

# 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 [http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how\\_we\\_operate/committees/2011/esc\\_tor.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2011/esc_tor.pdf).

The Committee comprises five Trustees: Alison Hastings (Chairman), David Liddiment, Richard Ayre, Sonita Alleyne and Bill Matthews. 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 may consider appeals concerning complaints which allege that:

- the complainant has suffered unfair treatment in a transmitted programme, item or piece of online content, or in the process of making the programme, item or online content
- 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 or online content
- there has otherwise been a failure to observe required editorial standards.

However, not all requests for appeal qualify for consideration by the ESC. The Editorial Complaints and Appeals procedure<sup>1</sup> explains that:

5.10 **The Trust will only consider an appeal if it raises "a matter of substance".**<sup>2</sup> This will ordinarily mean that in the opinion of the Trust there is a reasonable prospect that the appeal will be upheld as amounting to a breach of the Editorial Guidelines. In deciding whether an appeal raises a matter of substance, the Trust may consider (in fairness to the interests of all licence fee payers in general) whether it is appropriate, proportionate and cost-effective to consider the appeal.<sup>3</sup> The Trust may not consider an appeal that is trivial, misconceived, hypothetical, repetitious or otherwise vexatious. The Trust may also decline to consider an appeal which includes gratuitously abusive or offensive language if the complainant refuses to reword it after being invited to do so.

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<sup>1</sup>

[http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/protocols/2012/complaints\\_fr\\_work\\_ed\\_complaints.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2012/complaints_fr_work_ed_complaints.pdf)

<sup>2</sup> Under the Charter and Agreement, the Trust has a role as final arbiter in appropriate cases, and must provide a right of appeal in cases that raise a matter of substance.

<sup>3</sup> For example, if an appeal raises a relatively minor issue that would be complicated, time-consuming or expensive to resolve, the Trust may decide that the appeal does not raise a matter of substance, and decline to consider it.

In deciding whether an appeal qualifies for consideration, the Committee may also decide to take only part of the appeal, and consider only some of the issues raised.

Where an appeal or part of an appeal qualifies for consideration, the Committee will aim to provide the complainant with its final decision within 80 working days of accepting the request for an appeal.

The findings for all appeals accepted by the Committee are reported in this bulletin, Editorial Standards Findings: Appeals to the Trust and other editorial issues considered by the Editorial Standards Committee.

Where it is considered that an appeal does not qualify for consideration, the Trust Unit will write to the complainant within 40 working days of receipt of the request for an appeal, declining to put the matter before the Committee and explaining the reasons. If the complainant disagrees with this view then they may, within 10 working days, ask the Editorial Standards Committee to review the decision, and the matter will be reviewed at the next available meeting of the Committee.

The Committee will then decide whether it agrees with the decision not to proceed with the appeal, and again will aim to provide the complainant with its decision within 80 working days of receipt of the request for review. Any appeals that the Committee has declined to consider under the above criteria are reported in the bulletin under the heading Rejected Appeals.

If the Committee disagrees with the decision not to proceed with the appeal, the complainant will be informed following the meeting and the appeal will be considered, following investigation, at a later meeting. In this case the 80 working day time period will start again from the date the Committee informs the complainant it will hear the appeal.

Achievement against these target response times is reported in the BBC's Annual Report and Accounts: <http://www.bbc.co.uk/annualreport/>. In line with its duty to consider topics of editorial concern to the Committee, whether or not such concern arises from a formal complaint, and to commission information requests from the Trust Unit or Executive to support such consideration, the Committee also from time to time requests the Executive to report to the Committee regarding breaches which have been accepted by the Executive and are therefore not subject to appeal to the Committee. The bulletin also may contain findings relating to such cases.

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

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

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

# Summaries of findings

## ***BBC News, BBC One, Sunday 27 May 2012, 5.50pm***

The complainant said that a report about a protest at a site where genetically modified wheat trials were being carried out was inaccurate. The complainant also said that a clip in the report was not identified as having been supplied by those carrying out the research and so, by using it, the report failed to be impartial.

The Committee concluded:

- that it would have been clearer if the Science Editor had described the clip differently but the audience would not have been materially misled by the video clip used in the report and that in describing the clip as showing “genetic technology in action” the report had been duly accurate.
- that the clip was important in helping to illustrate the work being carried out at Rothamsted and the use of the clip in this report was clearly editorially justified.
- that it would have been best practice for the video to have been labelled, but that the use of the clip did not fundamentally alter the nature of the content and so change the audience’s perception about the item, and the fact that its source had not been labelled did not lead to a breach of either the Accuracy Guidelines or the Impartiality Guidelines.
- that, in the absence of evidence to the contrary, the description of the protestors by the Science Editor, who had been present on the day, was duly accurate. The audience would not have been misled by the description of the protest and the item was duly accurate in this regard.
- that, overall, the report had been duly accurate and duly impartial.

The complaint was not upheld.

For the finding in full see pages 7 to 13.

## ***Have I Got News For You?, BBC One, 1 June 2012***

In a sequence discussing which advertisements had received the most complaints, guest Ross Noble made a comment about actors attending ‘The John Merrick School of Drama’ and impersonated the speech of John Merrick as portrayed by John Hurt in the film *The Elephant Man*. The complainant said this made fun of people with disabilities and as such encouraged ridicule and bullying.

The Committee concluded:

- that the programme was not in breach of the Guidelines on Harm and Offence as the remarks were editorially justified because they referred to the actors in the commercial (with reference to the character of John Merrick) and were not intended to stereotype people with this kind of disability.

- that the programme met generally accepted standards in the context of this comedic exchange.
- that, notwithstanding its decision not to uphold, the Committee could appreciate that some viewers may have been offended by this segment and it considered that the impersonation of John Merrick's speech and physical disability, in particular, was at the margins of acceptability.

The complaint was not upheld.

For the finding in full see pages 14 to 19.

### ***What The Papers Say, BBC Radio 4, 29 July 2012***

This is a first party complaint from a journalist who was voiced on What The Papers Say by an actor. The complainant said that the programme wrongly edited a quotation from an article he had written, which allowed a criticism to be made that would otherwise be impossible. The complainant also said that the programme had caricatured his voice in a hostile manner. He said that the programme lacked impartiality in the way it covered his views and those opposed to the Olympics ceremonies, and had failed to be impartial in a controversial matter.

The Committee concluded:

- that the incorrect edit had been a breach of the requirement for due accuracy but that this had been resolved by the programme's recognition of the mistake and the on-air apology (which was also attached to the podcast) at the first possible opportunity.
- that there was no evidence to establish that there had been malicious intent behind the incorrect edit.
- that, whereas matters such as the bid, the cost and the management of the Olympics might have been seen as "controversial subjects" as defined by the Guidelines, the opening ceremony did not itself qualify as a controversial subject simply because there were different opinions about it.
- that "due impartiality" does not mean that there has to be equal time given to either side of an argument, and the Guidelines on Impartiality had not been breached in this programme.
- that the portrayal of the complainant's voice did not amount to a hostile portrayal and was not a breach of the Impartiality Guidelines.
- that it had not seen evidence which demonstrated that the BBC was institutionally biased against those with socially or morally conservative opinions.

The complaint was not upheld.

For the finding in full see pages 20 to 33.

## BBC Online Olympic Country Profiles

This is a consolidated appeal representing a number of appeals to the Trust about the Israel and Palestine country pages on the BBC Sport Olympics website. The allegations concern the description of Jerusalem as “the seat of government” on the Israel page and East Jerusalem as “the intended seat of government” on the Palestine page.

The Committee concluded:

- that its considerations for this appeal were in relation to the Olympics profile pages and, where relevant, the related content on the BBC News country pages, as at August 2012.
- that the Israel profile page on the Olympics website was not required to mirror the format for the other competing countries in order to adhere to the Editorial Guidelines and that omitting to list Israel with a capital did not in itself amount to a breach of the Editorial Guidelines.
- that it was duly accurate to formulate the wording differently from those on other countries’ Olympic profile pages and, as Jerusalem’s status as a capital is unquestionably a matter of political controversy, to have stated unequivocally that it was or wasn’t Israel’s capital would have been perverse.
- that the complaint concerned a single line in a “key facts” section of a page which was primarily about the London 2012 Olympics and the competing team and it would have been neither necessary nor appropriate to have provided any additional background.
- that the formulation that Jerusalem is Israel’s “seat of government” met the requirements for due accuracy and due impartiality.
- that the qualification in the wording that, while the seat of government is Jerusalem, most foreign embassies are in Tel Aviv, along with the fact that the page does not state that Jerusalem is Israel’s capital, guards against a misleading interpretation of Israel’s rights over the territory.
- that, as with the previous point, the complaint concerns a single line in a “key facts” section of a page which is primarily about the London 2012 Olympics and the competing team. It took the view that to have gone into any greater detail was neither necessary nor appropriate.
- that the formulation on the Palestine page resulted from an appropriate editorial distinction between the factually accurate description on the Israel Olympics page recognising Israel’s presence in, and control of, Jerusalem and the factually accurate recognition of Palestinian aspirations to site their capital in the east of the city.
- that, as with Israel and the other competing Olympic nations, where the Committee considered there was no requirement to list Israel with a capital, the Committee considered the formulation on the Palestine Olympic page was also duly accurate and duly impartial.
- that it would not be possible to directly compare the entries for Israel and Palestine on a like for like basis as their respective status and the reality on the

ground were so different from one another.

- that no bias or inaccuracy had resulted from the formulations describing Jerusalem as Israel's seat of government alongside East Jerusalem as the intended capital of Palestine and this applied to the Olympics page and to the country page.

The complaints were not upheld.

For the finding in full see pages 34 to 43.

# Appeal Findings

***BBC News, BBC One, Sunday 27 May 2012, 5.50pm***

## **1. Background**

The complaint concerns a report from the BBC's Science Editor on the evening BBC News broadcast on Sunday 27 May 2012. The subject of the report was a demonstration which had been staged by protestors near the site of an experimental crop of genetically modified wheat in Hertfordshire.

The complainant alleged that the BBC's Science Editor was inaccurate in describing a video clip used in the report as "genetic technology in action". The complainant also said that, as the clip had been supplied by those carrying out the research and as it was presented inaccurately, the report failed to be impartial.

Furthermore, the complainant said that the report was inaccurate in suggesting that those opposing the trials were against genetic science when, he said, they were merely opposing a particular genetic technology.

## **2. The complaint**

### **Stage 1**

The complainant contacted BBC audience services on 27 May 2012. After two substantive responses he was offered escalation on 9 August to the Editorial Complaints Unit (ECU).

### **Stage 2**

The ECU did not uphold the complaint. The complainant was offered escalation to the Trust on 20 September.

## **Appeal to the Trust**

The complainant emailed the BBC Trust on 10 October 2012 to say that he wished to complain about the accuracy of presenting a clip used in the news report as showing the effects of genetic modification when it could not have done so.

The complainant said that the clip showed an external repellent, which he said was applied by a needle scarcely visible to the first time viewer, as if it was the effect of GM. He described this as a visual untruth and misleading. He said that the clip was supplied by Rothamsted Research, an organisation which he said had a vested interest in the debate on genetic modification. He questioned the impartiality of the item.

The complainant also alleged that the report was inaccurate in saying "...on the other (hand) campaigners opposed to genetic science who want the plants destroyed". He said that the campaigners were merely opposing a particular genetic modification technology and may well not have been opposed to genetic science.

The complainant asked for a correction by way of a news item of the same length as the original item and suggested the concept of "visual untruths" may need to be addressed systematically as an issue of editorial standards.

### **3. Applicable Editorial Guidelines**

The full guidelines are at <http://www.bbc.co.uk/editorialguidelines>

The sections on Accuracy and Impartiality are relevant to this case.

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

The Committee considered the complaint against the relevant standards, as set out in the BBC's editorial guidelines and the BBC Trust's Complaints Framework.

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

This appeal raised issues requiring consideration of the guidelines relating to Accuracy and Impartiality.

#### Description of the video clip

The Committee began by looking at whether the BBC had been inaccurate to describe what was happening in a video clip as "genetic technology in action".

The Committee noted that, immediately before the clip was shown, the clip had included a piece to camera by Science Editor David Shukman to explain what the researchers were trying to do in the outdoor trial. He said:

"What they are doing here is trying to develop a plant that repels pests, in this case aphids, without having to spray insecticide. And they are doing that by inserting a gene into the wheat so that it gives off a warning smell that convinces the aphids they are under attack. They know it works in the lab, now they are seeing if it works out in the open."

The report then cut to a ten second clip of a video showing aphids on a plant leaf. The Science Editor commented:

"This video shows how the aphids are repelled. This is genetic technology in action. The next step – trying it in the open."

The Committee noted that the clip used in the report was part of a 30 second video that can be found on a page of the website of Rothamsted Research, a public funded institute based in Hertfordshire that is carrying out the research into GM wheat. The Committee noted that the webpage explains the experiment to test whether wheat that can repel aphid attacks works in the field.

The Committee noted that, on the web page, a caption explains what is going on in the video. It reads: "This clip shows aphids (*Myzus persicae* on Chinese cabbage) responding to alarm pheromone. A colony is on a leaf, a syringe delivers some alarm pheromone (you can just about see it at the start of the clip). After perceiving the alarm pheromone, the aphids become agitated and move away."

The Committee noted that the complainant believed that the report was inaccurate to describe what was happening in the video clip as "genetic technology in action". The

complainant said the experiment shown used an external repellent, applied by a needle, as if it was the effect of genetic modification. He described this as misleading and a visual untruth.

The Committee noted that, in a reply to the complainant, the Science Editor had said that the video clip had been filmed by Rothamsted Research as part of its research into genetically modifying plants. He said that the clip showed how a liquid pheromone, identical to the one emitted by aphids as an alarm signal, can act to repel them. The Committee noted that the Science Editor had acknowledged that it would be difficult for any video to capture GM wheat in the act of repelling aphids because it would not occur at a single moment and that instead the effect would presumably last for the lifetime of the plant. The Science Editor said that the clip simply showed how the principle of repellent works and how researchers were confident of using GM to replicate the effect.

The Committee noted that in answering the complaint at Stage 2 of the BBC Complaints process, the Editorial Complaints Unit (ECU) had said that it tended to agree that the wording used by Mr Shukman did not give a clear or precise explanation of what the footage showed and that it certainly did not show genetic technology in action. The ECU went on to say that it was not persuaded, however, that the use of the material or the explanation given by the Science Editor would have materially misled or deceived the audience about the way GM wheat is said to work. The ECU said that the script had explained that the aim was to develop a plant which would repel aphids without the need for spraying with insecticide; that scientists had inserted a gene into the wheat designed to give off a warning smell which would deter the aphids; and that the next step was to test the wheat in an external trial.

The Committee noted the ECU had concluded that this was sufficient to ensure the audience understood how GM wheat was said to work and that it did not believe the footage of the aphids on the leaf would have changed that understanding. The ECU said it thought it was unlikely viewers would have assumed the GM wheat trial involved the external application of an insecticide or liquid (as shown in the leaf footage) bearing in mind Mr Shukman had referred to "inserting a gene into the wheat so that it gives off a warning smell". The ECU also thought the term "genetic modification" was widely understood to involve manipulating the genetic material of an organism, and it thought that that would have guarded against the audience being given a materially misleading impression of how the technology worked.

The Committee noted that the reporter had acknowledged that it would be difficult for any video to capture genetically modified wheat in the act of repelling aphids because it would not occur at a single moment. However, it also noted that he had said that the clip was part of the project that was investigating the use and efficacy of such technology.

The Committee considered the context in which the clip was used in the report. It noted that immediately before the clip was shown, the Science Editor had explained that the scientists involved in the trial were trying to develop a plant that repelled aphids by inserting into the wheat a gene that gave off a warning smell which convinced the pests they were under attack.

The Committee noted that the clip then showed the reaction of a colony of aphids after a syringe delivered some alarm pheromone onto a leaf.

The Committee acknowledged that the pheromone had been artificially introduced by a syringe, and this would have been clearer if the Science Editor had described the clip differently. However, the Committee agreed that the audience would not have been

materially misled, given the context in which the clip had been placed. As a result, the Committee concluded that in describing the clip as showing “genetic technology in action”, the report had been duly accurate.

#### Description of the protestors

The Committee went on to consider whether the report had been accurate to suggest that those opposing the trials were against genetic science if, as the complainant alleged, they were only protesting against a particular GM technology.

The Committee noted that the complainant’s view that the news report was inaccurate in saying “...on the other (hand) campaigners opposed to genetic science who want the plants destroyed.” The complainant said that the campaigners were opposing a particular genetic modification technology and may well not have been opposed to genetic science.

The Committee noted that the Editorial Complaints Unit had taken the point that there was a difference between scientific research and any specific application of such research. However, it had concluded that viewers would not have been given a misleading impression about what these particular demonstrators were protesting about, or what aspect of genetic science they were opposed to.

The Committee noted that the protest at Rothamsted on 27 May 2012 was organised by Take The Flour Back, a group formed in response to the wheat trial being carried out. It has a website and describes itself as “a grassroot network of individuals”. It says it has no membership and no mandated representatives.

The Committee noted that the group’s website is concerned only with the genetic modification of crops. The group thinks that GM wheat is unnecessary and believes pollen from the plants involved could spread genes and “contaminate” other crops.

The Committee noted the Science Editor’s response to this point of the appeal:

“The complainant is quite correct to say that someone can be opposed to particular genetic technologies or applications while being in favour of genetic science in general.

“But my script sought to describe the several hundred protestors who had gathered at Rothamsted that day, not the whole sweep of wider scientific or public opinion. They were made up of different groups, each emphasizing different objections to GM, and it seemed very obvious to me, as a reporter at the scene, that they were all united by a common theme: that genetic modification, as a basic form of science, was wrong in that it was manipulating nature, posing risks to more traditional forms of farming including organic farming, and was likely only to benefit multinationals at the expense of the world’s poor.

“The particular trigger for the protest was the planting of GM wheat plants in an outdoor field trial, as opposed to the indoor experiments, and one core complaint was that this posed a risk of contamination to fields beyond the trial. But the whole tone of the event was stridently anti-GM with no attempt made to distinguish between different aspects of GM research.

“So I regard my description as fair to the protestors who took part in the event that day; and none, including the organisers, has since been in touch to object to what I said.”

The Committee noted that the Science Editor had said he was seeking to describe the several hundred protestors who had gathered that day and not the whole sweep of wider scientific and public opinion. The Committee acknowledged that the Science Editor had been at the scene and that he had felt the tone of the event was anti-GM, with no attempt to distinguish between different aspects of GM research. The Committee also noted that the BBC was not aware of any protestors, including the organisers, who had objected to what the Science Editor had said.

The Committee considered that, in the absence of evidence to the contrary, the description of the protestors by the Science Editor, who had been present on the day, was duly accurate. The Committee agreed that, while it was possible that the Science Editor's general characterisation of the protestors would not apply to each and every one of them, the audience would not have been misled by the description of the protest and the item was duly accurate in this regard.

#### Use and attribution of the video clip

The Committee then considered whether the BBC had failed to be impartial by not making clear that the video clip of aphids used in the report had been supplied by those carrying out the trial, Rothamsted Research.

The Committee noted that the complainant had alleged that the news report uncritically used what he described as an inaccurate video from Rothamsted Research, a proponent of genetic modification in wheat.

The Committee noted that in response to the complaint the BBC had acknowledged that the video clip was filmed by Rothamsted Research as part of its research into genetically modifying plants and was freely available on its website. The BBC said that the clip had been widely used by broadcasters and newspapers covering the story.

The Committee noted that, as has been acknowledged by the BBC, the clip used in the report did originate from Rothamsted Research's website. However, there was no caption to say this in the BBC report.

The Committee noted the Science Editor's response to the appeal on this point:

"A caption reading 'Rothamsted Research video' was meant to appear over that segment of video during the broadcasts. Since I was filming from the location itself on that day, it was difficult to ensure that the caption did indeed appear on air, since that would have been managed from the studio in London. The instruction for its use was given by me verbally over the phone. In the event, it appears that the caption was not shown, which I very much regret.

"However, since the entire report was based at Rothamsted and concerned the GM research at that one institute, and was solely about the GM wheat experiments, I would sincerely hope that no one could have got the impression that the video of the aphids was somehow unrelated to this work, or produced by anyone else."

The Committee noted that the complainant raised the guideline concerning user generated content; however, it agreed that the more appropriate guideline is 3.4.6 which concerns the broadcast of material from a third party with a professional interest in the matter.

3.4.6 We should only broadcast material from third parties who may have a personal or professional interest in its subject matter if there is a clear editorial justification. The material should be labelled. This includes material from the emergency services, charities, and environmental groups.

We should be reluctant to use video and audio news releases or other similar material. We do not normally use any extracts from such releases if we are capable of gathering the material ourselves. The editorial significance of the material, rather than simply its impact, must be considered before it is used. If it is editorially justified to use it then we must explain the circumstances and clearly label the source of the material in our output.

The Committee considered whether there was a clear editorial justification for the use of the clip provided by Rothamsted Research and whether the material should have been labelled.

The Committee noted that the Science Editor had acknowledged that it would be difficult for any video to capture genetically modified wheat in the act of repelling aphids because it would not occur at a single moment. The Committee noted that the Science Editor had explained his reasons for using the clip:

"It was chosen because it was the clearest example of how an artificial pheromone could be used to deter the aphids. The clip was offered by Rothamsted Research to help illustrate that point and its existence was highlighted to reporters as an aid to coverage. There was no other way of illustrating how this project could lead to the deterrence of aphids.

"At the time of our own filming of the trial, on the day of the protest last May, we were not allowed to get sufficiently close to the wheat plants to see anything as small as insects; and in any case it was the wrong time of year for the aphids to be present. If we had been given permission to film close-ups in the appropriate season, we may possibly have been able to spot aphids on the wheat plants, had they been there, and had the experimental wheat plants failed to deter the pests. But it would be extremely unlikely that we could have caught the process of deterrence in action.

"For all these reasons, and to be fair to the scientists in seeking to explain and justify their work, I felt it was right to show the video clip. The researchers regarded it as an important illustration of their project so, for us not to have used it, might have opened us to the accusation that we were not presenting the 'pro-GM case' as fairly as possible."

The Committee considered that the clip was important in helping to illustrate the work being carried out at Rothamsted and it agreed that the use of the clip in this report was clearly editorially justified. The Committee then considered whether the clip should have been labelled.

The Committee noted that the clip was provided to the BBC but that this material was not provided to the BBC as a video news release. It noted the clip was available on the Rothamsted website. It agreed that it would have been best practice for the video to have been labelled, and it noted that the reporter acknowledged this and said he had requested such a caption to be included in the report. The Committee considered the context in which the video was used and noted that the entire report was based at Rothamsted and was concerned solely with the GM wheat experiments at that institution.

As a result, the Committee considered that the audience would have expected the video to have been part of that work. The Committee agreed that the use of the clip did not fundamentally alter the nature of the content and so change the audience's perception about the item. The Committee concluded that the report had not breached either the Accuracy Guidelines or the Impartiality Guidelines in this regard.

In considering the whole report, the Committee accepted that there had been two problems; the loose description of the video as showing "genetic technology in action", and the lack of a label attributing the source of the video. The Committee agreed, however, that the report had been duly accurate and duly impartial.

**Finding: Not upheld.**

## ***Have I Got News For You?, BBC One, 1 June 2012***

### **1. The programme**

*Have I Got News For You* has been running since 1990. This well-established and popular comedy quiz show features celebrity contestants alongside the regular team captains, Paul Merton and Ian Hislop. The teams answer questions on that week's top stories and news. A team member on this occasion was comedian Ross Noble. The team discussed an ad for Kentucky Fried Chicken which had attracted complaints because the people in it talked whilst their mouths were full:

- Alastair Campbell: Why would anybody bother to complain about that...?
- Paul Merton: You can see why because you wouldn't want little kids sort of copying that, so I think it's a good enough reason.
- Ross Noble: Well, what's really offensive about that is when they take the chicken out of their mouths that's still how they talk ... (He makes noises mimicking these actors)
- Paul Merton: They went to one of the worst drama schools in London.
- Ross Noble: It was terrible the ...er....er John Merrick Academy of Drama.
- Paul Merton: That's right.
- Ross Noble: The trouble is all the students get together and they go right "Be an animal" and they go "I'm not an animal" (slurring words, hunching over) and then at the end it just says KFC "finger lickin' good" (Holds up bent fingers, pulls a face and hunches over)

The complainant considered the references to John Merrick were gratuitous and so offensive as to be unacceptable. The complainant stated that it was hurtful to those with disabilities. In her view disability jokes encourage bullying, ridicule and hate crime against disabled people by making fun of people for things they cannot help, thus fostering an attitude of derision and disrespect towards disabled people. Naming John Merrick and doing an impression of him implied that ridicule of John Merrick and speech impaired people is acceptable. She said that John Merrick was a real person with a speech impediment and this fostered an attitude of derision and disrespect to the disabled.

### **2. The complaint**

#### **Stage 1**

The complainant contacted BBC Audience Services on 2 June 2012. After two substantive responses she was offered escalation on 12 July 2012 to the Editorial Complaints Unit (ECU).

## **Stage 2**

The complaint was raised with the ECU on 10 August 2012. The ECU did not uphold the complaint. The complainant was offered escalation to the Trust on 8 October 2012.

## **Stage 3 – Appeal to the Editorial Standards Committee (ESC)**

The complainant contacted the BBC Trust to appeal the Stage 2 decision.

The complainant said that her case for reconsideration was based on the following points:

- “There is an unprecedented level of bullying, ridicule and hate crime against disabled people. Disability jokes encourage this by making fun of people for things they cannot help, thus fostering an attitude of derision and disrespect towards disabled people.” If racist jokes are unacceptable, why are not ones about disability?
- The comedian mentioned John Merrick “in the explicit context of speech impediment”. He did an impression of John Merrick to get a laugh. This implied that “ridicule of John Merrick in particular and speech-impaired people in general is acceptable”. This is “cruel and gratuitous”. The comedian made fun of John Merrick and his speech impediment.
- The BBC disagreed who the butt of the joke was, but this was irrelevant as “it was clearly aimed at people with speech impairment”.
- The ECU stated that they could understand that the comments had the potential to offend and that Ross Noble’s comments and impersonation “were uncomfortably open to misinterpretation”. As the ECU expressed disquiet over the issue, she hoped the ESC would take the appeal.

### **3. Applicable Editorial Guidelines**

The full guidelines are at <http://www.bbc.co.uk/editorialguidelines>. The introduction to the section on Harm and Offence and guidelines 5.4.38 and 5.4.39 are relevant to this case.

### **4. The Committee’s decision**

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

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

The Committee noted that this appeal raised issues which required consideration of the Guidelines relating to Harm and Offence.

The Committee noted that BBC content could include challenging material that risks offending some of the BBC’s audience but that there should be a clear editorial purpose,

taking account of generally accepted standards and it should be clearly signposted. Such material might include discriminatory treatment or language.

It was noted that the Guidelines on Portrayal set out that references to characteristics such as disability should be editorially justified. The Committee also noted that a portrayal or stereotype could be exaggerated for comic effect but that it should be within audience expectations and that audiences might find casual or purposeless stereotypes offensive.

The Committee began by noting that the historical person was called Joseph Merrick, whereas the character played by John Hurt in David Lynch's film *The Elephant Man* was called John Merrick. Throughout this finding, apart from direct quotes, the film character is always referred to as John Merrick and the historical person is always referred to as Joseph Merrick.

Complaint Point 1 – The remarks and impersonations about speech impediments were offensive and harmful.

The Committee noted the segment of the programme in which the dialogue referring to John Merrick occurred. The host Alastair Campbell played clips from advertisements which had received the most complaints. One of these was an advertisement for KFC where two women are talking with their mouths full. When they have finished eating, they continue talking in this way where their words are barely distinguishable. The Committee noted the exchange that followed (set out in the background above).

The Committee noted that BBC Vision was asked for their comments on how Ross Noble's comments and impersonation complied with the BBC's Editorial Guidelines on Portrayal. BBC Vision stated that Ross Noble's voice and actions "were clearly modelled on those of the character of John Merrick as portrayed by John Hurt in 'The Elephant Man' – a film based on the true story of Joseph Merrick".

BBC Vision made the following points:

- Ross Noble "was not doing an impression of the character per se. Rather, his impression was of the fictional students of the fictional John Merrick Academy of Drama. The implication was that students of such an academy would be taught to bring John Hurt's portrayal of John Merrick to any role they were presented with.
- Ross imagined what the consequences of being taught in such a way might be if the students were asked to play the part of an animal (a typical drama school role) or a character in a KFC advert.
- His characterisation of how the students would act out these parts was only tangentially an exaggerated, comic portrayal of disability at all and even then it had clear grounding in a specific, well-known cinematic character. It was not casual or without purpose and it did not stereotype.
- The scenario acted out was far removed from anything which might occur in real life, involving real people. The humour lay firmly in the ridiculousness of the scenario, not in the disability of Joseph Merrick or others.

The Committee noted that, although the ECU had not upheld the complaint, they had recognised that Ross Noble's comments had the potential to offend viewers and had undertaken to share the complainant's views with the programme team. BBC Vision

confirmed that “the Executive Producer for the BBC discussed the ECU finding with the Executive Producer for Hat Trick Productions”.

The Committee noted the audience research entitled *Disabling Prejudice: Attitudes towards disability and its portrayal on television* (British Broadcasting Corporation, Broadcasting Standards Council and Independent Television Commission: 2003). This report identified elements that contribute to offence. The report concluded that there was a strong indication that offence would be caused if the humour encouraged anti-social behaviour, including physical abuse and mimicry, and laughed at disabled people, where the focus of the humour was aimed at the disability. The Committee also noted that the report had identified factors which could dilute the offence including: familiarity with the comedian; the primary butt of a joke is clearly a particular character; the featured disability not being relevant to the audience; the time of broadcast; and the genre of the programme.

Although the report was published 10 years ago, the Committee noted that the issue of disability has increased its profile over this time in the terms of both increased legislation and public awareness. From the survey carried out, the report found that:

- “‘disability’ is currently an extremely sensitive issue. Sixty-five percent of respondents said they would find a tasteless joke on television about disability either very or quite offensive. Such jokes would cause more offence than jokes about black people, Muslims or homosexuals.”
- Forty-five percent of respondents thought that jokes about disability were more likely to be acceptable if they were told by a well-known and liked comedian. This suggests that if viewers know something about the person telling the joke and are familiar with their style, it can render a potentially offensive joke inoffensive. Presumably, this is because viewers understand that the person does not really hold the views being expressed in the joke and, therefore, they feel permitted to laugh.

The Committee noted that an appeal dealing with disability, including specific mention of the character John Merrick played by John Hurt in *The Elephant Man*, had been upheld in 2012. The appeal was upheld against *Top Gear* (BBC One, 5 February 2012) and was published in October 2012 in the July and September 2012 Editorial Standards Bulletin. This finding concerns comments made about people with “growths on their faces” in an item about a new campervan. The Committee’s conclusions on this previous appeal are included below for reference.

The Committee concluded:

- that the audience would have understood the connection which the presenters drew between the character played by John Hurt in *The Elephant Man* and the design of the Prius campervan, and that the joke at this point was about the vehicle’s design.
- that the slurred speech used by Jeremy Clarkson was also part of this reference to *The Elephant Man*, but that this mimicry was on the margins of acceptability.
- that, while most of the comments made about the campervan would have not exceeded the expectations of the audience, a remark about talking to “a car” at a party and not being able to look at a person with a facial disfigurement, taken with the reference to “...one of those really ugly things

... I'm talking about a growth...", strayed into an offensive stereotypical assumption not confined to *The Elephant Man*.

- that the programme was in breach of the Guidelines on Harm and Offence as the exchanges about facial disfigurement noted above were not editorially justified and did not meet generally accepted standards in the context of their portrayal of a disability.

The full adjudication is available at

[http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc\\_bulletins/2012/jul\\_sep.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2012/jul_sep.pdf).

The Committee noted the context of the remarks and impersonations within this segment of *Have I Got News For You*. The Committee agreed that the participants in this show are well-known for indulging in flights of fancy where the banter between them can become ever more surreal. The Committee considered that the discussion about the advertisement provoking the most complaints provided the platform for an exchange which bore no relation to reality. The banter which then developed played on the fact that the actors in the commercial continued to talk as if they still had their mouths full, making their words difficult to distinguish. During this interchange the character, John Merrick, from the film *The Elephant Man* was referred to in the context of the actors from the commercial having attended the "*John Merrick Academy of Drama*" to learn this "*terrible*" style of acting.

The Committee agreed that Ross Noble was clearly referencing the film character and not people in general who had a similar disability. In this instance, the Committee believed that the joke began by targeting people who would complain about an advertisement because the actors in it talked as if their mouths were full and then the joke was expanded with comic exaggeration to imagine the kind of acting school the actors may have attended and the type of role they would have undertaken. The Committee, therefore, considered that the root of the comedy lay in the KFC commercial and, as such, was editorially justified and had a clear editorial purpose.

The Committee took into account that *Have I Got News For You* is a long-running programme and the audience enjoys the banter and edgy humour of the participants. The audience is used to this style of surreal humour which bears no relation to reality. Given the audience expectations of this programme, the Committee did not believe that this particular segment would surprise or offend the majority of viewers. Signposting was not necessary.

The Committee, however, agreed with the ECU's comments that the impersonations, in particular, may have been "uncomfortably open to misinterpretation" and that the complainant had "raised an important point which is worthy of further discussion" with the BBC Executive. In its finding concerning *Top Gear*, the Committee had acknowledged that "this is an area where producers should bear in mind that research has shown that public sensitivities are high and therefore care has to be taken. Judgements in this area are very fine". The Committee, therefore, welcomed the ECU's action to pursue further discussion with the programme-makers about this case.

The Committee concluded that this programme was not in breach of the Guidelines on Harm and Offence as the remarks were editorially justified because they referred to the actors in the commercial (with reference to the character of John Merrick) and were not intended to stereotype people with this kind of disability. The Committee also concluded that the programme met generally accepted standards in the context of this comedic exchange. Nevertheless, the Committee could appreciate that some viewers may have

been offended by this segment and considered that the impersonation of John Merrick's speech and physical disability, in particular, was at the margins of acceptability.

**Finding: Not Upheld**

## ***What The Papers Say, BBC Radio 4, 29 July 2012***

### **1. Background**

*What the Papers Say* (WTPS) is a fifteen-minute programme broadcast every week, late on Sunday evenings. The BBC website describes it as follows:

“The country’s leading political journalists analyse how the newspapers are covering the biggest stories”

The linking script is written by each guest presenter. Four actors a week, from a pool of eight, provide the newspaper quotes, headlines and other material.

The programme was originally a television format (1956 – 2008). The BBC revived it as a radio programme in 2010. The television version was made by Granada but the radio one is produced in-house at Westminster by the BBC.

This particular edition featured coverage of the Olympics, specifically the opening ceremony, at the top and for a large part of the programme.

This is a first party complaint from a journalist who was voiced on WTPS by an actor.

The section which referred to the complainant was as follows:

Presenter: But it was left to [the complainant] to rival Mr [X] for party pooper-in-chief:

Actor: Enthusiasm is compulsory only in totalitarian dictatorships. Anywhere else, we are free to be keen if we want to, and bored if we want to.

Presenter: I’m guessing [name of complainant] you’re bored?

Actor: Count me out of the compulsory joy. It reminds me all too much of ... Soviet Moscow.

Presenter: Really? [name of complainant] Really? London 2012 is the Soviet Union 1980? I think not.

The complainant got in touch with the programme to say that the quote had been inaccurate. He said that three words which were in his article had been omitted: “May Day in”. The actual wording as written had been:

“Count me out of the compulsory joy. It reminds me all too much of May Day in Soviet Moscow.”

The complainant’s view was that the critical comment off the back of that line was made possible only by that edit, and the portrayal of his voice was hostile and derogatory.

### **2. The complaint**

#### **Stage 1**

The complainant wrote to the programme summarising an exchange of phone calls and emails which he had already had that day with the production team, following the transmission of WTPS two days earlier. He said he thought the presenter's alteration of the quote from his piece to be a serious matter.

The Commissioning Editor, Radio 4 replied and said that the programme was:

"deliberately irreverent and provocative, and seeks to achieve balance over the course of programmes in the year. We don't feel the tone and nature of the broadcast on Sunday was out of keeping with other editions of the show. However, we do apologise if you feel we overstepped the mark and caused offence."

He said it would have been better to have left the copy unedited and that, while unintentional:

"I can see that taking out the words 'on May Day' [*sic*] could create a misleading impression. For that we apologise."

The complainant replied and challenged the response.

In a further response, the WTPS programme editor replied and said he shared the complainant's concerns about the programme "which didn't reach the standards I would expect". He said:

"I am not happy that it was edited in this way or with the script that followed it and I apologise for the errors made."

The programme editor concluded that this had:

"clearly not been the finest hour for What The Papers Say and I am sorry for that".

The complainant responded to the programme editor and rebutted each of the points made in the programme editor's letter.

The complainant asked for an on-air apology.

The programme editor responded saying the programme planned to make an on-air apology the following week. He suggested a form of words. There was then a series of emails between the complainant and the editor concerning the exact words to be used in the apology.

Radio 4 broadcast the following during the next week's transmission slot:

"In last week's What The Papers Say, [an article by the complainant] was edited incorrectly. This led to a misleading impression that [the complainant] was comparing the Olympics of London 2012 to Moscow in 1980, rather than to May Day in the Soviet Union. We apologise for this mistake."

The wording of the apology as broadcast was not agreed with the complainant. In response to a query from the complainant, the apology was attached to the podcast and iPlayer version of the programme. There was a further exchange after which the

programme editor pointed the complainant towards the second stage of the complaints process on 6 and 7 August.

## **Stage 2**

The complainant then wrote to the Editorial Complaints Unit (ECU) on 10 August. The ECU did not uphold the complaint. The complainant was offered escalation to the Trust on 16 October.

## **Stage 3 - Appeal to the Editorial Standards Committee (ESC)**

The complainant appealed to the BBC Trust on 29 October. He said at the beginning of his complaint that it fell into three parts:

- A. The first disagreement is about the continued insistence that the alteration of the meaning of my words was a 'mistake'.
- B. The second is over the claim that the extreme mocking and derisive parody of my voice was normal on the programme, or that it was comparable to the treatment given to any other person.
- C. The third is over whether attitudes towards the Olympic Games and the opening ceremony were or are a matter of public controversy.

### **Point A**

The ECU had explored the scripting process with a view to ascertaining why the words "May Day in" had not been included. The ECU mentioned that it had been rushed that week due to Olympic traffic and said that the presenter/script-writer had said he:

"didn't make the cut with the intention of changing your meaning, and simply failed to notice that it had that effect".

The ECU also explained that the production team now check the script against original newspaper clippings.

In his appeal the complainant said he thought the ECU investigation was not thorough enough, especially as the ECU did not speak directly to the presenter, who also wrote the script.

He said he was not going to split hairs over the definition of "mistake" but that there had not been a reasonable explanation from the presenter about why he edited the article in the way he did.

The complainant said cutting words is not a matter of omission as it takes a positive act to do it. He said:

"Shouldn't it have been one of the single most important tasks of the BBC editing and production staff to ensure that this did not happen, and to notice it when it did?"

The complainant acknowledged that the programme had now changed its policy so that the production team do now check the script against original newspaper clippings but said this should always have been the case. The complainant considered that any explanation to the effect that it was done in an effort purely to reduce transmission time was implausible. He referred to the importance of the words that were omitted.

He added that he himself was in an excellent position to know how important the words "May Day in" were to the sense of what he had been saying as he had been a Moscow correspondent at the end of the Soviet era and had actually witnessed May Day parades:

"And it is worth pointing out here that [the presenter], having edited my words, also singled them out for specific critical mention. In my experience in journalism ... when one chooses to highlight a quotation for specific critical mention, one takes very great care to get it right."

The complainant found the presenter's late arrival an implausible explanation. He said as the victim of this "mistake" he found being on the receiving end unpleasant and asks:

"...is there any evidence for the alternative explanation, that it was just one of those slip-ups, slip-ups which, as far as I know, have never previously taken place on this BBC programme, or any other that I can think of?"

On this point he concluded that the BBC had not tried to answer the questions he had raised in dealing with this matter.

## **Point B**

The complainant said that:

"My second disagreement is with [the ECU's] ... minimising of the hostile treatment given to me, and his dismissal of its significance as part of a culture of institutional bias in the BBC."

The complainant said this is true whether or not there was a mistake in the programme or not:

"Either by omission (editorial failure to notice or prevent it) or commission (deliberate action by persons unspecified), I believe that I and my work were subjected to treatment which would not have been given to almost any other person."

The complainant referred in support of this to a *Feedback* programme dating back to November 2010 which he said concerned a gratuitous personal attack on him, without his being contacted for a rebuttal. He complained to the programme and did get a right of reply but did not take up the formal complaints procedure of which he said he was unaware at the time:

"...the two taken together are evidence of a profound difficulty which the BBC has with people who hold my views".

He complained that he was not invited to present programmes, but:

"I am only invited on air as a fringe member of a panel or as one side in a discussion. And BBC programme-makers and presenters believe they have a licence to treat me with disdain."

He said this is why an "absurd and hostile caricature" of his voice was used and that the actor should have been prevented from doing that as he felt the voice amounted to hostile mockery to which other people are not subjected. He added that this portrayal of his voice made his words sound foolish which, in a normal voice, they would not have done.

### **Point C**

The complainant said that attitudes towards the Olympic games were a matter of controversy:

"First there is the rather obvious fact that the section of 'What the Papers Say' which we are discussing was devoted to discussing that very controversy. Then I might add that I was invited on the 'Today' programme a few days later to discuss ... the controversy over the Olympics and the opening ceremony. I think it is just silly to claim that it wasn't a matter of public controversy. It obviously was."

### **Additional Point**

The complainant referred to previous dealings with the presenter (whom he had dealings with for over 12 years) and indicated that relations between them had been "permanently soured" following an internet debate in August 2009.

He also gave details of a complaint that he made to the Press Complaints Commission. The complainant explained that, following the WTPS broadcast, he criticised the presenter in a publication and the presenter "riposted" in a separate publication. The complainant challenged the way in which the presenter quoted a previous conversation, when neither party had kept notes of the conversation at the time. The complainant considered the "cavalier" use of quotation was relevant. [This matter was later resolved by the PCC in favour of the complainant.]

### **3. Applicable Editorial Guidelines**

The full guidelines are at <http://www.bbc.co.uk/editorialguidelines>. The sections on Accuracy (section 3) and Impartiality (section 4) are relevant to this case.

### **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 of the available evidence, including (but not limited to) the complainant's appeal, the Editorial Adviser's report and the subsequent submissions from the BBC and the complainant. The Committee also listened to recordings of the complainant's voice.

The Committee initially considered the complainant's request, in his subsequent submission, for an oral hearing but decided this was not necessary as he had made his

points fully in correspondence, as had the BBC. The Committee also decided that the matter on which he particularly wanted to address the Committee during the course of an oral hearing – that of the sound of his actual voice – could be considered by comparing his broadcast voice, as heard on BBC output, with the version given by the WTPS actor.

The Committee noted that its independent editorial adviser had interviewed the presenter in person and had email exchanges with both him and the WTPS production team as part of the case investigation.

The Committee noted that the complainant had raised the following points in relation to the accuracy of this programme:

1. the programme edited his article so as to render it inaccurate and then commented upon his views unfairly, based on this inaccuracy.

The Committee noted that the complainant had raised the following points in relation to the impartiality of this programme:

2. the programme failed to be impartial in a controversial matter.
3. the programme lacked impartiality in caricaturing the complainant's voice in a hostile manner but not the voices of those on the other side of the argument. This also demonstrated institutional bias against his views.
4. the programme lacked impartiality in the way it covered his views and those opposed to the Olympics ceremonies.

**Point 1:** Regarding the complainant's allegation that his article was wrongly edited which allowed a criticism to be made that would otherwise be impossible, the Committee considered whether the Accuracy guideline had been breached. In particular:

The Committee considered whether the BBC had achieved due accuracy in a way that is adequate and appropriate to the output taking into account:

- the subject and nature of the content
- the likely audience expectation

The Committee considered whether the BBC has demonstrated that the content:

- was well sourced
- based on sound evidence
- thoroughly tested
- presented in clear, precise language

### Context

The Committee noted the section of the programme in question.

Presenter: But it was left to [the complainant] to rival Mr [X] for party pooper-in-chief:

Actor: Enthusiasm is compulsory only in totalitarian dictatorships. Anywhere else, we are free to be keen if we want to, and bored if we want to.

Presenter: I'm guessing [name of complainant] you're bored?

Actor: Count me out of the compulsory joy. It reminds me all too much of ... Soviet Moscow.

Presenter: Really? [name of complainant] Really? London 2012 is the Soviet Union 1980? I think not.

The Committee noted the original article included the words:

"Count me out of the compulsory joy. It reminds me all too much of May Day in Soviet Moscow."

The Committee noted that the complainant said there was a critical difference between saying "May Day in Soviet Moscow" and omitting the three words "May Day in", which allowed the comparison to be made with the Moscow Olympics.

The Committee noted that it had viewed some footage of May Day in 1980 (the same year as the Moscow Olympics), and in 1991, which is the one the complainant attended as a foreign correspondent. The Committee had also viewed some footage of the opening and closing Olympic ceremonies for the 1980 Moscow Olympics.

The Committee noted that the complainant said that the cutting of the three words "May Day in" materially changed the sense of what he had written. He alleged that this cut enabled the writer/presenter to make a comment:

"Really? [name of complainant] Really? London 2012 is the Soviet Union 1980? I think not."

which, he said, would have made no sense if the three words had been left in.

The Committee noted that the BBC responded at Stage 1 by acknowledging the edit should not have been made and by giving an on-air apology adjacent to the following week's programme. The apology noted that an article had been edited incorrectly and that this had led to a misleading impression that the complainant was comparing the Olympics of London 2012 to Moscow in 1980, rather than to May Day in the Soviet Union. The BBC apologised for that mistake.

The Committee noted that the author/presenter of the WTPS script said in response to the appeal that it was his usual practice (and he had presented the programme five times) to write a first draft of the script and send it to the producer on a Saturday night:

"I do draft 1[one] on a Saturday evening and send it to her. She looks at it, formats it, has some suggested cuts and says if we must do a specific story. She leaves a gap for the Sunday papers."

The Committee noted the author/presenter explained that when he got in to Westminster, he would go over it with the producer and create a second draft to include the Sunday newspapers. Only if there were legal questions or other need for referral would there be a third version.

The Committee noted that on that Sunday, the producer pointed the *Mail on Sunday* article out to him and gave him a print copy:

"I didn't even see the column. When I got in ... the producer pointed it out to me."

The Committee noted that the column was then typed into the script by the presenter and that this was not a "cut-and-paste" edit. This suggested this was either a deliberate edit or a mistake whilst typing.

The Committee noted that the presenter said that he would take even as few as three words out of a piece as he finds every little helps. He said he reads very fast and therefore gets through more words than most. He edits because he has a tendency to over-write. He has, he said, a verbose style and that his scripts are always too long so he is always having to whittle it down and always looking to make cuts.

The Committee noted that he said he could not recall exactly how this came about:

"I can't remember when I wrote that line – 'really, [complainant's name], really...' – was it later? If it was, then I would just have looked at what was on the page – by then without the May Day words – without looking back"

"I cannot now say why I said Moscow Games and not May Day"

"I think it's not that different – the meaning is still the same if you compare the Moscow Games and Olympics or May Day parade and Olympics – and ... the ECU says the same. I agree. Why would I do it? It's an implausible scenario"

"Comparing to Soviet Russia is the only thing that matters."

The Committee noted that both he and the production team maintain this was a mistake – but not a result of intention or collusion. The Committee noted that the complainant had raised questions concerning the effect of other edits made during the WTPS programme. Members of the Committee noted that the Editor said that internal edits were frequent and cited several. These are the edits from the Olympics section of the programme:

#### Example 1

In the end, and once it begins, resistance is futile. You may, like this arch sceptic, have spent years erecting mental firewalls against the oncoming inferno. You may resent the expense, the totalitarian enforcement of copyrights, ~~the lunatic idea that obese children will be inspired to junk the rubbish by the partnerships of Coca-Cola and McDonald's. You may even fret about rickety public transport and overbearing security, and endure a jag of nausea at every monstrously Americanised reference to "Team GB" (yeuech).~~ You may smile sardonically at the gulf between the cod-utopian philosophising of the Olympic "movement" and the clinical commercial imperative that underpins it.

And:

And then the cauldron is lit, and at the first flickering of the flame the curmudgeonliness melts at the prospect of what is to come. ~~The alchemical reaction that mutates the basest of pre-Games distaste into the pure gold of~~

~~rapturous anticipation will have occurred at around midnight last night. So it begins, and all that preceded it is forgotten.~~

#### Example 2

When you see the torch being carried down your street, and the people outside your front door, who are black and white and brown, waving flags and smiling, and when you see footage ~~of the first British tennis player for 74 years to reach the Wimbledon singles final also carrying it, and~~ of the mother of a boy who was murdered, who carried the torch to keep his memory alive, what you feel isn't embarrassment. What you feel, and are surprised to feel, is joy.

The Committee noted that three other articles were also edited later in the programme. In some, a large amount was cut, in another, just eight words, a single phrase:

#### Example 3

Look back at the press cuttings after Osborne's calamitous spending review in the autumn of 2010 and the Chancellor was widely hailed as a hero, ~~the politician who had grown most in government,~~ a titan coming to Britain's rescue. Now the young Chancellor in his first ministerial job is increasingly isolated as unexpectedly dire figures confirm that the UK is in a deep, prolonged recession

The Committee noted that the team said they did not then have a policy of checking these cuts against the original papers:

"The script is not checked for accuracy against the original paper or online articles because we expect the presenter to edit quotes accurately and fairly. Since this case, we have instituted a policy of checking all quotes in scripts against the original article."

The Committee noted that, when asked if there was a formal policy – shared with presenters – about internal edits and their rationale, the Editor responded:

"There is no formal policy with regard to internal edits. They are made for purposes of time and flow. We expect the presenter to edit quotes accurately and fairly without changing their meaning."

The Committee noted that, when asked whether any comment had been made about the internal edit in this case, by the programme producer or anyone else, the programme editor responded:

"No. The edit wasn't noticed. Neither the producer nor executive producer recalls commenting about it."

"We recognise that the internal edit should not have happened and as well as apologising privately to [the complainant] we made an on-air apology at the next possible opportunity..."

"However, as the BBC's Head of Editorial Complaints found – 'If the full quotation ("Count me out of the compulsory joy. It reminds me all too much of May Day in Soviet Moscow") had been read, and if [the presenter] had said something like "Really...? Really? London 2012 is like May Day in Soviet Moscow? I think not", it seems to me that the effect on listeners would not have differed greatly from the impression given by what was in fact broadcast. In either case they would have

gathered that you had made a comparison between the London Olympics and the former Soviet Union which [the presenter] considered somewhat absurd (though whether individual listeners would have shared [the presenter's] judgement is another matter)."

The Committee noted that both the programme team and the presenter/author said the edit was unintentional.

Taking into account all of the available evidence, the Committee did not consider that there was any evidence to establish that there has been malicious intent behind the edit.

The Committee agreed that there had been a breach of the requirement for due accuracy. However, the Committee agreed that this had been resolved by the programme's recognition of the mistake and the on-air apology (which was also attached to the podcast) at the first possible opportunity.

The Committee agreed that there should have been processes in place to check that any editing of original material was accurate. The Committee noted that the programme team have now made changes to their operating procedures to ensure that this will not happen again.

The Committee considered that the programme had behaved appropriately once it became aware of the breach and commended it for acknowledging its fault, changing its systems and for offering an on-air apology at the first available opportunity. The Committee agreed that this is what the BBC Trust expects programme-makers to do when they become aware of shortcomings in their performance leading to a justifiable complaint.

The Committee considered the programme's actions had been sufficient to resolve the matter, but was grateful to the complainant for drawing it to the Committee's attention.

The Committee found that the complaint was resolved on this point.

**Point 2:** Regarding the allegation that the programme failed to be impartial in a controversial matter.

The Committee considered two preliminary matters on Impartiality.

First, the Committee considered whether the Olympics and its opening ceremony qualified as a "Controversial Subject" within the meaning of the editorial guidelines. Members of the Committee noted the relevant criteria from the Guidelines:

#### **4.4.5**

A 'controversial subject' may be a matter of public policy or political or industrial controversy. It may also be a controversy within religion, science, finance, culture, ethics and other matters entirely.

#### **4.4.6**

In determining whether subjects are controversial, we should take account of:

- the level of public and political contention and debate
- how topical the subjects are
- sensitivity in terms of relevant audiences' beliefs and culture

- whether the subjects are matters of intense debate or importance in a particular nation, region or discrete area likely to comprise at least a significant part of the audience
- a reasonable view on whether the subjects are serious
- the distinction between matters grounded in fact and those which are a matter of opinion.

The Committee decided that, whereas matters such as the bid, the cost and the management of the Olympics might have been seen as “controversial subjects” as defined by the Guidelines, the opening ceremony did not itself qualify as a controversial subject simply because there were different opinions about it. The Committee was of the view that the level of debate over the opening ceremony and its success was limited amongst politicians and the public.

The Committee then discussed whether this matter comes under the “Personal View” Guideline, which states:

#### **4.4.29**

The BBC has a tradition of allowing a wide range of individuals, groups or organisations to offer a personal view or opinion, express a belief, or advance a contentious argument in its output. This can range from the outright expression of highly partial views by a campaigner, to the opinion of a specialist or professional including an academic or scientist, to views expressed through contributions from our audiences. All of these can add to the public understanding and debate, especially when they allow our audience to hear fresh and original perspectives on familiar issues.

Such personal view content must be clearly signposted to audiences in advance.

The Committee noted that WTPS has a rolling roster of presenters, all of whom are political journalists and would therefore be expected to be speaking with their own voice and from their own perspective.

Notwithstanding this, the Committee agreed that the material broadcast must be “duly impartial” for a personal view programme. The programme should respect factual accuracy, fairly present opposing views and a sufficiently broad range of views and perspectives should be included in output of a similar type and weight over time.

The Committee noted that the programme deploys a range of journalists from a range of perspectives. It agreed that this is output giving a “Personal View” and expects the programme team to ensure that a wide range of views are reflected.

The Committee concluded that this was not a controversial subject in the terms of the Editorial Guidelines. The Committee agreed that the programme was in the category of personal views.

**Point 3:** Regarding the allegation that the programme lacked impartiality in caricaturing the complainant’s voice in a hostile manner and that this also demonstrated institutional bias against his views.

The Committee considered whether the Impartiality guideline had been breached and, in particular, whether the impartiality was adequate and appropriate to the output.

The Committee noted the response to the appeal from the Editor of the programme:

"The actors have taken part in the programme since 2010. They are obviously also aware of its history as a programme which, since its inception, regularly includes readings which are highly-coloured or have an element of caricature. With voices of people they know, the actors bring their own interpretation. They are given direction with lesser-known figures. In this case they weren't given specific production guidance in relation to the voice they should use for [the complainant].

"In the event that the producer or executive producer believes a portrayal to be prejudicial or offensive, then the actors would be told to tone down their caricature.

"We didn't intend to give a prejudicial impression of [the complainant] – or use a voice that would humiliate or embarrass him. [The complainant] has been given a variety of different voices over time. Whilst we accept that [the complainant's] voice was exaggerated, the same was the case for some pro-Olympics contributors included in the programme..."

The Committee noted that the presenter described how he observed the actors prepare voices:

"I see the actors go on You Tube to find out what 'their' voices really sound like. They are properly devoted and treat it seriously. When it was Janet Street Porter – who has a very distinctive voice – the actress had never heard of her so she went on You Tube and listened... I might provide information to the actors if asked what sort of voice ... like Hadley Freeman is American, someone else is from Newcastle, but not in a bad way."

"The actors are allocated by the script – they are not briefed. The producer divides the script up between the four actors – two men and two women. She tries to be fair but there are more male columnists so the women get the headlines. There's no briefing. Some people turn up on What the Papers Say often so the actors will have got 'a voice' for regulars. A lot are on because they are Sunday columnists."

The Committee listened to the rendition of the complainant's voice as performed by an actor on WTPS. The Committee heard the complained-about item and four clips of other voices from WTPS, three dating from before the complaint and one from after. The Committee noted that other voices in the segment were portrayed satirically.

The Committee then listened to an excerpt of the complainant's own voice in a clip from a different show (BBC TV's *Daily Politics* show).

The Committee noted audience expectation and the 30-year-old tradition that WTPS mimics journalists and politicians, and exaggerates their vocal characteristics for comedic and satiric effect. The Committee did not consider that the portrayal of the complainant's voice amounted to a hostile portrayal or amounted to a breach of the impartiality guidelines. Rather, the Committee agreed that the portrayal of the complainant's voice was acceptable and that there had been no lack of impartiality shown in the type of voice used.

The complaint was not upheld on this point.

**Point 4:** Regarding the allegation that the programme lacked impartiality in the way it covered the complainant's views and those opposed to the Olympics ceremonies.

The Committee considered whether the impartiality guideline had been breached and, in particular, whether the impartiality was adequate and appropriate to the output.

The Committee noted that the complainant was concerned that more opinions of those sharing his opposition should have been broadcast, that the quotes from his piece were unduly short and that broadcasting Twitter comments was not a good substitute.

The Committee noted that, in response to a question about whether any concerns were expressed at the time about the balance of this whole chunk of programme, the programme editor said:

“No. The producer specifically suggested the presenter include the article by [the complainant] to balance the pro-Olympic sections of the script and gave him a hard copy of the paper.”

The Committee noted that “due impartiality” does not mean that there has to be equal time given to either side of an argument and that, in this case, there were three voices against the games – albeit two of them were on Twitter rather than newspapers. There were four voices in favour. The Committee noted that those in favour were given substantially greater time than the sceptics, though those in favour were not treated with reverence either.

The Committee noted that, when asked if the recording was halted for editorial reasons, the programme editor replied:

“...In the Olympic part of the script, the producer stopped the recording to suggest that the actor depicting the Evening Standard should exaggerate the paper’s gushing praise for the Games, but neither producer nor the executive producer recall that the recording was halted during the section in dispute.”

The Committee was mindful that, at the time of the Olympics, there was a large quantity of coverage about the torch relay and the opening ceremony, and that more was broadly favourable than critical. Noting that there is no requirement for equal time for differing views, just that a range of views should be represented, the Committee agreed that the Guidelines on Impartiality had not been breached in this programme.

The complaint was not upheld on this point.

The Committee noted that the complainant had alleged that there was institutional bias in the BBC and stated that the way that he had been treated on WTPS was “part of a pattern of behaviour towards [him] which is rooted in a canteen culture of instinctive left-liberal sympathy and an institutional bias against those with socially or morally conservative opinions”.

He considered that the “hostile caricature” of his voice was “significant” in this respect and also requested that the Committee consider an episode of the BBC’s Radio 4 *Feedback* programme which was broadcast towards the end of 2010.

The Committee noted that the issue with the 2010 programme had been resolved and he had been given a right of reply. The complainant did not pursue a complaint about the *Feedback* programme through the complaints process at the time. The Committee therefore did not consider it appropriate to adjudicate on this programme.

The Committee also noted that the aspect of the appeal concerning his voice, which had been cited as an example of institutional bias, had not been upheld. The Committee was of the view that it had not seen evidence which demonstrated that the BBC was institutionally biased against those with socially or morally conservative opinions.

**Finding: Not upheld.**

## BBC Online Olympic Country Profiles

### 1. Background

This was a consolidated appeal representing a number of appeals to the Trust about the Israel and Palestine country pages on the BBC Sport Olympics website. The allegations concerned the description of Jerusalem as “the seat of government” on the Israel page and East Jerusalem as “the intended seat of government” on the Palestine page.

The allegation by one set of complainants was that it was misleading and biased not to include a capital city on the Israel country page.

Other complainants alleged it was misleading and biased to describe Jerusalem as the seat of government for Israel.

### 2. Complaints

A range of arguments was raised during Stage 1 and Stage 2 correspondence.

The BBC published a micro website for the London 2012 Olympics; it is still available online. Each competing nation was allotted its own page, which included key facts about the team and their country. Palestine has been a member of the International Olympic Committee since 1995 and the IOC designate it a “competing country”.

At the top of each page readers are advised, “Information on this page will not be updated. Facts were accurate as of August 13 2012”.

Each “competing country’s” capital is listed on their page. In its original iteration the website did not list a capital for Israel, and East Jerusalem was listed as the capital of Palestine.

#### Original pages

A number of complaints were received both about listing a capital for Palestine, a country that did not exist, and omitting a capital for Israel, a recognised sovereign state.

When this was brought to the attention of the editors of the BBC website, changes to both pages were made to align them with text used in the countries pages of the general BBC website. One complainant also asked the Committee to consider this wording in terms of the countries pages as well as the Olympics pages.

A number of complaints about the original formulations of both pages were received by the Editorial Complaints Unit (ECU). The ECU agreed with complainants that the original versions had been in breach of editorial standards.

In relation to the original versions, the ECU stated that Jerusalem as a capital of a future state of Palestine remained an aspiration of the Palestinians. The ECU therefore upheld complaints which alleged the content was misleading and failed to meet the BBC’s standards regarding accuracy.

The ECU said that the status of Jerusalem was a controversial subject as defined by the BBC’s Editorial Guidelines and that due impartiality required that content did not reflect only one side. In this context, in the view of the ECU, the two pages, taken together,

presented the desired outcome of the Palestinians as established fact while not reflecting the Israeli position at all. The ECU concluded this constituted a lack of due impartiality.

### **The revised pages**

The Israel page was revised to read:

*Seat of government Jerusalem, though most foreign embassies are in Tel Aviv.*

The Palestine page was revised to read:

*Palestine is recognised as a competing country by the IOC but is not recognised as a modern state.*

*Intended seat of government East Jerusalem. Ramallah serves as administrative capital.*

The ECU also received complaints about the revised versions of the pages (as referenced above). Some were concerned that Israel still was not listed as having a capital and from the other perspective there were also complaints that describing Jerusalem as Israel's seat of government, without the qualification of "West" gave the misleading impression that Israel had sovereignty over the whole of Jerusalem.

The ECU noted the assertion made by some complainants that a country had the right to determine its own capital and that the content should therefore reflect Israel's position and list its capital unequivocally as Jerusalem.

The ECU noted the complainants who said that the reference to a "seat of government" rather than a capital when other sites had a capital listed, amounted to bias against Israel.

The ECU said the modified formulation on the Israel page – which continued to omit the listing of a capital for Israel – reflected a distinction between Israel, which had declared a capital in disputed territory, and other countries which had not.

The ECU said that as the issue was controversial the Guidelines required that the BBC apply due weight to the various perspectives, which would include the perspective of Israel, the international community and the Palestinians. The ECU concluded that the revised formulation met the guideline requirements.

Complaints were also received at Stage 2 that in the absence of specifying "West" Jerusalem as Israel's seat of government, readers would assume that Israel had sovereign rights over the whole area. It was suggested that in the interests of fairness, on the Palestine page the intended seat of government should also be changed to "Jerusalem" to put it on a par with the Israel page.

The ECU disagreed. It concluded that appropriate steps to rectify the breaches on both pages had been taken and that the complaints about the pages had now been resolved. It did not consider that any amendments needed to be made to the revised pages.

A number of complainants whose complaints had been rejected by the ECU at Stage 2 appealed to the BBC Trust. There was significant congruity of the issues raised on appeal by the complainants for the Head of Editorial Standards to adopt a consolidated approach in accordance with the Trust's Editorial Appeals procedure which states:

“If a large number of complainants appeal against a specific decision by the ECU or a senior BBC manager, some of these procedures will need to be adapted and a summary of the range of issues raised by their appeals will be compiled. The appeals will then be considered together across the full range of issues identified.”

### **Appeal to the Trust**

The ESC considered two points on appeal:

**Point (A)** That it is misleading and biased that the website continues not to list a capital for Israel, given that the other countries profiled on the site are listed as having a capital. All the complainants who raised this point on appeal said that the capital should be stated as Jerusalem, with the exception of one complainant who said the capital should be listed as Tel Aviv.

**Point (B)** From the opposite perspective, other complainants contended that Israel does not have jurisdiction over the whole of Jerusalem; its annexation of East Jerusalem having been declared illegal. Therefore the seat of government for Israel should have been identified on the website as West Jerusalem. Alternatively, there should have been parity on the Palestine page and the intended seat of government listed as Jerusalem and not East Jerusalem.

### **3. Applicable Editorial Guidelines**

The accuracy and impartiality sections of the 2010 Editorial Guidelines were considered in relation to this complaint:

### **4. The Committee’s decision**

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

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser’s report, and the subsequent submissions on behalf of the programme team and from a number of the parties to the consolidated appeal.

**Point (A)** The Committee considered the allegation that it is misleading and biased that the website continues not to list a capital for Israel, given that the other countries profiled on the site are listed as having a capital. All the complainants who raised this point on appeal said that the capital should be stated as Jerusalem, with the exception of one complainant who said the capital should be listed as Tel Aviv.

The Committee noted the revised formulation as it now appears on the Israel page on the Olympics website:

“Seat of government Jerusalem, though most foreign embassies are in Tel Aviv.”

The Committee noted the variety of ways in which complainants expressed their concerns in their appeals to the Trust. The following points from the correspondence of four of the complainants are representative of the key points in relation to this allegation:

- The vast majority of countries on the website had their capitals listed. To omit one for Israel is misleading.
- The BBC says a capital city is defined as “the main city of a country, the centre of government”. Israel has been recognised as a country since 1948. Jerusalem is Israel’s centre of government, as it houses the Israeli Parliament (Knesset) and government.
- The government of Israel has established Jerusalem as its capital city with the Jerusalem Law, which was enacted in July 1980.
- Israel’s control of West Jerusalem is recognised by the UK. As Israel’s Knesset and “seat of government” is in West Jerusalem, and Jerusalem is one united city by Israeli law, Israel’s “capital” is Jerusalem.
- A neutral BBC would have Palestinian Authority and Israel pages, each with its capital city: Ramallah for the Palestinian Authority and Jerusalem for Israel, as these are the cities housing the government.
- There is no equivalence in putting the capital of Palestine (which is not a country yet) either in Ramallah or East Jerusalem, and delegitimising a sovereign country by refusing to state simply “capital: Jerusalem”.
- Not to accept the factual basis of Israel’s sovereign control of Jerusalem given how central it is to Jewish history, religion and identity is offensive to Jews and Judaism. The singling out of Israel (no other country has been treated this way) and the Jews is anti-Semitic and evidence of political bias.
- There is no real difference between “seat of government” and “capital”. Only governments can provide recognition, not the BBC – this is political bias.
- To specially mention where many embassies are situated (Tel Aviv) delegitimises Jerusalem as Israel’s capital.
- The site is full of anti-Israeli bias and no information is presented that supports an Israeli perspective.
- The United Nations statistics website lists Jerusalem as Israel’s capital:  
<http://data.un.org/CountryProfile.aspx?crName=Israel>
- Tel Aviv should be named as the capital.

The Committee noted that at Stage 1, complainants were advised that the revised formulation brought the respective Olympics profile pages in line with BBC guidance to journalists as published on the BBC website.

The Committee noted too that the Stage 1 response advised that further context is provided in the BBC News profiles for Israel and the Palestinian territories, links to which were included in the relevant BBC Sports Olympic pages.

The Committee noted the detailed ECU reasoning for not upholding the allegation about the failure to note Jerusalem as the capital of Israel as set out above.

The Committee noted the information provided by the Chief Adviser, BBC Sport in response to this appeal, that following the breaches of accuracy and impartiality in the original formulations of both the Israel and Palestine pages BBC Sport sought the advice of the News Division in revising the entries.

The Committee noted that the advice received immediately prior to the revision of these pages by BBC Sport stated that while Israel currently claims sovereignty over the entire city, and claims it as its capital, that claim is not recognised internationally.

The Committee noted too that the advice stated that Jerusalem is where Israel's ruling bodies are based and that it is therefore referred to as Israel's "seat of government".

The Committee noted the advice explicitly stated "do not call it the capital" and that Jerusalem's status is dependent on a final agreement between the Israelis and Palestinians.

The Committee noted that advice formed the basis of the rewritten pages bringing the Israel and Palestine entries in line with the relevant sections on the BBC News "country" pages in relation to the points under discussion here.

The Committee noted a comment received from one complainant following the acceptance of this complaint on appeal. The complainant stated that the profile pages were now required to take account of the UN vote in November 2012 granting Palestine a new status of "non-member observer state".

The Committee noted that whereas the BBC News pages are live pages which are updated from time to time in accordance with developments in the region, the Olympics profile pages, as noted at the beginning of Section 2 essentially became historical archive at the conclusion of the 2012 Olympics and that visitors to those pages are explicitly advised they will not be updated.

The Committee noted that the overview to the Palestinian territories profile in the BBC News country pages was updated in November 2012 and now reflects the UN vote, but as expected, the Palestine page on the Olympics micro-site has not been changed.

The Trustees agreed that their considerations for this appeal were in relation to the Olympics profile pages and, where relevant, the related content on the BBC News country pages, as at August 2012.

The Committee noted the BBC has chosen not to describe Israel's capital as Jerusalem because it is associated with Israel's territorial claims over the whole of Jerusalem, which remain subject to final status negotiations between the parties. The Committee noted the guidance to BBC journalists that East Jerusalem is considered occupied territory.

The Committee noted that by choosing to use a different formulation on the Olympics website from other country profiles – i.e. seat of government not capital – the BBC did not deny Israel's claims nor did it state that Jerusalem is not the capital of Israel.

The Committee confirmed it was not the ESC's role to make a determination as to whether Jerusalem is the capital of Israel, only to assess whether the formulation on the website is duly accurate and duly impartial.

The Committee noted that until 1967 when Israel occupied East Jerusalem (which it later annexed) following the Six-Day War, 24 foreign embassies were situated in West

Jerusalem. Following the declaration of the Jerusalem Law in 1980 which stated that Jerusalem was the complete and united capital of Israel, a resolution was passed at the UN calling on all nations with missions in the Holy City to withdraw. It noted there are no longer any embassies in Jerusalem, all have moved to Tel Aviv.

The Committee noted the assertion by one complainant that despite Israel's contention to the contrary, the capital of the country should be presented as Tel Aviv and that would be the appropriate formulation.

However, the Committee also acknowledged points made by other complainants that all branches of the Israeli government are located in Jerusalem, including the Knesset (Israel's parliament), the residences of the Prime Minister and President and the Supreme Court and that this has been the case for the last 65 years. The Committee noted too that the buildings are all in West Jerusalem which has been under Israeli control since 1948.

The Committee noted that while there is no expectation that in a two-state solution West Jerusalem would become Palestinian territory, a UN resolution passed in 1947 has not been rescinded. It calls for the whole of Jerusalem to be an international city, a corpus separatum (similar to the Vatican City), and in that context, technically, West Jerusalem is not Israeli sovereign territory.

The Committee noted how some other bodies reflect the issue, and that they, like the BBC, have also wrestled with the concept and have gone beyond the dictionary definition of a capital as the official seat of government in a political entity, such as a state or nation.

- A UN statistics website (as quoted by Complainant D) lists Jerusalem as Israel's capital without any qualification.<sup>4</sup>
- The Foreign and Commonwealth Office says on its Israel profile page:

"Israel maintains that Jerusalem is its capital city, a claim not recognised by the UK and the international community. The UK locates its embassy in Tel Aviv."
- The CIA World Factbook gives Jerusalem as the capital but appends a note stating:

"Israel proclaimed Jerusalem as its capital in 1950, but the US, like all other countries maintains its embassy in Tel Aviv."
- The Guardian updated its style guide in August. It had previously stated that the capital of Israel is Tel Aviv. It now says:

"Jerusalem should not be referred to as the capital of Israel: it is not recognised as such by the international community. While the Knesset has designated the city as the country's capital, a UN resolution of 1980 declared this status "null and void". Jerusalem is the seat of government and Tel Aviv is the country's diplomatic and financial centre."

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<sup>4</sup> <http://data.un.org/CountryProfile.aspx?crName=Israel>

- Encyclopaedia Britannica says:

“Capital (proclaimed): Jerusalem; the city’s capital status has not received wide international recognition.”

The Committee noted the revised formulation on the BBC website, that Jerusalem is Israel’s “seat of government”, is now the same as that which appears on the Israel country profile page on the BBC News website and that the relevant section of that page has been unchanged since 2002.

The Committee noted too, in relation to the formulation of the Palestinian Territories country page on the BBC News website, the words “intended seat of government: East Jerusalem” are also unchanged since 2002, and that in information provided for this appeal, the Committee was told that about 12-18 months ago “Ramallah serves as administrative capital” was added.

In reaching its decision the Committee noted that the serious errors in the original formulations on the Olympics profile pages had been acknowledged immediately and corrected speedily. The Committee did, however, reflect its surprise that BBC Sport had not sought advice in the first place.

The Committee took the view that the Israel profile page on the Olympics website was not required to mirror the format for the other competing countries in order to adhere to the Editorial Guidelines and that omitting to list Israel with a capital did not in itself amount to a breach of the Editorial Guidelines.

The Committee considered it was duly accurate to formulate the wording differently from those on other countries’ Olympic profile pages, because as highlighted by the ECU at Stage 2:

“This reflects a distinction between Israel, which has declared a capital in disputed territory, and other countries which have not – just as the alteration to the page about Palestine reflects a similar distinction.”

The Committee said that Jerusalem’s status as a capital is unquestionably a matter of political controversy; to have stated unequivocally that it was or was not Israel’s capital would have been perverse.

The Committee considered the current formulation took a neutral path by reflecting instead what is factually correct, namely that Israel’s seat of government is in Jerusalem.

The Committee also considered the context and audience expectation. It noted that the complaint concerned a single line in a “key facts” section of a page which was primarily about the London 2012 Olympics and the competing team. The Committee decided it would have been neither necessary nor appropriate to have provided any additional background.

Accordingly the Committee decided the revised formulation met the requirements for due accuracy and due impartiality. It agreed that this applied to the BBC News profile page for the Palestinian territories (as altered in November 2012) as well as to the Olympics page.

**Point (B)** The Committee considered the allegation that because Israel does not have jurisdiction over the whole of Jerusalem – its annexation of East Jerusalem having been declared illegal – the seat of government for Israel should have been identified on the website as West Jerusalem. Alternatively, there should have been parity on the Palestine page and their intended seat of government listed as Jerusalem and not East Jerusalem.

The Committee noted the revised formulation on the Palestine page of the Olympics website:

“Palestine is recognised as a competing country by the IOC but is not recognised as a modern state.

Intended seat of government East Jerusalem. Ramallah serves as administrative capital.”

The Committee noted that complainants expressed their concerns in a variety of ways and noted the summary of the key points raised:

- With regard to the Palestinian page, the BBC delegitimises Israel, takes sides in a political conflict and insults Israel, a sovereign state.
- With regard to the Palestinian page, the BBC should have reflected the political realities not voiced propaganda and political/terrorist aspirations.
- The seat of the Israeli government is in West Jerusalem, not Jerusalem. Saying that the Israeli government is based in Jerusalem is inaccurate and has the potential to mislead.
- With regard to the Israel page, Israel does not have jurisdiction under international law over Jerusalem, only West Jerusalem; its annexation of East Jerusalem having been declared illegal. Therefore, it is logical and right that the seat of government for Israel should be identified as West Jerusalem. Identifying it as “Jerusalem” is inaccurate and misleading.
- With regard to the Israel page, in the absence of specifying East or West, readers would indeed assume that a particular country, in this case Israel, does have sovereign rights over that whole area, in this case Jerusalem. If this is not changed to specify West Jerusalem then perhaps the Palestinian profile page should also be changed to “Intended seat of government: Jerusalem”. It would not be accurate or right, but would have parity with what is being presented with regard to Israel.
- No argument was provided for giving Israel’s seat of government as Jerusalem whilst giving Palestine’s intended seat of government as East Jerusalem. Other possibilities could be having the language mirror one another or the opposite combination of West Jerusalem and Jerusalem respectively. Even the remotest possibility of this being misleading (a possibility that was acknowledged) should be sufficient justification for the requested alteration.

As outlined above, the Committee noted that the ECU considered the matter resolved by the revisions made.

The Committee again noted that all of Israel's government buildings are situated in West Jerusalem and that prior to 1967 this reflected the entire sphere of Israel's control of the city. But it noted that currently Israel controls the whole of Jerusalem.

The Committee noted that the revised website formulation acknowledges the distinction between Jerusalem, which Israel currently controls, and the Palestinian Authority's aspiration as to where it would like to locate its capital.

The Committee noted that the Palestinian Authority (PA) has no presence on the ground in any part of the current municipal boundaries of Jerusalem. The closest area to Jerusalem which is under Palestinian control is Abu Dis, which the PA has designated as their official current capital. However, it has its administrative offices in Ramallah in the West Bank to the north of Jerusalem, as is accurately noted on the Palestine Olympics page.

The Committee noted the basis on which the PA maintains a territorial claim to East Jerusalem, as essentially an illegally occupied area of the territory it administers in the West Bank.

The Committee noted that while the PA does not recognise Israel's annexation of East Jerusalem it has never exercised sovereignty over the area; prior to 1967 East Jerusalem was administered by Jordan.

The Committee noted that in UN resolutions concerning Israel, East Jerusalem is routinely referred to as part of the West Bank or as part of the Palestinian Territories.

Whilst the Committee noted the assertion by a complainant that the formulation on Israel's Olympic page implies Israel has sovereign rights over the whole of Jerusalem, the Committee noted the qualification in the wording, that while the seat of government is Jerusalem, most foreign embassies are in Tel Aviv. The Committee decided that this wording, along with the fact that the page does not state that Jerusalem is Israel's capital, guards against a misleading interpretation of Israel's rights over the territory.

The Committee took the view that although all Israel's government buildings are in the west of the city, it does not alter the fact they are in Jerusalem. It noted that, despite the lack of international recognition of Israel's control of the municipality, Israel has exercised effective control of the whole of Jerusalem since 1967 and that there are no visual or administrative distinctions between the east and west of the city.

As with the previous point, the Committee considered the context and audience expectation. The Committee noted that the complaint concerns a single line in a "key facts" section of a page which is primarily about the London 2012 Olympics and the competing team. It took the view that to have gone into any greater detail was neither necessary nor appropriate.

The Committee considered that the formulation on the Palestine page resulted from an appropriate editorial distinction between the factually accurate description on the Israel Olympics page recognising Israel's presence in, and control of, Jerusalem and the factually accurate recognition of Palestinian aspirations to site their capital in the east of the City.

Just as with Israel and the other competing Olympic nations, where the Committee considered there was no requirement to list Israel with a capital, the Committee considered the formulation on the Palestine Olympic page was also duly accurate and duly impartial. In the Committee's view it would not be possible to directly compare the entries for Israel and Palestine on a like for like basis as their respective status and the reality on the ground were so different from one another.

Accordingly, the Committee decided no bias or inaccuracy had resulted from the formulations describing Jerusalem as Israel's seat of government alongside East Jerusalem as the intended capital of Palestine. This applied to the Olympics pages and to the BBC News country pages.

**Finding: Not Upheld**

# 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.

## ***Who Dares Wins, BBC One, 11 February 2012***

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision by the Editorial Complaints Unit not to uphold his complaint.

The complaint related to an episode of the game show *Who Dares Wins*, broadcast on 11 February 2012. In it the presenter, Nick Knowles, challenged contestants to list countries whose names consisted of six letters or fewer. At the start of this section of the game show, the presenter read out the following script:

"We are looking for any country whose common name in English is six letters long or less. This is according to Whitaker's Almanack 2011."

One group set themselves the challenge of listing 26 countries (which they achieved). A list of the remaining countries which they could have chosen was displayed on screen. Israel was not on the list (it is listed in the Almanack as *Israel and Palestinian Territories*) but the Congo was listed twice as Congo (R) and Congo (DR) (representing the *Republic of Congo* and the *Democratic Republic of Congo*, which are listed under these longer titles in Whitaker's Almanack).

In the complainant's appeal to the BBC Trust, he stated that he believed the BBC's Editorial Guidelines relating to Accuracy and Impartiality had been breached over the omission of Israel from the list of acceptable answers. The appeal related to three specific points. Firstly, the complainant queried whether the programme makers had adopted an inconsistent and inaccurate approach to the use of Whitaker's Almanack – in that they did not approve of Israel as a named country, but would have approved of either the Democratic Republic of Congo or the Republic of Congo. Secondly, he asked whether this different treatment, as described by the production team was sufficient to "permit a differentiation in the use of the adopted reference material according to country, at the expense of accuracy". Finally, the complainant asked whether the decision to omit Israel amounted to at least the appearance of bias and a lack of impartiality.

### **The Trust Unit's decision**

The Trust Unit's Senior Editorial Strategy Adviser replied to the complainant explaining that she had reviewed the relevant correspondence and had watched the section of the programme in question. She said that she did not consider that the appeal had a reasonable prospect of success therefore did not propose to put it forward to the Editorial Standards Committee of the BBC Trust.

The Senior Editorial Strategy Adviser said that she had considered the complaint in the context of the BBC's guidelines on accuracy and impartiality. She said that it was worth clarifying that the requirements for 'due accuracy' and 'due impartiality' mean that the expectation of the audience is taken into account. This means that, for example, there is a greater onus on an investigative programme than there would be on a light-hearted panel show and that would reflect the different expectations of the audiences for the two shows.

The Senior Editorial Strategy Adviser noted that the presenter had made clear that the reference text that the programme was depending on was Whitaker's Almanack, 2011. He stated this in his script and there were also on-screen graphics which clearly credited Whitaker's Almanack 2011 as the source for the information used.

The Senior Editorial Strategy Adviser noted that a Complaints Director at the BBC's Editorial Complaints Unit wrote to the complainant on 18 July and stated:

"Entries on any list such as this might be subject to dispute, so it is important that there is a point of reference which can, if necessary, be used to resolve them. In this case, the reference chosen was Whitaker's Almanack. This, of course, lists Israel as 'Israel and [the] Occupied Territories'. I accept that this might well be disputed as the common usage but, having designated Whitaker's Almanack as the reference, the programme-makers were entitled to rely upon it in compiling their list of possible answers."

The Senior Editorial Strategy Adviser agreed with his assessment. She said that the programme team clearly established the reference text they were using and, in their response to the complainant explained the rationale for not including Israel in the list of possible answers they were willing to accept on the programme.

Therefore, in response to the first part of the complaint, the Senior Editorial Strategy Adviser considered that the programme had achieved due accuracy – the programme did not list Israel as a country within the terms of the game they were playing because that was not the name given in the reference text they had clearly stated they were using. Therefore, she did not consider the complaint on this point had a reasonable prospect of success and she did not propose to put it before the Editorial Standards Committee.

The Senior Editorial Strategy Adviser noted that the complainant had queried the decision the production team took to refer to the common name of Congo – which it said was well established for both the Republic and the Democratic Republic – while maintaining it was right to use the name given for Israel in Whitaker's Almanack – namely, Israel and Palestinian Territories. The Senior Editorial Strategy Adviser said that it was clear from the responses from the programme makers that they put a good deal of thought into what they would and would not accept. She noted the Complaints Director's response on this issue:

"...if there was any inaccuracy in the list of answers which was allowed it was in including the Congos on the list rather than excluding Israel from it, given the way that their names are rendered in Whitaker's Almanack. However, your complaint was that the inaccuracy attached to excluding Israel. I do not agree that this was inaccurate because it accorded with the spelling of Israel in Whitaker's."

The Senior Editorial Strategy Adviser agreed with this assessment. She said the problem appears to be with the inconsistent decision to accept the word Congo. If there is a failure

of absolute accuracy it is here. However, this was within the context of a light-hearted quiz, and the action of the programme makers in allowing the shorter form Congo as a possible answer did not have any impact on the outcome of the quiz. She said this seemed to be a case where the answer falls within the category of what was duly accurate and so should not proceed to the ESC.

With regard to the third element of the complaint, that of the appearance of bias, the Senior Editorial Strategy Adviser considered too that the programme was duly impartial – that is, it operated within the expectations of its audience. She noted too that in terms of the different approach to Israel and the Congos, the Complaints Director had written:

“I do not agree that mere different treatment necessarily amounts to an appearance of bias. Bias suggests that a particular party or argument is being shown in a more favourable light than another. I’m afraid that I do not see how Israel might have been seen in a less favourable light than the Congos as a result of the suggestion that its name consists of more than six letters and theirs do not.”

The Senior Editorial Strategy Adviser said that she could not see that the programme failed to be duly impartial, given that the programme makers omitted Israel in line with the rules of the game. She considered that on these points too the appeal did not stand a reasonable prospect of success and it should not, therefore, proceed to the Editorial Standards Committee.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated the points he had made regarding the alleged inconsistency, failure of accuracy, and the appearance of bias.

### **The Committee’s decision**

The Committee was provided with the complainant’s appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant’s letter asking the Committee to review her decision. The Committee was also provided with the relevant clip from the programme.

The Committee noted that this complaint was about a question on a light-hearted game show which came down to the number of letters in a country’s name. The Committee considered that, at worst, the programme could be accused of having been inconsistent in applying the rules it had constructed for this round of the game. The Committee was not persuaded, however, that there was any basis whatsoever for concluding that the Guidelines on Accuracy or Impartiality had been breached. The Committee agreed that there was no reasonable prospect that such an appeal would be upheld and it was correct that it should not proceed any further.

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

## ***Countryfile*, BBC One, 6 May 2012**

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit (ECU) not to uphold his complaint. The complainant alleged that an item about the decline of bees in the British countryside broadcast in an episode of the rural affairs magazine programme *Countryfile* failed to investigate important aspects of the story and was unbalanced.

The complainant's letter to the BBC Trust was wide-ranging and densely referenced. He began with a critique of the Editorial Guidelines and the BBC Trust. He said the ECU's finding did not address his concerns. The complainant suggested that an alternative programme be broadcast to "reveal the conflicts of interest which are the root cause of the problem".

The complainant continued:

"At the time of the broadcast – 6 May 2012 – factual data clearly existed that the current approvals régime is controlled by the pesticide companies, who have moreover publicly acknowledged that no suitable standard tests for chronic toxicity to either adult honey bees or their larvae existed. (Cf. [http://www.setac.org/sites/default/files/executivesummarypollinators\\_20sep2011.pdf](http://www.setac.org/sites/default/files/executivesummarypollinators_20sep2011.pdf)). Either BBC *Countryfile* knew this and failed to report the evidence or 'limited scoping' prevented the editors from choosing interviewees capable of contradicting DEFRA and Bayer's version of events."

The complainant went on to say that the *Countryfile* team had a "partisan approach" to reporting the EU regulatory system for hazardous farm chemicals. He said that the BBC is subject to "structural bias" and went on to discuss a number of current issues which he said contributed to the BBC losing the trust of the public.

### **The Trust Unit's decision**

The Trust's Senior Editorial Strategy Adviser replied to the complainant explaining that she would only be addressing the matters relating to *Countryfile*. She noted that the appeal also raised concerns about other programmes, including: *Countryfile*, 21 July 2012; *Gardeners' Question Time*, 15 July 2012 and the *Today* programme, 3 May 2012. However, as the ECU had explained to the complainant, the Complaints Framework makes clear that editorial complaints must be addressed first of all by the BBC Executive and not the Trust. The Senior Editorial Strategy Adviser said that she was unable to respond to the concerns about other programmes. She said that the complaint about "structural bias" should also be raised with BBC Audience Services in the first instance.

The Senior Editorial Strategy Adviser said that she had reviewed the correspondence and listened to the relevant sections of the programme and did not consider that the appeal had a reasonable prospect of success. She did not propose to proceed in putting the appeal to the Editorial Standards Committee of the Trust.

The Senior Editorial Strategy Adviser agreed that the relevant Guidelines to consider were

from the section on Impartiality.

She noted that the item was established as a report about the falling bee population and it considered some of the reasons that might lie behind that decline. She noted the introduction to the report stated: "The bad news is that one of our main pollinators, the bee, is in serious decline," and the reporter, Tom Heap, said early in his report: "Over a third of our wild bee species are showing signs of decline, and we've got half as many honeybees as we had in the 1960s."

The Senior Editorial Strategy Adviser noted that the report included contributions from different interested groups, including a bee keeper, members of the Bumble Bee Conservation Trust and a scientist carrying out research into the effect on bees of exposure to neonicotinoids in addition to the representative from Bayer and a response from DEFRA. The Senior Editorial Strategy Adviser noted the response from BBC Complaints:

"It's not always possible or practical to reflect all the different opinions on a subject within individual programmes or reports. Editors are charged to ensure that over a reasonable period they reflect the range of significant views, opinions and trends in their subject area. We don't seek to denigrate any view, nor to promote any view. We seek rather to identify all significant views, and to test them rigorously and fairly on behalf of the audience."

The Senior Editorial Strategy Adviser commented that this is the sort of approach that is required in the Guidelines, and she noted that the ECU Complaints Director made a similar point in his letter to the complainant. The Senior Editorial Strategy Adviser noted that the report itself included information about the dramatic decline in the habitat which bees require and also included information about the bees' susceptibility to the varroa mite and other diseases.

The Senior Editorial Strategy Adviser said that, with reference to neonicotinoids, the presenter noted that there were reports linking the pesticides to declining bee numbers and described how the bee came to be exposed to the pesticide:

"...as the plant grows, the pesticide comes from the seed, up through the stem and into the flower itself, getting into the very nectar and pollen. So, when a bee lands on an oilseed rape flower grown from these, a small amount of that neonicotinoid could be taken in by the bee."

The Senior Editorial Strategy Adviser noted that the programme also included a contribution from a scientist, Dr Nigel Raine, carrying out research into how neonicotinoids might then affect the bee. He described how he tracked the behaviour of bees exposed to the pesticide and then said:

"What we find was that the pesticides affected the foraging behaviour of the bees, so the bees that were exposed to the pesticide were much less able to bring back pollen to the colony, which is essential for colony growth. And we also found that the colony development in the pesticide-treated colonies was reduced, so they produce fewer workers. So we're seeing quite significant effects in the colonies and the individuals."

The Senior Editorial Strategy Adviser noted what the ECU Complaints Director had written on this point:

“It seems to me that viewers would be in no doubt from this section of the programme that there is scientific evidence linking the use of pesticides to the decline in bee numbers.”

The Senior Editorial Strategy Adviser said that she agreed with this analysis.

In terms of the contribution from Julian Little of Bayer Crop Science, the Senior Editorial Strategy Adviser considered that both in accordance with the Guidelines and in line with audience expectations, the programme makers were right to put the concerns that had been raised to a representative of the pesticide manufacturers. The Senior Editorial Strategy Adviser considered that the interview was a robust one and noted Mr Little was challenged about his opinion that research conducted in a laboratory was not valid and was pressed more than once on how safe the chemicals used in Britain were for the bee population.

The Senior Editorial Strategy Adviser said that, while it would have been open to Mr Heap to question Mr Little about the allegation the complainant made – namely that the current approvals régime is controlled by the pesticide companies – it would not be considered a breach of the Guidelines on Impartiality for him not to have asked that question.

The Senior Editorial Strategy Adviser explained that decisions about what question areas should be covered in an interview are part of the creative and editorial direction of the BBC and remain the responsibility of the BBC Executive unless there has been a breach of the Guidelines, which she had not seen any evidence for here. She noted that the complainant had suggested there was a “partisan approach” on the part of *Countryfile*; however, she considered that the programme makers had sought the views of a range of contributors and pressed both the government representative and the chemical industry representative on the points that were raised.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated the points he had made with regard to the alleged lack of rigour in the *Countryfile* item, saying that: “As my present complaint reveals, that programme's research was inadequate, badly supervised and poorly managed, leaving some crucially important stones unturned!” The complainant referred to the Guidelines on controversial subjects which require that a “wide range of significant views and perspectives” should be given due weight and prominence. He said that this had not been done on this occasion.

### **The Committee's decision**

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter asking the Committee to review her decision. The Committee was also provided with the relevant clips from the programme.

The Committee noted the complainant's point regarding a “wide range of significant views and perspectives”; however, it was mindful that the Guidelines do not stipulate that this must be contained in a single broadcast. The Committee was satisfied that, taking into account different views which had been included in the programme, it would be unlikely to find that the range of views included was insufficient so as to constitute a breach of the Impartiality Guidelines in this broadcast.

The Committee concluded that, while the *Countryfile* item had not explored the aspects of the story which were of particular interest to the complainant, the matter had been treated appropriately in the way that the programme team had chosen to approach it.

The Committee agreed that it was for the programme team to decide on the approach to take and that, as this was a matter of the BBC's creative and editorial direction, it was not a matter for the BBC Trust.

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

## ***Eurovision Song Contest Semi-Finals, BBC Three, 8pm 22 and 24 May 2012***

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit not to uphold his complaint regarding the captioning of a photo with the word "lesbian", the use of the word "ass" and a discussion about whether a contestant was gay or European or both, and an on-screen message from a viewer saying they were gay and European.

The complainant argued that BBC Three's *Eurovision Song Contest* programmes, both of which started at 8pm, were widely watched by young audiences, and that the content should therefore have been suitable for children. The complainant said that the coverage was not appropriate and he pointed to three particular elements which he believed contravened the BBC's general pre-watershed commitment that programming should be suitable for family audiences, including young children. The complainant also said that the BBC's guidelines state that programmes should not seriously corrupt the moral development of children, and that strong language should only be used if editorially justified.

The complainant's three key points were:

- That it was unnecessary and inappropriate to discuss Engelbert Humperdinck's song about a lesbian seagull, play an extract from the song and put up a picture of a seagull with a caption "lesbian".
- That it was equally inappropriate for the presenter to joke about whether a particular singer was gay or European, and then put up an on-screen quote from a viewer who said he was "gay" and "European". The complainant said that preoccupation with a sexual angle on everything continued with the presenter talking about how he would play a game, while watching TV on holiday, in which he would guess which pop stars might be gay.
- That the use of the word "ass" was inappropriate. The complainant quoted from two dictionaries which described the word as "offensive" and "vulgar".

### **The Trust Unit's decision**

The Trust's Senior Editorial Strategy Adviser replied to the complainant explaining that she had reviewed the correspondence and watched the relevant parts of the programme and she did not consider that the appeal had a reasonable prospect of success. She did not propose to proceed in putting the appeal to the Editorial Standards Committee of the Trust.

The Senior Editorial Strategy Adviser said that she was sorry that the complainant was offended by various references and comments in the programmes in question; she noted that he was concerned about the potential impact on his children.

The Senior Editorial Strategy Adviser said that she had considered the appeal in the context of the guidelines as they apply to pre-watershed programming. She said she had considered the complaint in terms of the Guidelines relating to Harm and Offence and Language.

Addressing the complaint about the word "lesbian", the Senior Editorial Strategy Adviser noted that in this section of the first semi-final there was a voice-over listing Engelbert Humperdinck's musical credentials and a montage of music played at the same time. The narrator noted some of Mr Humperdinck's hits and influences and stated: "The Golden Globe winner confirmed his cool credentials recording this for the Beavis and Butthead film". A photograph of a seagull appeared on screen with the caption "Disclaimer: This seagull may not be a lesbian", and the lyrics "lesbian seagull" could be heard in the music montage.

The Senior Editorial Strategy Adviser noted that the Executive Editor, BBC Complaints, had explained that this was a reference to a song Engelbert Humperdinck had recorded called "Lesbian Seagull". The letter stated:

"It was all intended to be rather innocuous and light hearted, and was we felt in-keeping with the rest of the profile shown on a BBC Three entertainment programme. Even to viewers unfamiliar with that song... I stress that there was nothing remotely derogatory or homophobic by the wording used, and that there is nothing in our guidelines which forbids us from using such a word in a programme like this."

The Senior Editorial Strategy Adviser agreed that most viewers would have considered this reference innocuous and light-hearted and she did not believe that its use here would be offensive. She concluded that the complaint on this point did not have a reasonable prospect of success and she did not intend to put it before Trustees.

The Senior Editorial Strategy Adviser then addressed the second element of the complaint, relating to the use of the word "gay" and to comments made by the presenter about how he would speculate on the sexuality of people he saw while he was on holiday in a game termed "gay or European". The Senior Editorial Strategy Adviser noted that the exchange took place just before the performance by Georgia's act. The musician from Georgia, Anri Jokhadze gave a rather over-blown performance and at the end of it, the presenters, Scott Mills and Sara Cox, referred again to their "fabulous game, 'gay or European?'"

Again, the Senior Editorial Strategy Adviser considered that this point had been properly addressed by the Executive Editor, BBC Complaints, who noted that the competition was:

"very well known for having a large gay following, and that has been clearly represented throughout the years on-screen in the actual contest. Scott Mills, as an openly gay man, clearly had a bit of fun with this, but his comments were light-hearted and entirely without malice."

The Senior Editorial Strategy Adviser agreed with the assessment that the comments were not made in a derogatory way and were intended to be light-hearted. She did not consider that the comments would have exceeded the expectations of the audience generally. She also considered that the exchange was a cultural reference related to the musical *Legally Blonde* – which refers to a similar concept and includes a song with the lyrics "Is he gay or European?" – and this would have been known to a proportion of the audience. Therefore, she did not consider the complaint had a reasonable prospect of

success on this point.

Lastly, the Senior Editorial Strategy Adviser addressed the element of the complaint about the term "ass". She noted that this term was used once in the first semi-final when Scott Mills was interviewing a *Eurovision* competitor and he asked her about an earlier interview she had given.

He said:

"You said something about how before you go on stage you have to smack someone's ass."

The Senior Editorial Strategy Adviser noted that the exchange was light-hearted and the contestant described how it was, for her, something of a "lucky charm" and had come about because the musicians were walking on to the stage before her.

The Senior Editorial Strategy Adviser noted that the BBC's guidelines on potentially offensive language provide a range of guidance about what may be offensive and in what situations. She noted that a letter from the Executive Editor had referred to research into offensive language carried out by Ofcom and published in 2010. That letter stated:

"This study grouped the word 'ass' at the lowest end of the offence spectrum, along with words such as breasts and bum, saying that words like this were used in everyday language as a reference to body parts, and were not usually used in a context which is likely to offend people."

The Senior Editorial Strategy Adviser noted that the complainant had referred to a dictionary definition of the word as "vulgar" and had suggested its use was inappropriate. She noted that the ECU Complaints Director also referred to the Ofcom research which suggested that most people considered it in the mildest category of strong language. The Complaints Director explained that the guidelines on Harm and Offence:

"...do not require that the BBC never offends, or that material which some may find distasteful is not included. Given that taste in such matters is inevitably subjective, that would be impossible to achieve. They do however ask that programme-makers judge the suitability of content against the context of when it is broadcast and what the likely expectations of the audience might be."

The Senior Editorial Strategy Adviser said that she considered this to be a reasonable summary of the demands of the Guidelines and, again, she did not consider the audience's expectations would have been exceeded by this output. Therefore on this final point too, she did not consider that the appeal had a reasonable prospect of success and she did not propose to put it before Trustees.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He said that he firmly believed these shows should be for the whole family and he was upset that the BBC is blasé about standards when young children are watching. The complainant said that BBC Three does not advertise that it has different editorial standards from BBC One and that the standards should be the same whatever channel *Eurovision* is broadcast on. The complainant said that the Senior Editorial Strategy Adviser's response did not take into account the fact that he was complaining about language in the context of young children watching when pre-watershed standards should apply.

The complainant said that *Eurovision* was effectively marketed to viewers of CBBC and he cited 143 articles mentioning the word Eurovision on the CBBC *Newsround* website. The complainant asked how, if the words "lesbian", "gay" and "ass" were not suitable for a CBBC programme, then why were they suitable for a "show it urged them to watch on BBC Three". The complainant said it was irrelevant that the adult section of the audience would understand the cultural references as his complaint was about the impact on young audiences.

### **The Committee's decision**

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter asking the Committee to review her decision. The Committee was also provided with the programme in question.

The Committee noted the complainant's concern about young children watching the programme. The Committee was satisfied that this was not a programme primarily targeted at young children, although it accepted that they may have formed part of the audience. The Committee did not agree that the channel on which the programme was broadcast should be disregarded when considering the likely audience expectation. The Committee considered that this was a relevant consideration. The Committee did not consider that there was evidence to support the allegation that this broadcast had not been within the pre-watershed guidelines.

The Committee noted that the complainant objected to the use of the words "lesbian", "ass", and "gay", as well as what he described as explicitly sexual themes. The Committee did not consider that exposure to these words would necessarily have the detrimental effect on younger viewers that the complainant believed. The Committee noted that the show was presented in a spirit of light-hearted fun and none of the comments would be likely to perpetuate prejudice or seriously impair the physical, mental or moral development of children or young people.

The Committee noted that the complainant was concerned about some of the content of this programme in relation to younger viewers but it agreed that the general audience was unlikely to have taken offence. The Committee was satisfied that the BBC had given appropriate consideration to generally accepted standards and this complaint did not have a reasonable prospect of success on appeal.

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

## **“Treasury messing with UK clean energy policy, say MPs”, BBC Online, 23 July 2012**

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant’s appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision of the Head of Editorial Compliance and Accountability not to uphold his complaint. The appeal had two aspects; firstly, in relation to the original complaint that an online news report about clean energy indicated there was bias in the BBC’s reporting and, secondly, in relation to the handling of the complaint by the BBC.

With regards to handling, the complainant said that it was his belief that the BBC had replied to a complaint that he had not made. He also believed the BBC used “red herrings” in its responses, in that the BBC correspondence had referred to climate change when that had not formed part of his complaint.

The complainant requested the Trust review the correspondence that had passed between himself and the BBC. He said:

“...Although the tone of the BBC’s most recent letter is more moderate, the issues of bias and fabrication have still not be[en] resolved.”

The original complaint related to an online report which described how MPs who were part of the Energy and Climate Change Select Committee were criticising the actions of the Treasury. The report said they believed the Treasury’s actions would undermine the Government’s stated plan of increasing the amount of energy produced from renewable sources.

The complainant said that the BBC was biased and that “...the BBC is, contrary to its Charter, promoting an agenda. The agenda is environmentalism, and in this case the aspect it is promoting is wind turbines to generate electricity.”

### **The Trust Unit’s decision**

The Trust’s Senior Editorial Strategy Adviser replied to the complainant explaining that she had reviewed the correspondence and read the report in question and did not consider that the appeal had a reasonable prospect of success. She did not propose to proceed in putting the appeal to the Editorial Standards Committee of the Trust.

The Senior Editorial Strategy Adviser noted that the initial complaint was that the BBC’s reporting was biased in that it promoted an agenda of “environmentalism”. The complainant stated that an online report did not refer to the disadvantages of wind turbines – and he listed a number of disadvantages including the life cycle costs, the technical complexity of integrating energy produced by wind turbines with the national grid, the impact on the landscape and the effect of the turbines on bird populations. The complainant said that it did not refer to the existence of “valid opinions contrary to those which it is promoting” and also it did not refer to “growing grass-roots opposition” to wind turbines. The complainant said that the BBC’s Environment Analyst was “merely a spokesperson for a particular political group which represents the core beliefs to which

the BBC subscribes”.

The Senior Editorial Strategy Adviser said that she had considered her response in the light of the complainant’s appeal but that she had also borne in mind the points which the complainant had made regarding the handling of his complaint. She noted, firstly, that the complainant felt the BBC misread complaints.

The Senior Editorial Strategy Adviser noted that the Head of Editorial Compliance and Accountability for BBC News wrote in her response to the complaint: “...it does not seem surprising to me that from the outset your complaint was interpreted as being a criticism of a particular report’s failure to make ‘mention of the disadvantages of wind turbines’... It is now clear that you wished to refer to wind farms just as example of bias towards environmentalism but, given what you wrote, it seems to me entirely reasonable for the responses to address the wind farm question you had raised about a particular report.”

The Senior Editorial Strategy Adviser said she was sorry the complaint was misread but, having read carefully all the correspondence and noting the stage 2 reply, she noted that the initial complaint, while certainly being about BBC bias, raised specific issues which the complainant felt should have been covered in the report. The Senior Editorial Strategy Adviser said those issues were related to wind turbines, and noted that the complainant gave the list: “intermittency, life-cycle costs, technical complexity in integration with the national grid, effects on the landscape and bird populations ... the existence of valid opinions contrary to those which it is promoting and ... the growing grass-roots opposition to them”. The Senior Editorial Strategy Adviser did not consider therefore that the complaint that the BBC perhaps deliberately misread the complaint had a reasonable prospect of success. She did not, therefore, propose to put this point before Trustees.

The Senior Editorial Strategy Adviser then looked at the second point the complainant made; that the complaint was treated dismissively. She noted that the Head of Editorial Compliance and Accountability for BBC News said – as BBC Audience Services had already done – that the complainant should have been given proper information about how to escalate his complaint. The Head of Editorial Compliance and Accountability also noted that “the tone of the first two replies was somewhat abrupt and I believe there is a risk that when answering the high volume of complaints we receive, the need for efficiency can lead to an efficiency of tone. I will raise this with colleagues.”

The Senior Editorial Strategy Adviser accepted that the complaint was initially treated with brevity and the tone suffered as a consequence. She was pleased to note that this had been taken up with the staff who replied at stage 1 by the Head of Editorial Compliance and Accountability for BBC News. The Senior Editorial Strategy Adviser did not, however, consider that the complaint was treated dismissively. She noted that the BBC did draw to the complainant’s attention relevant articles which answered the complaint as they then understood it. The Senior Editorial Strategy Adviser said she considered that the further response from BBC Complaints was a reasonable attempt to answer the queries he had made and that, in giving a range of BBC reports related to coverage of wind farms, the response was an attempt made in good faith to illustrate the breadth of coverage that existed on this issue.

With regard to the complaint of general bias, the Senior Editorial Strategy Adviser said that the response from the Head of Editorial Compliance and Accountability clearly set out how the BBC’s science coverage was set in the context of the report from the Intergovernmental Panel on Climate Change which, she noted, “concluded with certainty of more than 90% that climate change was primarily driven by humans... BBC News currently takes the view that our reporting needs to be calibrated to take into account the

scientific consensus that global warming is man-made". The Head of Editorial Compliance and Accountability had set out the requirement for Impartiality under the BBC's Editorial Guidelines and explained that the BBC's approach – which is endorsed by the BBC Trust – is that journalists must give "due weight" to the balance of scientific opinion.

The Senior Editorial Strategy Adviser said that she did not believe that the argument that the complaint was treated dismissively stood a reasonable prospect of success, and she did not propose to put it before Trustees.

The Senior Editorial Strategy Adviser then looked at the third point; that several responses the complainant received were anonymous. The Senior Editorial Strategy Adviser provided the complainant with a link to where the BBC's complaints framework could be found ([www.bbc.co.uk/complaints](http://www.bbc.co.uk/complaints)) and noted that there is no requirement for respondents who are answering on behalf of the BBC to give their names at Stage 1. The Senior Editorial Strategy Adviser noted that the Head of Editorial Compliance and Accountability had explained that some online journalists might feel, "particularly vulnerable because of the way their identities can be and sometimes are abused in internet chat". The Senior Editorial Strategy Adviser said that she did not consider that the complaint on this point was likely to succeed and she did not propose to put it before Trustees.

Next the Senior Editorial Strategy Adviser addressed the complaint that the BBC "fabricates" in its responses.

The Senior Editorial Strategy Adviser agreed that the initial complaint did not state that all reports, in order to achieve fairness and balance, needed to address the list of points the complainant had suggested Roger Harrabin's online report was lacking. However, she did not consider that the response was intended to be misleading, nor had she seen any evidence that there was a deliberate attempt to manufacture the complaint. She said that BBC News was writing in response to a letter in which the complainant had repeated his complaint about Roger Harrabin's initial article and attached the earlier correspondence – which included a list of views about wind turbines which the complainant stated should have been addressed.

The Senior Editorial Strategy Adviser said she was sure that the Trustees would wish her to apologise to the complainant on their behalf for any lack of clarity; however, she had seen no evidence that the BBC was deliberately attempting to alter the nature of the complaint in the manner suggested. Therefore, on this point too, the Senior Editorial Strategy Adviser did not consider that the complaint had a reasonable prospect of success and did not propose to put it before the Trustees.

The Senior Editorial Strategy Adviser noted that the complainant had said the BBC was obstructive and had not addressed the complaint he made about coverage relating to Dr Muller. The Senior Editorial Strategy Adviser noted that on this point the Head of Editorial Compliance and Accountability for BBC News had referred the complainant to the BBC's complaints protocol and had explained that the complainant had been given advice in line with the protocol because: "it is not feasible to enter into protracted dialogue with complainants if they keep raising new issues."

The Senior Editorial Strategy Adviser said she considered that to be a reasonable response and did not believe the complaint on this point was likely to be successful; therefore she did not propose to put it before Trustees.

The Senior Editorial Strategy Adviser noted that in his appeal to the BBC Trust the

complainant asked for the underlying paperwork behind the complaint to be considered. The Senior Editorial Strategy Adviser said that she had done this and noted that the complainant had also suggested that the Head of Editorial Compliance and Accountability for BBC News had introduced a number of red herrings. Namely, he felt the references she had made to climate change, the reference to the impartiality report "From Seesaw to Wagon Wheel: Safeguarding Impartiality in the 21st Century" and the reference to Professor Steve Jones's impartiality report of the BBC's Science Coverage were not relevant to the complaint of bias.

The Senior Editorial Strategy Adviser noted that the initial complaint stated: "...the BBC is, contrary to its Charter, promoting an agenda. The agenda is environmentalism." The Senior Editorial Strategy Adviser explained that the Head of Editorial Compliance and Accountability was giving context to the BBC's reporting of scientific and environmental issues and was answering the complainant's principal complaint; that he believed the BBC is biased. The Senior Editorial Strategy Adviser considered it reasonable that in addressing that central complaint, the Head of Editorial Compliance and Accountability should outline the thinking behind how difficult and sometimes contentious issues are covered.

The Senior Editorial Strategy Adviser noted the complainant's points regarding delays. She also noted that the Head of Editorial Compliance and Accountability for BBC News, had accepted where there had been errors and had apologised to the complainant. She noted that the Head of Editorial Compliance and Accountability had also apologised that the complainant was not told how to escalate the complaint.

The Senior Editorial Strategy Adviser said she was sure the Trustees would also wish her to add her apologies for the delays that occurred in handling the complaint. She said that, where the Executive do accept a breach and apologise, the Trustees normally consider the matter resolved (unless there are features to the breach which suggest it is so serious that further action may be necessary). She did not believe that this matter raised such serious issues that further action would be required. She therefore decided that the appeal on these general grounds did not have a reasonable prospect of success.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He noted that the Trust would only consider an appeal if it raised a matter of substance and stated his view that "institutional mendacity" met that definition. The complainant disagreed with the Senior Editorial Strategy Adviser's conclusion that the BBC had not deliberately falsified his complaint. The complainant alleged that the complaints system was effective at throttling criticism of the BBC and that this should be a cause of concern to the BBC Trust.

### **The Committee's decision**

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

The Committee noted that the BBC had accepted that, with the aim of efficiency, the initial responses to the complaint had fallen short. The Committee was encouraged that the BBC had said it would learn from these shortcomings. Aside from this, the Committee considered that the further responses to the complaint had been adequate and appropriate. The complainant had criticised the article in question for not presenting the disadvantages of wind turbines. When he had made clear that this was as an example of his allegation of general bias in favour of "environmentalism", the BBC responses were widened. The Committee noted that the complainant had received apologies for the delay

and the shortcomings in the initial responses. The Committee was satisfied that the complaint had been handled appropriately and it agreed that there was nothing further to be gained from considering the handling of the complaint on appeal.

Turning to the substance of the complaint, the Committee agreed that, as this article was not about the benefits or disadvantages of green energy in general or wind turbines in particular, there was no requirement to include details such as those that the complainant had said were missing. The Committee agreed that there was no reasonable prospect of this complaint being upheld on appeal.

With regard to the complainant's allegation of general bias, the Committee noted that the BBC had provided examples of where it had covered the negative aspects of green energy. The Committee acknowledged that the complainant did not accept that these were sufficient. The Committee was not aware, however, of any specific complaint of bias in this regard which had been upheld and it agreed that there was certainly no compelling case for an allegation of general bias. The Committee agreed that a complaint of general bias would have no reasonable prospect of success on appeal.

The Committee noted that the complainant had referred to the criterion that an appeal should raise a matter of substance. The Committee was mindful that in assessing whether this test was met, the Committee should consider whether the appeal has a reasonable prospect of success.

The Committee noted the complainant's comments about the complaints system. It did not agree that the fact a modest number of the large quantity of complaints received at Stage 1 were escalated to the next Stage of the procedure necessarily indicated a problem with the process. The Committee was mindful, however, that complaints handling is a matter that the Trust is currently keeping under close review. The Complaints Framework was revised in 2012 and there will be a "mystery shopping" exercise looking at how the new framework is working in 2013.

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

## ***Is Football Racist?, BBC Three, 16 July 2012***

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit not to uphold his complaint regarding the BBC Three documentary *Is Football Racist?* The appeal concerned a segment in the programme in which the presenter reported on the anti-Semitic and racist behaviour he witnessed at a football match in Krakow.

The complainant said the programme was part of a "covert anti-Polish" bias demonstrated by the BBC. He identified the key issue as the way in which the programme reflected the racist and anti-Semitic behaviour of some Polish fans at the Krakow derby, without also including any balancing comment about the absence of any racist incidents involving the host nation at the subsequent European championships. The complainant claimed this resulted in a failure of impartiality.

The complainant said that the programme introduced the Euro context but then, in his view, failed in its duty to comment on the truth of the experience. The complainant said that the programme was unfair since, after showing the negative images in what he said was a distorted context, it was obliged to categorically mention that there had not been any incidents of a racist nature from the host country of Euro 2012. The complainant argued that, as the programme had covered the outcome of John Terry's trial, it ought to also have referred to the absence of racist incidents in the Euro 2012 contest.

### **The Trust Unit's decision**

The Trust's Senior Editorial Strategy Adviser replied to the complainant, explaining that she had viewed the relevant sections of the programme in question and did not consider that the appeal had a reasonable prospect of success. She did not propose to put the appeal to the Editorial Standards Committee of the BBC Trust.

The Senior Editorial Strategy Adviser quoted from the Editorial Guidelines on Impartiality and noted that they entitled programme makers to explore an issue from one perspective but that must be made clear to the audience – and the programme must still meet the requirements of the Guidelines to be duly accurate. The Senior Editorial Strategy Adviser noted that the complainant had also raised the Guidelines on Harm and Offence in relation to the effect the programme may have had on the way Poland is perceived.

The Senior Editorial Strategy Adviser noted that this programme was an hour-long authored documentary. The presenter was not a journalist, but was clearly identified as a professional footballer and the Chairman of the Professional Footballers' Association. He was also a member of an ethnic minority. The Senior Editorial Strategy Adviser noted that the billing for the programme stated: "Premier league football defender Clarke Carlisle explores how far his profession has progressed in tackling racism."

The Senior Editorial Strategy Adviser said that, whilst the programme would still be expected to adhere to the editorial guidelines in all respects, audience expectation would be a consideration. She argued that, the audience for this programme would be expecting Mr Carlisle's personal view and for his journey to take him where he felt he could explore the issues that he felt were important. The Senior Editorial Strategy Adviser noted that

the complainant had acknowledged the validity of the programme and had praised it as a whole, describing it as a “splendid and intelligent commentary” on racism in football (this complaint notwithstanding).

The Senior Editorial Strategy Adviser noted that the programme was centred principally on football in Britain, the section which related to Poland began exactly half way through and lasted for five minutes. She said that the narrative arc of the programme was, broadly, that Mr Carlisle stated initially that he had begun his journey with the belief that racism was a thing of the past in British football, but ended it with a somewhat different view, namely that while overt racism was no longer tolerated, a more subtle racism had taken its place and that it was a cause for concern.

The Senior Editorial Strategy Adviser considered first the complainant’s principal complaint – that the programme did not include a statement to the effect that the Euro 2012 competition, hosted by Poland and Ukraine, had not seen the racist behaviour that had been predicted.

The Senior Editorial Strategy Adviser’s first consideration was whether there was any obligation in the interests of impartiality for the presenter to revisit the issue of racism in Polish football in the light of the experience of the European Championships, given that the programme was broadcast after the competition had finished.

The Senior Editorial Strategy Adviser noted that there had been a great deal of media attention from the moment Poland and Ukraine were announced as hosts of Euro 2012, because of both countries’ history of racism at club level football; however, this did not form any part of the programme *Is Football Racist?* She noted that the presenter had introduced the idea that he would visit Poland before the Euro 2012 competition by saying:

“As I learn more about English football’s racist problems, I’m keen to get some perspective and to see how they compare to other countries. So I’m visiting Poland before it hosts the European championships...”

The Senior Editorial Strategy Adviser noted that there were no other references to Euro 2012 in the programme, and the presenter did not repeat any of the concerns that had been voiced in the media about potential racist incidents during Euro 2012. She noted that the sequence which was broadcast from Poland focussed on club level football and discussed racism in the context of inter-club rivalry. It culminated in the presenter making a general observation that what he had seen in Krakow showed him “how much has been done to kick racism out of English football grounds”.

The Senior Editorial Strategy Adviser noted what a Complaints Director from the Editorial Complaints Unit, at Stage 2 of the complaint, had said in relation to the presenter’s trip to Krakow where he was to watch a game between two local teams:

“Around the city he found examples of anti-Semitic graffiti directed at Wisla supporters and, on the way to the stadium with Wisla supporters, recorded highly obscene chants aimed at Cracovia. In the stadium he witnessed monkey changes being directed at a black player by a large group of supporters and then anti-Semitic chants (including “Every Jew is a paedophile”) from hundreds of Cracovia supporters.

“I think Clarke Carlisle made it quite clear from his reporting inside the stadium that the chants, while they were coming from quite large groups of supporters

were, nevertheless, only coming from some sections of a very large crowd. And, in addition, he interviewed a local police officer in charge of policing arrangements on the day who pointed out that, in his view, these chants were more of a reflection of gang rivalry than actual prejudice and that incidents of hostility towards foreigners or gay people were actually very rare. All of this, it seems to me, suitably qualified what the programme was saying so that, whilst it made clear that the Polish game had a real problem with the sort of racist behaviour which has disappeared from the English game in recent years, it did not fall into the trap of suggesting inaccurately that all (or most) Poles or Polish society itself are racist and anti-Semitic.”

The Senior Editorial Strategy Adviser said that she considered that to be a reasonable summary of this section of the programme and she agreed with the analysis that the programme did not suggest that most Poles or Polish society were racist and anti-Semitic. The Senior Editorial Strategy Adviser said that the programme made it clear that the comments the presenter was making related to hostilities he had witnessed between rival local fans – and was not related to any anxieties that existed in advance of the Euro 2012 contest.

The Senior Editorial Strategy Adviser noted the complainant’s second point: that, because the outcome of the John Terry trial was covered in the programme, it should also have covered the outcome of Euro 2012 in terms of the lack of racist incidents that were experienced. The Senior Editorial Strategy Adviser noted that this programme was centred on racism within the game in Britain. She explained that the presenter’s conclusions on his experiences in Poland were set in the context of how it informed his opinions about the British game, and did not relate to any concerns that had been expressed about racism during the Euro 2012 competition. The Senior Editorial Strategy Adviser noted too that discussion of John Terry’s behaviour and trial was a thread that ran throughout the programme, therefore she did not agree that the comparison the complainant drew was valid in this context.

The Senior Editorial Strategy Adviser noted the examples the complainant had provided regarding the apparent absence of racist incidents by the host country during Euro 2012, and the comments he had attributed to the British policeman in charge of the UK police delegation. She did not agree that this was a relevant consideration in the context of this complaint. As previously noted, the programme made no reference to predictions of racist incidents at the Euros and the segment was entirely focussed on a specific club-level match in a specific town where the presenter witnessed at first hand inter-fan rivalry that was both anti-Semitic and racist.

The Senior Editorial Strategy Adviser explained that the choice of what material to include or omit in a programme is a matter of editorial judgement and the responsibility of the programme makers unless it results in a breach of the editorial guidelines. With reference to the complainant’s assertion that the programme ought to have noted the absence of reported racist incidents by the host country in Euro 2012, she said that there was no obligation to have included such information. The Senior Editorial Strategy Adviser therefore concluded that there would be no reasonable prospect of success was this aspect of the complaint to proceed to appeal.

Lastly, the Senior Editorial Strategy Adviser considered the complainant’s contention that the programme gave the impression that Poland was a racist society. She repeated that she considered that the presenter’s report of the local football match made it clear that the anti-Semitic and racist behaviour he witnessed were limited to specific groups of fans. In addition, she noted the following comments he made in the script:

“There have been well documented problems with racism over here in Poland. I’m going on a tour of the Wisly Krakow and the Cracovia neighbourhoods to try and find all this anti-semitic graffiti that I’ve heard so much about. Because Cracovia has a historical connection with Jews some Wisly fans still target their rivals with anti-Semitic slurs. (...) soon after kick-off a black Cracovia player is targeted by a minority of the home fans... Later some of the home supporters taunt their rivals.”

The Senior Editorial Strategy Adviser noted that, whilst the first sentence did not specifically confine the allegation of racism to football fans, the sentence which followed immediately after and the imagery clearly related the presenter’s comments to inter-fan soccer rivalry rather than suggesting it related to Polish society as a whole. She also noted that, where the script referred to the monkey chants and the anti-Semitic song, it was described in the context of football, and was further defined as relating to “some Wisly fans”, “a minority of the home fans” and “some of the home supporters”.

The Senior Editorial Strategy Adviser concluded that the programme included challenging material but in her view it was demonstrably editorially justified and, where the programme accused individuals of racist behaviour, it adhered to the requirement in the Guidelines to avoid careless stereotypical assumptions by defining precisely to whom it was attributing the offensive behaviour.

The Senior Editorial Strategy Adviser therefore did not agree that the segment on Poland suggested at any point that Polish people as a whole, or indeed all Polish football fans, are racist. The presenter witnessed first hand overt racism and anti-Semitism at a particular football game in Poland. She said that the evidence was sound, well-sourced and conveyed in clear, precise language as required by the Guidelines. The sequence with the policeman offered a perspective which suggested that the offensive language related specifically to football and to rivalry between teams.

The Senior Editorial Strategy Adviser said that she did not consider that any aspect of the complaint had a reasonable prospect of success and she did not propose to put it before Trustees.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He commented that matters of substance were involved as his complaint concerned editorial decision making and BBC impartiality. The complainant repeated the views he had expressed regarding the need to include the context of the Euro 2012 championship. He said that the BBC was yet to provide any evidence that it had provided any positive coverage of Poland. The complainant said that the images in this programme were the only ones that the BBC had made available to its audience. The complainant then set out a list of thirteen positive facts about Poland. The complainant alleged that the BBC never portrayed Poland in a positive light and he repeated his view that this programme had caused harm and offence.

The complainant attached a Polish Media Issues Group report critical of the BBC’s coverage of concentration and death camps in Poland, and he referred to a separate complaint he had made regarding *Panorama*.

### **The Committee’s decision**

The Committee was provided with the complainant’s appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant’s letter asking the Committee to review her decision. The Committee was also provided with the programme

in question.

The Committee agreed that the focus of the programme was the subject of racism in Britain. It noted that relatively little time had been spent looking at the situation in Poland and when it did, it was specifically related to individual groups of football fans. The Committee was satisfied that viewers would not have been left with an unfair, negative view of Polish society in general. The Committee agreed that there was no requirement from the Editorial Guidelines for the programme to have included the additional information that the complainant suggested.

The Committee agreed that the choice of what material to include or omit was a matter of editorial judgement for the programme makers as long as the Editorial Guidelines were not breached.

The Committee noted the complainant's references to the BBC's wider portrayal of Poland but it was mindful that this appeal request had not come to it as a complaint of general bias but was in relation to the editorial content of this specific programme. The Committee agreed that, looking at this programme, there was no reasonable prospect of success on appeal for the allegation that the Editorial Guidelines had been breached.

The Committee noted the complainant's view that the BBC had a covert anti-Polish agenda but it agreed that the evidence it had seen from the complainant, including his complaint about this programme, would not lead it to believe there was any substance to that allegation.

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

## ***The World at One, BBC Radio 4, 9 May 2012***

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit not to uphold his complaint regarding coverage of child grooming by Muslim Pakistani men and coverage of the Rochdale child grooming case reported on BBC Radio 4's *The World at One*.

The complainant said that the BBC's overall coverage was biased in favour of Muslims and people of Pakistani origin. He said that, while there had been some coverage of the Rochdale child grooming trial, he felt the BBC had not used its journalistic resources to seriously investigate what he described as the sexual abuse of children by Pakistani Muslim men. In support of his argument he quoted from the BBC Charter's description of the BBC's public purpose which includes a commitment to "sustaining citizenship and civil society".

The complainant referred to a Channel 4 documentary which he said showed that this sort of abuse had been going on for more than a decade, making it a subject which he believed the BBC should have devoted far more time and resources to exposing.

The complaint to the BBC originally centred on *The World at One* on BBC Radio 4 on 9 May 2012 and its coverage of the Rochdale child-grooming trial.

### **The Trust Unit's decision**

The Trust's Senior Editorial Strategy Adviser replied to the complainant, explaining that the Trust Unit had reviewed the relevant correspondence and she did not consider that the appeal had a reasonable prospect of success. She did not propose to put the appeal to the ESC.

The Senior Editorial Strategy Adviser noted that the complainant had said, with regard to *The World at One*:

"The BBC did cover the bare bones of the story, but not with facts, instead opinions that went unchallenged by both a lack of incisive journalistic research and the woman who presented the program."

The Senior Editorial Strategy Adviser noted that the complainant had said that the BBC seemed to be "institutionally unwilling" to investigate the exploitation of girls by Muslim and Pakistani men. She noted that in its reply to the complainant the BBC had explained that coverage of the case had been complicated because the police force investigating the crime had said race was not an issue, while the judge in the case had said that it was. BBC Complaints wrote to the complainant, saying:

"We took the view that the ethnicity of the defendants was an important aspect of the case and we stated that they were Asian, from Pakistan and Afghanistan. Many views were expressed about the crime and the BBC acted as a conduit for a range of opinion. For example, some senior police officers believed that race was not an issue. But the judge said he believed one of the factors was that the

victims were not of the defendants' community or religion. Some Muslim groups also said race and cultural factors were central to the case.

"It'd be unfair to suggest that the BBC shied away from the issue of race and ethnicity. For example, the 'Today' programme was one of the first outlets to debate this issue. The morning after the verdicts had been announced, 'Today' interviewed the former head of Barnardo's, Martin Narey, who called for an investigation. He said the street grooming of teenaged girls in the North of England appeared to be carried out overwhelmingly by men of Pakistani and Afghan origin."

The Senior Editorial Strategy Adviser said that she had listened to *The World at One* broadcast and noted that the local MP, Simon Danczuk, clearly expressed his view that, while the crimes were not racial in their nature, race had been a factor. She noted he had said:

"I do believe that race is a factor in terms of what's gone on in terms of this horrific exploitation. I think there's a subculture that exists, a small group of Asian men who take a very warped perspective in terms of young white girls and that's what's come to the fore... Race is a factor, there's no doubt about it."

The Senior Editorial Strategy Adviser noted that the presenter had raised that point with the other guest, the Imam Irfan Chishti, asking him whether he accepted that there was a subculture among some Asian men who had a "very derogatory opinion of young white girls". The Imam agreed that race had been a factor in the crimes.

The Senior Editorial Strategy Adviser noted that the presenter also quoted the Muslim group The Ramadan Foundation, which suggested that "community elders were burying their heads over the issue".

The Senior Editorial Strategy Adviser concluded, therefore, that *The World at One* did not shy away from covering the racial aspect to this story. She noted that the BBC's Head of Editorial Compliance and Accountability had said in a letter to the complainant:

"It would have been wrong to report the story solely through the prism of race but where relevant we did indeed explore the ethnic backgrounds of the men and the extent to which background and culture played a role was raised across BBC platforms."

The Senior Editorial Strategy Adviser then considered the complaint that the BBC was guilty of broader bias because of what the complainant believed was a failure to report the sexual abuse of children by Pakistani Muslim men. She noted the BBC's Head of Editorial Compliance and Accountability had brought a number of different reports about race and grooming to the complainant's attention. The Senior Editorial Strategy Adviser concluded, therefore, that the BBC had given the complainant reasonable information to indicate that the Editorial Guidelines, which require a wide range of opinions to be reflected in the output, had been met.

The Senior Editorial Strategy Adviser said that she did not believe that the appeal had a reasonable prospect of success and she did not propose to put it before the Committee.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He referred to a recent news story regarding the rape and murder of a woman in India and contrasted the coverage of that story with coverage of the sexual abuse of

white children by Pakistani Muslim men. He said that events in this country had not been given due weight as required by the Impartiality Guidelines. The complainant concluded that the BBC was "biased in favour of Muslims and Pakistanis" because it had failed to give sexual violence against white children sufficient investigative resources and airtime.

### **The Committee's decision**

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant's letter asking the Committee to review her decision. The Committee was also provided with the programme in question.

The Committee noted the way that *The World at One* had approached the child grooming story. It noted the examples that the Senior Editorial Strategy Adviser had provided of where the programme had explored race as an aspect of the story. The Committee agreed that the item had covered the subject in a balanced way and had reflected the various viewpoints appropriately. The Committee concluded that there was no reasonable prospect that it would uphold a complaint of bias in relation to this programme.

The Committee noted the complainant's general contention that there was an imbalance in the way the BBC covered cases of sexual abuse involving Muslims and Pakistanis. The Committee did not consider that it was helpful to relate the coverage of the recent rape and murder of a woman in India to coverage of other news stories. The Committee was mindful that the news agenda varies from day to day and the relative coverage given to stories was not necessarily indicative of bias.

The Committee noted that the BBC had provided the complainant with examples of BBC output that had covered the subject of race and grooming. The Committee accepted that the complainant would prefer this type of coverage to be more prominent. However, it was satisfied that this was not a matter of impartiality and that there was no evidence to support an allegation of bias in that regard.

The Committee agreed that there was no reasonable prospect of success for the complaint on appeal.

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

## **Decision at Stage 1 to close complaint about BBC coverage of climate change**

The complainant asked the Editorial Standards Committee to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

### **Appeal to the BBC Trust**

The complainant wrote to the BBC Trust following the decision by BBC Audience Services to cease further correspondence with him regarding the BBC's coverage of climate change. BBC Audience Services said that they could not engage in any further correspondence on this issue as the complainant did not raise a complaint against a specific programme or individual.

The complainant said that the BBC's coverage showed a "devotion to the theory of man-made global warming" and, as a result, stifled objective debate on the subject.

The complainant said that, while data in the mid-1990s supported the probability that there was a link between CO<sub>2</sub> emissions and global temperatures, the situation since had become much less clear as scientific data had shown that there had been a negligible rise in global temperatures since 1997.

The complainant said that, despite such data, the BBC still failed to be impartial on the subject. He said that the Corporation had stated that the science on global warming was settled, but he believed that this was not the case as there was no obvious correlation between CO<sub>2</sub> emissions and global temperatures.

### **The Trust Unit's decision**

The Trust's Senior Editorial Strategy Adviser replied to the complainant, explaining that she had read the relevant correspondence and did not consider that the appeal had a reasonable prospect of success. She did not propose to put the appeal to the Editorial Standards Committee of the Trust.

The Senior Editorial Strategy Adviser said that the BBC does have a responsibility to be fair, accurate and impartial across all its output, to provide a right of reply to individuals and groups as and when appropriate and to ensure that no-one or no one group is unfairly represented.

She said that these responsibilities are reflected in the BBC's Editorial Guidelines. She explained that, in this context, if the complainant were to make a specific allegation about a programme, series or individual which crystallised his general concern then it would be possible to consider it. However, as the BBC had explained, the editorial complaints procedure is designed to consider specific complaints where the BBC may have failed in its duty to uphold its publicly stated editorial standards. The editorial complaints procedure specifies that the BBC may not investigate a complaint if it:

Fails to raise an issue of breach of the Editorial Guidelines; or  
is trivial, misconceived, hypothetical, repetitious or otherwise vexatious

The Senior Editorial Strategy Adviser said it therefore seemed reasonable to her for the BBC to say that it could not respond any further on this issue as the complainant had not cited an example of specific content which would provide evidence to demonstrate an engagement with, or breach of, the BBC's Editorial Guidelines.

The Senior Editorial Strategy Adviser said she believed that the Trustees would be of the view that BBC Audience Services had provided a reasoned and reasonable response to the non-specific complaint but were not able to respond more specifically without this evidence. She did not believe that the appeal had a reasonable prospect of success and did not propose to put it forward to Trustees.

Looking at the substance of the complaint to the BBC, the Senior Editorial Strategy Adviser noted that the complainant believed the BBC had failed to be impartial on the subject of climate change and had stifled objective debate on the subject. She noted that he said the BBC had stated that the science on global warming was settled, and that by doing this, it was ignoring scientific data that showed there had been a negligible rise in global temperatures since 1997.

The Senior Editorial Strategy Adviser included a link to a report entitled *From Seesaw to Wagon Wheel: Safeguarding Impartiality in the 21st Century*.  
[http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review\\_report\\_research/impartiality\\_21century/report.pdf](http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/review_report_research/impartiality_21century/report.pdf)

She explained that this report was commissioned by the BBC Governors and the BBC Executive but was an independent report by John Bridcut. It was presented to the BBC Trust, which accepted the report, agreed the principles outlined within it and approved the recommendations for the Trust. She noted that, on page 40 of this report, it states:

“Climate change is another subject where dissenters can be unpopular. There may be now a broad scientific consensus that climate change is definitely happening, and that it is at least predominantly man-made. But the second part of that consensus still has some intelligent and articulate opponents, even if a small minority.”

She noted the report goes on to say:

“Impartiality always requires a breadth of view: for as long as minority opinions are coherently and honestly expressed, the BBC must give them appropriate space. ‘Bias by elimination’ is even more offensive today than it was in 1926. The BBC has many public purposes of both ambition and merit – but joining campaigns to save the planet is not one of them. The BBC’s best contribution is to increase public awareness of the issues and possible solutions through impartial and accurate programming. Acceptance of a basic scientific consensus only sharpens the need for hawk-eyed scrutiny of the arguments surrounding both causation and solution. It remains important that programme-makers relish the full range of debate that such a central and absorbing subject offers, scientifically, politically and ethically, and avoid being misrepresented as standard-bearers.”

The Senior Editorial Strategy Adviser noted that the current BBC Guidelines state that:

“Impartiality does not necessarily require the range of perspectives or opinions to be covered in equal proportions either across our output as a whole, or within a single programme, web page or item. Instead, we should seek to achieve ‘due weight’. For example, minority views should not necessarily be given equal weight to the prevailing consensus.”

She explained that the Trust’s Editorial Standards Committee has explained its position in some of its findings on the subject in recent years. She said that the Committee’s position

was that there is a broad scientific consensus that climate change is definitely happening, and it had laid out some of the reasons for reaching that decision, which included the following statement by the Royal Society:

“Our scientific understanding of climate change is sufficiently sound to make us highly confident that greenhouse gas emissions are causing global warming.”

The Senior Editorial Strategy Adviser explained that the Committee had also noted that all three of the larger British political parties, as well as the Scottish National Party and Plaid Cymru, have accepted man-made climate change as a reality. She said, however, that does not mean alternative views should not be reflected.

The Senior Editorial Strategy Adviser noted that the complainant had raised the issue of the identity of those who attended a seminar discussing climate change which was referred to in the BBC Trust’s report. She noted his view that the seminar was “skewed” and that in relying upon it the BBC had breached its charter. While noting these points, the Senior Editorial Strategy Adviser explained that this did not change her view regarding this complaint. She said that the appeal did not have a reasonable prospect of success.

The Senior Editorial Strategy Adviser said that the seminar in question was held on 26 January 2006 under the Chatham House Rule. It was organised in partnership with the Cambridge Media and Environmental Programme (CMEP) in conjunction with BBC News and BBC Vision. It pre-dated the Trust and was not a BBC Trust event. The Senior Editorial Strategy Adviser said she understood that the seminar was a one-day event focusing on climate science and the possible implications for businesses, individuals and international diplomacy looking ahead to the next 10 years and exploring the challenges facing the BBC in covering the issue. The event brought together 28 BBC representatives and 28 external invitees including scientists, representatives from business, campaigners, NGOs, communications experts, people from the front line, scientists with contrasting views and academics. The Senior Editorial Strategy Adviser emphasised the importance that, in order to achieve an understanding of where due weight might lie in an argument, the BBC establishes what the prevailing consensus on an issue is. She said it was her understanding that the seminar was part of that effort.

Moving on from the question of the seminar, the Senior Editorial Strategy Adviser said that the most recent statements on these issues are by the Editorial Standards Committee, and she had explained their approach. The Senior Editorial Strategy Adviser did not consider that there was a reasonable prospect of success for an appeal based on the complainant’s view that the BBC had stifled debate on the subject and had failed to be impartial.

The complainant requested that the Trustees review the decision not to proceed with his appeal. He raised the recent issues related to Jimmy Savile and said it was important for the BBC to regain the public’s trust. The complainant said that public attitudes had changed over the last 15 years and he contended that the majority of people in this country were now either sceptics or disbelievers. The complainant said that the main political parties had been taken advantage of. The complainant reiterated his view that the evidence did not support man made climate change, and that the BBC was as biased as ever on the subject.

### **The Committee’s decision**

The Committee was provided with the complainant’s appeal to the Trust, the response from the Senior Editorial Strategy Adviser and the complainant’s letter asking the

Committee to review her decision. The Committee was also provided with the correspondence at Stage 1.

The Committee agreed that the BBC's approach to covering climate change had been made clear to the complainant in the Stage 1 responses and that, in the absence of any specific allegations from the complainant, there was nothing to be gained from further correspondence from the BBC on this issue. The Committee agreed that it would be unlikely to find that the BBC had been unreasonable in ceasing further correspondence on this matter and it concluded that there was no reasonable prospect of success for an appeal against that decision.

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