

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

October, November and December 2012 issued January
2013

Remit of the Complaints and Appeals Board	1
Summaries of findings	3
Appeal Findings	5
Jazz scheduling and complaint handling	5
Production location agreement, complaint handling and challenge to the Trust Unit's decision not to proceed with elements of the appeal	10
Rejected Appeals	18
Pro-Israel bias	18
BBC News coverage of climate change	20
Sport coverage on BBC One	22
Removal of clips from YouTube	24
Wimbledon coverage	26
Pre-recorded programmes on BBC Radio 2	28
Provision of jazz on BBC Radio	30
BBC Radio 4 scheduling	32
Depiction of littering in BBC drama programmes	34
BBC not giving complainant's music airtime	36
Treatment of complainant by BBC staff	38
BBC coverage of London 2012 Olympics	40
Negative news coverage	42
Changing the presenter of the Radio 1 breakfast show	43
BBC Radio 3 treatment and exposure of composer and conductor Michael Rosenzweig	44
Appeal against decision not to proceed with Television Licensing Appeal	46

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

Summaries of findings

Jazz scheduling and complaint handling

The complainant said that the overall amount of jazz played on the BBC Radio 3, and in particular modern jazz, was being reduced. He also considered that the output that remained was being moved to marginal slots and was also subject to time-shifting and cancellation. The complaint also raised issues regarding the handling of the complaint by the BBC and BBC Trust.

The Panel concluded:

- that the Radio 3 Service Licence Agreement does not set out a specific number of hours of jazz that should be broadcast on the network each week, or when these should be broadcast, but it does state that jazz, world music, drama, the arts and ideas and religious programming should feature in its output.
- that Radio 3's schedule includes regular jazz programming and on this basis there had been no breach of its Service Licence Agreement.
- that decisions about when jazz output should be scheduled and decisions about who should present those programmes are matters for the BBC Executive rather than the BBC Trust.
- that the BBC Executive had responded to the complaint in an appropriate and proportionate manner.
- that it was not helpful for the Trust Unit to have suggested that the complainant pursue his complaint through the BBC Executive in the circumstances.
- that, as a full explanation and apology for the mistake had already been provided to the complainant by the Trust Unit, the complainant's appeal regarding complaint handling by the Trust Unit had been resolved.

The complaint was not upheld with regard to the substance and the handling at Stage 2. The complaint was found to be resolved with regard to the handling at Stage 3.

For the finding in full see pages 5 to 9.

Production location agreement, complaint handling and challenge to the Trust Unit's decision not to proceed with elements of the appeal

The complainant said that an agreement which had been entered into regarding the reinstatement of a property after location filming for the BBC drama *Shirley* had not been adequately fulfilled. The complainant also made allegations regarding the behaviour of the programme's Location Manager and the handling of her subsequent complaint.

The Panel concluded:

- that in respect of the location agreement, the issues raised by the complainant were not for it to answer in view of the fact that the BBC is not a party to the location agreement, and that the Panel had not received or seen any evidence from the complainant's brother, who entered into the location agreement with the

production company.

- that it had not seen any evidence to suggest that there had been any wrongdoing on the part of the Location Manager when negotiating the location agreement with the complainant's brother.
- that these first and second elements of the complainant's appeal did not have a reasonable prospect of success and it would not be proportionate for it to further investigate these elements of the appeal on the evidence before it.
- that the BBC had not met the expectations of paragraph 4.2(e) of the Complaints Framework (that complaints should be responded to in a timely manner) and paragraph 2.5 of the General Complaints and Appeals Procedures (that BBC Information or the relevant BBC department should reply within 10 working days of receiving the complaint).
- that the responses from the Director of production and the Executive Producer had sufficiently explained their positions, and had met the expectations of the Complaints Framework that when considering complaints on substantive matters the BBC must provide adequate reasoning for its decision.
- that, at Stage 2, the BBC had not met the expectations of the Complaints Framework that complaints should be responded to in a timely manner and had not met the target response times in the General Complaints Procedure.
- that the Executive Producer had reasonably assumed that the issues raised by the complainant appeared to have been fully disposed of by the Compromise Agreement and were, in any event, for the complainant's brother and the production company to resolve, not the BBC. The Executive Producer could not reasonably have been expected to treat this as an unresolved complaint.

The complaint was not accepted on appeal with regard to the Location Agreement and the behaviour of the Location Manager. The complaint was partially upheld with regard to the handling.

For the finding in full see pages 10 to 17.

Appeal Findings

Jazz scheduling and complaint handling

1. The complaint

This was an appeal by a complainant who was not satisfied with the BBC's coverage of jazz music on radio and felt that this raised questions about Radio 3's Service Licence for which the BBC Trust is responsible. He felt that the overall amount of jazz played on the network, and in particular modern jazz, was being reduced. He also considered that the output that remained was being moved to marginal slots and was also subject to time-shifting and cancellation.

The appeal also concerned the handling of his complaint both by the BBC Executive and the BBC Trust. The complainant initially wrote to the BBC Trust in 2011 regarding coverage of jazz music on the BBC and Radio 3 in particular. In the intervening 13 months he wrote around a dozen letters about this issue and received six replies. The exchanges have not sat within the recognised three-stage complaints handling system.

2. Correspondence history

The complainant wrote to the BBC Trust on 9 August 2011 saying that he was preparing a brief on the BBC's attitude to jazz programmes – something that, in his view, was leading to the inevitable demise of the genre across BBC Radio. He said he had written to the BBC about this issue on numerous occasions over recent years but his concerns had never been satisfactorily addressed and he now sought an opportunity to address the BBC Trust directly on this issue.

The Correspondence Co-ordinator of the BBC Trust replied on 24 August 2011 explaining that, according to the BBC's complaints process, a complaint had to be initially considered by the BBC Executive and that this letter had been passed to BBC Audience Services for a response.

The complainant says he sent two follow-up letters to the BBC on 26 August and 12 September 2011 but did not receive any replies.

He then wrote to the Director-General of the BBC on 17 October 2011. He enclosed a copy of his brief *The State of the Art of Jazz at the BBC* and asked that it be given some consideration.

The Director-General replied on 1 November 2011 apologising for his failure to respond earlier. He explained that the brief had been passed to the Director of BBC Audio and Music and that he would respond with his thoughts.

The Editor, BBC Radio, wrote to the complainant on 15 December 2011 saying that he had been asked to respond on behalf of a number of people, including the Director of BBC Audio and Music, whom the complainant had contacted on this issue. He disputed a section of the complainant's report in which he had stated that "none of the performances from the London Jazz Festival make their way to air". He said that the BBC regularly broadcasted more than 30 hours of coverage from the festival, and that there had been more than 40 hours that year. He gave other examples from the recent schedules to assert the BBC's continuing commitment to jazz.

The Editor, BBC Radio, also responded to another issue raised by the complainant by saying that the listings for shows were widely available. Responding to a question about

why the playlist information was sometimes incorrect, he said that the BBC did its best to ensure that the information was accurate and that steps were taken to correct errors. He said while any future correspondence would be read, the BBC could not spend a large amount of time responding to a single listener when the BBC's correspondence suggested the points he raised were not of broad concern to the general listenership.

The complainant replied on 19 December 2011 expressing disquiet with the tone and substance of the response. He said that to have merely provided a list of jazz programmes without their placing in the schedules was pointless, and that to have focused on points in his report's appendix was disingenuous. He took issue with various points in the reply. He said he was awaiting a response from the Head of Audio and Music in line with the Director-General's promise.

The complainant wrote again to the Editor, BBC Radio, on 3 January 2012, saying that he had looked again at his own discussion brief, *The State of the Art of Jazz at the BBC*, and that the statistics referred to the 2010 London Jazz Festival not the 2011 one which had been used as the reference point for the response. He then offered a breakdown of the BBC's coverage of the LJF to dispute the number of broadcasting hours which the Editor, BBC Radio had claimed had been broadcast. He reiterated his view that modern jazz in particular was being removed from the BBC's schedules "during normal waking hours". He copied this letter to the Director of BBC Audio and Music.

The complainant wrote to the Director-General on 2 March 2012 to say that he had still not had a response from the Director of BBC Audio and Music and that he proposed to write to the Trust regarding his unresolved complaint.

The complainant wrote to the BBC Trust on 10 March 2012 complaining about the Head of BBC Audio and Music's failure to respond to him.

The complainant wrote to the Trust again on 17 March 2012. He said that Radio 3 was "removing as much jazz content from its accessible schedules as it possibly can", and argued that Radio 3 was in breach of its Service Licence. He asked if the Trust had begun its own investigations.

The complainant also informed the Trust Unit (in later correspondence) that he had written again to the Trust Unit on 7 April 2012. The Trust Unit had no record of this letter.

The complainant wrote to the Chairman of the BBC Trust on 10 July 2012 detailing the letters he had sent to the BBC which had received no reply, including the assurance from the Director-General that the Head of Audio and Music would respond to him. He asked if there was a Chief Complaints Editor to whom he could direct his unanswered complaints.

The Complaints Co-ordinator, BBC Trust replied on 20 July 2012 and apologised for the failure to respond to the letter of 10 March 2012 which he said was due to an administrative oversight. He said that the letter of 15 December 2011 from the Editor, BBC Radio, had been sent on behalf of the Head of Audio and Music and the BBC's management. He said that the Trust had no role in the BBC's editorial decisions and therefore it would not be appropriate to comment on the issues raised. He suggested that the complainant should write to the BBC department which originally handled his complaint if he was unhappy about complaints handling.

The complainant wrote to the Complaints Adviser, BBC Trust, on 28 July 2012 detailing the letters he had sent to the Trust itself which had not been responded to. These included, he said, follow-up letters on 17 March and 7 April 2012. He said that he could not have known that the letter from the Editor, BBC Radio, was being sent on behalf of

the Head of Audio and Music as this was never stated, and also because this letter had failed to address the most serious and detailed points in the brief which he had originally sent to the Director-General.

He also questioned why the Correspondence Co-ordinator, BBC Trust had suggested that if he wished to complain about the way the BBC had handled his complaint he should write back to the department he had first dealt with. The complainant noted that he had not received a reply to his last letter to the Director-General's office.

The Correspondence Co-ordinator, BBC Trust replied on 8 August 2012 reiterating that the Trust could not become involved in editorial decisions which were the preserve of the BBC Executive rather than the BBC Trust, as defined in the BBC's Royal Charter. The Correspondence Co-ordinator noted that Radio 3's Service Licence required jazz to feature in its output but did not specify a minimum amount or when jazz should be broadcast. He also noted that the Trust considered the Service Licence remits were being met and that there was no basis for the Trust to intervene therefore in the scheduling of jazz or to comment on the points the complainant had raised. In terms of pursuing a grievance about complaints handling, he reiterated that the correct procedure was for the complainant to direct his complaint to the BBC department he had written to in the first instance, and he offered to pass a letter to BBC management.

Appeal to the Trust

The complainant replied to the Correspondence Co-ordinator, BBC Trust on 12 August 2012.

He wanted to appeal to the Trust to examine his substantive complaint that the BBC, and Radio 3 in particular, was treating jazz music, especially modern jazz, with contempt. He complained that the slots devoted to jazz were being reduced and those which remained were moved late into the night. He stated that those slots dedicated to jazz were either varied or cut at will. He said that the Trust, as the body responsible for setting the Service Licence for Radio 3, was under an obligation to examine this issue.

He also wanted to complain about the way his complaint had been handled by the BBC Executive and by the BBC Trust.

The Complaints Adviser replied on 3 September 2012 acknowledging receipt of his letter and explaining that it would be considered as an appeal under the General Complaints and Appeals Procedure.

The complainant wrote to the Trust on 6 September 2012 to provide some additional evidence in support of his general argument about the precarious position of jazz on Radio 3. He said that he believed the new presenter of *Jazz Record Requests* was actively seeking to minimise modern jazz, even though the programme's remit was to reflect listeners' requests. He also said that he believed the presenter was trying to expand the content beyond the jazz genre and had also faded-out records – a policy which he claimed had led to a considerable outcry on another jazz programme.

The Head of Editorial Standards wrote to the complainant on 10 September 2012 to explain how his appeal would be handled, and provided an explanation and apology for the way his complaint had been handled by the Trust Unit. She apologised for the fact that the complainant had not received a response to his letters of 10 and 17 March 2012, and explained that this was an error that had been taken up with the Correspondence Co-ordinator. She noted that the Trust Unit had no record of his letter of 7 April 2012 being received. The Head of Editorial Standards also explained that she did not consider that

the Correspondence Co-ordinator's replies of 28 July or of 8 August 2012 fully took into account the facts of the case and that this had been addressed with him. She also apologised for the fact that information regarding Ofcom was not explained more clearly to him.

Finally, the Head of Editorial Standards explained that, had the complainant's complaint been referred to the Complaints Adviser for input at an earlier stage within the Trust Unit, the complaint would have been handled as an appeal to the Trust. The Head of Editorial Standards explained that, having read the complainant's correspondence, she had decided that the three points he raised (regarding jazz music coverage on Radio 3 and the handling of his complaint by both the BBC Executive and by the BBC Trust) should be considered by the Trust's Complaints and Appeals Board (the "Panel") at its October meeting.

3. The Panel's decision

The Panel considered the three points raised by the complainant's appeal, as follows:

1. The first point is the substantive complaint that the accumulated reduction in programming, switching regular strands to late night, last minute changes and cancellations means that Radio 3 is no longer fulfilling its commitment to jazz as prescribed in its Service Licence Agreement. The complainant suggests that recent changes on *Jazz Record Requests* offer a clear illustration of what is going wrong.
2. The second point is the complaint that the BBC Executive failed to respond to a number of the complainant's letters, failed to address the points he had raised and failed to provide clear and helpful advice on how to progress his complaint.
3. The third point is the complaint that the BBC Trust Unit failed to deal with his complaint appropriately, failed to respond to several letters and refused to offer him a clear and satisfactory route to escalate his complaint.

In relation to point 1, the Panel considered the requirements of the Radio 3 Service Licence Agreement. The Panel noted that this did not set out a specific number of hours of jazz that should have been broadcast on the network each week, or when these should be broadcast, but did state: "Jazz, world music, drama, the arts and ideas and religious programming should feature in its output."

The Panel then turned to the question of whether jazz programming features in Radio 3's output. It noted that Radio 3's schedule included regular jazz programming and on this basis considered there had been no breach of its Service Licence Agreement. The Panel also considered that decisions about when jazz output should be scheduled and decisions about who should present those programmes were matters for the BBC Executive rather than the BBC Trust. It considered that those matters related to "editorial and creative output" and were therefore the responsibility of the BBC Executive Board rather than the BBC Trust – as specified in the BBC Charter (paragraph 38(1)(b)). The Panel noted that, given that editorial and creative output is a duty that is the responsibility of the Executive Board, this is an area in which the Trust does not normally get involved unless, for example, it relates to a breach of the BBC's editorial standards or a failure to meet Service Licence obligations.

The Panel then considered point 2 of the appeal, relating to the way the complaint had been handled by the BBC Executive. The Panel noted the extent of the detailed correspondence that had passed between the complainant and the Executive. It noted

that the reply from the Editor, BBC Radio, dated 15 December 2011 had been intended to serve as a response from a number of people from the Executive who had received correspondence from the complainant. The Panel noted that the letter stated that the Editor, BBC Radio, had been asked to acknowledge letters on behalf of all recipients and that the names of these recipients were set out at the top of the letter. The Panel also noted that the Editor, BBC Radio told the complainant "it is not possible to make individuated responses to all the points you raise". Nonetheless, the Panel considered that the letter dated 15 December 2011 could have been clearer that the complainant would not get a further response from the other members of the Executive to whom he had written. The Panel also considered that, while the letter replied to the concerns that had been raised by the complainant, it would have been better if it had been written in plainer English.

The Panel noted that the complainant had written repeatedly to the Executive and agreed that the complainant had not raised any matter that would suggest there had been either a breach of the Editorial Guidelines or a failure to fulfil the terms of Radio 3's Service Licence Agreement. The Panel agreed that the Executive had responded to the complainant's correspondence in an appropriate and proportionate manner. The Panel concluded that, for the above reasons, it would not uphold point 2 of the complainant's appeal regarding complaints handling by the Executive.

Finally, the Panel considered point 3 of the appeal, relating to the way the complaint had been handled by the BBC Trust. The Panel noted that the complainant had not received a response to two of his letters to the BBC Trust. The Panel also noted that the complainant stated that he had written a third letter to the BBC Trust on 7 April 2012, but that the BBC Trust Unit did not have a record of having received this third letter from him.

The Panel noted that on two occasions the Correspondence Co-ordinator at the BBC Trust Unit had suggested to the complainant that he should pursue his complaint through the BBC Executive although his complaint was not only about complaints handling, but was also about jazz output on Radio 3 and Radio 3's Service Licence which is set by the BBC Trust. The Panel agreed that it was not helpful to have suggested the complainant pursue his complaint through the BBC Executive in circumstances where the Editor, BBC Radio, had explained to the complainant in his letter of 15 December 2011 that, although the complainant's letters would continue to be read, it would not be possible to make individuated responses to all the points he raised and the Executive would not devote substantial amounts of time to dealing with future correspondence. Nonetheless, the Panel noted that the Trust Unit had already acknowledged it had made mistakes in this regard and that the Head of Editorial Standards had written to the complainant fully explaining what had gone wrong and had apologised for the mistakes that had been made. On the basis that a full explanation and apology had already been provided to the complainant by the Trust Unit, the Panel concluded that point 3 of the complainant's appeal regarding complaints handling by the Trust Unit had been resolved and therefore it would not be upheld.

Therefore, the complainant's appeal was not upheld with regard to the substance of the complaint about jazz output on Radio 3 and Radio 3's Service Licence, nor was it upheld with regard to complaints handling by the BBC Executive. The Panel considered the issue with complaint handling by the BBC Trust Unit had been resolved because the mistakes had been acknowledged and an apology for them had been given by the Trust Unit.

Finding: Not upheld with regard to the substance of complaint and handling at Stage 2, resolved with regard to handling at Stage 3.

Production location agreement, complaint handling and challenge to the Trust Unit's decision not to proceed with elements of the appeal

1. The complaint

In April 2011, the complainant's mother died, leaving her house to the complainant and her brother. The property was placed with an estate agent, through whom the BBC's Location Manager, acting for an independent producer, contacted the complainant's brother. The production company wanted to use the property as a filming location for BBC drama *Shirley*.

On 30 June 2011, the Location Manager sent the complainant's brother a 'wish list' of proposed alterations to the property for the purposes of filming the programme, to which (after further negotiations) the complainant and her brother eventually agreed.

On 10 July 2011, a location agreement was entered into between the complainant's brother and the production company governing the use and reinstatement of the property by the production company. The location agreement was sent as a letter to the complainant's brother by the Location Manager, acting on behalf of the production company.

After filming was completed, a dispute arose involving the complainant and her brother on the one hand, and the production company on the other. This concerned the nature, extent, and detail of reinstatement works to the property. These issues were discussed, but not resolved, at a reinstatement meeting on 2 August 2011 and in subsequent telephone conversations.

Stage 1

On 10 August 2011 the complainant wrote to the Director, BBC Cymru Wales, setting out a detailed factual summary and the reasons for her complaint. She enclosed a schedule of reinstatement works which she considered to be outstanding.

On 15 August 2011, the Business Manager to the Director, BBC Cymru Wales, acknowledged receipt, stating that she had forwarded the complainant's letter to the BBC's Executive Producer, who was on leave until September.

On 18 August 2011 a second reinstatement meeting took place, after which a number of issues remained, in the complainant's view, unresolved.

On 19 August 2011 the complainant responded to the Business Manager to the Director, BBC Cymru Wales, pointing out that reinstatement was being dealt with by BBC Cymru Wales in Cardiff, which was why she had written to the Director, BBC Cymru Wales in the first instance. The complainant set out a detailed summary of events since her previous letter, reiterated her complaint and amplified it to include particular complaints about the conduct of the Location Manager and two other members of the production company's staff. The complainant suggested that the Director, BBC Cymru Wales be kept informed. She requested that the Location Manager and two members of the production company's staff apologise, that they be informed about her complaint, and that they be sacked.

On 24 August 2011 the complainant's brother agreed orally to an agreement ("the Compromise Agreement") whereby he accepted a sum of money ("the Compromise Sum") from the production company in full and final settlement of any outstanding works to the

property. The production company paid the Compromise Sum into the complainant's brother's bank account on 2 September 2011.

On 25 August 2011 a Team Assistant, BBC Cymru Wales, responded to the complainant, stating that her letter of 19 August 2011 had been forwarded to the Executive Producer. The Team Assistant explained that, even though staff based in Cardiff had been involved in the production, the Executive Producer needed to be aware of the complainant's correspondence in order to deal with the matter as soon as possible.

On 12 September 2011 the production company's Director of production responded to the complainant. The Director of production summarised the terms of the location agreement, the dealings between the parties and the terms of the Compromise Agreement, and noted the payment of the Compromise Sum to the complainant's brother. He apologised if the complainant had been upset, and thanked her for her "co-operation in resolving this post filming issue".

On the same date, the Director of production sent the complainant's brother a memorandum of the terms of the Compromise Agreement, stating "we now believe that this matter has been resolved ..."

On 26 September 2011, the complainant wrote to the Executive Producer. The complainant listed various unauthorised alterations, damage to the property and outstanding works. Describing the Compromise Agreement as "irrelevant", the complainant queried why the Director of production's letter of 12 September 2011 had not addressed the issue of outstanding works. She also set out various arguments relating to her general complaint, and made allegations of dishonesty against the Location Manager (concerning the pre-contractual discussions) and Production Co-ordinator (concerning damage to and loss of net curtains).

On 14 November 2011 the complainant wrote to the Director-General, BBC. The complainant stated that the issues she had raised had been ignored by the Executive Producer and Director of production, the former of whom had not replied to her letters and the latter of whom she alleged could not distinguish a complaint about the standard of work from a complaint that work had not been done. The complainant requested that the Executive Producer deal promptly with the matters she had raised, in default of which she would refer the matter to the Minister for Culture, Communications and Creative Industries and the Secretary of State for Culture, Olympics, Media and Sport.

On 25 November 2011 the Executive Producer wrote to the complainant. After summarising the background matters and the relevant terms of the location agreement, the Executive Producer noted the gist of the complainant's initial letter of complaint, the terms of the Compromise Agreement and the payment of the Compromise Sum to the complainant's brother. While acknowledging that the complainant wanted the production company to complete the outstanding reinstatement works, the Executive Producer stated that this was not what had been agreed under the Compromise Agreement.

On 19 December 2011 the property was sold.

On 1 January 2012 the complainant wrote to the Director-General, stating that the Executive Producer had failed to address the issues that she had raised, provided information that she already possessed, contradicted the Director of production's letter of 12 September and said things that were untrue. In the complainant's view, the Executive Producer's response demonstrated that she had not read the complainant's letters of 10 and 19 August and 26 September 2011. The complainant asked why the Executive Producer had not responded to her letter of 26 September 2011, which had been

addressed directly to the Executive Producer. The complainant asked whether the Location Manager had been sacked for dishonesty, in accordance with her previous request. The complainant repeated her allegation of dishonesty against the Production Co-ordinator and amplified it to include the Production Co-ordinator's Line Manager. The complainant also set out various arguments relating to her general complaint.

On 11 March 2012 the complainant wrote to the Secretary of State for Culture, Media and Sport, whose office referred her to BBC Audience Services.

Stage 2

On 9 April 2012 the complainant wrote to BBC Audience Services, setting out the facts, the complaint history and various arguments relating to her general complaint. She requested the involvement of the Director-General and a full investigation.

On 30 May 2012 the Complaints Management and Editorial Standards Adviser, BBC Vision, wrote to the complainant at Stage 2 of the complaints process. The Adviser apologised for the delays in responding to the complainant's letters of 26 September 2011 and 1 January 2012, which he attributed to the time it had taken to gather together all the various exchanges of correspondence.

In the Adviser's view, following the complainant's letters of 10 and 19 August 2011, it was entirely appropriate for the Executive Producer to have referred the matter to the production company for a substantive response. The Adviser noted that the complainant's brother had been paid the Compromise Sum by the production company as sufficient compensation to complete all of the outstanding work at the property, and that this was in full and final settlement of all claims against the production company.

Noting the gist of the complainant's letter to the Executive Producer of 26 September 2011 and of the Executive Producer's response of 25 November 2011, the Adviser expressed the view that, as the location agreement was solely between the complainant's brother and the production company (as opposed to between the complainant and/or the BBC), the Executive Producer's position was entirely understandable. The Adviser repeated his apology that it had taken so long to respond to the complainant's letter of 26 September 2011.

In the Adviser's opinion, the same could be said of the complainant's letter of 9 April 2012 to BBC Audience Services. In his view, any issues that had arisen were a matter for the production company and the complainant's brother (as signatories to the location agreement) to resolve, which they appeared to have done.

According to the Adviser, the BBC had no record of any further correspondence from the complainant until her letter of 1 January 2012 to the Director-General, which the Adviser noted was 23 working days after the Executive Producer's response. The Adviser apologised again that the complainant had not received a response to that letter.

Appeal to the BBC Trust

On 11 June 2012 the complainant appealed to the BBC Trust. Her appeal raised the following three elements:

1. The reinstatement of the property: As described above, following completion of filming, a dispute appears to have arisen between the complainant and her brother on the one side and the production company on the other in relation to

the reinstatement of the property. In particular, there appears to be a difference of opinion as to what was said orally between the complainant's brother and the Location Manager in pre-contractual discussions.

2. The behaviour of the Location Manager: The complainant made certain allegations about the Location Manager's behaviour when the location agreement was entered into.
3. Complaints handling: The complainant complained that the Executive Producer had not replied to her letters of 10 and 19 August and 26 September 2011 or investigated her complaint against the Location Manager. The complainant also complained that both the production company and the Executive Producer had failed to address the issues that she had raised in her general complaint. In the complainant's view, the Executive Producer's response had repeated the production company's response, had stated things that were untrue, contradicted what the production company had said and "confirmed that she had no idea what she was talking about". With reference to the BBC's Stage 2 response of 30 May 2012, the complainant queried why it had taken so long for the correspondence to be gathered together. The complainant also set out various arguments relating to her general complaint.

On 13 September 2012 the Head of Editorial Standards, BBC Trust Unit, wrote to the complainant. She explained that, having considered the complainant's appeal and the relevant correspondence, she had decided that the first two elements of the complainant's appeal did not have a reasonable prospect of success and should not proceed to the Trust's Complaints and Appeals Board (CAB).

In relation to the first element of the appeal (issues arising out of the reinstatement of the property), the Head of Editorial Standards explained that she considered that these issues were, and remain, for the production company and the complainant's brother to resolve between them, as they are the parties to the Compromise Agreement. She also noted that it would appear that the production company and the complainant's brother had reached a resolution by way of the Compromise Agreement. The Head of Editorial Standards concluded that any outstanding areas of dispute arising out of the location agreement should therefore be directed to the production company, and not the BBC.

In relation to the second element of the appeal (behaviour of the Location Manager), the Head of Editorial Standards explained that she considered that these issues again related to a contractual matter between the complainant's brother and the Location Manager, and that therefore they should be raised with either the complainant's brother or the production company, and not the BBC.

In relation to the third element of the appeal (complaints handling), the Head of Editorial Standards explained that she considered that this element of the appeal had a reasonable prospect of success and, therefore, should proceed to a hearing before the CAB. She also apologised for the time taken to consider the complainant's appeal by the Trust Unit, and explained that this was because the paperwork and issues raised were complex.

The complainant requested that the Board review the Head of Editorial Standards' decision not to proceed with the appeal in the general complaint. In her letter of challenge, the complainant provided additional detail about alleged oral agreements that were made regarding the reinstatement of the property, prior to the location agreement being entered into. She also provided more detail about the subsequent dispute between her and the production company. In particular, the complainant stated that the Trust Unit had ignored the fact that the production company did not issue a written reinstatement

document setting out what was/was not going to be reinstated; in the complainant's view, this should have been done. The complainant also stated that, having commissioned the programme, the production company became the sub-contractor of the BBC and that the BBC was therefore responsible for the actions of the production company. Finally, the complainant reiterated her allegations about the Location Manager's behaviour when the location agreement was entered into.

The complainant also wrote to the Trust Unit to provide comments on the paperwork that would be provided to the CAB for the purposes of its consideration of the third element of the complainant's appeal about complaints handling.

2. The Panel's decision

(A) Consideration of challenge not to proceed with the first and second elements of appeal

The Panel first considered the complainant's challenge to the Head of Editorial Standards' decision not to proceed with the first and second elements of the appeal.

The Panel noted that neither the complainant nor the BBC was a party to the location agreement or the Compromise Agreement, and that the complainant's brother – who was a party to both – had not participated in this complaint. In particular, the Panel noted that the Trust Unit had not received or seen any correspondence from the complainant's brother. In the absence of any first-hand evidence from the complainant's brother, the Panel considered that it was unable to resolve the conflict between the complainant's and the Location Manager's contradictory accounts as regards what was agreed orally in pre-contractual discussions about reinstatement. The Panel also noted that the complainant's brother had signed the location agreement, the terms of which accorded with the Location Manager's version of events.

The Panel concluded that there was no evidence that the Location Manager had given a dishonest account of what had been agreed orally in the pre-contractual discussions.

The Panel noted that the relationship between the production company and the complainant's brother was a private contractual one and that their relationship was governed by the terms of the location agreement. The Panel further noted that the complainant's brother and the production company had entered into a Compromise Agreement which was expressed to be in full and final settlement of any outstanding works to the property.

The Panel also noted the complainant's assertion that a written reinstatement document should have been issued by the production company. However, the Panel considered that it was not for it to comment on how the production company conducts its business or on the circumstances relating to the formation of the location agreement between the production company and the complainant's brother.

The Panel further noted the complainant's point that the production company became the sub-contractor of the BBC and that the BBC was therefore responsible for the actions of the production company. The Panel noted that the BBC had commissioned the production company to produce the programme and that, in turn, the production company had entered into the location agreement with the complainant's brother to use the property for the purposes of filming. While the Panel noted that it had not seen the contract between the production company and the BBC, it noted that the location agreement made reference to such a contract and agreed that in such circumstances it had no reason to

believe that the production company had become the sub-contractor of the BBC – rather, these were separate contractual relationships.

Nevertheless, in the Panel's view, even if the BBC was the "main contractor" as alleged by the complainant, it would not necessarily follow that the BBC is ultimately responsible for the actions of the production company; the relationship and division of responsibility between a main contractor and a sub-contractor will depend entirely on the terms of each individual contract.

The Panel concluded that, in respect of the first element of the appeal, the issues raised by the complainant were not for it to answer in view of the fact that the BBC is not a party to the location agreement, and that it had not received or seen any evidence from the complainant's brother, who entered into the location agreement with the production company. In relation to the second element of the appeal, the Panel considered that it had not seen any evidence to suggest that there had been any wrongdoing on the part of the Location Manager when negotiating the location agreement with the complainant's brother.

For the reasons set out above, the Panel concluded that the first and second elements of the complainant's appeal did not have a reasonable prospect of success. The Panel also considered that it would not be proportionate for it to further investigate these elements of the appeal on the evidence before it.

The Panel therefore agreed that the first and second elements of the complainant's appeal did not qualify to proceed for consideration.

(B) Consideration of the third element of the appeal regarding complaints handling

The Panel then considered the third element of the complainant's appeal regarding the way that her appeal had been handled by the BBC Executive. The Panel noted that this raised four points for consideration.

The first point of appeal was that the Executive Producer had failed to reply to the complainant's letters of 10 August, 19 August and 26 September 2011.

The Panel noted that the first substantive response received by the complainant was the production company's letter of 12 September 2011, which was issued 22 working days after the complainant's first letter of complaint and 16 working days after her second. The Panel also noted that the complainant had not received any written response from the Executive Producer until after the complainant's letter of 14 November 2011 to the Director-General, and that the complainant had not received a written apology from the BBC (as distinct from the production company) until Stage 2 of the complaints process.

In the Panel's view, after she had received the complainant's letters of 10 and 19 August 2011, the Executive Producer ought to have informed the complainant that she thought this was a matter for the production company. As a consequence of the Executive Producer's failure to reply on behalf of the BBC until November and because the production company's letter had been issued after the target time for initial Stage 1 responses, the BBC had not met the expectations of paragraph 4.2(e) of the Complaints Framework (that complaints should be responded to in a timely manner) and paragraph 2.5 of the General Complaints and Appeals Procedures (that BBC Information or the relevant BBC department should reply within 10 working days of receiving the complaint).

The panel regretted and apologised for the delays in handling at all stages of the complaints process.

The Panel therefore upheld the complaint on the first point of appeal.

The second point of appeal was that both the production company and the Executive Producer had failed to address the substantive issues that the complainant had raised in her general complaint (including but not limited to her complaint against the Location Manager).

The Panel considered that the Director of production's response of 12 September 2011 and the Executive Producer's response of 25 November 2011 had sufficiently explained their positions. In the Panel's view, the fact that the complainant was dissatisfied with those responses was immaterial to the question of whether her complaint had been handled properly.

The Panel noted that both those responses had taken account of the fact that the complainant was not a party to the location agreement or the subsequent Compromise Agreement. Noting that the facts and issues in this complaint were highly complex, the Panel concluded that it was reasonable for the production company and Executive Producer to have proceeded on the assumption that the issues raised by the complainant were for the complainant's brother and the production company to resolve as parties to the location agreement, and that they appeared to have been fully disposed of by the Compromise Agreement. The expectations of paragraph 4.2(h) of the Complaints Framework (that, when considering complaints on substantive matters, the BBC must provide adequate reasoning for its decision, setting this reasoning within the context of any relevant BBC guidelines) had therefore been met.

The Panel therefore did not uphold the complaint on the second point of appeal.

The third point of appeal was that the delay in the BBC's Stage 2 response of 30 May 2012 was unwarranted.

The Panel noted that the delays between the complainant's letters of 1 January and 9 April 2012 and the BBC's subsequent Stage 2 response were 103 and 36 working days respectively. The Panel also noted that the Complaints Management and Editorial Standards Adviser, BBC Vision, had apologised for the delays in responding to the complainant's letters of 26 September 2011 and 1 January 2012 (but not her letter of 9 April 2012), and that he had attributed those delays to the time it had taken to gather the correspondence¹.

Having regard to the extreme length of the delays between the complainant's letters and the BBC's Stage 2 response, the Panel concluded that the Complaints Management and Editorial Standards Adviser's apologies were insufficient to dispose of the matter. The Panel therefore wished to add its own apologies to the complainant for the unacceptable delays on the BBC's part in issuing a Stage 2 response.

The Panel therefore concluded that, at Stage 2, the BBC had not met the expectations of paragraph 4.2(e) of the Complaints Framework (that complaints should be responded to

¹ The Panel's paperwork contained an error and, in fact, the Complaints Management and Editorial Standards Adviser had apologised in his letter of 30 May 2012 for the delay in his response to the complainant's letter of 9 April 2012. It was this delay, and not the delays in the BBC responses to her letters of 26 September 2011 and 1 January 2012, which he had attributed to the time it had taken to gather correspondence. The Panel was provided with this correction at its meeting on 21 February 2013 and it accepted that the significant delays at Stage 2 had occurred before the complaint was passed to the Complaints Management and Editorial Standards Adviser.

in a timely manner) or the target response times in paragraph 2.7 of the General Complaints Procedure (20 working days of the senior manager receiving a complaint, or 35 working days if the complaint was complex).

The Panel therefore upheld the complaint on the third point of appeal.

The fourth point of appeal was that the Executive Producer's letter of 25 November 2011 did not tell the complainant which part of the BBC to write to at Stage 2 or give its contact details.

The Panel noted that, in respect of point 2 above it had decided that the Executive Producer had reasonably assumed that the issues raised by the complainant appeared to have been fully disposed of by the Compromise Agreement and were, in any event, for the complainant's brother and the production company to resolve, not the BBC.

The Panel concluded that, when writing her letter of 25 November 2011, the Executive Producer could not reasonably have been expected to treat this as an unresolved complaint.

The Panel therefore did not uphold the complaint on the fourth point of appeal.

Finding: Partially upheld

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.

Pro-Israel bias

The complainant appealed to the Trust's Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

Summary of complaint

Stage 1

The complainant contacted the BBC about an item in the *Today* programme by reporter Kevin Connolly marking Holocaust Memorial Day in Israel. The complainant believed this to be an "internal Israel festival". The complainant felt the *Today* programme had ignored other similar festival days in neighbouring non-Israeli countries and regarded this as pro-Israel bias.

At Stage 1 of the complaints process, the Duty Editor of *Today* stated that the piece was not simply an item marking an "internal Israel event". The Duty Editor said that it had a wider resonance, containing insights into one of the death camps. The Duty Editor explained that *Today* covers a range of stories from the Middle East – including places like Gaza and the West Bank, but that items are chosen on the basis of what is significant politically, socially or culturally, rather than where the story originates from.

Stage 2

The complainant progressed his complaint to Stage 2 of the BBC's complaints process. At Stage 2, the Head of Editorial Compliance & Accountability for BBC News stated, "we apply consistent editorial values in making judgements about what to cover, namely that there needs to be news merit in doing so". The Head of Editorial Compliance & Accountability cited coverage of "significant demonstrations as Palestinians marked Nakba Day", explaining that *Today* covered these within news bulletins and that there was also an interview with Husam Zomlot, deputy commissioner of the Fatah International Affairs Commission, after Israeli forces had fired on groups of protestors.

Appeal to the Trust

The complainant asked for the complaint to be passed to the Trust on appeal, reiterating the points of his original complaint.

The Trust Unit's Senior Editorial Strategy Adviser responded, noting that the focus of the item in question was very much on what happened in Theresienstadt and its legacy today. The Senior Editorial Strategy Adviser also noted that the only reference to Holocaust Memorial Day was in the introduction to the item. She explained that, in her view, Trustees would be satisfied that the piece had wider cultural and historical resonance than simply marking an anniversary.

Addressing the complainant's view that *Today* had not covered other similar festival days in neighbouring non-Israeli countries, the Senior Editorial Strategy Adviser explained that the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC draw a distinction between the role of the BBC Trust and that of the BBC

Executive Board, led by the Director-General. In particular, “the direction of the BBC’s editorial and creative output” is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC’s editorial standards.

The Senior Editorial Strategy Adviser explained her opinion that Trustees would agree that the BBC had provided a full and reasonable explanation of the rationale for broadcasting the item in question, as well as an example of coverage of other anniversaries. In the light of the distinction outlined above between the role of the BBC Trust and the Executive Board, the Senior Editorial Strategy Adviser therefore determined that the appeal did not have a reasonable prospect of success and that it would not be appropriate for it to proceed to the CAB for consideration.

The complainant then challenged the Senior Editorial Strategy Adviser’s decision not to proceed with the appeal, saying the Holocaust Memorial Day was an internal Israeli event and that he was not convinced that the BBC had provided coverage of other “internal festivals” either in neighbouring countries or in Britain.

The Panel’s decision

The Panel was provided with the complainant’s appeal to the Trust, the response from the Senior Editorial Strategy Adviser, the complainant’s letter appealing against her decision, and the Stage 1 correspondence referred to in the Senior Editorial Strategy Adviser’s letter.

The Panel noted the complainant’s view that the item was marking the Holocaust Memorial Day in Israel, that this was in “internal” event and that by ignoring other similar festival days in neighbouring non-Israeli countries, this represented pro-Israel bias.

The Panel noted the Executive’s view that the item had a wider resonance and that the Executive had provided an example of where the BBC had covered other anniversaries unrelated to Israel. The Panel agreed with the Senior Editorial Strategy Adviser’s view that the focus of the item was on events in Theresienstadt and that this had a wider cultural and historical resonance than simply marking an anniversary. For these reasons, the Panel did not consider that the BBC’s Editorial Guidelines on Impartiality were engaged.

The Panel also agreed that the Executive had provided a full and reasonable explanation of the rationale for broadcasting the item in question and that decisions on what issues to report on in BBC output was an editorial and creative matter and was therefore not a matter for the BBC Trust.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

BBC News coverage of climate change

The complainant appealed to the Trust's Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain that in his view the BBC was not providing sufficient levels of news coverage addressing the issue of climate change.

BBC Audience Services replied to say that climate change was an issue that was covered in BBC news bulletins and, at Stage 2, the Head of Editorial Compliance and Accountability, BBC News referred to several examples of coverage on radio, television and online which covered climate change issues.

Appeal to the Trust

The complainant appealed to the BBC Trust, outlining the Editorial Guidelines he felt were applicable to his complaint: Truth and Accuracy on the grounds that the BBC is misleading its audience by failing to broadcast sufficient information on climate change in adequate depth; and Impartiality on the grounds that, in the complainant's view, the BBC fails to give due weight to climate change events.

In addition, the complainant felt that the BBC was failing to meet three of its public purposes: Promoting Education and Learning, Sustaining Citizenship and Civil Society and Bringing the UK to the World and the World to the UK.

The complainant agreed that there are numerous resources and articles online, but felt that the vast majority of online reports are not broadcast in news bulletins.

The Senior Editorial Strategy Adviser responded to explain that decisions relating to the amount and type of coverage issues receive fall within the category of "editorial and creative output" which is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards.

The Senior Editorial Strategy Adviser explained that in her view it was clear that BBC News does cover the evidence for, and the effects of, climate change, and that they had provided many examples of this to the complainant. While the examples provided were in the form of online reports, the Senior Editorial Strategy Adviser noted that from these examples it was possible to navigate a range of other reports – including audio and video – collected and posted on the website across BBC News output. She therefore did not feel that the BBC's Editorial Guidelines as outlined in the appeal had been engaged. The Senior Editorial Strategy Adviser said that as decisions about which issues to cover, and when and how they are covered, are matters for the BBC Executive, in her view there was no reasonable prospect of success for the appeal and it would not be appropriate for it to proceed to the Trust for consideration.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that, compared to political coverage or sport, the amount of coverage dedicated to climate change is small and that this should be a matter for the Trustees to consider.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter appealing against her decision.

The Panel noted that the complainant clearly felt strongly about these issues but agreed that this complaint did not engage the Editorial Guidelines. The Panel noted the complainant's concerns that although there were online resources available, other forms of broadcast media did not carry sufficient information. The Panel felt it was made clear in the Stage 2 response that it was possible to navigate to a range of other reports from the online examples – including audio and video – collected and posted on the website from across BBC News output. The Panel also noted that in the Stage 2 response the Head of Editorial Compliance and Accountability, BBC News, had referred to examples of coverage on radio and television as well. Therefore, the Panel could see no basis on which it could be said that the Editorial Guidelines on Accuracy or Impartiality were engaged.

In any event, however, the Panel agreed that decisions about which issues to cover, and when and how they are covered, are matters for the BBC Executive and not for the Trustees.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Sport coverage on BBC One

The complainant appealed to the Trust's Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain about the volume of coverage and the scheduling of sport, in particular football, on BBC television. The complainant felt there was too much sport scheduled and referred to several sporting events, including the World Cup in 2010, the Six Nations rugby tournament in 2011 and Euro 2012 which she said had disrupted the BBC television schedule and resulted in a loss of many hours of her regular viewing. The complainant felt these sporting events should have been shown on BBC Three or on BBC Four.

Appeal to the BBC Trust

Having received Stage 1 and 2 responses from the Executive, the complainant wrote to appeal to the BBC Trust. The complainant expressed her view that BBC One offered "excessive football coverage" that showed a complete disregard for viewers who paid the same licence fee but who were denied their usual programmes because of football. The complainant calculated that she had lost at least 30 hours of viewing because of sports coverage which displaced normal programming, and felt that these events could have been shown on other channels. The complainant was also dissatisfied with the responses she had received from members of the BBC Executive.

The Senior Editorial Strategy Adviser responded explaining that decisions relating to programme scheduling fall within the category of editorial and creative output which is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards. The Senior Editorial Strategy Adviser explained her view that in this case, the BBC Executive had clearly outlined the reasons for its scheduling decisions, including the commitment to provide a range of programming to meet the needs of all licence fee payers and a commitment to put the most popular programmes on BBC One. In addition, the BBC Executive had referred to the unique remit of BBC Three and BBC Four which made these channels unsuitable for the coverage of most sporting events.

The Senior Editorial Strategy Adviser therefore decided that there was no reasonable prospect of success for the appeal and that it would not be appropriate for the appeal to proceed to the Trust for consideration.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that the descriptions of the remit of BBC Three and BBC Four were not valid or consistent – for example, the BBC can show sport on BBC Three when it wants to because BBC Three started broadcasting at 9.00 am every day throughout the Olympics and carried on until the evening. The complainant reiterated that she felt that her appeal raised significant issues of general importance and felt very strongly that the BBC Executive could and should do something about this.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter appealing against her decision.

The Panel noted the complainant's argument that the scheduling of sport, and in particular football, had a detrimental effect on her regular viewing. However, the Panel agreed that decisions relating to programme scheduling fall within the category of editorial and creative output and are the responsibility of the BBC Executive, as defined in the Charter.

The Panel took note of the Executive's point that the remits of BBC Three and BBC Four made these channels unsuitable for the coverage of most sporting events and agreed that the Executive had provided clear reasoning for its scheduling decisions.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Removal of clips from YouTube

The complainant appealed to the Trust's Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC attempting to rectify the consequences of a copyright strike against the complainant. This occurred following the BBC's decision to have two items removed from the complainant's YouTube account for copyright reasons. These copyright strikes – when a third party notifies YouTube of a copyright infringement – resulted in the complainant's account as a whole being removed, something that happens when three strikes are registered against an account.

The complainant reported that it has since been the position of YouTube that the BBC must rescind the strike to allow the complainant to have his account reopened, and that the position of the BBC has been that it is a matter for YouTube.

As the complainant had been in correspondence with the BBC for a considerable length of time, the BBC Executive discontinued correspondence with the complainant on this issue.

Appeal to the Trust

The complainant appealed to the Trust, asking the Trust to intervene in order that the BBC should change its position and rescind the copyright strike. The complainant also appealed against the BBC decision to discontinue corresponding with him and complained about the conduct of those who have been handling the matter.

The Senior Editorial Strategy Adviser responded on behalf of the Head of Editorial Standards. The response explained that the complainant's appeal relates to operational matters which are the responsibility of the BBC Executive. The Senior Editorial Strategy Adviser also explained that in the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC, a distinction is drawn between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General and that paragraph 38(1)(c) of the Charter specifically defines "The operational management of the BBC" as a duty that is the responsibility of the Executive Board and is one in which the Trust does not normally get involved.

The response pointed out that the BBC had explained on a number of occasions that this is a matter to be resolved between the complainant and YouTube. The Senior Editorial Strategy Adviser noted that the fact that this was disputed by YouTube is not a matter for the BBC. The response noted that, accordingly, the BBC's position is that it cannot carry out the complainant's request.

The response noted that YouTube itself sets out how copyright strikes are applied and how to go about having an account re-activated. The Senior Editorial Strategy Adviser also noted that there was nothing in this published advice which suggested a third party instigator has a role in re-activating an account.

The Senior Editorial Strategy Adviser explained that the Head of Editorial Standards considered that the decisions of the BBC in respect of this complaint and the manner in which they had been communicated to the complainant did not in any event amount to there being a case for the Executive to answer in relation to handling.

Accordingly, the Senior Editorial Strategy Adviser explained that the Head of Editorial Standards could see no material change in the circumstances since the matter came before the Trust in September 2010 when the Chairman of the General Appeals Panel at the time ruled that this issue is an operational matter and that it did not raise a matter of

substance. As then, the Head of Editorial Standards did not believe there to be a case for the Executive to answer.

The Head of Editorial Standards was also, therefore, satisfied that the decision of the BBC to cease correspondence with the complainant on this matter was appropriate and proportionate in the circumstances.

The complainant challenged the Head of Editorial Standards' decision saying that the BBC is wrong in stating that there is nothing to suggest that a third party instigator has a role in re-activating an account. The complainant asserted that it is YouTube policy that once a retraction is made on a copyright strike, the channel will be reactivated.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser on behalf of the Head of Editorial Standards and the complainant's letter appealing against her decision.

The Panel noted that "the operational management of the BBC" is specifically defined in the Charter (paragraph 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. As decisions such as those relating to enforcing BBC copyright are day to day operational matters, they are the responsibility of the BBC Executive.

The Panel noted that the BBC's position had been explained to the complainant on a number of occasions and agreed that there is nothing further it could usefully add.

The Panel agreed with the Head of Editorial Standards' view that there was no material change in the circumstances since the matter came before the Trust in September 2010. Given these circumstances, the Panel also agreed that the decision of the BBC to cease correspondence with the complainant on this matter was appropriate and proportionate.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Wimbledon coverage

The complainant appealed to the Trust's Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC about the overall level of tennis coverage on BBC TV. The complainant felt that there was too much coverage and that the addition of the roof on Centre Court had exacerbated the situation by enabling matches to be continued, and therefore televised, throughout the entire evening.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust saying that the BBC Executive had not taken his complaint seriously and had not provided "any substantive reason why it was necessary to destroy a large section of the non-Wimbledon viewing schedule". The complainant said that since the BBC Sport's Chief Adviser and Business Manager appeared to be involved in determining the level of Wimbledon coverage he was "...therefore not in a position to provide any form of independent investigation".

The complainant recognised that it was "impossible to please all viewers all of the time" but because the BBC was a publicly funded organisation he said it was duty-bound to provide a "broad and balanced programming schedule with something for all" which during the Wimbledon fortnight it had, in the complainant's opinion, failed to do.

The Trust's Senior Editorial Strategy Adviser responded, explaining that Wimbledon coverage and decisions about scheduling around this period are editorial and creative matters. The Senior Editorial Strategy Adviser noted that "The direction of the BBC's editorial and creative output" is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards. Given that there was no basis to suggest that there had been a breach of the BBC's Editorial Guidelines, the Senior Editorial Strategy Adviser decided that there was no reasonable prospect of success for the appeal and it would not be appropriate for it to proceed to the Trust for consideration.

The complainant challenged the Senior Editorial Strategy Adviser's decision and asked that the complaint be passed to the Trustees. The complainant maintained his view that the BBC had breached its charter by "the manner and depth to which it discarded its schedule and failed to provide a balanced output over the Wimbledon period". The complainant also felt that it was unhelpful for him to have been directed to the BBC Trust over an issue which does not fall within the scope of the Trust's responsibilities.

The Panel's decision

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

The Panel agreed that decisions relating to programme scheduling fall within the category of editorial and creative output and are the responsibility of the BBC Executive, as defined in the Charter. The Panel agreed that it would only get involved in the direction of the BBC's editorial and creative output if there had been, for example, a breach of the Editorial Guidelines and that in this instance there was no basis to suggest that this was the case. The Panel also agreed that the Executive had provided clear reasoning for its

scheduling decisions to the complainant. For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel recognised that the complainant may have felt frustrated by being told he could appeal to the Trust to then find out it was an editorial and/or creative matter and was therefore the responsibility of the BBC Executive. The Panel requested that the Trust Unit liaise with the BBC Executive to consider amending the wording used when informing complainants of their right to appeal, to make this distinction clear.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Pre-recorded programmes on BBC Radio 2

The complainant appealed to the BBC Trust's Complaints and Appeals Board following the decision of the Head of Editorial Standards that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to raise his concerns that *Steve Wright's Sunday Love Songs* was not broadcast live and that, as this was not made clear by Radio 2, audience members might spend time and money contacting the programme after it had been recorded. The complainant also asked for details of how many regular Radio 2 programmes were pre-recorded. The BBC responded to explain that *Sunday Love Songs* was not broadcast live and that they were not required to provide details of all programmes pre-recorded on Radio 2 and that it would not be a proportionate use of the licence fee to do so.

Appeal to the BBC Trust

The complainant appealed to the Trust outlining three areas of complaint: firstly, that he was unhappy the BBC had not listed which Radio 2 programmes were live and which were pre-recorded; secondly, that the complainant's request for information about live and pre-recorded programmes had been ignored by the Executive; and thirdly that the BBC had not addressed the concern that listeners, unaware that the programme was not transmitted live, might spend time and money contacting the programme after it had been recorded.

The Senior Editorial Strategy Adviser responded on behalf of the Head of Editorial Standards explaining that the third element of the complainant's appeal, regarding the fact that "listeners, unaware that the programme was not transmitted live, might spend time and money contacting the programme after it had been recorded", had a reasonable prospect of success and therefore should be taken on appeal to the Editorial Standards Committee (ESC).

In responding to the first complaint about the BBC's decision not to provide a list of which Radio 2 programmes are pre-recorded, the Senior Editorial Strategy Adviser explained that this is an operational matter and therefore this decision would not normally be subject to a review by the BBC Trust. This is because paragraph 38(1)(c) of the Royal Charter specifically defines "The operational management of the BBC" as a duty that is the responsibility of the Executive Board and is one in which the Trust does not normally get involved. The Senior Editorial Strategy Adviser explained that the Head of Editorial Standards had determined that there was therefore no reasonable prospect of success for the appeal on this point.

In responding to the second complaint, which questioned BBC Audience Services' response to the complainant, the Senior Editorial Strategy Adviser highlighted that Audience Services had explained that it would not be a proportionate use of licence fee resources to fulfil the request for additional information. The Senior Editorial Strategy Adviser explained the Head of Editorial Standards' view that this explanation by Audience Services represented an answer to the complainant's question and that in any case this decision was an operational matter for the BBC Executive and therefore not subject to review by the Trust. The Head of Editorial Standards therefore determined that this aspect of the complaint did not have a reasonable prospect of success and would not be appropriate to proceed to the Trust for consideration.

The complainant challenged the decision not to proceed with his appeal on the first two points reiterating his concern that the information requested had not been provided to him and that the BBC had ignored his requests for information.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser on behalf of the Head of Editorial Standards and the complainant's letter asking the Board to review her decision.

The Panel noted that the complainant's substantive concern about whether audiences were aware that the programme in question was pre-recorded was being taken on appeal to the Editorial Standards Committee and agreed that this aspect of the appeal had a reasonable prospect of success.

The Panel agreed that the decision whether or not to supply the information requested by the complainant was an operational matter and that it was therefore not within the remit of the Trust to intervene. The Panel further agreed with the Head of Editorial Standards' view that BBC Audience Services had adequately explained why they were not in a position to provide the information. For these reasons, the Panel concluded that these aspects of the complainant's appeal did not have a reasonable prospect of success.

The Panel therefore decided that these two aspects of the appeal did not qualify to proceed for consideration.

Provision of jazz on BBC Radio

The complainant appealed to the BBC Trust's Complaints and Appeals Board following the decision of the Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain that Jazz Library on Radio 3 had been moved from 4pm on Saturday to midnight and had been replaced by classical music. The complainant raised concerns that this meant that all the jazz programmes on Radio 3 were now broadcast late at night. The complainant raised his concerns that the marginalisation of jazz music had been going on for years and that, since 2009, the amount of jazz on Radio 3 had fallen from six hours per week to four-and-a-half, and on Radio 2 from three-and-a-half hours per week to one.

Appeal to the BBC Trust

The complainant appealed to the Trust, complaining that he had not received a response from the BBC which addressed the substantive broader issue of the amount of jazz on Radio 3 and also that his complaint not only related to the provision of jazz on Radio 3 but also to the provision of jazz on BBC local radio and the choice of jazz music on Radio 2. The complainant also complained that the Executive had not followed the correct procedure for handling complaints and had still not properly addressed the issues raised.

The Senior Editorial Strategy Adviser responded explaining the distinction between the Trust and the Executive. She noted that "The direction of the BBC's editorial and creative output" is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards or a failure to meet Service Licence obligations.

The Senior Editorial Strategy Adviser noted that it is ultimately for Radio 3 to decide how best to meet the interests of its listeners within the terms of its Service Licence. The Senior Editorial Strategy Adviser pointed to a response from the Managing Editor, BBC Radio 3, who explained that the station's main responsibility is the provision of classical music. The Senior Editorial Strategy Adviser explained that while the Service Licence requires jazz to feature in Radio 3's output, it does not specify a minimum amount of jazz or the times at which it should be broadcast. The Senior Editorial Strategy Adviser also explained that the station fulfils this obligation through various programmes and provided some examples of such programmes during a particular week in September 2012.

Regarding jazz on BBC local radio and Radio 2, the Senior Editorial Strategy Adviser explained that, as with Radio 3, it is for these stations to decide how best to meet the interests of their listeners within the terms of their Service Licences. With regard to local radio, the Service Licence requires a mix of both general and specialist music but does not specify jazz or any other genre. Radio 2's Service Licence requires musical genres that do not normally receive wide exposure, including music from around the world, a wide range of musical genres and a significant amount of specialist programmes but again does not specify jazz.

The Senior Editorial Strategy Adviser also explained that in her view the Executive had appropriately addressed the issues raised. Therefore, in her view the appeal did not have a reasonable prospect of success and should not proceed to the CAB for consideration.

The complainant challenged the Senior Editorial Strategy Adviser's decision not to proceed with the appeal, saying that the issue of jazz policy was not an operational matter but one which needed to be addressed by the Trust.

The Panel's decision

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

The Panel recognised that the complainant felt very strongly about the BBC's policy towards jazz but agreed with the Senior Editorial Strategy Adviser's view that it is the BBC Executive's responsibility to decide how best to meet the interests of listeners within the terms of the relevant Service Licences. The Panel noted that Radio 3's core remit was the provision of classical music and that the response from the Managing Editor of Radio 3 explained the reasoning behind its provision of jazz. The Panel also noted that, while the Service Licence requires jazz to feature in Radio 3's output, it does not specify a minimum amount of jazz or the times at which it should be broadcast.

The Panel further noted that examples of jazz provision on Radio 2 and local radio had been provided to the complainant, although not all of the examples were to the complainant's taste. The Panel agreed that decisions relating to jazz programming and scheduling fall within the category of editorial and creative output and were therefore the responsibility of the BBC Executive. Therefore, in the absence of any evidence to suggest that there had been a failure to meet Service Licence obligations, the Panel concluded that this appeal did not have a reasonable prospect of success.

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

BBC Radio 4 scheduling

The complainant appealed to the Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain about the extension of The World at One from 30 minutes to 45 minutes and the consequent loss of the other programmes that followed.

After some delays, the BBC replied saying this move had been part of a broader series of changes to the Radio 4 schedule, and provided a link to a blog where the thinking behind all the changes was explained.

Appeal to the Trust

The complainant appealed to the BBC Trust, mentioning that it had taken six months for the appeal to reach the Trust.

The complainant reiterated his original complaint, saying that while the BBC had sought to justify its decision to extend The World at One by arguing the need for greater analysis, the complainant's view was that there was simply more padding to fill the 45 minute time slot. The complainant restated his concern that the BBC was abandoning its commitment to entertain by moving entertainment programmes to afternoon slots. The complainant made clear his view that the extension of Saturday Live on Saturday mornings was also a decision which had reduced quality and been detrimental to his listening pleasure.

The Senior Editorial Strategy Adviser responded, recognising that that this is a matter the complainant felt strongly about. The Senior Editorial Strategy Adviser explained that decisions relating to programme running times fell clearly within the category of editorial and creative output which is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards.

The Senior Editorial Strategy Adviser also noted the points made regarding the delays in the handling of the complaint and that the Executive had apologised. The Senior Editorial Strategy Adviser also added her apologies on behalf of the Trustees. The Senior Editorial Strategy Adviser explained that where the Executive do accept a breach and apologise, the Trustees normally consider the matter resolved and that it was her view that in this instance no further action would be required.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that it was absurd that it had taken nearly a year for his appeal to reach this stage, only to be told it is not an area the Trust can influence.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's email appealing against her decision.

The Panel noted the complainant's view that the extension of the World at One was detrimental to his listening. However, the Panel agreed that decisions relating to

programme running times and scheduling fall within the category of editorial and creative output and are the responsibility of the BBC Executive, as defined in the Charter.

The Panel noted the complainant's frustration at the delays in the handling of the complaint and agreed that the delays experienced were not acceptable. It wished to add the Trust's apologies to the complainant for the delays. The panel also noted the complainant's disappointment that at the final stage of appeal, the Trust was not in a position to influence issues such as programme running times. However, the Panel agreed that the Executive had provided reasoning for its decision and that as an editorial decision it was within their remit to make such changes.

For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Depiction of littering in BBC drama programmes

The complainant appealed to the Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain about the depiction of cigarette butts being dropped on the ground during drama programmes including *EastEnders* and *Silk*. The BBC responded saying that drama must be allowed to reflect various aspects of real life, good and bad, and that by merely featuring a particular activity does not mean the BBC is endorsing or condoning it.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust reiterating her concerns about BBC drama productions which show littering, in particular the throwing of cigarette butts on the ground. The complainant pointed out that this is an offence that can attract a fixed penalty notice and explained her views that littering not only looks awful, but is dangerous to wildlife and is expensive for councils to deal with. The complainant explained her view that the BBC should set a positive example and felt this is particularly significant at a time when thousands of people are visiting London and councils are working hard to keep the city clean.

The Senior Editorial Strategy Adviser responded, noting that the introduction to the BBC's Editorial Guidelines explain that "the BBC aims to reflect the world as it is, including all aspects of the human experience and the realities of the natural world." The Senior Editorial Strategy Adviser explained that she was satisfied that the BBC had provided a fair summary of the challenges of making a contemporary drama such as *Eastenders* and that the series needs to reflect enough of real life for it to be plausible.

The Senior Editorial Strategy Adviser also explained that the direction of the BBC's editorial and creative output is specifically defined in the Charter (paragraph 38, (1) (b)) as a duty that is the responsibility of the Executive Board, and one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards. The Senior Editorial Strategy Adviser added that the depiction of real life in a series such as *EastEnders* (or any other BBC production) is therefore not a matter for the BBC Trust, and that she did not believe that the complaint made a case for a breach of the Editorial Guidelines.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that her complaint was not about the general depiction of real life in *Eastenders* but about the depiction of throwing cigarette butts on the ground with no consequences. The complainant reiterated that this is an offence that can attract a fixed penalty notice and that to not depict any consequences showed a lack of sympathy with local government staff trying to ensure the streets of London are kept clean.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter appealing against her decision.

The Panel agreed that editorial decisions relating to the depiction of real life are the responsibility of the BBC Executive, as defined in the Charter. The Panel agreed that it would get involved in reviewing the BBC's editorial and creative output only if there was, for example, a breach of the Editorial Guidelines and that in this case there was no basis to suggest that this was the case.

The Panel agreed that the Executive had provided a fair summary of the challenges of making contemporary drama and that such series need to reflect enough of real life for it to be plausible and in reality some people do throw their cigarette butts on the ground.

For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

BBC not giving complainant's music airtime

The complainant appealed to the Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC raising his concerns that there may be an element of discrimination through a lack of exposure for Scottish music artists from a certain area and that this meant the complainant's music was not being given airtime on BBC services. The complainant also felt that because of his nationality and location, music he had uploaded to the BBC Introducing site was being ignored. The complainant also mentioned that when he had uploaded content as someone from York, rather than Scotland, his music was listened to more quickly.

Appeal to the Trust

The complainant appealed to the Trust, reiterating his concerns that the BBC had not treated him fairly and that his content was being ignored.

The Senior Editorial Strategy Adviser replied to explain that choices about the editorial and creative output of the BBC are the responsibility of the Executive Board, and not choices in which the Trust can get involved unless, for example, it relates to a breach of the BBC's editorial standards. The Senior Editorial Strategy Adviser explained her view that the Trustees would agree that as the complaint was about what music or artists are used by the BBC, they couldn't interfere.

The Senior Editorial Strategy Adviser also noted that the Executive had taken into account the complainant's points about BBC Introducing and were working on improvements to make it fairer across the UK, so that people don't have to wait longer in some areas than others for their tracks to be listened to. The Senior Editorial Strategy Adviser also noted that the BBC had listened to all 8 tracks the complainant had uploaded in 4 months and that this was an indication the Executive were not avoiding the complainant's tracks for some personal reason.

The complainant challenged the Senior Editorial Strategy Adviser's decision reiterating his concerns that the BBC had not treated him fairly and that his content was being ignored.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's emails appealing against her decision.

The Panel recognised that the complainant was clearly very dedicated to his music, however, the Panel agreed with the Senior Editorial Strategy Adviser's view that the complaint was ultimately about what music or artists are used by the BBC and that under the BBC's Charter such decisions are the responsibility of the BBC Executive and not the Trust.

The panel agreed that the Executive had provided a good insight into how music is selected on Radio 1 and 1Xtra, as well as the workings of BBC Introducing and that it was clear that the choice of music on the station, and the operation of BBC Introducing, was a matter for the Executive. The Panel agreed that there was no indication that the complainants contributions were being avoided for some personal reason.

For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Treatment of complainant by BBC staff

The complainant appealed to the Complaints Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC raising concerns about his contact with the BBC Academy and, in particular, the circumstances around his decision not to participate in one of its writing workshops. The complainant felt that he had not been treated fairly and that as a result felt he had to turn down the opportunity of a story workshop course.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust reiterating his original point, concerning the circumstances that led to the complainant not attending a BBC workshop. The complainant made it clear that as a result of these circumstances, he did not think that he would be able to having a positive working relationship with a senior director in the Academy. The complainant also expressed his belief that he was treated adversely as a result of making the complaint, in that assistance that he had previously been promised was not forthcoming.

The Senior Editorial Strategy Adviser responded explaining that it was her view that the BBC Executive had acted appropriately by immediately instigating an investigation on receipt of the complaint. The Senior Editorial Strategy Adviser explained that from the evidence the complainant supplied, the crux of the disagreement with the BBC was an operational matter. The Senior Editorial Strategy Adviser also explained that, because operational issues were the responsibility of the BBC Executive, it was for the BBC management to decide on whether the Development Producer's response was appropriate in the circumstances, and that in her opinion the BBC had gone about making a decision on this in a reasonable way.

The Senior Editorial Strategy Adviser explained her view that the complainant had not made a case for the Executive to answer and that there was no reasonable prospect of success for the appeal.

The Senior Editorial Strategy Adviser noted that the Executive had not addressed the second issue about promises of assistance made to the complainant and therefore referred this point back to the BBC Executive for them to send the complainant a direct response.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that he remained of the opinion that the BBC had treated him badly.

The Panel's decision

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

The Panel agreed that the complaint was primarily an operational issue and that it was therefore the responsibility of the BBC Executive. The Panel agreed with the Senior Editorial Strategy Adviser's view that, on the evidence available, the Executive had gone

about making a decision on the complainant's case in a reasonable way and that, in the absence of any new information, they did not have a case to answer. For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

BBC coverage of London 2012 Olympics

The complainant appealed to the BBC Trust's Complaints Appeals Board following the decision of the Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to raise his concerns about what he felt was excessive coverage of the London 2012 Olympics and the impact the Olympic coverage had on news provision.

Appeal to the BBC Trust

The complainant appealed to the Trust reiterating his concerns about coverage of the Olympics with particular relation to News Channel. The complainant said that he had found Audience Services' initial response to his complaint very unsatisfactory. The complainant also noted that viewing figures for the Olympics showed that it was less popular than other programming and therefore felt that the level of coverage was unwarranted.

The complainant also criticised the Trust for sanctioning the level of coverage.

The Senior Editorial Strategy Adviser responded highlighting that one of the five key areas of priority for the BBC was to 'remain dedicated to those events that bring communities and the nation together' and that the Olympic Games is a global event and is arguably among the largest events staged in this country in the lifetime of most people.

The Senior Editorial Strategy adviser explained her view that the BBC Executive had provided a reasonable and reasoned reply to the complainant's question about both the extent to which the Olympics was covered by the BBC and also the impact that it had on the news output. The Senior Editorial Strategy Adviser noted the complainant's dissatisfaction with the generic reply he had initially received but outlined her view that it nevertheless did address the complainant's key criticisms. The Senior Editorial Strategy Adviser also explained that the BBC's Complaints Framework specifically allowed the Corporation to draw up a single response if it has a number of complaints about one issue.

Regarding the complainant's direct criticism of the Trust, the Senior Editorial Strategy Adviser explained that the Trust considered that coverage of major sports events, such as the London 2012 Olympics, fitted closely with the BBC's role to promote the public purposes and so is fully in keeping with the BBC's remit and mission. It was the Senior Editorial Strategy Adviser's view that the complainant did not raise any issue that indicates that the Trust's decision was incorrect.

Finally, the Senior Editorial Strategy Adviser explained that under the Royal Charter and Agreement, decisions relating to issues such as coverage of sporting events fall within the category of editorial and creative output and is the responsibility of the BBC Executive, not the Trust. The Senior Editorial Strategy Adviser therefore determined that there was no reasonable prospect of success for the appeal and it would not be appropriate for it to proceed to the Trust for consideration.

The complainant challenged the Senior Editorial Strategy Adviser's decision, restating the view that Olympic coverage on the BBC News channel was excessive and that it was therefore inevitable that other important news stories were not covered.

The Panel's decision

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

The panel noted the complainant's concerns and recognised that coverage of the London 2012 Olympics may not have appealed to all viewers. However, the panel agreed that the Executive had provided a reasonable explanation and that alternative viewing was available across other BBC channels.

The Panel also agreed that the coverage of the Olympics was entirely consistent with the BBC's commitment to broadcast those events that bring communities and the nation together. The Panel agreed with the Senior Editorial Strategy Adviser's view that in any case, decisions around scheduling and what level of coverage to provide of the Olympics, within the service licences determined by the Trust, are the responsibility of the BBC's Executive and not the Trust.

For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

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

Negative news coverage

The complainant appealed the decision at stage 1b of the process that the BBC would not engage in any further correspondence on the same issue.

The original complaint concerned the BBC's news coverage which the complainant felt was dominated by 'bad news' and that Europe in particular was only present in the news when it related to an item that was bad news. In total the complainant wrote twelve letters to the BBC about the amount of negative coverage about Europe on BBC News outlets.

Audience Services responded explaining the factors which determine the choice of news stories and that the BBC would risk damaging its credibility if it set aside these principles underpinning its news judgement. Audience Services considered that there was nothing further that they could usefully add in response to the complainant's comments.

The Senior Editorial Strategy Adviser responded on behalf of the BBC Trust explaining that in her opinion, the decision by BBC Audience Services to decline to answer any further correspondence on this subject was a reasonable one that there was no evidence to suggest an appeal on this point would be successful. On the complainant's underlying point – that the BBC's news coverage of Europe is too negative – the Senior Editorial Strategy Adviser considered that BBC Audience Services had replied in a reasoned and reasonable way and did not the appeal on this point to be likely to succeed.

The complainant challenged the Senior Editorial Standards Adviser's decision reiterating his concern that negative news continues to outweigh positive news in terms of coverage.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser, the complainant's letter asking the Board to review her decision and also the complainant's previous correspondence with BBC Audience Services.

The Panel agreed with the Senior Editorial Strategy Adviser that BBC Audience Services had replied in a reasoned and reasonable way to the complainant's concerns. The Panel also agreed that, in line with the BBC Charter, responsibility for editorial decisions, such as which news events and issues to cover, are editorial decisions for the BBC Executive and not the Trust. As there was no evidence of a breach of the Editorial Guidelines in this case the Panel agreed that there the appeal did not have a reasonable prospect of success.

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

Changing the presenter of the Radio 1 breakfast show

The complainant appealed the decision at stage 1b of the process that the BBC would not engage in any further correspondence on the same issue.

The original complaint concerned the fact that, in the complainant's view, the Controller of Radio 1 had failed to provide a satisfactory reason for dropping Chris Moyles' breakfast programme. The complainant felt that Mr Moyles was still very popular and that he had been dropped without proper consultation with listeners. The complainant was concerned that this was being done so that Radio 1 could maintain its youth appeal.

Audience Services provided responses to the complainant explaining that Mr Moyles and the station's Controller Ben Cooper decided that the show would come to an end. Audience Services recognised that some people would be unhappy with these changes but explained that the station has always been a 'youth' brand and has constantly re-invented itself over the years, refreshing its schedules and presenters to ensure it remain relevant to each new generation. Audience Services considered that there was nothing further that they could usefully add in response to the complainant's comments.

The Senior Editorial Strategy Adviser then responded on behalf of the BBC Trust explaining that it is the job of the Controller of Radio 1 to decide how best to serve the Radio 1 audience, within the terms of the station's Service Licence. The Senior Editorial Strategy Adviser added that one of the key tools at the Controller's disposal is the choice of presenters and the changing of such presenters is a legitimate part of the exercise of editorial responsibility which comes with the job of managing a radio station.

The Senior Editorial Strategy Adviser also explained that the operational management of the BBC is the responsibility of the Executive Board, and that the Trust does not usually get involved (unless, for example, it relates to a potential breach of a Service Licence). The Senior Editorial Strategy Adviser added that in her view the BBC had explained the reasoning behind the decision sufficiently and also that it is within the terms of Radio 1's Service Licence to make such a decision.

The complainant challenged the Senior Editorial Standards Adviser's decision saying that he felt Mr Cooper's reasoning for making the decision was inconsistent and that if demographics were the driver then that should be made clear.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser, the complainant's letter asking the Board to review her decision and also the complainant's previous correspondence with BBC Audience Services.

The Panel recognised that the decision to end Chris Moyles' show would be disappointing to some listeners. However, the Panel agreed that, under the BBC's Charter, the responsibility for making such decisions lay firmly with the BBC Executive and not the Trust. The panel agreed that there was no evidence that the decision represented a breach of Radio 1's service licence and that therefore it was entirely in the remit of the station controller to take.

On this basis the Panel agreed that the appeal did not have a reasonable prospect of success.

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

BBC Radio 3 treatment and exposure of composer and conductor Michael Rosenzweig

The complainant appealed to the Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain that the music of composer Michael Rosenzweig is not represented on BBC Radio 3 in the same way as other British contemporary composers of similar standing and that this lack of support is at odds with the BBC's Public Purposes as stated in the BBC Charter.

The BBC replied pointing out that performances of Michael Rosenzweig's work are rare and that BBC Radio 3 has provided Michael Rosenzweig with more opportunities than most UK and international arts organisations. The BBC also provided an example of a performance of one of Mr Rosenzweig's quartets and a transcript of the accompanying introduction.

Appeal to the Trust

The complainant appealed to the BBC Trust, reiterating his original complaint, saying that BBC Radio 3 had not followed the rules, the spirit or the intent of the BBC Charter in respect of Michael Rosenzweig. The complainant felt that under the terms of the Public Purposes set out in the Charter Mr Rosenzweig ought to have been given more support. The complainant stated that since Mr Rosenzweig had been awarded the DAAD Berliner Künstlerprogramm Fellowship in 1990, only one recording of a minor work of Mr Rosenzweig's had been broadcast on the BBC. The complainant felt this demonstrated that the editorial process applied to him has not been equivalent to that applied to the other British composers who had received the award.

The Senior Editorial Strategy Adviser responded, recognising that that this is a matter the complainant felt strongly about. The Senior Editorial Strategy Adviser explained that decisions relating to the content of BBC programmes fell clearly within the category of editorial and creative output which is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved unless, for example, it relates to a breach of the BBC's editorial standards.

The Senior Editorial Strategy Adviser also noted the points made in the BBC Executive's responses which indicated that documentation from the composer himself indicated that the only performance in recent times was a single work performed by an orchestra in Bulgaria, but that if orchestras were including his works in their programmes it would more likely be considered for broadcast. The Senior Editorial Strategy Adviser also noted that the BBC Executive would welcome any information the complainant could provide on Mr Rosenzweig's conducting arrangements or performances of his work.

The Senior Editorial Strategy Adviser explained her view that as Mr Rosenzweig was born in South Africa and there was no indication he had obtained UK citizenship, a comparison to the "five or six other British orchestral composers" who had also won the DAAD Berliner Künstlerprogramme Fellowship Award was not appropriate.

The Senior Editorial Strategy Adviser explained that in her view, the BBC had provided the complainant with a reasonable response to the complaints raised and that there was no reasonable prospect of success for the appeal.

The complainant challenged the Senior Editorial Strategy Adviser's decision saying that Mr Rosenzweig has lived in the UK since 1979, became a permanent UK resident in the early 1980s and finally a citizen of the UK in 2007. The complainant reiterated his view that there was hostility to Mr Rosenzweig at BBC Radio 3 and that the lack of support for Mr Rosenzweig's work was a breach of the BBC's Charter.

The Panel's decision

The Panel was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's email appealing against her decision.

The Panel noted the complainant's comments regarding the composer's nationality but agreed that irrespective of this, editorial decisions relating to which composers a particular BBC service features are the responsibility of the BBC Executive and not the Trust. The Panel agreed that it would get involved in reviewing the BBC's editorial and creative output only if there was, for example, a breach of the Editorial Guidelines and that in this case there was no basis to suggest that this was the case.

The Panel agreed that the Executive had provided reasonable explanations regarding the broadcast of work by Mr Rosenzweig and that, as an editorial decision, it was within their remit to decide when or whether to include such work in the schedules.

For these reasons, the Panel concluded that the appeal did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Appeal against decision not to proceed with Television Licensing Appeal

The complainant appealed to the Complaints and Appeals Board (CAB) following the decision of the BBC Trust's Chief Financial Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The appeal to the BBC Trust was about the amount of goodwill payment offered by TV Licensing to the complainant.

The customer complained as he was unhappy with the service he had received. He asserted that he had been harassed for six years (receiving 10 letters and three visits from TV Licensing) because he did not have a TV Licence; six of his letters had been ignored; and that he was suffering from stress related illness. He also complained that he had received conflicting and confusing information in a letter from TV Licensing dated 5 October 2012 – the letter incorrectly stated that the customer's new TV licence would expire at the end of March 2012 rather than the end of October 2012. The 5 October letter was sent in response to the complainant's request to cancel his black and white TV licence and purchase a new colour TV licence.

The BBC wrote to the complainant and listed each of the six letters the complainant asserted were ignored, with details of the responses given where appropriate. In response to two of the six letters, TV Licensing stated that even though it acted on the information it had received, it was unclear whether or not a response was sent to the complainant to confirm this. The BBC apologised for the concern this caused and said it would review its practices for acknowledging correspondence.

TV Licensing offered a £40 goodwill payment in acknowledgement of the error it made in its 5 October letter and in recognition of the time and trouble experienced by the customer. The payment was also to cover any photocopying and postage costs incurred by the complainant.

Appeal to BBC Trust

The complainant appealed to the BBC Trust on 3 August 2012. He was "outraged that after culpability acknowledged for the error in the letter dated 5 October, TV Licensing have offered an arbitrary and insensitive £40, whilst [his] detailed and justified cost exceeds £712.33".

Chief Financial Adviser's decision

On review of the correspondence between the complainant, TV Licensing and the BBC Executive, the Trust's Chief Financial Adviser decided there were no grounds to accept the appeal for Trust consideration.

The complainant requested that the BBC Trustees review the Chief Financial Adviser's decision not to proceed with the appeal.

The Panel's decision

The Panel was provided with copies of the following correspondence:

- A brief summary, prepared by the Trust Unit, of the appeal and timings of the correspondence between the complainant, TV Licensing and the BBC Executive.
- Letter of appeal to the Trust, dated 17 August.

- Letter to the complainant setting out the Chief Financial Adviser's decision not to proceed with the appeal, dated 5 September.
- Letter from the complainant in response to the Chief Financial Adviser's decision, dated 1 October.
- Letter from the Chief Financial Adviser to the complainant, dated 4 October.
- Letter from the complainant asking the Panel to review the Chief Financial Adviser's decision, dated 15 October.
- Response from the Chief Financial Adviser, dated 1 November.

The complainant asked for copies of his previous correspondence to TV Licensing and the BBC Executive to be provided to Trustees. This correspondence was made available at the meeting.

The Panel noted that the key reasons for the Chief Financial Adviser's decision were:

- The Trust only normally accepts an appeal where there has been a serious breakdown in the BBC's collection procedures combined with a poor response by the BBC Executive.
- TV Licensing and the BBC Executive acknowledged that incorrect information had been given to the complainant and apologised for the confusion the error caused.
- The BBC apologised for the concern caused by TV Licensing not responding to two of the complainant's letters, and said it would review its practices for acknowledging correspondence.
- TV Licensing sent the complainant a cheque for £40 as a gesture of goodwill (in acknowledgement of the error it made in its 5 October letter and in recognition of the time and trouble experienced by the customer).
- The £40 goodwill payment was in line with other goodwill payments made by TV Licensing for similar circumstances.

Based on the above evidence, the Panel agreed that this complaint did not have a reasonable prospect of success on appeal.

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