trustees

The complainant asked the Trustees to review the decision not to proceed with his appeal. He stated:

- it was required for the BBC to refer to the amount, nature and depth of the coverage by the date of the complaint, not any subsequent date.
- any coverage referred to must relate to the Government's response to this major report from victims, which has many recommendations. The BBC did not cover the Government's response to this report adequately and appeared to have failed in its public mandate.
- the complaints process does not seem straightforward or impartial.

The Panel's decision

The Panel of the Complaints and Appeals Board (the Panel) acknowledged the complainant's concerns that the coverage was inadequate, but noted that editorial decisions about what stories to cover are matters for the BBC Executive.

The Panel noted the Adviser's observation that although the Government had published its response in a way that might have been intended to reduce press pick-up, the story had been the lead item on that day's edition of *The World This Weekend*, and had also been reported elsewhere on the BBC's regional pages. The Panel agreed that evidence had not been presented which would be likely to lead them to conclude that the BBC's Editorial Guidelines had been breached.

The Panel also noted the complainant's concerns that the complaints system was not straightforward or impartial. The Panel noted the response provided by the Adviser and that the complainant had stated the BBC had taken care to unravel the confusion. On that basis, the Trustees considered the issue had been resolved but they wished to add their apologies to those given by the Adviser on their behalf.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further regarding coverage of Edward Snowden revelations

The complainant requested that the Complaints and Appeals Board (CAB) review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration on appeal.

The complaint

The complainant made two separate complaints to the BBC regarding the coverage of certain topical news stories. Regarding this complaint, the complainant first contacted the BBC on 19 June 2013 regarding the BBC's coverage of the Edward Snowden revelations. He considered the BBC had not given the matter of mass surveillance, which was of such public interest, sufficient coverage. He received a response from Audience Services on 27 June 2013 which stated that the Edward Snowden story had been covered extensively by the BBC News Channel and on the 6pm and 10pm BBC One news bulletins. It also referred the complainant to some examples of BBC Online coverage. The letter stated:

"...we know that not everyone will agree with our choices on which stories to cover, and the prominence that we give to them. These are subjective decisions made by our news editors, and we accept that not everyone will think that we are correct on each occasion."

The complainant remained dissatisfied and contacted the BBC again on 1 July 2013. He considered the BBC had not addressed his concerns and stated:

"I did not contact you about BBC News which was nowhere mentioned in my original letter. I asked about the BBC about the lack of coverage generally about the issue of the revelations about mass spying by the NSA as described by Edward Snowden. It is necessary for an item of this nature to be debated and discussed in a variety of forums in order for the public to have a chance to start to be informed."

The BBC sent a holding letter on 22 July and a response on 12 August which stated:

"We feel we have covered this story in full across our news outlets as well as discussing it on our current affairs programmes. From when the scandal broke with revelations the NSA was collecting telephone records of millions of Americans and GCHQ was tapping fibre-optic cables, right through to the fallout between embassies and the breakdown of international spy pacts we have kept our audiences informed of the latest developments."

The complainant contacted the BBC again on 15 August and again stated that he had intended his complaint to refer to BBC output generally and not just the news service.

On 27 August BBC Audience Services notified the complainant that they had nothing further to add and, as they did not consider the complaint raised a matter that could be a breach of the Editorial Guidelines, would not respond further.

Appeal to the BBC Trust

Certain confusion occurred regarding which of the complainant's two complaints was being closed down, therefore the appeal to the Trust was received on 26 October 2013.

The appeal was about the substance of his complaint – namely that he considered the BBC's coverage of the revelations of mass surveillance had been inadequate given its public interest. The complainant considered that most of the stories that Audience Services had referred to had been about Edward Snowden's personal experience, rather than the issue of mass spying. He considered the issue of mass surveillance merited greater coverage as it was of such public importance. He considered the BBC had not properly challenged government ministers on the subject and queried why that was.

The complainant also raised concerns about the complaints system, noting that it had been very difficult to follow the paper trail of correspondence as letters were inadequately referenced and each one carried a separate reference number.

Decision of the Senior Editorial Complaints Adviser

The relevant correspondence was reviewed by the Trust Unit, and the Senior Editorial Complaints Adviser (the Adviser) carefully read the letters that had passed between the BBC and the complainant.

The Adviser acknowledged the strength of the complainant's feelings and appreciated that he was concerned that matters of public interest should be explored openly and thoroughly. However, she considered that the appeal did not have a reasonable prospect of success and considered it should not therefore be put before Trustees.

On reading the correspondence, the Adviser noted the complaint had been closed down by BBC Audience Services at stage 1b and it had not had a stage 2 response from the Editorial Complaints Unit or a Senior Manager within the BBC. She therefore decided that the point she should consider was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

The Adviser noted that the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" was specifically defined in the Charter (paragraph 38, (1) (b)) as a duty that was the responsibility of the Executive Board, and one in which the Trust did not get involved, unless it related to a breach of the BBC's editorial standards.

The Adviser noted that in its response of 27 June, Audience Services had drawn the complainant's attention to a number of stories that related to the Edward Snowden revelations. She also noted that, in his appeal, the complainant stated these stories were not relevant as they were principally about Edward Snowden's personal circumstances rather than being about "mass spying".

The Adviser noted that while the complainant had made this point in his appeal, he had not stated it in when he had renewed his correspondence with Audience Services. However, she noted that the following stories had addressed concerns about mass

surveillance among the public and other governments and had all been published by the time of Audience Services' response on 27 June.

<http://www.bbc.co.uk/news/uk-22860239>
<http://www.bbc.co.uk/news/technology-23027764>
<http://www.bbc.co.uk/news/uk-23017108>
<http://www.bbc.co.uk/news/uk-22938073>
<http://www.bbc.co.uk/news/uk-politics-22883340>

She therefore considered Trustees would be likely to conclude there was no evidence of a breach of the BBC's standards, as set out in the Editorial Guidelines, on this point and considered that decisions relating to which stories to cover in news or current affairs programmes were editorial decisions which rested with the Executive.

She considered Trustees would be likely to conclude that Audience Services had acted reasonably in declining to engage in further correspondence on this issue. It followed from this that she did not consider the appeal had a reasonable prospect of success and it should not therefore be put before Trustees.

Finally, the Adviser considered the complainant's concerns about the complaints process. She acknowledged the frustration that he had experienced in receiving responses from the BBC where it had not been clear which complaint they related to.

The BBC Trust has oversight of the BBC's complaints process and had introduced changes that were intended to make it faster and easier to use. She understood that the BBC received more than a million contacts each year and its computer system gave an electronically generated reference number for each individual contact. She accepted that in a case such as this, where the complainant had two complaints being considered by the BBC simultaneously, it had become confusing and she regretted this. However, she hoped the complainant might be reassured to some extent by having seen the care that had been taken to unpick the confusion – as the complainant had acknowledged in his letter of 26 October. The Adviser also thought the complainant might be interested to know that the Trust had recently carried out a mystery shopping exercise to assess how the complaints process worked at stage 1. The results of this exercise have been published on the Trust's website: <http://www.bbc.co.uk/bbctrust/>

The points the complainant made regarding reference numbers and a failure to link letters by date were useful ones and the Adviser would bring those to the attention of Trustees. She was also sure that Trustees would wish her to extend their apologies too for the delays the complainant had experienced once he had come to the Trust.

Request for review by Trustees

The complainant asked the Trustees to review the decision not to proceed with his appeal. He stated:

- the revelations were of immense public interest.
- it was required for the BBC to refer to the amount, nature and depth of the coverage by the date of the complaint, not any subsequent date.
- the coverage referred to must relate to the specific issues raised about the effect of mass spying and whether mass spying was legal. These issues were not adequately addressed by the BBC.

- he was concerned by the BBC complaints system. He explained that he had been provided with inadequate referencing and was therefore not able to understand which of his complaints was being addressed by the BBC.

The Panel's decision

The Panel noted that the question before it was whether it agreed with the decision of the Adviser that the complainant's appeal against the decision of BBC Audience Services not to correspond further did not have a reasonable prospect of success.

The Panel acknowledged the complainant's concerns that the coverage was inadequate, but noted that editorial decisions about what stories to cover are matters for the BBC Executive and that therefore it was likely to agree with the decision taken by Audience Services to cease correspondence regarding his complaint.

The Panel considered the issues raised by the complainant regarding the handling of his complaint. The Panel noted the explanation given by the Adviser and noted that despite raising the issue, the complainant had himself acknowledged the care that had been taken to unpick the confusion created by the simultaneous nature of his complaints. However, the Trustees wished to add their own apologies to the apology extended on their behalf by the Adviser for the confusion the complainant had experienced.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further regarding Doctors, BBC One, 14 October 2013

The complainant asked the Complaints and Appeals Board (CAB) to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Panel.

The complaint

The complainant contacted the BBC on 23 October 2013 to complain about a particular episode of Doctors, entitled Austenland Part 1, which included music played to the end of the final credits, and which the complainant wished to enjoy uninterrupted. He was unhappy that the continuity announcer spoke over the music, particularly as it was, he said, "...the ONE time when something different happened". He asked the BBC to admit that it was a poor judgement to allow the announcer to speak over the end credits when Elisabeth Dermot Walsh was singing "Voi Che Sapete".

Audience Services responded to the complainant on 3 November 2013, noting his feedback, apologising for the fact that the announcement spoiled his viewing, and saying that:

"With an increase in viewer choice and a dramatic fragmentation of the market, we have a duty to let the audience know about the choices available to them regarding the BBC's output which is funded by the licence fee. Therefore, we use trails to flag up content which our audience may find of interest."

The complainant was unhappy with this response and contacted Audience Services again on 3 November 2013 asking someone to look into his "complaint properly, not give me the cut-and-paste ignorance, and admit you got it wrong!"

Audience Services sent a further response on 17 November 2013 which acknowledged that the initial response had referred to a "trail" when the output was part of the programme's credits sequence and stated:

"While my colleague's words were poorly chosen – I'm aware this wasn't a 'trail' but a continuity announcement – the reasons behind this still stand. We've a duty to inform our viewers of upcoming programmes which may be of interest to them and also what's coming up next.

"I do appreciate your frustrations and that you disagree with this choice, however it's common across the industry and also across the BBC, but I can certainly assure you we're improving how we inform viewers about what content is available across all the BBC channels and networks. End Credit Navigation allows us to provide additional material associated with the programme that viewers have just watched, or promote upcoming programmes or events we feel viewers may like to know about.

"All material featured in our end credits will be carefully thought through and appropriately scheduled and I'm sorry to read you disagree on this occasion."

The complainant was unhappy with this response and contacted Audience Services again on 17 November 2013 asking for an admission that the BBC was in the wrong, only caring about “what’s on next and not the current programme in hand”.

Audience Services responded again on 19 November 2013 explaining that they had nothing further to add to their previous responses and would not engage in further correspondence on this issue as they did not consider the points raised suggested a possible breach of standards.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 19 November 2013. He forwarded the most recent response from Audience Services and stated: “Please take this further”.

Decision of the Senior Editorial Complaints Adviser

The Senior Editorial Complaints Adviser (the Adviser) carefully read the correspondence that had passed between the complainant and the BBC, and she acknowledged the strength of the complainant’s feelings.

The Adviser noted that BBC Audience Services had ceased handling this complaint at stage 1 and that the complaint had not gone to stage 2. She therefore decided that the point she should consider was not the underlying complaint (about the decision for the continuity announcer to speak over the credits), but was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

The Adviser listened to the programme segment in question and noted that this particular episode of *Doctors* was an unusual one, featuring a strong fantasy element, and partially set as a period drama in the world of Jane Austen. The episode, entitled *Austenland* part 1, was billed as follows:

“Jas deals with a patient suffering from selective mutism, who would rather live in her Jane Austen-inspired fantasy world than face reality.”

The Adviser noted that the music, identified by the complainant as “Voi Che Sapete” had featured during the episode when it was played on the piano and sung by some of the characters as part of the dramatic action. After approximately 30 seconds, the singing was interrupted by a thunderstorm and the dialogue of the characters as they reacted to the noise. The music was then played again a few minutes later at the end of the programme during a trailer for the next episode, (*Austenland* part 2), and it was timed to continue into the credits once the trailer had finished. The Adviser noted that in the trailer prior to the credits, the music was played as background music under dialogue from the characters. The vocal began at the start of the credits when the trailer had finished.

The Adviser acknowledged that the complainant had found the dipping of the vocal music during the end credits for a 10 second continuity announcement about following programmes to be extremely irritating and inappropriate in that particular context. The music was different from the usual *Doctors*’ signature music, and he felt that it was too good to be “dipped” in the usual way for what he considered was an unnecessary announcement.

The Adviser noted that the music which was the subject of this complaint did not form part of the action of the programme in the end credit sequence. She considered that all BBC programme producers were aware that end credit music played in this way was liable to be dipped for continuity announcements and took this into account when editing their programmes. The Adviser noted that the BBC's policy concerning "End Credit Navigation" had been explained to the complainant in the response from Audience Services dated 17 November 2013.

The Adviser noted that the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The operational management of the BBC" is specifically defined in the Charter (article 38, (1) (c)) as a duty that is the responsibility of the Executive Board, and one in which the Trust does not usually get involved unless, for example, it raised broader issues such as a breach of a station's Service Licence. Decisions relating to the placing of continuity announcements came under the "operational management" of the BBC and were the responsibility of the BBC Executive.

The Adviser noted that Audience Services had acknowledged that the complainant was unhappy about the interruption to the music played over the end credits and they had apologised for the fact that it had spoilt his viewing enjoyment. She considered that Trustees would be of the view that Audience Services had provided a reasoned and reasonable response to the complainant's concerns and that the matter did not raise such serious concerns that further action would be necessary. The Adviser did not believe Trustees would consider that evidence had been presented to suggest a possible breach of the Guidelines.

The Adviser considered it was reasonable for the BBC to decline to engage in further correspondence on this issue. It followed from this that she did not consider the appeal had a reasonable prospect of success and it should not therefore be put before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated all the points he made previously.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser and the complainant's letter asking the Trustees to review her decision.

The Panel noted that the question before it was whether it agreed with the decision of the Adviser that the complainant's appeal against the decision of BBC Audience Services not to correspond further did not have a reasonable prospect of success.

The Panel noted the complainant's concern that "All too often, the end credits are interrupted with nonsense we don't need to know. Just once, they can give it up. They can *listen* to the viewers."

The Panel agreed with the Adviser that decisions about "end credit navigation" are operational ones, and are not decisions in which the Trust should become involved. It

agreed that no evidence had been presented which would be likely to lead it to conclude that this issue had resulted in a breach of the Editorial Guidelines or the station's Service Licence.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.