

# **Editorial Standards Findings:** Appeals and other editorial issues to the Trust considered by the Editorial Standards Committee

# Remit of the Editorial Standards Committee

The Editorial Standards Committee (ESC) is responsible for assisting the Trust in securing editorial standards. It has a number of responsibilities, set out in its Terms of Reference at [bbc.co.uk/bbctrust/about/meetings\\_and\\_minutes/bbc\\_trust\\_committees.html](http://bbc.co.uk/bbctrust/about/meetings_and_minutes/bbc_trust_committees.html).

The Committee comprises six Trustees: Richard Tait (Chairman), Chitra Bharucha, Mehmuda Mian, David Liddiment, Alison Hastings and Anthony Fry. It is advised and supported by the Trust Unit.

In line with the ESC's responsibility for monitoring the effectiveness of handling editorial complaints by BBC management, the Committee considers appeals against the decisions and actions of the BBC's Editorial Complaints Unit (ECU) or of a BBC Director with responsibility for the BBC's output (if the editorial complaint falls outside the remit of the ECU).

The Committee will consider appeals concerning complaints which allege that:

- the complainant has suffered unfair treatment either in a transmitted programme or item, or in the process of making the programme or item
- the complainant's privacy has been unjustifiably infringed, either in a transmitted programme or item, or in the process of making the programme or item
- there has otherwise been a failure to observe required editorial standards

The Committee will aim to reach a final decision on an appeal within 16 weeks of receiving the request.

The findings for all appeals accepted by the Committee are reported in this bulletin, *Editorial Complaints: Appeals to the Trust*.

As set out in its Terms of Reference, the Committee can decline to consider an appeal which in its opinion:

- is vexatious or trivial;
- does not raise a matter of substance;
- relates to the content of a programme or item which has not yet been broadcast;
- concerns issues of bias by omission in BBC news programmes unless the Chairman believes that it is plausible that the omission of an item could have led to a breach of the guidelines on impartiality;
- has not been made within four weeks of the final correspondence with the ECU or BBC Director on the original complaint; and
- relates to matters which are the subject of or likely to be the subject of, or relevant to, legal proceedings.

The Committee will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.

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

In line with its duty to consider topics of editorial concern to the Committee, whether or not such concern arises from a formal complaint, and to commission information requests from the Trust Unit or Executive to support such consideration, the Committee also from time to time requests the Executive to report to the Committee regarding breaches which have been accepted by the Executive and are therefore not subject to appeal to the Committee. The bulletin also may contain findings relating to such cases.

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

It is published at [bbc.co.uk/bbctrust](http://bbc.co.uk/bbctrust) or is available from:

The Secretary, Editorial Standards Committee  
BBC Trust Unit  
Room 211, 35 Marylebone High Street  
London W1U 4AA

# Contents

	Page
<b>Remit of the Editorial Standards Committee</b>	<b>1</b>
<b>Contents</b>	<b>3</b>
<b>Summary of findings</b>	<b>4</b>
<b>Findings</b>	<b>7</b>
Today, BBC Radio 4, 17 March 2008	7
Bonekickers, BBC One, 8 July 2008	16
Panorama: Sub Prime Suspects, BBC One, 8 October 2007	24
<b>Rejected Appeals</b>	<b>37</b>

# Summary of findings

**Today, BBC Radio 4, 17 March 2008**

The complaint relates to an item on BBC Radio 4's Today programme about demonstrations taking place in Tibet. The complainant alleged that the item failed to maintain impartiality by allowing Professor Barry Sautman of the Hong Kong University of Science and Technology, whose views are unsympathetic towards the Tibetan independence movement, to put forward his views with little challenge. The complainant also alleged that Sonam Dago, Head of International Relations for the Tibetan government-in-exile, was not given an opportunity to reply to the points made by Professor Sautman. In addition to this, the complainant alleged that Sonam Dago was pressured by the interviewer to say whether the demonstrators in Tibet should be encouraged to show restraint.

The Committee concluded:

## Impartiality

- that it was appropriate for the programme to have presented a perspective that accorded with that of the Chinese government in order to provide balance within an item that also included an interview with a representative of the Tibetan government-in-exile.
- that the choice of who to interview was a decision for the news editor, given the news agenda on any particular day.
- that Professor Sautman had published a number of books on the subject of Tibet under Chinese rule and, while many people would disagree with his views, he was a credible choice of interviewee.
- that there had been no breach of the guidelines in respect of the selection of Professor Sautman as an interviewee.
- that it was a requirement of the Impartiality guidelines for programmes not to assume that academics are impartial and to make it clear when contributors are associated with a particular viewpoint.
- that the inclusion of Professor Sautman to balance the views of the other contributor indicated that the programme team had not considered him to be impartial.
- that there had been no breach of the guidelines in this respect.
- that Professor Sautman had been introduced only by his name and university, not by his affiliation to any particular viewpoint, and this was a breach of the part of the Impartiality guideline relating to clearly identifying the viewpoints of academic contributors.
- that, in listening to the complete item, listeners would have got a reasonable idea of the views of both sides of the debate.
- that Mr Dago, a representative of the Tibetan government-in-exile, had been given free rein to speak as he wished. He had been asked substantively the same question more than once but had chosen each time not to answer it, instead giving a response that he repeated on more than one occasion.

- that the interviewer had attempted to bring Mr Dagpo back to answering her question but the tone of the interview was appropriate and fair throughout.
- that, notwithstanding the introduction of Professor Sautman, the item as a whole had been sufficiently impartial.

The Committee partially upheld the complaint of impartiality with regard to the introduction of Professor Sautman.

For the finding in full see pages 7 to 15

### **Bonekickers, BBC One, 8 July 2008**

The complaint relates to an episode of the BBC One drama series Bonekickers. The programme received a number of complaints about the graphic nature of a scene in which a member of a right-wing Christian group beheads a Muslim man, to which the BBC posted a response on the BBC Complaints website. The response described the man who carried out the beheading as having 'extreme fundamental belief'. The complainant alleged that transferring violent extremist action from Muslims to evangelical Christians was unfair and offensive to the latter. The complainant also alleged that the description of the Christian group as 'fundamentalists' was in breach of the editorial guidelines on the portrayal of religion.

The Committee concluded:

#### Harm and Offence

- that it endorsed the ECU's decision to uphold the complaint against the graphic portrayal of the decapitation.
- that Bonekickers was not realistically portraying living people or an organisation in a contemporary situation.
- that the programme's audience would have been fully aware that they were watching fiction.
- that the audience would have been unlikely to find the portrayal of the extremist group offensive or stereotypical of the activities of evangelical Christians in the United Kingdom.

#### Religion

- that, in the context of this clearly fictional programme, there was no intention to denigrate the religious beliefs of any group.
- that the drama dealt with fictional characters who had no association with any recognisable religious group.

The complaint was not upheld.

For the finding in full see pages 16 to 23

## **Panorama: Sub Prime Suspects, BBC One, 8 October 2007**

The complaint relates to an episode of Panorama which investigated mortgage mis-selling in the United Kingdom. The complainant, acting on behalf of the Britannia Building Society, alleged that the programme breached the guidelines on Accuracy and Fairness by falsely accusing Britannia of mis-selling mortgages to two customers (referred to as the Ts and Mr B), and that the company was not given a fair opportunity to respond to the allegations before transmission. The complainant further alleged that, having upheld elements of the complaint relating to the selling of a mortgage to Mr B, the Editorial Complaints Unit had failed to provide adequate redress to compensate for the damage to Britannia's reputation.

The Committee concluded:

### Accuracy and Fairness

- that, with regard to the Ts, it was reasonable and accurate for Panorama to suggest the mortgage was mis-sold.
- that there had been no unfairness to Britannia in not providing them with the details of the Citizen's Advice Bureau interviewee before transmission. The fact that there was a contribution from the CAB had been stated.
- that Britannia had a level of responsibility as the lender, whether or not the Ts had received independent financial advice.
- that there had been no breach of the Accuracy or Fairness guidelines in this respect.
- that, with regard to Mr B, the relevant factor in the story was not whether or not he signed blank forms but how he obtained a mortgage.
- that the fact that Mr B applied for a buy to let mortgage was not material when considering fairness
- that the omission of these two pieces of information did not give rise to any additional unfairness to Britannia beyond that which had already been upheld by the Editorial Complaints Unit.

### Accountability

- that the redress offered by the ECU (publication of their partial uphold on the BBC website) had been appropriate.

The ECU finding was endorsed. The additional elements of the complaint were not upheld. The Committee agreed to apologise to the complainant for the delay in bringing the case to a conclusion.

For the finding in full see pages 24 to 33

# Findings

**Today, BBC Radio 4, 17 March 2008**

## **1. The programme**

This edition of Today contained an item about demonstrations in Tibet. The item included interviews with Professor Barry Sautman of Hong Kong University of Science and Technology, and Sonam Dago, Head of International Relations for the Tibetan government-in-exile.

## **2. The complaint**

The complainant felt that the item failed to maintain impartiality. In particular, he said that Professor Sautman was allowed to express his views in support of the Chinese government's policy towards Tibet virtually unchallenged while Mr Dago was given no right of reply and instead was badgered to say whether the demonstrators should be encouraged to show restraint and stop demonstrating.

The complainant wrote to BBC Information on 17 March 2008 following the transmission of the item on that morning's Today programme. He believed that Professor Sautman was an apologist for the Chinese authorities and that listeners to the programme had been:

“[...] treated to about five minutes of pure propaganda about how Tibet is, and always has been, an integral part of China and that subversive elements are trying to split the mother country.”

He also stated that the following guest, a Tibetan exile, had been “harangued” by the interviewer in order for him to agree to the suggestion that restraint should be shown by demonstrators in Lhasa. The complainant also asked how often over the past 50 years had the BBC asked the Chinese authorities to show restraint. He also suggested that “by supporting the status quo” the BBC was hiding the truth and helping to destroy lives.

BBC Information replied on 9 April 2008 assuring the complainant that the BBC was not pursuing an agenda of any kind over events in China or Tibet. The reply pointed out that it was an important part of the BBC's role to challenge those in authority but this was extremely difficult in China's case because the authorities rarely agreed to interviews. The BBC had therefore to speak to the nearest substitute it could find, like academics who are known to be sympathetic to China's position. BBC Information noted that to ensure balance in the piece a spokesperson for the Tibetan government-in-exile was interviewed after Professor Sautman. The reply added:

“Neither guest went unchallenged but the right of reply was given to the Tibetan representative and that obviously altered the tone of the first interview.”



The complainant replied on 11 April 2008 stating that the two interviews had demonstrated a woeful lack of impartiality. He believed the pro-China academic had been virtually unchallenged, whereas the Tibetan “was given no right of reply because [he was] continually badgered about whether they would call for restraint by protestors in Lhasa”. The complainant believed the BBC frequently gave people with real power an easy ride. He also questioned the BBC’s need to be impartial where whole groups of people were being abused.

BBC information replied on 17 April 2008 saying there was nothing more they could add to their previous reply.

On 30 June 2008 the complainant wrote to the Editorial Complaints Unit (ECU), stage 2 of the BBC’s complaints procedure, repeating his allegation that the BBC used the concept of impartiality to avoid confronting the very powerful, even when there was clear injustice. He also accused the BBC of secrecy over editorial decisions and of treating the complainant contemptuously.

The complainant wrote again on 14 August 2008 asking why he had not received a reply.

The ECU replied on 22 August apologising for the delay and asking the complainant to clarify his appeal.

On 29 August 2008 the complainant told the ECU that he would like it to investigate his complaint.

The ECU replied on 29 September 2008. It found that Professor Sautman’s comments had been “considered and thoughtful”. The reply also noted the difficulty there was getting representatives to speak on behalf of the Chinese regime. The ECU was also satisfied that it was appropriate for Today to include a voice reflecting a degree of sympathy for China. The ECU response also noted that it was not until Professor Sautman was asked a direct question about his lack of sympathy for the independence movement that his own perspective became clear. With regard to the second interview with Mr Dagpo, the ECU did not accept that he was harangued to get him to say that the protestors should show restraint. The ECU said it was reasonable for the programme to ask a representative of the Tibetan government-in-exile to respond to the issue of the violent protests in Tibet and to repeat the question twice when Mr Dagpo failed to answer. The ECU was satisfied that Mr Dagpo had been able to speak at some length about the violence, the motives of the demonstrators and the reasons why there had been attacks on Han Chinese people.

The complainant replied on 8 October questioning whether Professor Sautman’s views were widely held. He also did not believe that Professor Sautman’s contribution was “considered or thoughtful”. As for the interview with Mr Dagpo, the complainant believed the interviewer disparaged the protestors and government-in-exile. He believed the interviewer’s attitude was that the protestors were simply agitators.

The ECU replied on 3 November 2008 stating it had reviewed the two interviews again and was satisfied with its previous response. The reply noted that the point being addressed by Today in the interview with Mr Dagpo was whether the Dalai Lama felt able to continue his support for the demonstrations given the repression and the casualties, not that Tibetans should simply accept their fate.

Following an exchange of correspondence between the complainant and the BBC Trust, the complainant appealed to the Editorial Standards Committee of the BBC Trust (ESC), the third and final stage of the BBC Complaints procedure, on 29 December 2008. He indicated that his appeal concerned the attitude of the Today programme towards Tibet. He also asked why the BBC could not look at the Tibetan situation objectively i.e. informing the public of what was actually occurring in Tibet. He believed the BBC belittled the occupied people as evidenced by the questioning of Mr Dagpo. The complainant, when reiterating his complaint, noted that it was "sad" that the BBC only appeared to show an interest in places like Tibet when there was a "dramatic occurrence". He also found the choice of expert disturbing i.e. they were given a platform even if the majority of opinion was against them.

### **3. Applicable editorial standards**

#### **Section 4 – Impartiality and Diversity of Opinion**

##### Introduction

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

In practice, our commitment to impartiality means:

- we should not automatically assume that academics and journalists from other organisations are impartial and make it clear to our audience when contributors are associated with a particular viewpoint.

##### Achieving impartiality

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement accompanying the BBC's Charter as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

### **4. The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submission from the complainant.

This appeal raised issues requiring consideration of the editorial guidelines relating to impartiality.

### Impartiality

The editorial guidelines state that impartiality applies across all the BBC's services. Impartiality must be adequate and appropriate to the output. The approach to achieving impartiality will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted. Impartiality does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

With regard to the use of academics and journalists with a specific point of view the BBC should not assume that these individuals are impartial and thus should make it clear to the audience when contributors are associated with a particular viewpoint.

Firstly, the Committee noted the complainant's view that the choice of experts was "disturbing". The Committee noted that the complainant was specifically referring to the choice of Professor Sautman, an Associate Professor of Social Science at the Hong Kong University of Science and Technology. The Committee also noted that the complainant believed that such individuals should not be given a platform to air their views given that "the majority of opinion was against them".

The Committee disagreed with the complainant on this point. It noted that it was an important principle of BBC output to ensure that a wide range of opinions be reflected in its programming in order for it to be able to explore a range and conflict of views on any given subject. As such, the principle of ensuring that no significant strand of thought was knowingly unreflected or under represented was a cornerstone of the BBC's responsibility to its audience when delivering an independent and impartial service.

The Committee therefore concluded that it had been appropriate for Today to have invited Professor Sautman on the programme to provide a perspective on the dispute in Tibet which accorded with the perspective of the Chinese government in order for there to be balance in the item, which also included an interview with a representative of the Tibetan government-in-exile.

The Committee also agreed that the interview with Professor Sautman was an important addition to the debate on Tibet given the reluctance of the Chinese government to be interviewed on issues like Tibet. The Committee also agreed that

the choice of who to interview was for the news editor to decide given the news agenda on any particular day.

The Committee noted that Professor Sautman had published a number of books on the subject of Tibet under Chinese rule<sup>1</sup> and had been a contributor on other news outlets such as Al-Jazeera and Voice of America. The Committee recognised that his opinions were associated with a particular viewpoint that may well not be to the liking of many listeners to the programme but that he was a credible interviewee. The Committee strongly supported the programme's freedom to interview people across a wide spectrum of opinion as long as it had been made clear to the audience that a particular contributor was associated with a particular opinion. The Committee was therefore satisfied that the inclusion of this contributor was appropriate to the discussion and that his involvement with the Today programme was not a breach of editorial standards.

The Committee then considered whether Today had made it clear to the audience the particular viewpoint of Professor Sautman as set out in the editorial guideline:

“we should not automatically assume that academics and journalists from other organisations are impartial and make it clear to our audience when contributors are associated with a particular viewpoint.”

The Committee noted the presenter's introduction and interview with Professor Sautman:

Presenter:

Tibet's Governor says that Chinese security forces have not been using lethal weapons on protestors. He insists they've only been controlling demonstrators with tear gas and water cannon. But Tibet's government in exile, led by the Dalai Lama says that a hundred people have been killed – some of them shot by Government forces.

I asked Professor Barry Sautman from the Hong Kong University of Science and Technology what was his understanding of what was going on in Tibet.

The Committee also considered Professor Sautman's response and the rest of the interview with him:

Professor Sautman (PS):

Well my understanding is that forces from outside of Tibet who have friends inside of Tibet who are politically sympathetic have decided to embarrass the Chinese Government before the Olympics. Of course, their ability to mobilise people this year because of the Olympics, is enhanced. Those people who would be involved in demonstrations know that those demonstrations will have a much greater effect this year than they would have had say, last

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<sup>1</sup> “Tibet and The (Mis-)Representation of Cultural Genocide” published 2006. “Contemporary Tibet: Politics, Development, and Society in a Disputed Region” by Barry Sautman and June Teufel Dreyer, published by M.E. Sharpe ISBN 0765613549, 9780765613547

year or the year before. I think there's several different groups of people that are involved. Erm first of all, of course monks, the monasteries around Lhasa particularly have long been centres of pro-independent sentiment. There are also Tibetan merchants who are directly in competition with [Han?] merchants and Muslim-Chinese Merchants.

Of course there are many such merchants from outside of Tibet, who have come to Tibet, established themselves and present very formidable competition for local Tibetan merchants.

Presenter:

But you talk about the, those sympathetic to the Dalai Lama. It certainly doesn't sound as though the Dalai Lama is behind this.

PS:

The Dalai Lama is obviously sympathetic towards the protests, I don't think he's organised the protests but I do think that there's a very high likelihood that the Tibetan Youth Congress was involved in the organisation of the protests.

Tibetan Youth Congress has a somewhat different point of view from the Dalai Lama, they're explicitly pro-independence and they have never shunned the idea of using violence to attain that end. And they've said for many years that they've been organising people inside of Tibet and they took credit for the riots that occurred twenty years ago in 1988 and 1989 and they're taking credit again. The head of the Tibet Youth Congress gave an interview a couple of days ago to the Chicago Tribune and basically said that given the fact that the Olympics are coming up, we wanted to test the Chinese, see how far we could push them.

Presenter:

And if they have pushed them, the Chinese are cracking down very hard.

PS:

Yeah they're cracking down hard, that's to be expected, they crack down hard against any protest anywhere in China and their police forces, of course, have often used violence against protestors. It's certainly to be expected that if people are in the streets of Lhasa engaging in arson and attacks on an ethnic basis that the police are going to intervene and repress them.

Presenter:

Do you have any sympathy with the independence movement?

PS:

I have none, no I think that there have been many tragedies around the world as a result of the break up of states in the course of the last couple of decades and the break up of China would be a tragedy not just for Han Chinese people but also for the ethnic minorities.

Presenter:

But there are those of course who say that Tibet should not be part of China.

PS:

Yeah, there are people that say that but every state in the world and the United Nations disagrees. No state has ever recognised the independence of Tibet.

Presenter:

And when the Dalai Lama accuses the Chinese of cultural genocide, what do you think of that?

PS:

I think it's a huge exaggeration. First of all I don't think that the Dalai Lama entirely knows what cultural genocide is – it's a good slogan. But actually, cultural genocide is an intentional effort on the part of the state to extinguish an ethnic group's culture. There's no evidence of that at all in Tibet.

The Committee noted that Professor Sautman had been introduced only by his name and university, not by his affiliation to any particular viewpoint. It agreed that the audience would not have been aware, for at least the first part of the interview, that he held any more than an observant academic's opinions on the subject and that it was only when the interviewer asked him:

“Do you have any sympathy with the independence movement?”

And he answered:

“I have none, no...”

that listeners would have become aware that he did in fact have strong views on the subject.

The Committee agreed that the programme had breached the part of the impartiality guideline on making it clear to the audience the point of view of an academic. It thought the programme had not automatically assumed that this academic was impartial – it had cast him as one half of this item debating Tibet – but it had failed to make it clear to the listeners that he was associated with a particular viewpoint. As such, the Committee upheld this element of the complaint.

The Committee then discussed whether the item itself – separately from the introduction of Professor Sautman – was impartial. It noted the complainant's concern that Sonam Dago, the representative for the Tibetan government-in-exile, had been unreasonably questioned and that the tone of the interview had disparaged the protestors and the Tibetan government-in-exile.

The Committee then noted the interview with Mr Dago:

Presenter:

Well that was Professor Barry Sautman talking to me earlier, Sonam Dago is the head of the international relations department for the Tibetan government-in-exile and he joins us now from Dharamsala, ah Sonam Dago what is the position of the government-in-exile on the demonstrations that are going on now in Tibet?

Sonam Dago (SD)

Ah, the demonstrations which took place on tenth of March and now it's spreading all over Tibet, when I say all over Tibet means the Tibetan areas which were incorporated into different Chinese provinces of Qinghai, Sichuan and Gansu, and you find that, all over Tibet, you find demonstrations. Even today we hear reports that more demonstrations have taken place in different parts of Tibet. So I think that this is not because of any kind of incite [ment] from outside but it is because of frustration of the Tibetan people inside Tibet of their policies and repression of religious freedom and cultural repression in Tibet.

Presenter:

But would you, would you say to those who are tempted to demonstrate or go out in the streets don't? That they should go home?

SD:

No, actually, what happened is I think you have to know the sources of the demonstration, you know find that on 10 March there was a peaceful demonstration, it was brutally repressed, there were arrested then on 14 of March...

Presenter:

...forgive me for interrupting, I'm wondering what the position of the government-in-exile is now, would the Dalai Lama tell people not to demonstrate now, given what we've seen since?

SD:

No. What happened is, the Dalai Lama and we who believe in outside, we are the free spokesperson of the Tibetan people. So the people in Tibet have been repressed, they are really much frustrated you know the most of the demonstrations were led by the monks so there is tremendous religious repression in Tibet and that's a show of frustration. Another thing is as said before, when the peaceful demonstrations were initially started, they were stopped, they were beaten, tear gas was used and in retaliation, then they'll, there was burning of houses or shops or something like that. It's, if it is taken very carefully, you know if, if the brutal force is not being used, I think definitely, demonstrations will be peaceful. Unfortunately, in China any peaceful expression of, impression is being brutally repressed.

Presenter:

Sonam Dago, many thanks.

The Committee concluded that, in listening to both elements of the debate, listeners would have got a reasonable idea as to the views of both sides of the issue and that the item as a whole had achieved impartiality.

It found no evidence that the presenter had “harangued” the second guest as the complainant had alleged. Mr Dagpo had been given free rein to speak as he wished, the opportunities he was given to address the substantive issue were in line with guideline requirements and the answers he gave were appropriate to achieve balance. The Committee noted that he had been asked substantively the same question more than once. But it had been Mr Dagpo’s decision not to answer the question and reply instead with another response which he repeated on more than one occasion. The Committee noted that the presenter had attempted to bring him back to addressing her question but was satisfied that the tone of the interview was appropriate and fair throughout. The Committee did not uphold this element of the complaint.

### Conclusion

The Committee was satisfied that the item overall had been presented with due impartiality. The Committee agreed that the programme had been fair, open minded and objective in its approach to the subject matter. The Committee was also satisfied that the choice of interviewee had been appropriate and that the listener had been able to hear both sides of the argument. The Committee, however, had felt the programme had not made it sufficiently clear as to the particular viewpoint of the first contributor. The Committee agreed that the programme had not deliberately misled the listener as to Professor Sautman’s position but recognised that the onus was on the programme to make it clear when a contributor was associated with a particular viewpoint. As such, the Committee agreed that the programme had breached the editorial guideline on this point.

**Finding: The complaint was partially upheld**



## **Bonekickers, BBC One, 8 July 2008**

### **1. The programme**

Bonekickers was a drama series about a team of archaeologists. It was broadcast on Tuesdays at 21.00 during July and August 2008.

### **2. The context**

In the episode of 8 July 2008 the team discover a piece of the cross on which they believe Jesus Christ was crucified which provokes a violent reaction from a fanatical right-wing Christian group, one of whom is shown beheading a Muslim man.

Following the transmission the BBC received a number of complaints concerning the beheading scene. On 10 July in response to the criticism BBC Information published the following response on the BBC Complaints website<sup>2</sup>:

#### **The BBC's Response**

We regret that some viewers felt the beheading scene was inappropriate. It appeared half way through episode one of *Bonekickers*, by which time the character's 'extreme fundamental belief' had been revealed, providing the audience with a good build up to the scene in question.

This storyline looked at religious fundamentalism within a fictional Christian group, and one character in particular who took his beliefs to an extreme. His ignorance and misguided behaviour lead to the beheading of a peaceful Asian Muslim character in the drama. His actions are clearly condemned by leading Muslim and Christian clerics. The drama also has the balance of a Christian character that has a deep faith which she uses humbly and only for good.

The killing and the method used reflected the flawed beliefs that the character had. It does not attempt to condone or glamorise such a violent act in any way. The drama seeks to highlight the consequences of a misguided fundamentalist taking his beliefs to violent extremes.

The inclusion of the scene had been carefully considered and was very much central to the story line and reflected the character's extreme fundamental beliefs and state of mind.

### **3. The complaint**

The complainant believed that to transfer violent extremism from radical Muslims to evangelical Christians was grossly unfair and offensive to the latter, and was likely to incite people to hatred and possibly violence towards them. He was particularly concerned about the description of the Christian group as "fundamentalists" in the BBC Complaints response of 10 July defending the programme, and argued that the

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<sup>2</sup> [http://www.bbc.co.uk/complaints/response/2008/07/080711\\_res\\_bonekickers\\_beheading.shtml](http://www.bbc.co.uk/complaints/response/2008/07/080711_res_bonekickers_beheading.shtml)

association of evangelical Christians with violent behaviour was in breach of the editorial guidelines on the portrayal of religion – in particular, the commitments to avoid unjustified offence or likely harm and to ensure that the output is not used to denigrate the beliefs of others.

The complainant emailed BBC Information on 14 July 2008 quoting the BBC's response of 10 July and stating that it was wrong to transfer the idea of violent fundamentalism from radical Muslims to evangelical Christians. He emphasised the importance of "love your neighbour as yourself" in Christian beliefs and pointed out that recent beheadings by terrorists had all been associated with militant jihadism, not evangelical Christians. He believed that the approach taken by the BBC constituted:

"[...] further slander, and possibly even incitement to suspicion, hate and potentially violence against evangelical Christians."

The complainant called for an apology and steps to correct the underlying bias that led to the programme's seeming plausibility.

BBC Information replied on 20 July stating that the complaint had been registered.

The complainant wrote back on 22 July putting forward his belief that by transferring the problem of violent fundamentalism among radical Muslims to evangelical Christians, the programme was "irresponsible and biased". He noted that evangelicals were far more likely to be the victims of terrorists and religiously motivated beheadings than the perpetrators. The complainant reiterated his objection to the use of the term "fundamentalist" in the BBC's published response which he felt has become "largely empty of any real meaning, other than as a contempt-laced, dismissive smear word". He went on to describe the Christian group in the drama as:

"[...] grossly unfair and horribly offensive. In fact, more than merely "offensive" – a matter of subjective perception – slanderously abusive and bigoted to the point of being plain neglect of duties of care."

He asked what steps would be taken to ensure this bias and slander did not recur.

BBC Information replied on 28 July 2008 stating that the programme was clearly not representative of the majority of Christians and showed an extreme scenario. In this reply it was suggested that the term "fundamentalist", while more commonly associated with Islamic faiths, could equally be applied to any group including Christians. The BBC had certainly not intended to use it as a smear word. BBC Information went on to say that Bonekickers was:

"[...] a work of fiction with strong fantasy elements... The Christian extremists portrayed are entirely fictional. We feel this is apparent to the audience and therefore, with the intention of not being taken literally, we believe this is not damaging or slanderous towards Christianity."

On 29 July 2008 the complainant replied reiterating that the transfer of the practice of terrorist beheadings from Islamist radicals to even a fantasised group of fundamentalist Christians was “a gross distortion”. The complainant also questioned how well this “slander” of Christians aligned with the BBC editorial guidelines on portrayal of religion which included commitments to avoid unjustified offence or likely harm and to ensuring that the output did not denigrate the beliefs of others.

BBC Information responded on 12 September 2008 inviting the complainant to escalate his complaint to stage 2 of the BBC’s complaints process if he wished to take his complaint further.

The complainant wrote to the Editorial Complaints Unit (ECU), Stage 2 of the BBC complaints process, on 31 October 2008 stating that his complaint against the “effective slandering of so-called ‘Fundamentalist’/‘Extremist’ Christianity” in the episode of 8 July had been “largely blown off”. The complainant also drew a parallel between the representation of Christians in this particular episode of *Bonekickers* and the “blood libel” that Jews had murdered Christian children to obtain blood for ritual meals. He stated that such slanders were preludes to pogroms.

In a further email to the ECU on 14 November 2008 the complainant said:

*“I am not merely concerned about BBC being offensive, but feeding an already polarised situation and general climate of rising hostility. This, through the inappropriate transfer of a now sadly well-known pattern of terroristic behaviour from terrorists acting in the name of Islam as they see it...to adherents of what is now an often misunderstood minority form of the Christian faith in the UK, Evangelical Christianity.”*

The complainant hoped that “a significant correction” on the BBC’s part would result from his complaint.

The ECU responded with its finding on 5 December 2008. The ECU stated that *Bonekickers* was a fictional drama and that viewers would have been well aware that it was primarily designed to be entertaining rather than realistic. The ECU also said that viewers would have understood that many aspects had been exaggerated for additional dramatic effect and would not have thought the portrayal of Christian extremists was intended to reflect on the Christian community in general or on any particular section of it.

With regard to the beheading scene, the ECU disagreed with the complainant pointing out that the beheading scene did not give the impression that Christians engaged in practices such as execution or sacrifice. He pointed out that the extremists responsible for the beheading were clearly shown to be outside mainstream Christian thinking and their actions were publicly condemned by Christian and other religious leaders in the programme. The ECU pointed out that whilst evangelical Christians were not referred to in the programme, as far as the ECU was aware, they did not have a reputation for violence. The ECU could therefore see no reason why viewers would have been given the impression that the fanatics in the programme were evangelical Christians or that the programme gave an offensive portrayal of such people. As to the question of whether the programme

contributed to a climate of hostility between religions, the ECU reiterated that Bonekickers was intended to be an entertaining drama with little pretence at contemporary realism.

The complainant responded to the ECU in an email and letter dated 5 and 26 December 2008. He reiterated his concerns about the use of the term “fundamentalist” to describe evangelical Christians and how the audience may conflate this term to reinforce their perception of evangelicals as dangerous bigots and potential terrorists. The complainant also pointed out that the BBC had a commitment to avoid causing offence or harm and to ensure that output did not denigrate the beliefs of others. He continued to hold the view that the image presented in Bonekickers, “in a climate already polarised”, was “little – if at all – short of blood libel”. The complainant requested that the BBC adopt the Associated Press’s policy of avoiding using the word “fundamentalist” except where groups labelled themselves as such. He also requested that the BBC apologise for Bonekickers and refrain in future from transferring violent behaviour from one group to another which was not associated with such behaviour. He also requested the BBC to present any future coverage of religious controversy in an objective and balanced way.

The ECU replied on 29 December noting the complainant’s points. The response also stated that the ECU did not feel the complainant had provided reasons to change its decision. The reply also noted that the examples cited by the complainant referred to North America where the reputation of evangelical Christians was different to that of the UK. The ECU did not feel that the UK audience would regard “fundamentalist” as a code for “Evangelical”.

In two emails to the Editorial Standards Committee of the BBC Trust (ESC), the third and final stage of the BBC Complaints procedure, the complainant set out his appeal. He reiterated his view that the BBC had committed a “blood libel” against evangelical Christians and that the use of the “smear word” “fundamentalist” had been compounded by reference to evangelists and the idea of a circle of “knights” setting out on a “holy war”. He also pointed to a “glaring inconsistency” between the broadcast of this drama and the BBC’s editorial guidelines on the portrayal of religion.

#### **4. Applicable editorial standards**

##### **Section 8 – Harm and Offence**

###### **Introduction**

The BBC aims to reflect the world as it is, including all aspects of the human experience and the realities of the natural world. In doing so, we balance our right to broadcast and publish innovative and challenging content appropriate to each of our services with our responsibility to protect the vulnerable.

When we broadcast or publish challenging material which risks offending some of our audience we must always be able to demonstrate a clear editorial purpose. Such material may include, but is not limited to, offensive language, humiliation, sexual violence and discriminatory treatment. We must be sensitive to audience

expectations, particularly in relation to the protection of children, as well as clearly signposting the material.

#### Audience expectations

We should judge the suitability of content for our audiences, including children, in relation to the expectations of the likely audience at a particular time on a particular day, and in relation to the nature of the service as well as the nature of the content. We should ask ourselves the following questions:

- what is the likely composition of the audience, including the likely number and age range of children in the audience taking into account school time, weekends and holidays? We should be aware that school holidays are different in different parts of the UK.
- does the talent, slot, genre or service carry pre-existing expectations which may be challenged by the content?
- is harm or offence likely to be caused by misleading the audience or in the inclusion of difficult or challenging material?
- has any difficult or challenging content been clearly signposted?
- are there any special sensitivities surrounding the slot, for example religious festivals, and anniversaries of major events?
- what is the likely "pull-through audience" i.e. what is the nature of the preceding content and what kind of audience is it likely to attract?

#### Sign posts and content information

To ensure that our audiences are not taken by surprise, we must clearly sign post difficult content on all of our services using a combination of appropriate scheduling and content information which is simple, consistent, and factual. Whenever possible, this information should appear in press releases and other publicity, billings, Ceefax, trails, on air and online announcements, and electronic programme guides. We must consider giving clear information about the content of some pre-Watershed programmes, programmes which start before the Watershed and run beyond it, and post-Watershed programmes as well as for radio programmes broadcast when children are particularly likely to be listening.

#### Portrayal

We aim to reflect fully and fairly all of the United Kingdom's people and cultures in our services. Content may reflect the prejudice and disadvantage which exist in our society but we should not perpetuate it. We should avoid offensive or stereotypical assumptions and people should only be described in terms of their disability, age, sexual orientation and so on when clearly editorially justified.

## **Section 12 – Religion**

#### Introduction

The BBC respects the fundamental human right to exercise freedom of thought, conscience and religion, this includes an individual's freedom to worship, teach, practise and observe. At the same time, we recognise our duty to protect the vulnerable and avoid unjustified offence or likely harm. We aim to achieve this by ensuring our output is not used to denigrate the beliefs of others.

## Religion editorial principles

- We will ensure that the beliefs and practices of the great world faiths are described accurately and impartially.
- We will ensure the religious views and beliefs of an individual, a religion or religious denomination are not misrepresented, abused or discriminated against, as judged against generally accepted standards.
- We will reflect an awareness of the religious sensitivity of references to, or uses of, names, images, the historic deities, rituals, scriptures and language at the heart of the different faiths and ensure that any use of, or verbal or visual reference to them are treated with care and editorially justified. Examples include the Crucifixion, Holy Communion, the Koran, and the Jewish Sabbath.
- We will respect the religious sensitivity surrounding the observance of holy days and the principal festivals of the various faiths so that unnecessary offence is avoided by material that might be more acceptable at other times.

In output dealing with the religious views and/or beliefs of a religion or religious denomination as the central subject, we should make clear both the identity of the faith and the purpose of the output. It should not be used to recruit. Contributors should not be allowed to undermine or denigrate the religious beliefs of others.

We should treat any claims made in our religious programmes for the special powers or abilities of a living person or group, with due objectivity. Such claims should not be made when significant numbers of children may be expected to be watching television or when children are particularly likely to be listening to the radio, or in online content likely to appeal to a high proportion of children.

Comedy and satire always have the potential for offence. Specialist advice is available from the Religion and Ethics department and from colleagues in the World Service as well as Editorial Policy.

### **5. The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submission from the complainant.

The Committee considered the complaint under two headings of the BBC's editorial guidelines:

- Harm and Offence (audience expectations and portrayal)

- Religion (editorial principles)

### Harm and Offence

The Committee noted that the BBC had to balance its right to broadcast and publish innovative and challenging content appropriate to each of its services with its responsibility to protect the vulnerable.

It also noted that when the BBC publishes challenging material which risks offending some of its audience it must always be able to demonstrate a clear editorial purpose. The BBC must also be sensitive to audience expectations, particularly in relation to the protection of children, as well as clearly signposting the material.

The Committee agreed that the programme contained challenging material and the ECU was correct to uphold the complaint about the portrayal of the beheading. The Committee therefore endorsed the ECU's finding which found the decapitation to be graphic and explicit and beyond what the viewers would have been led to expect of the drama.

With regard to the complainant's suggestion that the depiction of an evangelical Christian group beheading a Muslim was a transference of the practice of terrorist beheadings by Islamist radicals and thus a "gross distortion" of the Christian belief to "love thy neighbour", which had implications to incite suspicion, hate and potential violence against evangelical Christians, the Committee noted that Bonekickers was not a factual drama, but a work purely based on fiction.

The Committee also noted that the drama was not realistically portraying living people (or an organisation) in a contemporary situation. Nor was it a drama documentary setting out to realistically portray a living person or group in a contemporary situation. The drama was wholly fictional. As such, this allowed the writers to develop unrealistic and unrepresentative storylines that were engaging and entertaining.

The Committee was satisfied that the audience tuning into the programme would have been fully aware they were watching fiction – noting that the nature of fictional drama required the audience to suspend disbelief and a sense of reality.

The Committee therefore concluded that the audience would have been aware of the fantasy nature of the drama from the outset and, taking this into account, would have been unlikely to find the portrayal of this extremist group offensive or stereotypical of the activities of evangelical Christians in the UK.

### Religion

The Committee noted that the religious views and beliefs of an individual, a religion or religious denomination should not be misrepresented, abused or discriminated against as judged against generally accepted standards.

The Committee considered that, in the context of this clearly fictional programme, there was no intention to denigrate the religious beliefs of any group. The drama dealt with fictional characters who had no association with any recognisable religious body.

**Finding: Not Upheld**



## **Panorama: Sub Prime Suspects, BBC One, 8 October 2007**

### **1. The programme**

The edition of Panorama entitled Sub Prime Suspects, broadcast on 8 October 2007, investigated mortgage mis-selling in the UK and contained several specific examples, two of which were mortgages given by Platform, a subsidiary of Britannia Building Society.

### **2. The complaint**

This is a first party complaint brought by the Group Chief Executive, Britannia Building Society.

The complainant said the programme breached the BBC's editorial guidelines on accuracy and fairness in that it falsely accused Britannia of mis-selling mortgages and failed to give the company a fair opportunity to respond to the allegations before transmission.

The complainant also said that, having upheld the bulk of the complaint, the BBC had failed to provide adequate redress for the damage caused to Britannia's reputation.

The complainant first wrote to the producer of Panorama on 19 October 2007 stating that the programme had treated the Britannia Building Society unfairly and had not acted within the BBC's editorial guidelines. Specifically, he thought that Britannia had not been given a fair opportunity to respond to the allegations before transmission and that the programme was not well-sourced, based on sound evidence and thoroughly tested, nor were all the relevant facts weighed to present a balanced report. The complainant said that the presenter's opening statement ("Tonight we reveal the results of years of mortgage mis-selling...") clearly implied that what followed was evidence of this "mis-selling". The programme featured four case studies, two of which were customers of Platform, a Britannia subsidiary.

In relation to one customer, Mr B, the complainant said that:

- He had a residential mortgage, not a buy-to-let mortgage as Panorama claimed.
- Britannia had explained to Panorama's producer, that Mr B's case was being investigated by the Serious Fraud Office and they were therefore unable to comment.
- The programme presented Mr B's story completely unchallenged and made no reference to the police investigation.
- The programme's description of Mr B as an NHS employee earning £25-30,000 a year did not reflect the details given on his independently verified mortgage application.

In relation to the other customers, Mr and Mrs T, the complainant said that Britannia had made the following points to the programme's producer:

- It was not unusual for lenders to provide mortgages to customers in their 50s.
- Mr and Mrs T were advised by an independent mortgage adviser whose job it was to represent their interests and who was under an obligation to conduct a full assessment of their financial situation.
- The mortgage application was assessed in line with Britannia's normal lending policy, including an affordability assessment, and the loan was less than 3.5 times Mr and Mrs T's income.
- Mr and Mrs T signed a mortgage offer letter confirming that they understood and accepted the terms and conditions of the mortgage.

The complainant said that the programme made no mention of Mr and Mrs T's adviser and he rejected absolutely the programme's implication that the mortgage was mis-sold by Platform. The complainant concluded:

"In summary, you have tarnished Britannia's reputation by referring to us in a programme that declared itself to be about mortgage mis-selling. I would therefore like a response from you that explains how and why this happened."

The producer of Panorama replied stating that in relation to Mr B's case:

- He had attempted to get more information from Britannia about this but had been told they could not comment on individual cases.
- Mr B had told Panorama that he wanted a buy-to-let mortgage and since this was his second flat in the block, the producer had seen no reason to disbelieve him.
- The producer had seen Mr B's payslips and could confirm his job as a psychiatric nurse on the salary he had given Panorama.
- The programme had made it very clear that this whole development was beset by fraud.

With regard to Mr and Mrs T the producer stated:

- The programme reflected that Britannia had conducted a verification of income and an affordability assessment.
- Panorama had made its own checks and taken advice from the Burton-on-Trent Citizens Advice Bureau which led them to the conclusion that this mortgage was never affordable.

The programme's producer also believed that Britannia had been given adequate notice and details of the programme's contents, and that its representation in the programme was a fair one. Britannia had been given several weeks' notice and their statement was reflected in the programme. The entire statement was also put up on Panorama's website and an on-air notice alerted viewers to this fact.

On 5 November 2007 the complainant wrote to the Editorial Complaints Unit (ECU) stage 2 of the BBC's Complaints Process stating that the reply from the programme's producer had been "dismissive, contained factual errors and was entirely unsatisfactory as it failed to address the fundamental points made in my letter". The complainant reiterated that the programme clearly implied that the two Platform mortgages were mis-sold – "they were not." With regard to the case concerning Mr B the complainant reiterated his earlier points adding:

- Panorama had not told Britannia that it had interviewed Mr B, or that he would be featured in the programme, nor did it give Britannia any indication of the nature of Mr B's comments.
- Panorama had clearly not thoroughly tested Mr B's story since the programme's description of him did not reflect the independently-verified details on his mortgage application.
- In an email on 4 October to Platform, Panorama had stated that Platform only got a brief mention in the programme which was misleading given the amount of airtime allocated to Mr B's case.

As to Mr and Mrs T, the complainant stated:

- Britannia did not receive "several weeks' notice" of Panorama's plans to feature Mr and Mrs T, as the programme's producer claimed – it was in fact seven working days.
- Panorama did not adequately reflect Britannia's statement regarding Mr and Mrs T in the programme.
- The programme failed to explain that Mr and Mrs T had got into debt as a result of changes in their circumstances after they took out their mortgage.
- Panorama did not tell Britannia that they were speaking to the Citizens Advice Bureau (CAB), nor did it give Britannia any indication of the views of the CAB adviser.
- The programme did not feature any of the hundreds of thousands of sub-prime borrowers who had been able to buy their own homes and build or repair their credit history as a result of their loans.

The complainant concluded that the programme had been unfair to Britannia and that it had tarnished its "hard-won reputation for fairness" in a programme that had

declared itself to be about mortgage mis-selling. The complainant asked for an explanation as to why this had happened.

The ECU replied on 4 March 2008 apologising that its investigation had taken longer than expected. The ECU agreed the allegation in the programme was that the mortgages had been mis-sold and that this was at least partly the responsibility of Britannia/Platform. In Mr B's case the ECU noted that the broker who arranged the mortgage appeared to have submitted fraudulent accounts claiming that Mr B was earning considerably more than £25-30,000 annually and it was on this basis that the mortgage had been awarded. This did not seem to the ECU to constitute mis-selling and they therefore upheld this aspect of the complaint.

As to the case of Mr and Mrs T the ECU noted that according to the CAB, Mr and Mrs T's finances moved into deficit as a result of taking on the new mortgage. This was confirmed for the ECU by another personal debt adviser who had reviewed the calculations and suggested that it was reasonable and that the mortgage did not appear to have been affordable in the first place. The ECU added that, contrary to the Britannia/Platform statement, an affordability assessment had not been carried out. In these circumstances the ECU did not feel that the allegation of mis-selling by Britannia/Platform was unfair and it was not, therefore, upholding this part of the complaint.

With regard to the lack of reference to the role of Mr and Mrs T's independent financial adviser, the ECU found that the lack of reference to the adviser would not have mitigated criticism of Britannia/Platform in the eyes of viewers. The ECU did not therefore uphold this aspect of the complaint.

The ECU then commented on the complaints about factual inaccuracy, as follows:

- It agreed that had the audience been told that Mr B's mortgage was under police investigation, this might have tempered significantly the unfair impression that Britannia/Platform were culpable. The ECU upheld the complaint that it was misleading not to refer to this.
- While it may be the case that Mr B's mortgage was wrongly described as buy-to-let, the ECU did not feel that any unfairness hung on this point or that it was a serious breach of the standards on accuracy.
- While an explanation of Mr and Mrs T's change of circumstances would have made the story more complete, it did not detract from the fact that they could not afford the mortgage in the first place. The ECU could not therefore uphold this part of the complaint.
- The decision not to give the positive side of the sub-prime lending story was essentially a matter of editorial judgement and was not therefore something which fell within the remit of the ECU.

Turning to the right to reply issues, the ECU noted that the first indication that Mr B's case would feature in the programme came in a telephone conversation with

Platform's Communications Manager on 4 October 2007. This was only four days before transmission where two of the intervening days fell on a weekend. The ECU did not feel this gave Britannia/Platform a fair opportunity to respond and therefore upheld the complaint. The ECU also agreed that an email sent to Platform on 4 October 2007 was highly misleading in stating that Platform only received a brief mention in the programme. The ECU therefore upheld this aspect of the complaint.

In relation to Mr and Mrs T the ECU noted that Britannia/Platform had been offered a right to reply in a letter of 27 September. However, this letter did not mention an allegation of mis-selling. Mr and Mrs T's case had also been mentioned in the conversation on 4 October 2007. However, it was uncertain whether this made it clear that the programme would be alleging mis-selling and it was only four days before transmission with the weekend intervening. The ECU did not feel that Britannia/Platform had been given a fair opportunity to respond to the allegations and upheld this aspect of the complaint. The ECU also noted that on the question of the Britannia/Platform statement only part of it was used in the programme which referred to Britannia having carried out thorough checks including an affordability assessment. The ECU felt that the programme should have also used the part of the statement that said that Mr and Mrs T had signed a mortgage offer letter confirming that they understood and accepted the terms and conditions of the mortgage. In this respect the ECU agreed that the statement was not adequately reflected in the programme and therefore upheld this element of the complaint.

Finally, the ECU considered the complaint that Britannia/Platform were not told that Panorama was speaking to the CAB adviser or given any indication of her views. It noted that Britannia/Platform had been told that Panorama believed that Mr and Mrs T could not afford the mortgage and that the CAB had provided a calculation. The ECU could not see that including the adviser's name would have added anything or that not doing so led to unfairness. The ECU did not therefore uphold this part of the complaint.

The complainant replied on 21 April 2008 welcoming the fact that the ECU had upheld many of his complaints. He also made the following comments:

- Mr B's admission to signing application forms without reading them and the producer's account that Mr B had simply signed blank application forms was highly relevant to this case – the complainant asked why no reference was made to this in the programme.
- While the factual error regarding the type of mortgage Mr B had received may not have been unfair, it was nonetheless wrong and reflected the disregard for accuracy seen throughout this programme.
- The programme clearly sought to portray Mr and Mrs T as innocent parties, unaware of the financial commitment they were making, and the failure to disclose the fact that they had received independent financial advice was a serious and misleading omission.

- By failing to tell Britannia that Panorama would be broadcasting comments from the CAB adviser and to share the specific views expressed, Britannia were denied the opportunity to respond to those comments.
- The ECU's statement that an affordability assessment had not been carried out was simply untrue.
- Based on its assessment, Britannia believed that the loan was affordable, provided that Mr and Mrs T used part of the advance to repay their outstanding credit commitments, and this had been a condition of the mortgage.

The complainant asked the ECU to reconsider its conclusions in these areas. He also asked what action had resulted from the finding, in particular what redress the BBC proposed to make available to Britannia and what steps had been put in place to prevent the allegations being repeated in any future programmes.

The ECU responded on 17 July 2008 apologising for the delay in replying. With regard to the complainant's additional point the ECU replied:

- As to the programme's failure to mention that Mr B had signed blank application forms or signed application forms without reading them, the ECU felt that this did not lead to additional unfairness but was one of a number of considerations that led it to the view that it was unfair to present Mr B's case as one of mis-selling when in fact it was one of mortgage fraud.
- The ECU reiterated that, even if the programme was inaccurate over the type of mortgage Mr B had received, it did not conclude that this led to unfairness or that it was a serious breach of standards.
- The ECU was still of the view that the involvement of an independent adviser did not absolve Britannia/Platform from their responsibility to assess whether Mr and Mrs T could actually afford their mortgage and the omission of any reference to the adviser did not result in additional unfairness.
- The ECU had upheld the substantive complaint that Britannia/Platform were given insufficient opportunity to respond to the allegation of mis-selling in relation to Mr and Mrs T's mortgage and did not feel that merely omitting the CAB adviser's name added to any unfairness.
- A Britannia representative had told the ECU that a detailed affordability assessment had not been carried out in relation to Mr and Mrs T's mortgage and the figures produced by the CAB and endorsed by another adviser showed that the mortgage was not affordable.

The ECU concluded that a summary of its finding, with a note of the action taken as a result of it, would be posted in due course on the BBC's complaints website.

The complainant replied on 25 September 2008 noting that the ECU had twice failed to meet the BBC's own standard regarding the timeliness of responding to complaints. The complainant also said that the ECU continued to try to justify behaviour that conflicted with the BBC's tradition of fair and balanced reporting. The complainant noted that whilst the ECU apologised for "elements of unfairness" this fell some way short of acknowledging that the programme was seriously flawed and directly contravened the BBC's own editorial guidelines. The complainant went on to say that the ECU had failed to answer key questions from his previous letter:

- What action has resulted from the findings?
- What redress did the BBC propose to make available to Britannia?
- What steps had the BBC put in place to prevent the errors being repeated in future programmes?

The complainant reiterated points made previously about the omission of information relating to the mortgages in question and to factual errors in the programme. He said that his point regarding comments from the CAB adviser was that the programme not only failed to give Britannia the opportunity to respond, it failed to tell Britannia it would be featured.

The complainant also re-emphasised that an affordability assessment was carried out before Mr and Mrs T were offered their mortgage. Panorama's reporter may have disagreed with the outcome of the assessment but, as previously stated, Britannia believed the loan was affordable. Britannia could not be held responsible for actions Mr and Mrs T took subsequently that impacted on their financial position.

The complainant concluded by asking what the summary of the finding would and would not include.

The ECU replied on 30 September 2008 that it was not its role to pass judgement on whether a programme was "seriously flawed". Its role was to consider particular points of complaint against the relevant standards. The reply noted that the finding had been posted on the BBC's website including action points to reflect the fact that these findings had been adopted by the programme makers. The ECU also noted that it was still of the view that the Britannia representative had not addressed the issue of affordability and that, had a study been conducted into the ability of Mr and Mrs T to afford the repayments, it would have concluded they could not.

The complainant wrote to the Editorial Standards Committee of the BBC Trust (ESC), the third and final stage of the BBC Complaints procedure, on 17 October exercising his right of appeal. He stated:

"My complaint is that the BBC treated Britannia Building Society unfairly and did not act within its editorial guidelines. It took [the Head of the ECU] almost a year to conclude his investigations, during which he twice failed to comply with the BBC's own standards regarding deadlines. [The Head of the ECU] has upheld

my complaint in many areas but not all. The outcome of this process is a four paragraph summary of the investigation, buried deep on the BBC's website. That is simply not adequate redress."

The complainant reiterated the points of the complaint that had not been upheld by the ECU concerning both Mr B and Mr and Mrs T. The complainant concluded:

"In summary, the BBC has tarnished Britannia's reputation by falsely accusing us of mortgage mis-selling. The BBC has so far failed to explain how and why this happened and has failed to offer any meaningful redress."

### **3. Applicable editorial standards**

#### **Section 3 – Accuracy**

##### Introduction

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

##### Correcting mistakes

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

#### **Section 4 – Impartiality and Diversity of Opinion**

##### Introduction

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.



In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.

## **Section 5 – Fairness, Contributors and Consent**

### Introduction

The BBC strives to be fair to all – fair to those we're making programmes about, fair to contributors, and fair to our audiences.

### Fairness editorial principles

- We will be open, honest and straightforward in our dealings with contributors and audiences, unless there is a clear public interest in doing otherwise, or we need to consider important legal issues or issues of confidentiality.
- People will normally have consented to contribute to our output.
- Where allegations are being made, the individuals or organisations concerned should normally have the right of reply.

### Right of reply

When we make allegations of wrong doing, iniquity or incompetence or lay out a strong and damaging critique of an individual or institution the presumption is that those criticised should be given a "right of reply", that is, given a fair opportunity to respond to the allegations before transmission.

Our request for a response must be properly logged with the name of the person approached and the key elements of the exchange. We should always describe the allegations in sufficient detail to enable an informed response. The response should be reflected fairly and accurately and should normally be broadcast in the same programme, or published at the same time, as the allegation. There may be occasions when this is inappropriate (usually for legal or overriding ethical reasons) in which case a senior editorial figure or commissioning editor for Independents should be consulted. It may then be appropriate to consider whether an alternative opportunity should be offered for reply at a subsequent date.

In very rare circumstances where we propose to broadcast a serious allegation resulting from our own journalism without giving those concerned an opportunity to reply the proposal must be referred to a senior editorial figure and Controller, Editorial Policy or for Independents to the commissioning editor and Controller Editorial Policy. The allegation must be in the public interest and there must be strong reasons for believing it to be true. Our reasons for deciding to make the information public without requesting a response from the individuals or

organisations concerned may include possible interference with witnesses or the possibility of legal action to delay or even prevent transmission.

#### Refusals to take part

Anyone has the right to refuse to contribute to our output and it is not always necessary to mention their refusal. However, the refusal of an individual or an organisation to make a contribution should not be allowed to act as a veto on the appearance of other contributors holding different views, or on the programme itself.

When our audience might reasonably expect to hear counter arguments or where an individual, viewpoint or political party is not represented it may be appropriate to explain the absence. This should be done in terms that are fair to the missing contributor. We should consider whether we can represent their views based on what we already know. We should strive not to exclude a missing view altogether.

### **Section 17 – Accountability**

#### Feedback and complaints

Audiences are at the heart of everything the BBC does. Audience feedback is invaluable to us and helps improve programme quality.

Our commitment to our audiences is to ensure that complaints and enquiries are dealt with quickly, courteously and with respect.

#### Editorial Complaints Unit

The Editorial Complaints Unit deals with serious complaints about breaches of the BBC's editorial standards. It deals with complaints about any BBC service or product where the BBC has editorial responsibility. This includes international public and commercial services and BBC branded magazines.

If complainants are not satisfied by the Editorial Complaints Unit finding, they can appeal to the Governors' Programme Complaints Committee. [Now the Editorial Standards Committee of the BBC Trust]

For the most serious upheld complaints, an apology or correction from the BBC may be published online or on air.

Details of upheld complaints are published at [www.bbc.co.uk/complaints/](http://www.bbc.co.uk/complaints/).

#### **4. The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and subsequent submissions from the complainant and the BBC.

This appeal raised issues requiring consideration of the editorial guidelines relating to accuracy, fairness and redress. There was also the matter of delay in complaint handling.

The Committee did not revisit any of the matters previously upheld by the ECU.

Following the partial uphold on accuracy and fairness by the ECU, there were matters outstanding about the two separate cases (Mr and Mrs T and Mr B) mentioned in the programme and concerning redress to the complainant. The Editorial Complaints Unit had already upheld breaches of the guidelines relating to the treatment of Mr B's story and concerning the lack of an adequate right to reply given to the Britannia Building Society of which the complainant is Chief Executive.

### **i) The Ts**

The Committee had looked at the paperwork including the further information on the affordability assessment and the material from Britannia on the use of an affordability index, which had not been available to the programme makers. It had examined the details of Mr T's credit history, employment, income and age. It discussed the role of the broker in arranging the mortgage.

Members were careful not to apply standards about sub-prime mortgages or mis-selling in hindsight that were not current at the time the programme was made and transmitted.

The Committee considered the evidence offered by the Citizens Advice Bureau adviser and others in the Editorial Adviser's note and concluded that it was reasonable and accurate for Panorama to suggest the mortgage was mis-sold based on the details of the couple requesting the mortgage.

The Committee did not think there had been any unfairness to Britannia and its CEO in not giving Britannia details about the identity of the CAB interviewee before transmission. The fact that there was a contribution from the CAB had been stated.

The Committee agreed that Britannia had a level of responsibility as the lender of the money, whether or not the Ts had received independent financial advice. It noted that the use of a broker (who had been paid over £600 by Britannia's subsidiary company when the mortgage was agreed) did not diminish Britannia's responsibility for making an affordable loan. There was no evidence of any other independent advice to the couple.

The complaint was not upheld on grounds of accuracy or fairness.

### **ii) Mr B**

Mr B's story had been a relatively small part of the programme. Parts of the complaint referring to him had been upheld by the Editorial Complaints Unit who had found unfairness in the programme's allegation of mis-selling to Mr B when there had been fraud by a third party which had disadvantaged both Mr B and Britannia.

The Editorial Standards Committee considered only two matters:

- a) whether there was additional unfairness to the CEO and Britannia in the programme not mentioning that Mr B had signed blank forms.
- b) whether there was additional unfairness in not making clear the distinction between buy-to-let and residential mortgages. The programme did not explicitly say that Mr B got a buy-to-let mortgage – just that he was encouraged to look at one by the brokers.

The Committee concluded that neither issue was significant in terms of fairness or accuracy – it was not material to the point. The Committee noted the programme team’s explanation that:

“Mr B didn’t care what was on his form – he didn’t keep any papers or ask for any...he was careless as to whether there was fraud or not.”

And

“[...] he was in the programme as an example of reckless lending.”

The Committee was satisfied that the relevant factor for the inclusion of Mr B’s case was not whether or not he signed blank forms but how he obtained a mortgage.

As to the type of mortgage obtained, the Committee accepted that, for all except specialists, the difference between the two types of mortgage was not huge and the fact that they are regulated differently (which did concern the complainant) was not critical when considering fairness.

The Committee considered that the omission of these two matters did not give rise to any additional unfairness to Britannia’s CEO, beyond that which had already been upheld.

The complaint was not upheld on the grounds of fairness.

### **iii) Redress**

The guidelines say that:

“For the most serious upheld complaints, an apology or correction from the BBC may be published online or on air.”

The complainant had enquired several times what redress was available to him as a result of the partial uphold by the ECU. The response from the ECU had been that, while occasionally a partial uphold could lead to an on-air apology, in this case where there was a significant part of the programme on which no complaint had been upheld, that would not be justified.

The Committee agreed that the redress offered by the ECU – of their partial uphold being published on the BBC website – had been proportionate to the finding.

The complaint concerning redress was not upheld.

#### **iv) Complaint Handling**

The Committee accepted that there had been more delay in dealing with this complaint than would be desirable. It accepted that this had been due to a variety of factors which, taken together, had extended the time taken overall which was well beyond the BBC's and the Trust's targets. The Committee would like to apologise to the complainant for the delay in bringing the case to a conclusion and hopes that this has not led to any great inconvenience for him.

**Finding: The substantive elements of the appeal were not upheld. The Committee did, however, acknowledge that the complaint had suffered unacceptable delays and would write to the complainant to apologise for this and for the inconvenience this may have caused.**

# Rejected Appeals

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

- **Balance of coverage on BBC Parliament between the Democratic and Republican Conventions**

The appellant complained that the BBC had not acted as an impartial news provider when covering the Republican and Democratic Conventions on BBC Parliament. The complainant noted that BBC Parliament had provided just over half as many hours' coverage of the Republican Convention as that of the Democratic one. The complainant also requested that such imbalance should not be reflected in the BBC's coverage of the election.

**Decision:**

**The Committee noted that BBC Information had provided the complainant with information that had shown that the Democratic Convention had been given 94 hours of coverage, compared with 51.25 hours for the Republican Convention.**

**The Committee also noted that the explanation for the difference in the coverage of the two conventions was given within the BBC Information response by the Controller of the channel, who stated that BBC Parliament had broadcast the same section of both conventions live and that the key two-hour segment from each convention was repeated regularly. The response also explained that Hurricane Gustav had caused the abandonment of the first day of the Republican Convention. The Committee noted that the loss of the session and the planned repeats of the convention led to the loss of 22 hours of the intended coverage.**

**The Committee also noted that the remainder of the difference in the coverage was caused by standing commitments to cover the Scottish Parliament on the Wednesday and Thursday of that week as well as the Treasury Committee.**

**The Committee then noted the complainant's further concerns that speeches by Cindy McCain and Laura Bush made on the first day of the Republican Convention had not been repeated and that extra repeats could have been scheduled to make up for the lost time.**

**In response the Committee noted that BBC management replied that it was not appropriate to repeat the speeches of Mrs McCain or Mrs Bush and that due to the other commitments there were fewer slots available for repeats.**

The Committee also noted the BBC's response at stage 2 of the complaints process which reiterated the initial reasons; said that there was no attempt to slant the coverage and that had the clash with the UK's parliamentary session affected the Democratic Convention the same principles would have applied; stated that BBC Parliament had acted in this way due to understandable editorial reasons and not through bias; and noted that BBC Parliament broadcasts predominantly to a UK, not US audience.

Having taken the Executive's responses into account, the Committee agreed that the complainant had not made out a case for the BBC Executive to answer and that there was not a reasonable prospect of success. The Committee noted that the appeal was heavily argued on the mathematics of the hours given to the coverage but was satisfied that due impartiality was not a matter of an equal division of time for each view but whether the content and approach was duly impartial. As this did not raise a matter of substance the Committee concluded that it was not appropriate to take this matter on appeal.

- **BBC News reports on rising water levels in Tuvalu**

The appellant wrote to the Chairman of the ESC challenging the Trust Unit's decision to reject his appeal on a report on rising water levels in Tuvalu due to it being submitted outside of the 20 working days that an appeal should be requested following receipt of the final substantive reply from the BBC Executive. The complainant explained that the lateness of the request had been down to him suffering from ill health.

**Decision:**

The Committee began by considering the question of whether the appeal itself was made out of time.

It noted that the Complaints and Appeals Procedures stated that:

"...you can request an appeal to the BBC Trust's Editorial Standards Committee (ESC) within 20 working days of the date of the final Stage 2 response (or exceptionally the Trust may allow longer if the Trust decides there is a good reason for the delay)."

The Committee noted that the final substantive response to the complainant on the issue of the report on rising water levels in Tuvalu was dated 15 December 2008 and that the request for an appeal had been dated 4 March 2009.

As the complainant had appealed some 5 to 6 weeks after this period, he had failed to comply with the relevant procedural rules.

The Committee agreed that it had discretion to consider appeals even though the complainant had failed to comply with the correct procedural rules. However, the procedural rules were there for a good reason, and

were intended to be observed by all. The Trust would therefore exercise its discretion only if there were “exceptional circumstances”.

In considering whether there were exceptional circumstances in this case, the Committee had regard to the complainant’s explanation that the delay had been caused by him suffering from flu for five or six weeks after Christmas.

The Committee also noted that the complainant stated that previous complaints he had submitted had suffered delays.

The Committee did not consider that, in deciding whether to extend the time limit, any departure from the proper procedure by the Trust Unit was of particular relevance unless they had in some way contributed to the complainant’s own breach, which they had not.

The Committee noted that during the period the complainant had stated that he had been unwell he had submitted several letters on other matters to the BBC.

The Committee was of the view that it is particularly important to enforce the proper procedural rules unless there are exceptional circumstances. The Committee did not consider that the explanation put forward by the complainant met the necessary threshold. The Committee therefore decided that this appeal was out of time and inadmissible.