

Editorial Standards Findings

Appeals to the Trust and other editorial issues considered by the Editorial Standards Committee

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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.

The Committee comprises six Trustees: Alison Hastings (Chairman), Mehmuda Mian, David Liddiment, Elan Closs Stephens, Richard Ayre 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 accepting 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 or is available from:

The Secretary, Editorial Standards Committee
BBC Trust Unit
180 Great Portland Street
London W1W 5QZ

Summary of findings

Complaint handling

The complainant alleged that BBC Audience Services mishandled a complaint arising from his request for information. The complainant said that delays in responses to his communications were unacceptable and that explanations for certain delays were unsatisfactory. The complainant also criticised BBC Audience Services' stance in responding (which was alleged to have been obstructive, equivocal and complacent) and the tone of the responses provided to him.

The Committee concluded:

- that the complainant's initial query had not raised any substantive editorial issue about the BBC's output that engaged any of the Editorial Guidelines and that, having met the target turnaround time for its initial Stage 1 response, BBC Audience Services had appropriately accorded the complainant's follow-up contacts a correspondingly reduced level of priority.
- that this was one of a number of cases that had formed a substantial backlog and there was no evidence to suggest that this complainant had been treated any differently from the numerous other complainants whose cases had been similarly delayed, or that the level of priority accorded to this complainant had been affected by his complaint history.
- that, with regard to the first period of delay there had been no breach of the Accountability guideline.
- that, with regard to the second period of delay, there had been a breach of the Accountability guideline which was resolved by the explanations and apologies provided by BBC Audience Services.
- that although BBC Audience Services' first response at Stage1 was incomplete, this had been rectified by its second response, and there had been no breach of the Accountability guideline under this point.
- that it did not agree with the complainant's assertion that BBC Audience Services' stance had been obstructive, equivocal and complacent.
- that BBC Audience Services' responses to the complainant were never less than courteous, polite and respectful and that there had been no breach of the Accountability guideline under this point.

The complaint was in part not upheld and in part resolved.

For the finding in full see pages 5 to 12.

Breakfast, BBC Radio 5 live, 12 January 2010

The complaint was about an interview on the 5 live Breakfast show between Nicky Campbell and Andrew Gilligan on the day that Alastair Campbell was due to give evidence to the Chilcot Inquiry. The complainant said that Andrew Gilligan was an inappropriate choice of interviewee and that the interview was conducted in a partial manner and contained an inaccuracy. The complainant also appealed to the Trust about the handling of his complaint.

The Committee concluded:

- that the delays suffered by the complainant had been unacceptable, however the explanations and apologies provided to the complainant were sufficient to resolve the issue.
- that there was no case to be answered with regard to the handling of the complaint by the Editorial Complaints Unit at Stage 2 of the process.
- that a statement made by Mr Gilligan regarding the protection of David Kelly's identity was an expression of personal opinion and did not lead to a breach of the accuracy guidelines.
- That the choice of an interviewee is an operational matter for the BBC unless it leads to a breach of the BBC's Guidelines and that in this case the choice of Andrew Gilligan as an interviewee did not raise any Guideline issues. Although the introduction itself was sparse and Mr Gilligan's position should ideally have been clarified at the outset, over the course of the interview enough information was provided to leave listeners in no doubt that Mr Gilligan had been employed by the BBC and had been a participant in the events in question.
- that Mr Gilligan made no new allegations against Alastair Campbell and the live broadcasting of Alastair Campbell's evidence to the Chilcot Inquiry provided a sufficient balance to the views put forward by Mr Gilligan in the interview.
- that there was no need for a specific right of reply to have been offered to meet the requirements of the impartiality guidelines.
- that, although the tone of the interview was informal, it was in line with audience expectations for this service, programme and presenter and it did not breach the impartiality guidelines.
- in response to the complainant's assertion that because the BBC was itself at the centre of the story, the interview should have been handled in an exemplarily even-handed manner, which had not been the case, that this was not an item principally about the BBC and that therefore the guidelines relating to items of this nature did not apply.

The complaint was not upheld with regard to impartiality and accuracy, resolved with regard to accountability.

For the finding in full see pages 13 to 21.

Appeal Findings

Complaint handling

1. Background

The complainant alleged that BBC Audience Services mishandled a complaint arising from his request for information dated 5 March 2010. The complainant said that:

- the delays in BBC Audience Services' responses to his communications were unacceptable
- the explanations for certain delays were unsatisfactory
- BBC Audience Services' stance was obstructive, equivocal and complacent, and the tone of its Stage 2 response was high-handed, dismissive and cavalier.

2. The complaint

Stage 1

On 5 March 2010 the complainant asked BBC Audience Services via the webform whether any of the BBC's services had covered the subject matter of the *Daily Telegraph* article, which he attached. The complainant stated that he could not imagine that, if the same story had related to a government department or local authority, it would not have received ample coverage.

BBC Audience Services issued its first Stage 1 response on 12 March 2010 (i.e. five working days later). BBC Audience Services stated that it could not comment on anything that the complainant had read in the media.

The complainant replied on 13 March 2010. According to the complainant, the issue concerned the BBC as public service broadcaster and would be of considerable interest to licence fee payers, while the source of the information that had prompted his enquiry/complaint was irrelevant. The complainant asked the BBC to reconsider its response.

On 22 March 2010 (i.e. six working days later), BBC Audience Services acknowledged receipt and stated that the BBC would respond as soon as possible. It was explained that response times depended on the nature of the complaint and the number of other complaints, and referred the complainant to the BBC's public responses on its website.

[On 6 April 2010 the General Election was announced.]

On 10 April 2010 the complainant sent a first "chaser" message via webform, noting that five weeks had elapsed since his initial complaint.

[On 6 May 2010 the General Election took place.]

On 8 May 2010 the complainant sent a second "chaser" message via webform, in which he asked that his complaint be escalated to Stage 2 as he viewed the delay as "unacceptable". However, as the complainant had not yet been sent a second Stage 1 response, BBC Audience Services continued to deal with the complaint at Stage 1.

Shortly thereafter, in mid-May 2010, BBC Audience Services began to experience technical problems with its new "customer relationship management" database, which had been brought in following the award of the new Audience Services contract in 2010. There were

a number of issues with the database functions throughout the remainder of the year (of which the Trust was kept informed). These caused a considerable backlog of cases.

BBC Audience Services sent its second Stage 1 response on 3 June 2010 (i.e. almost eight weeks after the complainant's first "chaser" message of 10 April). After attributing the delay in responding to an increase in the volume of complaints arising from the BBC's election coverage, BBC Audience Services explained that it did not provide the sort of information that the complainant had requested (i.e. whether or not the subject had received coverage on the BBC's services). It stated there was little usefully to be added to the BBC spokesman's statement in the *Daily Telegraph* article, and assured the complainant that his complaint had been logged.

On 25 June 2010 the complainant responded via webform. Noting the absence from the reply of any citation of previous correspondence, the complainant questioned whether this was to "soften the record" regarding the timeliness of the response, and pointed out that his initial query and his response to the 12 March email had preceded the announcement of the General Election by four-and-a-half and three-and-a-half weeks respectively.

[On 7 July 2010 the BBC Trust's Editorial Standards Committee (ESC) was officially notified of BBC Audience Services' technical problems. The ESC received subsequent updates on 9 September, 7 October, 4 November and 2 December 2010, and 13 January, 3 February and 3 March 2011.]

The complainant sent a "chaser" message via webform on 15 August 2010, noting that seven weeks (i.e. 36 working days) had passed without any response to, or acknowledgement of, his previous email, as compared to the BBC's performance standard of 10 working days.

On 10 September BBC Audience Services wrote to apologise for the "very severe delay" in responding. The BBC attributed the delay to a "major fault in our systems", which had now been rectified, and stated that the BBC was working through the backlog of cases. It was explained that the BBC's performance standard of 10 working days applied to "normal circumstances", and reiterated the assurance that the complainant's initial complaint would have been logged.

The complainant then sent five "chaser" emails, dated 19 October and 21 November 2010, and 2 February, 27 February and 30 March 2011. The first four of these received no response. The complainant's feelings were such that he headed his "chaser" email of 27 February 2011:

"TO ANYONE LISTENING OUT THERE"

During this period, the complainant received no notification from BBC Audience Services that his complaint had been escalated to Stage 2.

Stage 2

On 4 April 2011 (i.e. three working days after the complainant's fifth "chaser" email) the BBC Audience Services Complaints Manager replied at Stage 2 of the complaints process. The Complaints Manager offered his unreserved apologies for the "extremely long delay" in responding, which he described as "unacceptable".

Being unable to confirm whether the *Daily Telegraph* story had received any coverage on any of the BBC's services, and repeating BBC Audience Services' previous assertions that it did not provide the sort of research service that such a query required, the Complaints Manager stated that neither he nor the complainant could rule out the possibility that the story had been mentioned or reported.

In the Complaints Manager's view, there were no grounds to suggest that the BBC regarded itself as exempt from due scrutiny, and the complainant had provided no evidence of this. He noted that BBC news programmes had often reported on stories that reflected negatively on the BBC, and that its coverage had included self-criticism.

With reference to the complainant's suggestion that a similar story about a government department or local authority would have received ample coverage, the Complaints Manager stated that potential news stories were judged on a case-by-case basis, and that many factors had to be taken into account in making an editorial decision. The Complaints Manager added:

"It's simply not possible to draw conclusions based primarily on a subjective perception of our output, so we will not be drawn into a hypothetical argument based on a supposition. I'm afraid I cannot offer to devote further resources or staff time to answering hypothetical points arising from suppositions arising from unknown coverage."

The Complaints Manager concluded by advising the complainant of his entitlement to refer the matter to the BBC Trust, and gave him the Trust's postal address, but (as the complainant noted in his letter of appeal) not its email address.

Appeal to the Trust

On 10 May 2011 the complainant appealed to the BBC Trust. After welcoming the Complaints Manager's apology, the complainant pointed out that the delay in question was between his email of 25 June 2010 and the Complaints Manager's reply of 4 April 2011 (i.e. over nine months, or 40 weeks), and noted the absence of any explanation for it (other than the 'holding' response of 10 September 2010). The complainant questioned whether the BBC had deliberately spun the issue out, so that it could use the lapse of time as an excuse for being unable to verify his concerns.

The Head of Editorial Standards, BBC Trust, considered whether the complainant's substantive appeal had a reasonable prospect of success, and noted that:

- in relation to BBC Audience Services' refusal to answer the complainant's query, BBC Audience Services did not have sufficient resources to conduct the sort of research that would have been required
- in relation to the alleged failure of the BBC to report on the subject matter of the *Daily Telegraph* article, there was no reliable evidence for the Trust to consider, and in any event the choice of news stories concerned the direction of the BBC's editorial and creative output and was a matter for the Executive and not the Trust.

The Head of Editorial Standards concluded that, on those two points, the complainant's appeal had no reasonable prospect of success and should not proceed for full consideration by the Committee. This decision was appealable should the complainant disagree. The complainant did not challenge the Head of Editorial Standards' decision on these points.

Following the Head of Editorial Standards' determination, three points remained for consideration in relation to the handling of the complaint, having considered the requirements of the Accountability Guideline that audiences should be dealt with "fairly and openly" and that :

"...complaints and enquiries are dealt with quickly, courteously and with respect..."

These were:

Point 1: the delays experienced by the complainant in receiving responses from the BBC

Point 2: the satisfactoriness or otherwise of the explanations for certain delays

Point 3: BBC Audience Services' stance and the tone of its responses.

3. Applicable Editorial Guidelines

The BBC updated its Editorial Guidelines in October 2010, however the wording of the section applicable in this case did not change. The following editorial guidelines are applicable to this case:

Accountability

Feedback and Complaints

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

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

...We are committed to responding to complaints within ten working days of their first receipt and to keeping complainants informed of progress.

The following provisions of the BBC Complaints Framework are also applicable to this case:

...Complainants should be treated politely and with respect

...Complaints should be responded to in a timely manner".

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 correspondence in the case, the Editorial Adviser's report and the subsequent submissions made by the complainant and BBC Audience Services.

This appeal raised issues requiring consideration of the Editorial Guidelines relating to accountability.

The Committee noted that there were three points of appeal:

1. that the delays in BBC Audience Services' responses were unacceptable
2. that BBC Audience Services' explanations for certain delays were unsatisfactory
3. that BBC Audience Services' stance had been obstructive, equivocal and complacent, and the tone of its Stage 2 response had been high-handed, dismissive and cavalier.

Point 1: Delays

First, the Committee considered BBC Audience Services' prioritisation policy. It noted that the BBC received approximately 240,000 complaints in 2010/11 (which equated to an average of over 657 complaints per day), and that paragraph 2.5 of the BBC's Editorial

Complaints and Appeals Procedures set a 10-working-day turnaround target for Stage 1 responses. The Committee concluded that BBC Audience Services' policy of prioritising initial Stage 1 complaints over return complaints was an appropriate method of managing finite temporal, financial and human resources in order to achieve its Stage 1 performance target.

The Committee then considered whether this particular complaint had been accorded an appropriate level of priority.

The Committee noted the statement by the Head of Communications and Complaints, BBC Audience Services that, as the BBC broadcasts some 60 hours of content for each hour of the day, it was not normally possible to help Stage 1 complainants research thousands of hours of output. The Committee agreed with the decision of the Head of Editorial Standards, BBC Trust, that BBC Audience Services did not have sufficient resources to conduct the research that would have been required to answer the complainant's query.

In the Committee's view, it was not an appropriate use of BBC Audience Services' resources for it to be required to comment on each and every allegation in the news media to which a complainant had requested a response. In this case, as the *Daily Telegraph* article had already included a response from a BBC spokesperson, the Committee concluded that there was little or nothing that BBC Audience Services could have added.

With regard to the allegation of bias by omission implied by the complainant's initial query, the Committee noted that it was aware of previous occasions when the BBC had given due prominence in its output to criticism of itself. The Committee agreed with the conclusions of the Head of Editorial Standards, BBC Trust, that there was no evidence of bias either way, and that, in any event, the choice of news stories concerned the direction of the BBC's editorial and creative output and was a matter for the Executive Board and not the Trust. The Committee concluded that the complainant's initial query had not raised any substantive editorial issue about the BBC's output that engaged any of the Editorial Guidelines.

Taking all these considerations into account, the Committee concluded that, having met the target turnaround time for its initial Stage 1 response, BBC Audience Services had correctly treated this case thereafter as a non-urgent return complaint, and that it had appropriately accorded the complainant's follow-up contacts (which in the Committee's opinion added little of substance to his case) a correspondingly reduced level of priority.

The Committee then considered whether, in light of his complaint history, this particular complainant had been accorded an appropriate level of priority. The Committee noted the statement of the Head of Communications and Complaints, BBC Audience Services, that:

"... [the complainant]'s, and any complainant's, individual history never affects handling prioritisation other than as a consequence of the general need always to prioritise serious complaints and resource the Stage 1 initial 10 working day turnaround target."

"The severe delays to handling [the complainant]'s correspondence were not confined to him and affected many other complainants. All were quite simply due to the sheer volumes of other complaints to be prioritised, compounded by staff shortages and a backlog arising from severe technical issues experienced in May 2010."

Noting that this was but one of a number of cases that had formed a substantial backlog, the Committee concluded that there was no evidence to suggest that this complainant

had been treated any differently from the numerous other complainants whose cases had been similarly delayed, or that the level of priority accorded to this complainant had been affected by his complaint history.

The Committee then considered the timeliness of BBC Audience Services' responses. It noted that 13 months had elapsed between the complainant's initial contact of 5 March 2010 and BBC Audience Services' Stage 2 response of 4 April 2011. It also noted that the complainant had refused to accept BBC Audience Services' explanation that it did not have sufficient resources to answer his query. The Committee took the view that this was, nevertheless, an unusually long time-frame for the handling of a non-complex case.

The Committee then turned to the particular reasons for delay. Having noted that BBC Audience Services' first Stage 1 response of 12 March 2010 and its holding response of 22 March 2010 had both been issued in a timely manner, the Committee then considered the eight-week delay between the complainant's third contact of 10 April 2010 and BBC Audience Services' second Stage 1 response of 3 June 2010. The Committee noted that, during this period, BBC Audience Services had encountered two exceptional challenges to timely complaint handling, namely an increase in complaints arising from the BBC's coverage of the General Election, and severe technical problems with its new customer relationship management ("CRM") system.

With regard to the General Election, the Committee noted that the announcement of the election had occurred four days before the complainant's third contact, and that BBC Audience Services had received 7,000 additional complaints about the BBC's election coverage, and concluded that it was reasonable to infer that its receipt of the complainant's third contact would have coincided with the beginning of the increase in Stage 1 complaints. The Committee also noted that time was of the essence in handling election complaints, that BBC Audience Services' staff had been redeployed from other complaint-handling tasks in order to run an Election Unit, and that lower-priority return complaints, such as the complainant's, had consequently been delayed. The Committee also noted that, in a previous appeal by the same complainant, the Committee had acknowledged that a General Election raised specific difficulties regarding complaints handling.

So far as the technical problems with the CRM system were concerned, the Committee noted that, shortly after the 2010 General Election:

- the technical fault had manifested itself on 15 May 2010 and was addressed on 18 May 2010 (which, the Committee noted, did not necessarily mean that it was resolved on that date or that its repercussions did not continue beyond that date)
- serious data migration errors had resulted, which then slowed the handling and tracking of complaints for some time
- this had created a backlog and consequent delays in replying to some complaints.

The Committee noted that, because of these technical difficulties, both this and the complainant's previous complaints had migrated incorrectly from the legacy to the new complaint-handling system, and that, consequently, post-May 2010, the complainant's correspondence was distributed across both databases. The Committee further noted that, for this reason, the author of BBC Audience Services' second Stage 1 response of 3 June 2010 would have been unaware of the complainant's chaser email of 8 May 2010.

The Committee also noted that, in its second Stage 1 response of 3 June 2010, BBC Audience Services had apologised to the complainant and offered a partial explanation for the earlier delay (citing the increase in complaints arising from the General Election but omitting to mention the technical difficulties).

Having taken all these matters into consideration, the Committee took the view that, between the complainant's initial contact of 5 March 2010 and BBC Audience Services' second Stage 1 response of 3 June 2010, BBC Audience Services had responded in as timely a manner as circumstances and resources had permitted. Furthermore, it had apologised, and had offered an explanation for the delay. The Committee therefore found that, in respect of that period, there had been no breach of the Accountability Guideline.

The Committee then considered the nine-month period between the complainant's contact of 25 June 2010 and BBC Audience Services' Stage 2 response of 4 April 2011. The Committee noted that, during this period, BBC Audience Services had issued no substantive responses and one holding response. It also noted that, in the seven-month period between the holding response and the Stage 2 response, four chaser emails issued by the complainant had gone unanswered.

The Committee noted that, as a result of the severe technical difficulties with the CRM system, 9,500 complaints remained unanswered in June 2010 and that, at the beginning of October 2010 (approximately one month after the holding response was issued), there was still a substantial backlog, with 644 cases remaining unanswered.

The Committee also noted that, during this period, the BBC Audience Services team had at times been 30 per cent short of staff, that there had been a 'spike' of 100,000 complaints between December 2010 and March 2011 (which amounted to almost half the previous year's total), that more of those cases than usual had required escalation and investigation, that the complainant's communication of 25 June had added little to his case, and that BBC Audience Services had prioritised initial Stage 1 complaints over the complainant's in order to ensure that Stage 1 response targets were met.

Having taken all these matters into consideration, the Committee concluded that this case had not been dealt with in a timely manner, and that there had therefore been a breach of the Accountability Guideline. In the Committee's opinion, this breach might have been avoided if BBC Audience Services had issued additional interim holding responses so as to keep the complainant abreast of the progress of his case.

Taking into account the mitigating circumstances (namely, the technical and logistical difficulties faced by BBC Audience Services, the relatively low priority of the complaint, and the nature of the complainant's follow-up contacts), the Committee took the view that this was not one of the most serious of breaches. It concluded that the apologies and explanations contained in BBC Audience Services' second Stage 1 response of 3 June 2010, its holding response of 10 September 2010 and its Stage 2 response of 4 April 2011, together with the additional apologies and explanations offered by the Head of Communications and Complaints, BBC Audience Services, were sufficient to resolve this issue.

Finding: resolved

Point 2: Explanations for delays

The Committee noted that, in his contact of 25 June 2010, the complainant had rejected BBC Audience Services' explanation (i.e. that the earlier delay in responding to him had been caused by the increased volume of complaints arising from the BBC's election coverage). The Committee noted that, in considering Point 1 of this appeal, it had accepted the validity of BBC Audience Services' explanation.

Noting the complainant's argument that his initial query and his response to the BBC's first Stage 1 reply had preceded the announcement of the General Election by four-and-a-half and three-and-a-half weeks respectively, the Committee was not persuaded by this argument as both those communications had been responded to in a timely manner.

So far as the adequacy of BBC Audience Services' Stage 1 response was concerned, the Committee took the view that, although its first Stage 1 response was incomplete (in that it had omitted to explain that the BBC did not have the resources to investigate the complainant's query), this had been rectified by its second Stage 1 response, which had also apologised for and explained one of the reasons for delay.

The Committee did not therefore consider that there had been a breach of the Accountability Guideline under this point.

Finding: not upheld

Point 3: BBC Audience Services' stance and tone

The Committee noted that, in considering Point 1 of this appeal, it had taken the view that BBC Audience Services had been unable for logistical reasons to answer the complainant's initial query, and that it was not an appropriate use of its resources for it to be required to comment further on the *Daily Telegraph* article. The Committee did not, therefore, agree with the complainant's assertion that BBC Audience Services' stance had been obstructive, equivocal and complacent.

Having reviewed all the correspondence in this case, and having noted in particular the content of BBC Audience Services' first response of 12 March 2010 and its Stage 2 response of 4 April 2011, the Committee took the view that BBC Audience Services' responses to the complainant were never less than courteous, polite and respectful.

For these reasons, the Committee did not consider that there had been a breach of the Accountability Guideline under this point.

Finding: not upheld

Breakfast, BBC Radio 5 live, 12 January 2010

1. Background

The complaint concerned an interview on the 5 live Breakfast show broadcast on 12 January 2010, in which Nicky Campbell¹ interviewed Andrew Gilligan on the day that Alastair Campbell was due to give evidence to the Chilcot Inquiry into the events surrounding the build-up to the invasion of Iraq. The complainant argued that Mr Gilligan was not an appropriate interviewee and that the interview was handled in a partial manner. Specifically he complained that:

- Andrew Gilligan was not an appropriate person to give a view on what happened since he had been a central character in the BBC's conflict with the then Government (and Alastair Campbell) about the origins of the decision to go to war in Iraq. In particular it was Mr Gilligan's claim that the Government in general, and Alastair Campbell by implication, had been responsible for "sexing up" the dossier which outlined the case for war.
- That Andrew Gilligan had been a BBC employee at the time and was therefore not a disinterested observer.
- Further, that Nicky Campbell had allowed Mr Gilligan to attack Alastair Campbell without challenging him, indeed, according to the complainant, Nicky Campbell was "feeding him questions".
- That Nicky Campbell had "joined in" by referring to Mr Gilligan as having been subject to "government spin" and by mentioning a private conversation he had with Mr Gilligan at the time of the events under discussion.
- In addition, neither the then Government, nor Alastair Campbell, had been given an appropriate right of reply.
- And finally that the interview contained "inaccuracies" that Nicky Campbell allowed to go unchallenged relating to the death of Dr David Kelly, the accuracy of Mr Gilligan's original report and the claim that Mr Gilligan had tried to "protect BBC sources" (i.e. Dr David Kelly) during the controversy.

Background to the interview

The interview lasted 8 minutes and 21 seconds. Later in the day Alastair Campbell was due to face the Chilcot Inquiry and most of the interview covered Mr Gilligan's allegations about the role that Mr Campbell had played in these events, how Mr Campbell might handle himself during the exchanges and the long-term implications of the UK's involvement in Iraq. This section of the interview was conducted with standard questions being asked. However, towards the end of the interview Nicky Campbell switched modes to ask Mr Gilligan how involvement in the events leading up to the Hutton Inquiry had impacted on him personally.

2. The complaint

Stage 1

¹ To avoid confusion Nicky Campbell will always be referred to as 'Nicky Campbell' whilst Alastair Campbell will sometimes be referred to as 'Alastair Campbell' and sometimes as 'Mr Campbell' – this latter designation will never be used for Nicky Campbell.

The complainant contacted BBC Audience Services on 13 January 2010 with the complaint as set out above.

BBC Audience Services responded on 20 January 2010 stating that the aim of the interview had been to provide context and analysis so that listeners were provided with enough information to enable them to come to an informed opinion. Audience Services said that it was legitimate to hear from Mr Gilligan, given his direct involvement in the events and that, given the intensity of the reaction from the then Government to Mr Gilligan's broadcast, it was not inappropriate for Nicky Campbell to seek to find out how this had all affected Mr Gilligan personally. Audience Services concluded by saying that there had been no intention to disparage, or support, any particular view.

The complainant replied the same day, reiterating the reasons why he felt that the interview was not impartial and that he believed Nicky Campbell had empathised with Andrew Gilligan when discussing how the latter had been personally affected by the events in question and that this demonstrated bias.

On 11 February 2010 BBC Audience Services sent the complainant a further reply from the editor of 5 live Breakfast who reiterated that Andrew Gilligan no longer worked for the BBC and that his views were his own.

However, he also stated that it could have been made clearer on air that Andrew Gilligan was a regular critic of the then Government, and that he no longer worked for the BBC. He added that although a large proportion of the audience would have been aware of these facts, these could have been reinforced.

He advised the complainant that if he was still not satisfied he could take the matter further by writing to the BBC's Editorial Complaints Unit (ECU).

Stage 2

On 24 February 2010 the complainant wrote to the ECU. He stated that if it was to be assumed that most of the audience knew that Andrew Gilligan was a critic of the then Government, then the interview should have been conducted with this in mind. Instead, he argued, it was conducted as if Mr Gilligan was an unbiased journalist.

He claimed that Nicky Campbell failed to conduct the interview on the basis that Mr Gilligan was a well-known critic of the Government, and of Alastair Campbell, but instead interviewed him "...as though Gilligan was an unbiased journalist".

The complainant explained he believed that, with a General Election in the offing, what he termed "clear bias like this" should not be permissible.

The complainant also expressed dissatisfaction with the way his complaint had been dealt with; specifically he claimed that the responses he had received had been written with the aim of "defending the BBC at all costs".

The complainant received no reply to this email.

On 23 October 2010 he contacted the ECU again seeking a response.

On 1 November 2010 the ECU replied with an apology for not having replied to the previous email. This, it said, was because of an oversight which meant that the email had not been logged. The ECU told the complainant that it would investigate the substance of his complaint but explained that the Unit was unable to investigate the handling of the

complaint. It offered to forward this aspect of the complaint to BBC Audience Services. The ECU also explained the BBC's complaints procedure and stressed that the ECU was editorially independent of the BBC and thus able to investigate complaints with impartiality and rigour.

On 7 December 2010 the ECU wrote to the complainant with its full response. The ECU stated that while the BBC's Guidelines on impartiality required the BBC to be "objective and even-handed", impartiality did not require "the representation of every argument or facet of every argument on every occasion or an equal division of time for each view". The ECU explained that the Guidelines do allow the BBC to 'explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed' provided that in doing so programmes "do not misrepresent opposing views".

The ECU stated that it did not believe anything in Nicky Campbell's line of questioning had the effect of endorsing the views expressed by Mr Gilligan. It added that nothing in the report served to misrepresent opposing views.

In addition, the ECU stated that the audience would have been clear that the views being expressed were those of Andrew Gilligan rather than of Nicky Campbell or of the BBC.

The ECU's response continued that the introduction made clear that Andrew Gilligan was being interviewed both as an expert in the matters discussed, and as someone who had been involved in the story. Most listeners would have been aware that he had a particular point of view in regard to the claims made in the Iraq dossier and would have judged his views in that context.

The ECU noted that the Guidelines refer to a right of reply where a BBC programme makes new allegations regarding an individual or institution. It stated that it would have been clear to listeners that the views expressed were those of Andrew Gilligan, and that as someone involved in the events discussed, he was unlikely to be entirely impartial. It continued that his contribution was a summation of matters already in the public domain rather than new accusations. The ECU also stated that, in expressing sympathy for the difficulties Andrew Gilligan had experienced, Nicky Campbell did not say anything which amounted to endorsing his views.

For the reasons above the ECU decided not to uphold the complaint. It advised the complainant that, if he wished to appeal to the BBC Trust's Editorial Standards Committee, he should take the matter up with the Trust.

Appeal to the Trust

The complainant wrote on 21 December 2010 and again on 11 January 2011 setting out his appeal to the Trust, reiterating the points about impartiality made in earlier correspondence and expressing his dissatisfaction with how the ECU had dealt with this matter in its letter of 7 December 2010.

Specifically he complained that:

- The BBC, whilst requiring complainants to respond within a set timescale, failed to do likewise (a delay of nine months being noted).
- The ECU had quoted "selectively" from the interview to justify his stance that the interview did not breach the Guidelines.

- He (the complainant) did not accept the ECU's assertion that the audience would have been aware of the context of the interview, given that the events referred to happened in 2003.
- He had not been consulted by the ECU prior to the drafting of its reply.
- The ECU had failed to provide him with a transcript of the interview.

The complainant received a detailed response from the Trust's Head of Editorial Standards on 10 March 2011. In this letter she advised the complainant that, having considered all the relevant documents, she did not believe that the complaint raised a case for the Executive to answer and so did not consider that there was a reasonable prospect of success for his appeal. She was therefore informing him that her decision was that this matter should not be considered by the Trust. The Head of Editorial Standards accepted that the delay breached the complaints handling standards which the Trust looks to the Executive to maintain and she said that the BBC Trustees would want her to add their regret and apology to the complainant for the delay, although she was of the opinion that there was nothing the Trustees could add if the appeal were to go forward. She assured the complainant that the delay would be brought to the attention of the Committee for its information.

The complainant requested that this decision be referred to the Editorial Standards Committee. The matter was considered by the Committee in April 2011 and at this meeting the Committee agreed that the complaint should proceed to be considered in full.

3. Applicable Editorial Guidelines

The following editorial guidelines are applicable to this case (Editorial Guidelines 2005-2010):

Section 3 – Accuracy

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.

Misleading Audiences

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences.

Section 4 – Impartiality and Diversity of Opinion

In practice, our commitment to impartiality means:

- we seek to provide a properly balanced service consisting of a wide range of subject matter and views broadcast over an appropriate time scale across all of our output.
- we take particular care when dealing with political or industrial controversy or major matters relating to current public policy.
- we strive to reflect a wide range of opinion and explore a range and conflict of views so that no significant strand of thought is knowingly unreflected or under represented.

- 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.

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 signposting. Impartiality is described in the Agreement 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.

Personal View and Authored Programmes and Websites

Content reflecting personal views ... particularly when dealing with controversial subjects, should be clearly signposted to audiences in advance.

Section 17 – Accountability

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

BBC Complaints Procedure (2.15)

The ECU aims to complete its investigation into your complaint within 20 working days of the summary of your complaint being sent to you (a target of 35 working days applies to a minority of cases which are judged to be unusually complex).

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 BBC. Subsequent submissions were not received from the complainant.

The Committee considered the complaint under three separate headings: (A) the complaints process; (B) the accuracy of a statement made in the interview; (C) the claimed lack of impartiality of both Nicky Campbell and the BBC.

A. Complaints about the Process

The Committee noted that the complainant had suffered a nine-month delay in the course of the complaints process, and that apologies had been sent to him by the ECU in its letter of 1 November 2010 and again on 7 December 2010. The Committee noted that the ECU had apologised for the severe delay in responding to the complaint which was due to the failure to log the first complaint email correctly. The Committee also noted the apology offered by the Trust's Head of Editorial Standards.

The Committee agreed that the delay suffered by the complainant had been unacceptable; however, the Committee considered that the acknowledgement and apologies already provided meant that no further action was required. The Committee concluded that this element of the complaint had been resolved.

With regard to the complainant's criticism of the ECU for not having consulted him prior to sending him its decision on the complaint, the Committee noted that under the editorial complaints procedure, the ECU was under no obligation to call the complainant to get his views and so there was no case for the Executive to answer on this point.

The Committee noted the complainant's concern that he had not been provided with a full transcript of the interview and could not therefore verify whether the elements quoted by the ECU were correct. The Committee noted that there was no record of the complainant having asked to be provided with a transcript of the interview. It also noted the Head of the ECU's assurance that one would have been provided if it had been requested. The Committee therefore concluded that there was no case to be answered with regard to the complaint that a transcript had not been provided.

B. Complaint about the accuracy of one of the statements by Mr Gilligan.

The Committee noted that the complainant had challenged Andrew Gilligan's assertion in the interview that: "We (BBC) did our absolute utmost to protect his (D. Kelly's) identity."

The Committee noted that the BBC had played a relatively minor role in the process of disclosure, which had consisted of newspaper correspondents suggesting names to Ministry of Defence press officers who either confirmed or denied the names. In the light of this process, the Committee was advised that the only test they could apply would be if they were to judge that either Andrew Gilligan's original broadcast on 29 May 2003 or Susan Watt's broadcast on Newsnight on 2 June 2003 had been sufficient to identify Dr Kelly – and neither had named him.

However, the Committee did not consider this point in any more detail as it agreed that Mr Gilligan's statement was an expression of his personal opinion as an interviewee and that in such a capacity Mr Gilligan was entitled to state his view. The Committee agreed that this did not lead to a breach of the accuracy guidelines.

C. Complaints about breaches of the Impartiality Guidelines

The Committee noted that the substance of this complaint relates to impartiality issues. The complainant raised numerous issues about the interview itself, the way it was conducted and its content. The Committee considered four distinct allegations of bias made by the complainant:

1. Mr Gilligan was not an appropriate interviewee

The Committee noted that the complainant had said that Mr Gilligan was not an appropriate interviewee on the subject of Alastair Campbell's forthcoming evidence to the

Chilcot Inquiry because he was neither a neutral observer of Alastair Campbell nor of the events surrounding the build-up to war in Iraq. The Committee noted that the complainant said Mr Gilligan, by accusing Mr Campbell of “lying” about his role in the events, was an active participant in the ongoing controversy at the time of the interview.

The Committee noted the relevant guidelines were those on Impartiality which state that:

“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 that Nicky Campbell’s introduction made a brief reference that implied Mr Gilligan had been, and was, a critic of Alastair Campbell’s position. The Committee considered whether this introduction was sufficient to signal to audiences that Mr Gilligan was not a neutral observer of events.

The Committee considered whether a listener, unaware of the original context, would have appreciated that Andrew Gilligan’s claim, as noted in the introduction to the item, that the intelligence had been “sexed-up” was sufficient to indicate the depth and breadth of the row.

The Committee noted that the choice of an interviewee is an operational matter for the BBC unless it leads to a breach of the BBC’s Guidelines. The Committee was satisfied that in this case the choice of Andrew Gilligan as an interviewee did not raise any Guideline issues. The Committee agreed that it became clear during the course of the interview that Mr Gilligan had been working for the BBC at the time of the controversy. In addition, the Committee’s view was that it was likely that the majority of listeners would, notwithstanding the lack of any specific reference, have been aware of Mr Gilligan’s role in the controversy. The Committee agreed that the introduction itself was sparse and that Mr Gilligan’s position should ideally have been clarified at the outset. However, the Committee concluded that over the course of the interview enough information was provided to leave listeners in no doubt that Mr Gilligan had been employed by the BBC and had been a participant in the events in question.

On this issue the complaint was not upheld.

2. Alastair Campbell should have been offered a right of reply to the interview

The Committee noted that the complainant had said that following the interview Alastair Campbell should have been offered a right of reply. The Committee noted the complainant’s view that live broadcasting of Mr Campbell’s evidence to the Chilcot Inquiry did not constitute this right of reply, since he was unable to reply to the specific allegations that Mr Gilligan made.

The Committee noted that, as this was not a first party complaint it would not be considering the issue of a “right of reply” under the Fairness guidelines but rather under the Impartiality guidelines which state that:

“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.”

The Committee considered that Alastair Campbell would almost certainly have been entitled to a “right of reply” if Mr Gilligan had made new accusations against him, but this was not the case and does not form the basis of any of the complaints.

The Committee considered whether 5 live’s argument that Mr Campbell’s evidence to the Chilcot Inquiry, which was signalled at the end of the interview as being broadcast live

later in the day, was sufficient to constitute his right of reply to the general points made by Mr Gilligan. The Committee also considered whether this met the guideline requirement for “due impartiality” to be “achieved over time”.

The Committee noted that Mr Gilligan made no new allegations against Mr Campbell and agreed that the live broadcasting of Mr Campbell’s evidence to the Chilcot Inquiry provided a sufficient balance to the views put forward by Andrew Gilligan in the interview. The Committee concluded that there was no need for a specific right of reply to have been offered to meet the requirements of the Impartiality guidelines.

On this issue the complaint was not upheld.

3. The interview was overly sympathetic to Mr Gilligan

The Committee noted the complainant’s claim that Nicky Campbell conducted the interview in a way that was overly sympathetic to Mr Gilligan, including mentioning that they had had a private conversation about this matter when Mr Gilligan was working for the BBC. The Committee also noted the complainant’s claim that by using the words “a self-confident and impressive performer” in relation to Alastair Campbell’s anticipated appearance before the Chilcot Inquiry, Nicky Campbell betrayed a bias against Alastair Campbell. The Committee noted that the complainant was of the opinion that these two statements epitomised Nicky Campbell’s alleged bias in favour of Mr Gilligan and against Alastair Campbell, and, in addition, that Nicky Campbell’s alleged bias led him to “feed” questions to Mr Gilligan.

The Committee considered the extent to which, in general terms, Nicky Campbell’s interview with Andrew Gilligan betrayed any bias or lack of partiality by appearing to collude with, and feed questions to, Mr Gilligan. In addition the Committee considered whether two specific examples – Nicky Campbell describing Mr Campbell as a “self-confident and impressive performer” and the reference to a ‘corridor conversation’ with Mr Gilligan, at the time of the controversy, breached the guidelines.

The Committee was of the view that the tenor of the interview – which was informal – was typical of both 5 live in general and Nicky Campbell’s programme in particular. The Committee believed that the interview was very much what the audience would have been expecting from that network at that time. However, it observed that, given the subject matter, the informal nature of the interview including the reference to the corridor conversation could have been misconstrued but that this did not constitute bias. The Committee’s view was that the tone of the interview would not have raised questions had the introduction to the story been clearer as to the role of Andrew Gilligan at the time under discussion.

The Committee concluded that, although the tone of the interview was informal it was in line with audience expectations for this service, programme and presenter and it did not breach the impartiality guidelines.

As to the use of the description of Mr Campbell as a self-confident and impressive performer the ESC considered this was a perfectly reasonable description of Mr Campbell which did not indicate bias for or against him, or for or against Mr Gilligan.

4. It should have been made clear during the interview that Mr Gilligan had been an employee of the BBC

The Committee noted the complainant’s assertion that it should have been made clear during the interview that Mr Gilligan had been an employee of the BBC at the time of the events being discussed. The Committee noted that the complainant had said that,

because the BBC was itself at the centre of the story, the interview should have been handled in an exemplarily even-handed manner, which had not been the case.

The Committee considered whether, given Mr Gilligan's previous role, this item was essentially about the BBC itself and should have thus been handled in a way appropriate to the handling of any item that "brought into question" the BBC's impartiality.

The Committee was of the view that although it had not been made clear that Mr Gilligan had been an employee of the BBC at the time in the introduction to the item it became clear that Mr Gilligan had been an employee of the BBC with several references to this during the course of the interview. The ESC was further of the view that this was not an item principally about the BBC and that therefore the guidelines relating to items of this nature did not apply. Therefore, in this aspect, the complaint was not upheld

Finding: Not upheld with regard to impartiality and accuracy, resolved with regard to accountability

Rejected Appeals

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

Newsnight, BBC Two, 4 January 2011

NOTE: The ESC Trustee Richard Ayre declared that he was on the advisory panel for Sense About Science. The Committee noted that, while Richard Ayre had not been active in the organisation for some time, the complainants against Newsnight had specifically requested that the complaints were not considered by anybody connected with Sense About Science. The Committee did not consider that there would be a direct conflict of interest in this case but agreed that it was nevertheless important to avoid the perception of a conflict of interest and it therefore accepted Richard Ayre's offer to leave the room for the relevant discussions.

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, that the appeal should not proceed to the Committee.

The complaint

Stage 1

The complainant contacted the BBC on 5 January 2011 to complain that an item on homeopathy broadcast on Newsnight on 4 January 2011 was biased. The complainant said that the reporter had strong connections with Sense About Science, which the complainant described as "a front organisation for the drugs industry". The complainant said the opening film was unbalanced without a single spokesperson for homeopathy and that in the subsequent discussion the contributor from the Society of Homeopaths was interrupted regularly by the presenter, while the other contributor, described by the complainant as a leading figure in Sense About Science, was allowed to say what he wanted.

The complainant said that the assumptions made in the report were all anti-homeopathy and there was no mention of the adverse reactions caused by conventional drugs.

The BBC's response noted that the complainant felt the report had shown bias against homeopathy and included a response from the programme makers. The programme makers said that the primary point of the film and discussion was to expose those who are continuing to put lives at risk by recommending the use of homeopathy as a treatment or prophylactic for serious diseases, such as malaria. They went on to point out that this practice is not only condemned as dangerous by "all mainstream medics" and the Royal Pharmaceutical Society, but also opposed by leading organisations promoting homeopathy in the UK.

The programme makers said the second point of this item was to explain why homeopathic remedies are unlikely to have any effect on serious diseases. In doing so, they said they were reflecting the view of the overwhelming majority of the scientific community which believes that there is currently no evidence that homeopathy works beyond a placebo effect. The programme makers added that it would be false balance to give equal weight to the pro-homeopathy viewpoint. The response went on to say that

the reason the presenter was tougher in questioning the pro-homeopathy guest was that he had more serious charges to answer than the anti-homeopathy guest.

The complainant replied, saying that the BBC had failed to inform the public that homeopathy has been treating serious diseases, such as malaria, for more than 200 years and doing so effectively and safely. The complainant also said that the BBC had failed to warn viewers about the risk of taking conventional drugs for malaria.

The complainant cited examples of research which he claimed proved that homeopathy has more than a placebo effect, and said that the BBC had taken a very partial view of the scientific community when saying that it believes there is currently no evidence that homeopathy works beyond placebo.

The complainant said that the programme had featured only people who were critical of homeopathy, including the presenter, and was in breach of the Impartiality guidelines. The complainant added that he thought the debate between conventional medicine and homeopathy should be covered by the Controversial Subjects section of the BBC's Editorial Guidelines.

The complainant also said that the programme had failed to meet the BBC's Accuracy guidelines in that its description of homeopathic dilution was not factually correct and objected to the use of a comedy clip to illustrate one of the homeopathic principles.

The complainant further alleged that the Newsnight item had breached the BBC guidelines on Conflict of Interests in that the reporter and the contributor were members of Sense About Science, an organisation which the complainant described as being funded by pharmaceutical companies and having a brief to "attack and undermine" homeopathy. The complainant said that he believed the BBC had failed to meet its guidelines on Editorial Integrity and Independence in this regard.

The Newsnight producer responded, saying that almost every British doctor, including almost every homeopathic doctor, thinks that homeopathy is unable to treat and prevent malaria. The producer disagreed that the programme had been inaccurate about the dilution used in homeopathy and stated that the reporter was not a member of Sense About Science.

Stage 2

The complainant escalated his complaint to the Editorial Complaints Unit.

The complainant said that the debate between conventional medicine and homeopathy should be dealt with in the same way as political issues, and that Newsnight had failed to reflect the debate in an impartial way. The complainant repeated his allegation that the reporter had known links to Sense About Science.

The ECU's finding addressed each of the elements of the complaint in turn.

1. The allegation that the report was one-sided and "totally critical of homeopathy"

The ECU said that the aim of the Newsnight programme was not to examine homeopathy in general but to focus on the recommendation and use of homeopathic remedies to prevent serious tropical diseases.

The ECU said that the programme did provide a range of views to reflect the diversity of opinion on this subject and did so in a way which was fair and accurate.

The ECU said that in the subsequent discussion, the contributor from the Society of Homeopaths was also allowed to make the position of her organisation clear.

The ECU concluded that the scope of the Newsnight investigation was clear and there was not a requirement to provide the kind of broader positive context which the complainant appeared to suggest. The ECU did not uphold the complaint with regard to Impartiality or Fairness in this regard.

The ECU said that the programme was specifically about the use of homeopathic remedies in relation to serious tropical diseases and, given that the weight of informed opinion is that homeopathic remedies should not be used as a prophylactic against diseases such as malaria, this subject can not be regarded as controversial.

2. The allegation that the guest from the Society of Homeopaths was regularly interrupted in the studio discussion

The ECU said that, while it would have been better if the presenter had adopted a less robust approach towards the representative of the Society of Homeopaths, she was given the opportunity to put her point of view on the relevant issues and did so in clear and unambiguous terms. The audience would have been aware of the main strands of her argument and the Society of Homeopathy's position on the use of homeopathy to prevent serious tropical diseases.

3. The allegation that the programme was based on the assumption that homeopathic remedies do not work. It did not mention that homeopathy has been used to treat malaria with considerable success for nearly 200 years

The ECU said that due impartiality does not require that opposing sides of a debate have to be given equal time or weight, particularly when there is a "prevailing consensus" on an issue. The ECU said that the broad consensus within the scientific and medical community is that homeopathic remedies do not have a beneficial effect beyond placebo, and the programme did not give an inaccurate or misleading impression of the evidence supporting the efficacy of homeopathic remedies.

The ECU said that it could find only anecdotal historical evidence that homeopathy had been used successfully to treat malaria for nearly 200 years, not the kind of clinical trials and peer reviewed evidence which would normally be required. The ECU concluded that the Newsnight coverage was not inaccurate or lacking in balance by omitting any reference to the historical use of homeopathic treatments.

4. The complaint that the programme did not mention that conventional medicines can cause adverse side effects

The ECU said that the programme was addressing concerns over the use of homeopathic remedies for serious tropical diseases and was not about the use of conventional medicine. The ECU concluded that the omission of any negative side effects caused by conventional medicine would not have led to a materially misleading impression in the context of this programme.

5 The allegation that the description of homeopathic dilution was factually incorrect

The ECU said that Newsnight's description of the preparation of homeopathic remedies was an accurate, albeit simplified, explanation of how a homeopathic remedy is produced.

The ECU said that there was a lack of any reliable or proven scientific evidence to support the different phases of the preparation process and most websites run by organisations promoting homeopathy do not focus on the importance of the different preparation processes. The ECU concluded that the programme did not give a materially misleading impression.

Appeal to the BBC Trust

The complainant wrote to the BBC Trust to appeal against the Editorial Complaints Unit's finding.

The Trust's Head of Editorial Standards replied to the complainant, stating that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that, having reviewed the correspondence, she considered that the BBC had made a clear case that the aim of the Newsnight programme was not to examine homeopathy in general but to focus on the recommendation of use of homeopathic remedies to prevent serious tropical diseases. She said that the BBC had also made a strong case that the weight of informed opinion is that homeopathic remedies should not be used as a prophylactic against diseases such as malaria.

The Head of Editorial Standards noted that none of the main homeopathic organisations make any claim for evidence supporting the efficacy of homeopathic remedies in treating or preventing malaria. She also noted that in the discussion on the Newsnight programme, the contributor from the Society of Homeopaths said her organisation did not endorse the use of homeopathic remedies as preventatives for serious tropical illnesses.

The Head of Editorial Standards said that she did not believe Newsnight was breaching Editorial Guidelines on Accuracy, Impartiality and Fairness by not including information supporting the efficacy of homeopathic remedies in general or in relation to a prophylactic against diseases such as malaria. Nor did she believe that the programme needed to mention that conventional medicines can cause adverse side effects. The Head of Editorial Standards said that, given the weight of informed opinion, she did not believe this subject can be regarded as controversial.

The Head of Editorial Standards noted that the complainant had raised concerns about the way his complaint was handled and the nature of the responses he had received before contacting the ECU. She noted that the ECU had passed on these concerns to the Head of Accountability and Compliance for BBC News to examine.

The Head of Editorial Standards concluded that there was not a reasonable prospect of success for the appeal, and that it should not proceed to the Committee.

The complainant requested that the Editorial Standards Committee consider his appeal against the decision of the Trust's Head of Editorial Standards not to proceed with his complaint.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the ECU and the episode of Newsnight complained about.

The Committee did not accept the complainant's analogy between coverage of homeopathic treatment of serious diseases and coverage of political issues. The Committee agreed that, in the terms of the Editorial Guidelines, the subject of homeopathic treatment of serious diseases could not be considered a controversial subject in the way the complainant suggested.

The Committee noted that the item in question was specifically about the recommendation and use of homeopathic treatments for serious diseases like malaria. The Committee considered the complainant's allegation that the programme lacked impartiality because it did not include details of research purported to support the efficacy

of homeopathic treatments of serious diseases. The Committee agreed with the Head of Editorial Standards that the BBC had made a strong case that the weight of informed opinion is that homeopathic remedies should not be used as a prophylactic against diseases such as malaria.

The Committee also agreed that, while the BBC had acknowledged that the interview with the representative of the Society of Homeopaths could have been conducted differently, it had provided good reasons for concluding that the interview was neither unfair nor biased.

The Committee agreed that, in its responses to the complaint, the BBC had demonstrated the steps it had taken to ensure due impartiality and accuracy in the production of the Newsnight report.

The Committee therefore agreed with the conclusion of the Head of Editorial Standards that the complaint did not have a reasonable prospect of success on appeal.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Newsnight, BBC Two, 4 January 2011

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept her complaint on appeal.

The complaint

Stage 1

The complainant contacted the BBC on 7 January 2011 to complain that an item on homeopathy broadcast on Newsnight on 4 January 2011 was biased. The complainant said that the reporter was associated with Sense About Science, an organisation which she said publicly states that it is against homeopathy.

The programme makers said that the primary point of the film and discussion was to expose those who are continuing to put lives at risk by recommending the use of homeopathy as a treatment or prophylactic for serious diseases, such as malaria. They went on to point out that this practice is not only condemned as dangerous by “all mainstream medics” and the Royal Pharmaceutical Society, but also opposed by leading organisations promoting homeopathy in the UK.

The programme makers said the second point of this item was to explain why homeopathic remedies are unlikely to have any effect on serious diseases. In doing so, they said they were reflecting the view of the overwhelming majority of the scientific community which believes that there is currently no evidence that homeopathy works beyond a placebo effect. The programme makers added that it would be false balance to give equal weight to the pro-homeopathy viewpoint. The response went on to say that the reason the presenter was tougher in questioning the pro-homeopathy guest was that he had more serious charges to answer than the anti-homeopathy guest.

The complainant replied, saying that the belief that lives were being put at risk by recommending the use of homeopathy as a treatment or prophylactic for serious diseases was hearsay based on the views of Sense About Science, an organisation she said was 40 per cent funded by the pharmaceutical industry which has a vested interest in selling vaccines and pharmaceutical drugs.

The complainant referred to research which she said was evidence of the success of homeopathic prophylaxis and said that the practice of homeopathic treatments or prophylactics for serious diseases was not condemned by all mainstream medics. The complainant questioned whether the Royal Pharmaceutical Society was likely to be objective about homeopathy.

The complainant concluded by saying that there was plenty of evidence that homeopathy works beyond a placebo effect. She stated that "the BBC has simply chosen to disregard such evidence as you are totally under the influence of a campaign group 40% funded by the pharmaceutical industry".

The complainant received a response from the Newsnight producer, who said that she wanted to clarify the involvement of Sense about Science in the programme. The producer said Newsnight had been approached by Sense about Science and doctors from the London School of Hygiene over the issue of homeopathic remedies being used against malaria in 2006. She said that the item had not used any information provided by Sense About Science, and added:

"I am sure you would agree that the doctors at the LSHTM are better qualified than you or I to know what does or doesn't work against malaria. They said they had evidence that homeopaths were advising patients to take homeopathic remedies against malaria and this was putting lives at risk."

The producer concluded by explaining why she did not consider the research cited by the complainant to be reliable.

Stage 2

The complainant wrote to the Editorial Complaints Unit repeating her concerns about the involvement of Sense About Science in the programme, saying that one of the interviewees was on the Board of Trustees of the organisation.

The complainant also said that the representative of the Society of Homeopaths who was interviewed was interrupted and cut off numerous times.

The complainant questioned the evidence that the BBC had to say that using homeopathic remedies to prevent malaria was putting lives at risk and said that the BBC should be investigating the potential of homeopathic medicines for improving the effectiveness of malaria prevention.

The Editorial Complaints Unit's finding responded to the distinct elements of the complaint in turn.

1. The allegation that the programme was based on "hearsay" from Sense About Science, an organisation financed in large part by the pharmaceutical industry and with which the reporter has a known association. The allegation that the programme included contributions which were unsubstantiated and inaccurate.

The ECU said that the programme was focussed on the recommendation and use of homeopathic remedies to prevent serious tropical diseases.

The ECU could see no evidence that the programme was based on "hearsay" from Sense About Science as the programme makers conducted first hand interviews and carried out their own investigation. The ECU said that it had been assured that the reporter had no association with Sense About Science beyond that of a professional science correspondent.

The ECU said that one of the interviewees had made two particular claims which would likely be regarded as contentious by advocates of homeopathy. However, in both cases, the contributor from the Society of Homeopaths had been given an opportunity to respond to these claims. As a result, the ECU concluded that the programme met the requirements for due impartiality.

2. The allegation that the contributor from the Society of Homeopaths was consistently interrupted and this led to a lack of due impartiality.

The ECU said that, while it would have been better if the presenter had adopted a less robust approach towards the representative of the Society of Homeopaths, she was given the opportunity to put her point of view on the relevant issues and did so in clear and unambiguous terms. The audience would have been aware of the main strands of her argument and the Society of Homeopath's position on the use of homeopathy to prevent serious tropical diseases.

3. The allegation that the programme took a one-sided view that homeopathy does not work and did not refer to evidence which shows the successful use of homeopathy.

The ECU said that the prevailing, informed consensus in the medical and scientific community is that there is no consistent, reliable, peer-reviewed evidence which proves the efficacy of homeopathic preparations. The ECU also said that the broad consensus within the scientific and medical community is that homeopathic remedies do not have a beneficial effect beyond placebo. As a result, the ECU did not agree that the programme gave an inaccurate or misleading impression of the evidence supporting the efficacy of homeopathic remedies.

The ECU said that none of the main homeopathic organisations make any claim for evidence supporting the efficacy of homeopathic remedies in treating or preventing malaria. Nor could the ECU find any clinical trials or peer reviewed evidence to support this claim. As a result, the ECU said that the Newsnight coverage was not inaccurate or lacking in balance by omitting any reference to the research cited by the complainant.

4. The allegation that the programme gave the inaccurate impression that using homeopathic remedies to treat diseases such as malaria puts lives at risk.

The ECU said that the majority of scientific experts and homeopathy organisations say such remedies would run the risk of endangering human health. As a result, the ECU said the programme did not give an inaccurate impression of the possible consequences of using homeopathic remedies.

5. It was inaccurate to refer to "real prophylactics for malaria"; these are not 100 per cent effective.

The ECU referred to the scientific consensus and concluded that it was reasonable to draw a clear distinction between the efficacy of conventional drugs and homeopathic remedies.

6. The report did not refer to the scientific research which supports the efficacy of homeopathic remedies.

The ECU said that the case for the benefits of homeopathy has not been proven to a degree which would satisfy the scientific community and so there was no need for Newsnight to reference them in their broadcast.

Appeal to the BBC Trust

The complainant wrote to the Trust on 4 May 2011 to appeal against the decision of the Editorial Complaints Unit not to uphold the complaint. The complainant repeated her view

that the programme was in breach of the BBC Editorial Guidelines on Accuracy, Impartiality and Independence. The complainant said that its coverage of homeopathy had been unduly influenced by Sense About Science and had deliberately omitted information that supported the efficacy of homeopathic remedies, so presenting homeopathy in a negative light.

The Trust's Head of Editorial Standards replied to the complainant, explaining that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that she had read the relevant correspondence and did not consider that the appeal had a reasonable prospect of success.

The Head of Editorial Standards said that in her view the BBC had made a clear case that the aim of the Newsnight programme was not to examine homeopathy in general but to focus on the recommendation and use of homeopathic remedies to prevent serious tropical diseases. She said that the BBC had also made a strong case that the weight of informed opinion is that homeopathic remedies should not be used as a prophylactic against diseases such as malaria.

The Head of Editorial Standards noted that none of the main homeopathic organisations make any claim for evidence supporting the efficacy of homeopathic remedies in treating or preventing malaria. She also noted that in the discussion on the Newsnight programme, the contributor from the Society of Homeopaths said her organisation did not endorse the use of homeopathic remedies as preventatives for serious tropical illnesses. In this context, the Head of Editorial Standards did not believe that it was likely the Trust would find that Newsnight was breaching Editorial Guidelines on Accuracy and Impartiality by not including information supporting the efficacy of homeopathic remedies in general or in relation to a prophylactic against diseases such as malaria.

With regard to the complainant's concerns that the item on Newsnight was unduly influenced by Sense About Science, the Head of Editorial Standards noted that the Editorial Complaints Unit investigation found no evidence to support this and that it had been assured that the reporter in question had no association with Sense About Science beyond that of a professional science correspondent. The Head of Editorial Standards did not think it probable that further investigation would be likely to elucidate different information or arrive at a different conclusion.

The complainant appealed against the decision of the Head of Editorial Standards not to take the complaint on appeal.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the ECU and the episode of Newsnight complained about.

The Committee noted that the item in question was specifically about the recommendation and use of homeopathic treatments for serious diseases like malaria. The Committee considered the complainant's allegation that the programme lacked impartiality because it did not include details of research purported to support the efficacy of homeopathic treatments of serious diseases. The Committee agreed with the Head of Editorial Standards that the BBC had made a strong case that the weight of informed opinion is that homeopathic remedies should not be used as a prophylactic against diseases such as malaria. While it noted the complainant's strong views to the contrary, it

did not believe that she had made a case that the Newsnight item was lacking in impartiality or accuracy in the way it had reflected the scientific consensus with regard to the treatment of serious diseases. The Committee also agreed that, while the BBC had acknowledged that the interview with the representative of the Society of Homeopaths could have been conducted differently, it had provided good reasons for concluding that the interview was neither unfair nor biased.

In considering the complainant's allegation that the Newsnight item had been unduly influenced by Sense About Science, the Committee noted that the complainant had not provided any evidence to undermine the BBC's assurance that the reporter's relationship with the organisation was anything other than as that of a BBC science correspondent. The Committee agreed with the Head of Editorial Standards that further investigation was unlikely to arrive at a different conclusion.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Top Gear: Middle East Special, BBC Two, 26 December 2010

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant contacted BBC Complaints on 26 December 2010 stating that a recent edition of *Top Gear* contained references to central Christian facts, such as the gifts of the wise men, the powers of Christ to heal and the ability of Christ to perform miracles, and that these were “treated with the utmost contempt and ridiculed”.

The response from the Executive Producer of *Top Gear* was that the programme had had fun with religion at certain points, but he disagreed that it had mocked the Christian faith. He referred to previous programmes which have had fun with Christianity – *Monty Python*, *The Vicar of Dibley* and others. He said the narrative of the programme was that the three presenters were staging a nativity play – and their actions reflected the often amateur nature of these. The absurdities were clear and often pointed out by the presenters themselves.

In a further reply the Executive Producer of *Top Gear* said that making comic references to well known biblical stories was not the same as ridiculing the Christian faith.

Stage 2

The complainant escalated his complaint to the Editorial Complaints Unit (ECU). Referring to the Executive Producer's response, the complainant said that he remained “offended and somewhat insulted by the way he seems to think he can brush off my opinions as not being representative of a majority view”.

The ECU expressed regret that the complainant was offended by this edition of *Top Gear*, recognising that programmes which make jokes about religion and aspects of faith or which appear to hold them up to ridicule can be extremely offensive to those who hold strong religious beliefs.

The ECU said that on balance, however, *Top Gear* did not go beyond what might be considered acceptable for a programme of this kind, taking into account its long-standing reputation for irreverent and mocking humour. The majority of regular viewers would have recognised that although the presenters use satire and mockery, they do so in a light-hearted and witty manner. They would also have recognised the established format of the show where the three presenters are set a challenge as a way of creating an entertaining but contrived scenario in which they get to drive inappropriate cars in unusual locations.

The ECU added that it was clear from the tone of the programme that none of the biblical references were intended to be taken seriously or were intended to belittle the Christian faith or Christ. In most cases the audience would have laughed at the foolish behaviour of the presenters.

The humour clearly strayed into the absurd and the ludicrous, and that would have offset the likelihood that viewers would consider the programme to be denigrating widely-held religious beliefs.

The ECU also referred to a well-established tradition of humour based on religion in this country. It had also taken into consideration a report into Taste and Standards in broadcasting commissioned by the BBC Trust in 2009 which looked at audience reaction

to, and concerns about, religious-based comedy. This found that “Religion has traditionally been a subject for humour but comedy programmes with faith as a theme did not emerge as a concern for our groups.”

The ECU did not uphold the complaint.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust against the decision of the ECU.

The BBC Trust’s Head of Editorial Standards wrote to the complainant explaining that the Trust does not adjudicate on every appeal that is brought to it, and that part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards noted that the ECU had made a strong case that the material in this particular episode did not go beyond the bounds of what might be considered acceptable for a programme of this kind. The Head of Editorial Standards also noted the ECU’s points that, given the programme’s reputation for satire and irreverence, the content did not go beyond the expectations of the majority of its audience. For these reasons the Head of Editorial Standards concluded that there was no reasonable prospect of the appeal being successful and that, therefore, she did not propose to proceed with the complaint on appeal to the Trust.

The Committee’s decision

The Committee was provided with the complainant’s appeal to the Trust, the response from the Trust’s Head of Editorial Standards, and the complainant’s appeal against the Head of Editorial Standards’ decision. The Committee was also provided with the final Stage 2 reply from the ECU and the episode of *Top Gear* complained about.

The Committee noted that the complainant remained dissatisfied with the responses he had received from the BBC. However, the Committee agreed with the Head of Editorial Standards’ view that the ECU had made a strong case that the material did not go beyond what might be considered acceptable for a programme of this kind. The Committee also agreed that the content was not likely to have gone beyond the expectations of the majority of the *Top Gear* audience. The Committee agreed with the view of the Head of Editorial Standards that there was not a reasonable prospect of success for the complaint on appeal.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Top Gear: Middle East Special, BBC Two, 26 December 2010

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant contacted the BBC to say that themes in *Top Gear: Middle East Special* mocked Christ and were offensive, and that one particular reference to Jeremy Clarkson walking on water was a clear mockery of Christ.

The Executive Producer of *Top Gear* replied saying that, although the programme had had fun with religion at certain points, he disagreed that it had mocked the Christian faith. He referred to previous programmes which have had fun with Christianity – *Monty Python*, *The Vicar of Dibley* and others. He said the narrative of the programme was that the three presenters were staging a nativity play – and their actions reflected the often amateur nature of these. The absurdities were clear and often pointed out by the presenters themselves.

The Executive Producer said that making comic references to well known biblical stories was not the same as ridiculing the Christian faith. He added that there is now in this country an acceptance and appreciation of humour based around the cultural and historical roots of the faith. Viewers would therefore see Jeremy Clarkson's references to healing the wounded and walking on water as comic and would laugh at his delusion.

Stage 2

The complainant escalated his complaint to the BBC's Editorial Complaints Unit (ECU). Referring to the Executive Producer's response, the complainant said that he failed to see the difference between making skits on priests and the clergy and making skits on Christ.

In its response to the complaint the ECU recognised that programmes which make jokes about religion and aspects of faith or which appear to hold them up to ridicule can be extremely offensive to those who hold strong religious beliefs. The ECU said that this episode of *Top Gear* did not go beyond what might be considered acceptable for a programme of this kind, taking into account its long-standing reputation for irreverent humour. The majority of regular viewers would recognise that although the presenters use satire and mockery, they do so in a light-hearted and witty manner. They would also have recognised that the three presenters were set a typical challenge, a contrived scenario in which they got to drive inappropriate cars in unusual locations.

The ECU added that *Top Gear* should be judged in the context of the ludicrous and absurd premise of the programme and the various comic events which occurred on the way. It was clear from the tone of the programme that none of the biblical references were intended to be taken seriously or were intended to belittle the Christian faith or Christ. In most cases the audience would have laughed at the foolish behaviour of the presenters. For example, Jeremy Clarkson's claim to be able to walk on water was blatantly false and ended in ignominious failure.

The ECU also referred to a well-established tradition of humour based on religion in this country. It had also taken into consideration a report into Taste and Standards in broadcasting commissioned by the BBC Trust in 2009 which looked at audience reaction to, and concerns about, religious-based comedy. This had found that "Religion has

traditionally been a subject for humour but comedy programmes with faith as a theme did not emerge as a concern for our groups.”

For these reasons the ECU did not uphold the complaint.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust against the decision of the ECU not to uphold the complaint.

The BBC Trust’s Head of Editorial Standards wrote to the complainant explaining that the Trust does not adjudicate on every appeal that is brought to it, and that part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that she was sorry the complainant found the content of *Top Gear: Middle East Special* to be offensive, but she believed that the ECU had made a strong case that the material in this particular episode did not go beyond the bounds of what might be considered acceptable for a programme of this kind. She also noted the ECU’s point that given the programme’s reputation for satire and irreverence, the content did not go beyond the expectations of the majority of its audience. For these reasons the Head of Editorial Standards concluded that there was no reasonable prospect of success for the appeal, and she did not therefore propose to put this matter to the Trust.

The Committee’s decision

The Committee was provided with the complainant’s appeal to the Trust, the response from the Trust’s Head of Editorial Standards, and the complainant’s appeal against the Head of Editorial Standards’ decision. The Committee was also provided with the final Stage 2 reply from the ECU and the episode of *Top Gear* complained about.

The Committee noted the complainant’s view that the programme ridiculed biblical events, however, the Committee agreed with the Head of Editorial Standards’ view that the ECU had made a strong case that the material did not go beyond what might be considered acceptable for a programme of this kind. The Committee also agreed that the content was not likely to have gone beyond the expectations of the majority of the *Top Gear* audience. The Committee agreed with the view of the Head of Editorial Standards that there was not a reasonable prospect of success for the complaint on appeal.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Pro-religion bias

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

Over the course of several emails the complainant corresponded with the BBC regarding the BBC's treatment of religion. The complainant argued that the BBC does not adequately represent humanist and atheist views, giving more prominence to Christian representatives. The complainant asked why the BBC has a religious correspondent and not an atheist or humanist correspondent. The complainant cited the coverage given to the Pope's visit to the UK and questioned why this visit was given "top-billing" on BBC news programmes. The complainant also cited examples of coverage of religious stories on the Today programme which he said were biased and lacked a Pagan viewpoint. The complainant also criticised the linking of religion and ethics, stating that this treated them as "indissolubly linked, and as though non-religious voices have nothing to contribute to ethical debate". The complainant also objected to the BBC's use of the Christian calendar, for example by naming dates after Christian religious festivals such as Easter and Christmas Day and marking the main Christian festivals with special programming.

The BBC responded to each of the complaints regarding specific output and added that non-religious voices are also heard extensively across the general output in news, current affairs, documentaries, talks, science and history. With regard to the wider issue, the BBC said that in its religious coverage across all its platforms the BBC seeks to inform and give voices to all faith groups as well as to people with no faith. However, the BBC said that Britain is not an official Pagan nation and that Christian programming will be at the centre of its religion and ethics coverage. The BBC provided examples of programmes where humanist voices are heard and added that the BBC does not act in a void but reflects the beliefs and traditions of many licence fee payers.

The BBC defended its coverage of the Pope's visit to the UK, saying that it was entirely appropriate that the unique visit by the pontiff had received wide coverage from the BBC, adding that the coverage was governed by the same impartiality and accuracy criteria as any other story.

The complainant also said that there was no output specifically given to anti-royalist standpoints.

Stage 2

The complainant escalated his complaint to Stage 2 of the complaints process, repeating his position and rejecting the examples of non-Christian output that had been provided to him at Stage 1 as "trivial tokenism". The complainant said that Radio 4 had no regular, dedicated non- or anti-religious programming to match its religious output. The complainant also said that there should be more anti-royalist and republican output.

The complainant received a response from the Head of Editorial Standards and Complaints Management for BBC Vision. The response said that the BBC does cover Christianity and other religions but also has an established record of covering stories which do not necessarily reflect well on religious institutions. The BBC response also rejected the idea that it should have a Head of Secularism, saying that reporting regularly on a lack of faith would not be particularly interesting to viewers or listeners.

With regard to the complaint about coverage of the monarchy, the BBC reply said that the Queen is the Head of State and widely supported as such by large numbers of the British population and that it would not be politically right for the BBC to pursue the sort of “anti-Royalist” manifesto the complainant seemed to be suggesting.

Appeal to the BBC Trust

The complainant wrote to the BBC Trust asking for his complaint to be considered on appeal as he said he had so far received evasive or no reply to the points he had made.

The complainant particularly cited Thought for the Day having only religious contributors and “The Choir” on Radio 3 playing only religious music as supporting his complaint. The complainant also restated his objection to the use of “Good Friday” and “Easter Sunday” rather than just using the dates.

The complainant said the BBC has built bias into its organisational structure by having positions such as a Head of Religion and Ethics and a religion correspondent.

The complainant said the BBC’s responses did not reflect the wide spread of public opinion on religion. The complainant said that BBC seems like a propaganda machine for the Christian/royal establishment and was particularly contemptuous of Pagans.

The Trust’s Head of Editorial Standards replied to the complainant, explaining that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that she had the relevant correspondence and an independent adviser had watched, listened to or read the various items and articles in question. The Head of Editorial Standards said she considered that the appeal did not have a reasonable prospect of success and should not proceed to the ESC.

The Head of Editorial Standards said that she had based this decision on several grounds. One of which was that was that the Trust had considered the question of *Thought for the Day* and who should contribute to it recently². The Trust had found that:

“the editorial policy of only allowing religious contributors to participate on Thought for the Day does not breach either the BBC Editorial Guideline on impartiality or the BBC’s duty to reflect religious and other beliefs in its programming.”

It also found that:

“the BBC’s approach to featuring non-religious content and contributors in mainstream programming is consistent with the BBC’s duty to reflect religious and other beliefs in BBC programming.”

The Head of Editorial Standards noted that the complainants in that complaint had made the following points:

- The exclusion of non-religious contributors from Thought for the Day is contrary to the BBC Editorial Guideline on impartiality
- It is not appropriate to allow religious contributors an unchallenged platform to comment on news and current affairs, particularly on contentious material

² http://www.bbc.co.uk/bbctrust/news/press_releases/2009/november/tftd.shtml

- The programme title is objectionable, inaccurate and misleading in that it does not make clear that Thought for the Day is intended to be religious and limited to religious participants
- A religious slot should not be positioned within a news and current affairs programme such as Today
- The exclusion of non-religious commentators on Thought for the Day amounts to a breach of the BBC Public Purpose remit to reflect religious and other beliefs
- The exclusion of non-religious contributors from Thought for the Day amounts to unfair treatment of non-religious contributors and/or discrimination in law.

The Head of Editorial Standards said that, given that none of these arguments were previously upheld, it seems that only two years later the Trust would be unlikely to make a different determination.

The Head of Editorial Standards referred to a response which the Controller of Knowledge Commissioning had made at the time when he addressed the alleged absence of specific programmes aimed at non-believers. He had quoted the relevant part of the BBC's Public Purpose Plan:

"Minority religions in the UK (and including the major belief systems of Judaism, Hinduism, Sikhism, Islam and Buddhism) as well as secular beliefs will receive mainstream coverage."

The Head of Editorial Standards said that the Controller of Knowledge Commissioning had referred to a whole season of programmes around Darwin, all predicated on non-belief. He also cited the Moral Maze, the Big Question, a BBC 2 series "Around the World in 80 Faiths" and Radio 4's Beyond Belief as all giving the opportunity for the secularist, non-believer and sometimes Pagan to be heard.

The Controller of Knowledge Commissioning had recognised that:

"...the actual nature or process of 'not believing' is rarely the exclusive focus of our output. But I think there are good reasons for this. Surely the business of not believing is a negation – it only makes complete sense in the context of the thing that it is not. Thus I would argue that religious programmes are the right place to situate analysis or discussion of the nature and effects of non-belief. They certainly satisfy the description given above in our purpose plan – ie they are "mainstream coverage..."

The Head of Editorial Standards said that the Controller of Knowledge Commissioning had also referred to one other matter which is the subject of the complaint: the broadcasting of specifically religious services and music with no pagan or non-religious counterpart. In answer to this he says:

"I should acknowledge the substantial strain in our religious output where we broadcast religious services directly: the Sunday Service on Radio 4 and Songs of Praise on BBC 1 are obvious examples. We also cover festivals and other forms of ceremony in non-Christian religions. While it is true there is no direct equivalent to those in programmes for non-believers, the absence of structured or religious-based observance in non-belief is well documented; and we can't cover what isn't there."

The Head of Editorial Standards explained that the BBC has to meet its Public Purposes referenced above. She said that it is governed by the BBC Agreement which lays out what

is expected for the licence fee. It has six public purposes and this is what it says about religion:

9. Representing the UK, its nations, regions and communities

(1) In developing (and reviewing) the purpose remit for representing the UK, its nations, regions and communities, the Trust must, amongst other things, seek to ensure that the BBC –

(a) reflects and strengthens cultural identities through original content at local, regional and national level, on occasion bringing audiences together for shared experiences; and

(b) promotes awareness of different cultures and alternative viewpoints, through content that reflects the lives of different people and different communities within the UK.

(2) In doing so, the Trust must have regard amongst other things to –

(a) the importance of reflecting different religious and other beliefs;

The Head of Editorial Standards said that the BBC Trust measures the BBC's performance against these requirements. Its most recent finding on religious broadcasting³ says that:

"The amount of religious programming has been steady over time, with BBC One and BBC Two meeting audience expectations in this area."

And concludes that:

"Our audience research shows that both BBC One and BBC Two are meeting audience expectations to 'reflect a range of religious and other beliefs' and 'raises my awareness and understanding of different religions and other beliefs', although there are some gaps in delivery to ethnic minority viewers."

"This conclusion is supported by BBC management's routine performance data, which shows that around 40 per cent of the audience consider BBC One as the best channel for religious programming. While this level has declined in recent years, it remains significantly above the next highest channels, Channel 4 and BBC Two."

The Head of Editorial Standards quoted from the House of Lords' discussion of BBC Charter renewal in 2006⁴:

"Section 264(6) of the Communications Act 2003 requires that public service television broadcasting in the United Kingdom must include services of a suitable quality and range dealing with a number of subjects including 'religion and other beliefs'. For the purposes of the Act a belief is defined as 'a collective belief in, or other adherence to, a systemised set of ethical or philosophical principles or of mystical or transcendental doctrines' (section 264(13)). Therefore broadcasting covering religion and other beliefs is part of the remit of all public service channels.

³

http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/service_licences/service_reviews/one_two_four/tv_services_final.pdf

⁴ <http://www.publications.parliament.uk/pa/ld200506/ldselect/ldbbc/128/12811.htm>

We also took evidence from a multi-faith panel of senior figures from the Christian, Muslim, Hindu and Sikh faiths. They told us that ‘Religion has become a much more significant and potent force in world affairs and politics than it was thirty years ago.’

The Head of Editorial Standards noted that the House of Lords discussed this and the BBC’s and Ofcom’s responsibilities in some detail and it concluded:

“150. We support a wide definition of broadcasting about religion and other beliefs. It encourages all broadcasters, including the BBC, to find new, innovative and informative ways of tackling issues of religion, spirituality, ethics and values through all the different programming genres. Evidence we have received shows that by approaching religion in this way viewers and listeners engage with it.

151. The BBC has changed the name of its religious programming department to the Department for Religion and Ethics. We support this change as it indicates a willingness to embrace programming beyond the traditionally religious and to look at issues such as spirituality, ethics and values. We believe that the name change is more than cosmetic and therefore that the staff of the Department are not recruited on the basis of any religious affiliation or otherwise.”

The Head of Editorial Standards said this demonstrated that the BBC has a responsibility to make and transmit religious output, which is why she did not think the ESC would uphold the complaint.

The Head of Editorial Standards also said that she did not think that the ESC would be likely to uphold the complaint with regard to BBC job titles, firstly because it does not relate to the editorial issues with which the Committee deals, and secondly because there is an argument to be made that the very title “Religion and Ethics” demonstrates that the BBC believes these are not synonymous. She pointed out that the BBC has heads of News and Current Affairs, Arts and Culture, Science and Nature and Nations and Regions among others but, while this may show some overlap or contiguity, it by no means demonstrates that one topic is subsumed in the other. It could be argued that this is exactly the case with “Religion and Ethics”.

The Head of Editorial Standards then addressed the complaint that there is no even-handed treatment of pagans on the BBC website. She noted that the Religion homepage has details of 21 faiths – including Paganism. The Head of Editorial Standards also referred to the Multifaith calendar⁵, which lists the significant days for Pagans after Muslim and before Rastafari. The Head of Editorial Standards concluded that the ESC would be unlikely to uphold this aspect of the complaint.

Noting that the complainant said he was primarily interested in a response on the matter of religion rather than on royalty, the Head of Editorial Standards said that she had taken him at his word and focussed exclusively on the matters he had raised relating to religion. Nevertheless, on the issue of coverage of the monarchy, the Head of Editorial Standards said that she could not improve on the response given to the complainant at Stage 2. She concluded that the ESC would be unlikely to uphold the complaint about this aspect of the BBC’s coverage.

The complainant asked the Trustees to review the Head of Editorial Standards’ decision not to refer his appeal to the Editorial Standards Committee.

⁵ <http://www.bbc.co.uk/religion/tools/calendar/>

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the Head of Editorial Standards and Complaints Management for BBC Vision.

The Committee noted that the BBC's Public Purpose Plan sets out that the BBC will cover secular beliefs in its mainstream output. The Committee noted that the results of the Trust's most recent findings on religious broadcasting, carried out as part of its work to measure the BBC's performance against its Public Purpose requirements, were that:

"Our audience research shows that both BBC One and BBC Two are meeting audience expectations to 'reflect a range of religious and other beliefs' and 'raises my awareness and understanding of different religions and other beliefs', although there are some gaps in delivery to ethnic minority viewers."

The Committee was also aware that the Trust had previously looked at the question of the BBC's approach to non-religious content as part of its consideration of complaints against *Thought for the Day* and had concluded that:

"The BBC's approach to featuring non-religious content and contributors in mainstream programming is consistent with the BBC's duty to reflect religious and other beliefs in BBC programming."

The Committee agreed that it was unlikely to come to a different conclusion if it considered the matter again.

The Committee noted the BBC's responses to the complainant's criticisms of specific programmes, and it noted the various examples provided by the BBC of output presenting a non-religious viewpoint. The Committee agreed that the complaint did not raise a case that anti-religious views were not included in BBC output where appropriate.

The Committee similarly agreed with the Head of Editorial Standards' assessment of the likelihood of the Committee upholding an appeal regarding general coverage of the monarchy.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

BBC News at Six, BBC One, 20 October 2010

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant wrote to the BBC saying that, after a broadcast on the BBC News at Six on 20 October 2010, the BBC News political editor, Nick Robinson, had taken a protestor's placard and destroyed it. The complainant requested that disciplinary action be taken against Mr Robinson.

The BBC provided the complainant with details of Mr Robinson's blog following the incident.

The complainant replied saying that the blog was an "empty apology" and repeated his request for Mr Robinson to be disciplined.

Stage 2

The Director of News wrote to the complainant and explained that Mr Robinson had expressed his regret for the incident and that both she and Mr Robinson's line manager were satisfied that it was a proportionate response for Mr Robinson to write about it on his blog. The Director of News also noted that no complaint had been received from the placard holder.

The complainant received a separate reply from BBC Audience Services apologising for handling errors which had been caused by technical issues.

Appeal to the BBC Trust

The complainant wrote to the BBC Trust asking for his complaint to be considered on appeal as he was not satisfied with the comments made by Mr Robinson on his blog or the response from the Director of News.

The Trust's Head of Editorial Standards replied explaining that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that she had read the relevant correspondence and watched the incident itself (which was available on the internet), and she did not consider that the complaint had a reasonable prospect of success on appeal.

The Head of Editorial Standards explained that the operational management of the BBC is specifically defined in the BBC's Charter as the responsibility of the Executive Board of the BBC, and one in which the Trust does not usually get involved.

The Head of Editorial Standards said that the complainant had been provided with a full explanation for the events that occurred by both Mr Robinson and the Director of BBC News. The Head of Editorial Standards noted that Mr Robinson had expressed regret and the Director of BBC News had explained the frustrations that led to the incident.

The Head of Editorial Standards also noted that the Director of News and Mr Robinson's line manager were satisfied that it was a proportionate response for Mr Robinson to write about it on his blog.

The Head of Editorial Standards said that, as decisions such as those relating to the actions of BBC staff are day to day operational matters, they are the responsibility of the BBC Executive, rather than the Trust. It was therefore not appropriate for the appeal to proceed to the Trust for consideration.

The Head of Editorial Standards also considered whether Mr Robinson's conduct brought the BBC into disrepute by a breach of editorial standards. The BBC's Editorial Guidelines on Conflict of Interests states:

"News and current affairs output may at any time deal with any issue, cause, organisation or individual, and there must be no doubt over the integrity and objectivity of editorial teams."

The Head of Editorial Standards said that, having watched the incident, it was clear that Mr Robinson and his production team were aware of the protestor and were taking steps throughout the live broadcast to minimise the distracting effect of the placard for viewers, by reframing the camera angle and, later, by Mr Robinson moving position while the broadcast cut back to the studio. At the end of the item, the studio presenter refers to the disruption by congratulating Mr Robinson on "trying to get away from that person behind you".

The Head of Editorial Standards noted that Mr Robinson wrote in his blog:

"...as I explained afterward to the protesters who disrupted my broadcast, there are many opportunities to debate whether the troops should be out of Afghanistan without the need to stick a sign on a long pole and wave it in front of a camera. I am a great believer in free speech but I also care passionately about being able to do my job reporting and analysing one of the most important political stories for years".

The Head of Editorial Standards said that she had read the comments made by readers of Mr Robinson's blog and, whilst some remain disappointed by Mr Robinson's actions, others accept his explanation and profess annoyance at the protestor disrupting their concentration.

The Head of Editorial Standards concluded that there is no evidence that Mr Robinson's irritation resulted from the cause espoused on the placard, but simply from the placard itself as he sought to tell an important and complex story on live television. The Head of Editorial Standards therefore did not believe there was a case to answer in terms of editorial standards. In her view there was no reasonable prospect of success for the appeal.

The Head of Editorial Standards added her apologies to those given by BBC Audience Services regarding the handling of the complaint at Stage 1 of the complaints process.

The complainant appealed against the decision of the Head of Editorial Standards.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the Director of BBC News.

The Committee noted that the complainant remained dissatisfied with the responses he had received from the BBC. However, it agreed with the Head of Editorial Standards that the matter related to the operational management of the BBC and was therefore not for the Trust to consider. The Committee also agreed with the Head of Editorial Standards'

reasons for concluding that there was no case to answer with regard to editorial standards, namely that the incident was born of frustration with the disruption and did not signify the presenter's view of the protestor's cause.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Question Time panel selection

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant wrote to the BBC alleging bias against the Labour Party in the selection of guests for *Question Time* generally, and in particular the programme broadcast on 18 November 2010.

The BBC replied, explaining that the selection process for panellists on *Question Time* is “to ensure party political balance across the big issues of the day”. The reply said:

“...this usually means three politicians from the main three parties, augmented by two other voices from business, journalism or elsewhere in public life. In a time of coalition government this will mean that both coalition partners are usually on the panel. Having said that, there will not normally be two members of the Government on a panel...”

Referring specifically to the episode broadcast on 18 November 2010, the reply said that the Conservative MP and Employment Minister Chris Grayling was joined by a Liberal Democrat from outside the Government (Welsh Assembly member Kirsty Williams), Labour’s Carwyn Jones, Nerys Evans for Plaid Cymru, Lionel Barber, Editor of the Financial Times and Kelvin MacKenzie, former Editor of The Sun. The *Question Time* producers thought this was a balanced panel, with one member involved in the coalition and with a range of critics of the Government and independent voices.

Stage 2

The complainant wrote to the Director of BBC News reiterating his allegation of bias against the Labour Party, and referring to two further editions of *Question Time*.

The Head of Editorial Compliance and Accountability for BBC News wrote to the complainant explaining the selection process for panellists and attaching a copy of a blog written by the BBC’s Chief Political Adviser, which dealt with the process in detail. She added:

“...the coalition partners remain distinct political parties standing against each other in elections around England, Wales and Scotland; they may be in alliance in the Westminster parliament but they are not elsewhere. It is appropriate, therefore, to invite both on to a UK-wide political programme such as Question Time.”

Turning to the three specific editions of *Question Time* cited by the complainant, the Head of Editorial Compliance and Accountability explained that panellists had been selected according to the process outlined and rejected the complainant’s allegations of bias.

Appeal to the BBC Trust

The complainant wrote to the BBC Trust asking for his complaint to be considered on appeal. He said that he had read the blog of the BBC’s Chief Political Adviser and was unconvinced about the BBC’s approach to selecting panellists for *Question Time*; namely that selections are biased against the Labour Party. The complainant said that Conservatives and Liberal Democrats are “unlikely to criticise each other in the same way as if they were not in coalition”.

The Trust's Head of Editorial Standards replied to the complainant, explaining that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that, having read the relevant correspondence, she did not consider that the appeal had a reasonable prospect of success and it should therefore not proceed to the Editorial Standards Committee of the Trust.

The Head of Editorial Standards noted the BBC's guidelines on political impartiality which state that the BBC:

"must aim to give due weight and prominence to all the main strands of argument and to all the main parties. Although the government of the day will often be the primary source of news, the voices and opinions of other parties must also be routinely aired and challenged."

And

"due impartiality is often more than a simple matter of 'balance' between opposing viewpoints"

The Head of Editorial Standards noted that this second principle has been brought into sharp focus under the coalition government.

The Head of Editorial Standards noted the detailed explanation of the BBC's approach to selecting panellists for *Question Time* which had been provided to the complainant:

- the programme will not have two members of the Government on the same panel
- the Conservatives and the Liberal Democrats remain two separate political parties who are in coalition at Westminster but not elsewhere, and who compete in national and local elections
- political balance is achieved over the course of a series, not just in one programme
- on occasion, smaller parties from outside the main three Westminster parties will participate
- there are other occasions where the programme will not always include a representative of the three main Westminster parties
- it has made editorial sense to be able to reflect the complexity and tensions of coalition by inviting both parties to reflect differences over policy, for instance over tuition fees.

The Head of Editorial Standards said that, in her view, impartiality is not so much about the selection of interviewees but essentially about what is actually broadcast. As a hypothetical example a stark tally of interviewees on a running topical programme might suggest that there were a preponderance interviewed from one party. But a close analysis might discover for example that the party was engaged in bitter in-fighting and in fact the programme contained arguments for and against the party's current policy from within its own ranks. So with *Question Time*: the casting is not so much the issue as what has been said in the programme as broadcast.

The Head of Editorial Standards said that she had read the correspondence and scrutinised the examples the complainant had provided but did not think that he had made a case that what was said in the broadcasts resulted in a failure to be duly impartial. The Head of Editorial Standards concluded that the appeal had no reasonable prospect of success.

The complainant appealed against the decision of the Head of Editorial Standards that the appeal should not proceed for full consideration by the Committee.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the Head of Editorial Compliance and Accountability for BBC News.

The Committee noted that the BBC had demonstrated clear criteria for selecting *Question Time* panellists and that these criteria had been consistently applied.

The Committee noted that the complainant disagreed fundamentally with the BBC's principle of treating the Conservatives and the Liberal Democrats as two separate political parties who are in coalition at Westminster but not elsewhere, and who compete in national and local elections. The Committee did not agree that this would necessarily lead to a breach of the impartiality guidelines. The Committee noted the Head of Editorial Standards' point that impartiality is not so much about the selection of interviewees but is essentially about what is broadcast. The Committee accepted the Head of Editorial Standards' analysis of the examples provided by the complainant and agreed that the complaint did not raise a case that the impartiality guidelines had been breached.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.

Use of the word “black” to describe people of African descent

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant has been in correspondence with the BBC regarding the continued use of the word “black” and other epithets he considered to be offensive in BBC broadcasts describing people of African descent.

Stage 2

The complainant was returned to Stage 2 of the complaints procedure following contacting the Trust at the end of 2010.

He received a response from the Head of Diversity on 26 January 2011 which reiterated the position which she had set out in previous correspondence. She said that language and terminology on ethnicity would continue to evolve, and there are divergent views on what is appropriate – what some may find appropriate others may find offensive.

The Head of Diversity said that it was important that the language the BBC uses is informed by what its audiences tell it, what it understands to be the most progressive language at the time, and best practice by other organisations.

The Head of Diversity concluded by saying that she had found their exchange on this specific issue to be very valuable and that she remained committed to using a geographic approach to inform discussions about ethnicity and would inform the complainant of any developments. She advised the complainant that if he remained dissatisfied he could appeal to the BBC Trust within 20 working days of receipt of her reply.

Appeal to the BBC Trust

The complainant copied the Trust in to an email of 7 June 2011 to BBC News regarding the continued use of the word “black” and other epithets he considered to be offensive in BBC broadcasts describing people of African descent.

The BBC Trust’s Head of Editorial Standards replied to the complainant on 10 June 2011, noting the Stage 2 response he had received from the BBC’s Head of Diversity in January 2011.

The Head of Editorial Standards said that she appreciated that the complainant was initially happy with the Stage 2 response but had changed his opinion more recently since monitoring subsequent BBC output. However, she said that the complainant was out of time to appeal to the Trust. She said that for resource reasons the BBC Trust cannot allow limitless boundaries for appealing to Stage 3 and therefore, in her view the time limit specified in the BBC’s Complaints Framework must stand.

The Head of Editorial Standards added that the BBC does not ban words and, unless there has been a breach of editorial standards she believed that it was unlikely the Trust would agree to take a matter which concerns the use of specific words which the Executive have chosen to use in the context of particular broadcasts.

The complainant responded by asking the Trustees to consider the decision of the Head of Editorial Standards not to accept the appeal. He said that, while he could understand the

rationale for not having an open-ended timeline for making complaints, an exception should be made for this one given the gravity of the matter.

The complainant also said that he had been led to believe by the response from the BBC's Head of Diversity that his points had been taken on board and that this would result in a change to BBC policy. He said that he had no reason to believe from her response that the Head of Diversity was merely expressing a personal view. The complainant said that he had been acting in good faith and reasonably to accept her email of January 2011 and then observe the results.

With regard to the banning of words by the BBC, the complainant asked what the "editorial rules" were.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the final Stage 2 reply from the BBC's Head of Diversity.

The Committee was sympathetic to the complainant's reasons for accepting the letter from the Head of Diversity as an answer to his complaint. It accepted that it was possible to misread the letter in the way the complainant had done, that is as a commitment to change the BBC's on-air policy. However, the Committee agreed with the Head of Editorial Standards' decision that the appeal had been made out of time and that there were not exceptional reasons why the appeal should be taken.

The Committee was mindful that the editorial standards referred to by the Head of Editorial Standards and queried by the complainant in his response to her letter are those set out in the section of the BBC's Editorial Guidelines relating to Harm and Offence⁶, and specifically those dealing with Portrayal⁷.

The Committee agreed with the Head of Editorial Standards that it would be unlikely to uphold a complaint regarding the BBC's policy towards specific words which the Executive has chosen to use in the context of particular broadcasts unless it could be demonstrated that Editorial Guidelines had been breached. The Committee concluded that this was not the case with this complaint.

The Committee was therefore satisfied that the decision not to take the complaint on appeal was correct.

⁶ <http://www.bbc.co.uk/editorialguidelines/page/guidelines-harm-introduction/>

⁷ <http://www.bbc.co.uk/editorialguidelines/page/guidelines-harm-portrayal/>

Use of the word “Asian” to describe men of Pakistani heritage

The complainant appealed to the Editorial Standards Committee following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

Stage 1

The complainant contacted the BBC in January 2011 to object to the use of the term Asian in the BBC News bulletins on 8 January when referring to two Pakistani men jailed for the sexual grooming of teenage girls. The complainant noted that Jack Straw and official reports had referred to these men as being of Pakistani origin, not Asian.

The complainant said that viewers would associate this type of crime with all Asians and not specifically the Muslim/Pakistani sub-culture that these men came from.

In response to the BBC's reply that BBC News had referred to these men as Pakistani on a number of occasions, the complainant said that the BBC had only used this term when reporting Jack Straw's comments. Otherwise, the complainant said, the BBC News bulletins had continually referred to the men as Asian. The complainant asked that the BBC refer to Asians by their respective communities to avoid offence.

A further reply from the BBC Audience Services said that in the UK generally, “Asian” is understood to refer to people from Bangladesh, India or Pakistan. The BBC did not agree that the use of the word Asian in this context gave the impression that people from this origin may be more likely to commit a serious sexual crime or that viewers would draw this conclusion.

Stage 2

The complainant escalated his complaint to the Editorial Complaints Unit, repeating his concerns that the general use of the term Asian gave the impression that all Asian men, including someone of Indian origin, “lust after white girls to rape”. The complainant said that Indians do not like to be associated with Pakistani activities or Muslim culture. The complainant also questioned why the two men jailed did not have the word British attached to Pakistani. In his view, this meant that the BBC did not regard people from a Pakistani, Indian or Bangladeshi origin born in this country as British. Given this use of terminology, the complainant said that the use of the term ‘Asian’ is derogatory.

The ECU wrote to the complainant setting out that it would consider the complaint under the guidelines on Accuracy and Portrayal in relation to the news stories about the two men convicted of abusing girls in Derby. The complainant replied saying that he wanted the use of the word reviewed for all future news stories and not just this one. The ECU explained that it was limited to investigating potential breaches of the BBC's Editorial Guidelines in items which had already been broadcast or published by the BBC. The complainant's concerns about the general use of the word Asian would be passed on to senior managers in BBC News and elsewhere.

The ECU wrote to the complainant with the results of its investigation. The ECU said that within BBC News there was a broad awareness that the words Asian, Indian and Pakistani were not interchangeable. However, it concluded that the use of the word Asian in this specific case would not give the kind of misleading or inaccurate impression that the complainant suggested. The ECU said that each bulletin had made clear, by repeating Jack Straw's comments, that the men referred to were predominantly of Pakistani origin. Although each bulletin had also referred to the gang as being “mainly Asian”, there had

been repeated references to phrases such as “Pakistani heritage men”, “the Pakistani community” and “Pakistani men”. The ECU concluded that there were no grounds to uphold the complaint on the basis of inaccuracy, lack of due impartiality or harmful portrayal.

The complainant responded to the ECU’s finding, asking why the word Asian was used to describe both Indians and Pakistanis if the BBC accepted they were not interchangeable. The complainant asked why “Asian” was used in the bulletin headlines rather than Pakistani. The complainant also asked why the word Asian was used at all rather than the word British.

The ECU replied to the complainant agreeing that it would have been better if the word Asian had not been used in the context of these reports. The ECU said that the use of the word was to be discussed by senior managers in BBC News at their next meeting. However, the ECU stood by its finding that the use of the word in these instances did not give a materially misleading impression for the reasons it had given.

With regard to the use of the word Asian in the headlines, the ECU said that the focus in the bulletins that day was not on “Asian” rather than “Pakistani”. The ECU gave three examples of headlines in which both terms were used.

The ECU accepted the complainant’s point that the reports could have referred to British men rather than Asians. However, the reports made it clear that the men were of Pakistani origin – reflecting the ethnic groups used in the national census. The ECU concluded that the use of a term which is widely understood to refer to people of a particular ethnic origin cannot be considered unacceptable in this context.

Finally, the ECU concluded that it did not accept the complainant’s premise that referring to the ethnic origin of the particular individuals in this case (whatever description was used) would lead viewers to conclude that all people of that ethnic origin were likely to be capable of similar crimes.

Appeal to the BBC Trust

The complainant wrote to the Trust to appeal against the decision of the ECU not to uphold the complaint. The complainant reiterated his point that the News bulletins were inaccurate and portrayed all Asians as having involvement in the sexual grooming of young girls. He said that he felt the emphasis throughout the reports was on the term Asian, which was misleading and inaccurate. The complainant also accused the BBC of manipulating the news and gave examples from previous news stories. In conclusion, the complainant felt that the use of the term Asian was an insult to Sikhs and Hindus.

The Trust’s Head of Editorial Standards replied to the complainant, explaining that the Trust does not adjudicate on every appeal that is brought to it, and part of her role is to check that appeals qualify for consideration by the Trust (or one of its complaints committees) under the Complaints Framework.

The Head of Editorial Standards said that she had read the relevant correspondence and thought that the appeal did not have a reasonable prospect of success and should not proceed to the Editorial Standards Committee of the Trust.

The Head of Editorial Standards referred to the thorough investigation of the complaint conducted by the ECU and noted that it was explained that the issue being investigated was whether the use of the term Asian in news reports was inaccurate, misleading or a harmful portrayal when considering the case of the two men of Pakistani origin convicted of sexual grooming and raping young girls in Derby. The Head of Editorial Standards

noted that the ECU considered whether these News bulletins complied with the appropriate editorial standards as outlined in the BBC's Editorial Guidelines.

The Head of Editorial Standards noted that the ECU had said the general point about referring to the countries of the Indian sub-continent individually, rather than by the general term Asian, had been brought to the attention of senior managers at the BBC, including the news team, for further discussion.

The Head of Editorial Standards said that, in her view, the Trustees would observe that whilst the term Asian was used in these News bulletins, each report clarified that the men were of Pakistani origin and that therefore it was unlikely that viewers would have been misled by the use of the word Asian. She accepted that the complainant had been offended by the use of the word Asian but said that the BBC had made a strong case that in the UK the word covers those of Indian, Bangladeshi and Pakistani origin. For these reasons, the Head of Editorial Standards concluded that there was not a reasonable prospect of success for the appeal.

The complainant appealed against the decision of the Head of Editorial Standards.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Committee was also provided with the Stage 2 reply from the ECU.

The Committee did not believe that there was evidence to support the complainant's assertion that the use of the word Asian in the reports in question had been motivated by a desire by the BBC to target Sikhs and Hindus.

The Committee noted that the ECU had agreed that it would have been better if the reports had not used the word Asian, the Committee noted that the complainant was asking why the word Asian had been used at all. However, the Committee was mindful that the ECU's decision rested on the fact that, while acknowledging that the word Asian could not be used interchangeably with the words Indian and Pakistani, in these specific cases it had not been a breach of the Accuracy guideline to do so.

The Committee agreed with the view of the Head of Editorial Standards that it was unlikely that viewers would have been misled by the use of the word Asian in the reports.

While it did not agree that there was a case to answer with regard to alleged breaches of the Editorial Guidelines, the Committee understood the complainant's concerns and noted the action taken by BBC News to discuss the issue more generally at a senior level.

The Committee was therefore satisfied that the decision not to proceed with the appeal was correct.