

Editorial Standards Findings

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

April 2014, issued June 2014

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In order to provide clarity for the BBC and licence fee payers it is the Trust's policy to describe fully the content that is subject to complaints and appeals. Some of the language and descriptions used in this bulletin may therefore cause offence.

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.

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 procedure¹ explains that:

5.10 **The Trust will only consider an appeal if it raises "a matter of substance".**² 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.³ 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.

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.

¹ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2012/complaints_fr_work_ed_complaints.pdf

² 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.

³ 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.

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 and is available from:

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

Summary of findings

Watchdog, BBC One, 8 May 2013

Summary of finding

The complainant contacted the BBC to complain that he had been portrayed unfairly and inaccurately, as the programme had implied that he had breached a confidentiality agreement with Ryanair when he had not entered into any such agreement.

The Committee concluded that:

- the penultimate line of the item made it clear that the complainant “has the money and still has the right to say whatever he wants”, making it unlikely that the audience would have understood there to be a non-disclosure agreement in place.
- it was unlikely that the audience would have seen the complainant in a negative light as a result of the Watchdog item.
- the BBC was not under any obligation to resolve the misunderstanding between the two parties regarding their respective positions. The script provided an accurate reflection of each party’s contradictory point of view. Watchdog had fulfilled its obligation to due accuracy by contacting the complainant to ask whether he had received a reply from Ryanair on this issue and there was no obligation to bring to the complainant’s attention Ryanair’s apparent disagreement over the nature of the disputed ‘settlement’.
- the discovery by Watchdog that Ryanair disputed the settlement was not a “significant change” to the programme and therefore the BBC was under no obligation to inform the complainant.
- the BBC had not made an allegation of wrongdoing, iniquity or incompetence on the part of the complainant and that there was therefore no requirement under the Fairness guidelines for the BBC to offer a right to reply to the complainant.

The complaint was not upheld

For the finding in full see pages 5 to 8.

Online summary of Editorial Complaints Unit’s finding: Re-use of Inaccurate Headline

Summary of finding

The complainant contacted the BBC to complain about an article concerning his friend (the Associate), including its headline, published on BBC News online. The Editorial Complaints Unit (ECU) found both to be materially inaccurate and the article was removed. The complainant contacted the BBC Trust after the ECU’s published finding regarding the complaint re-used the headline which it had found to be inaccurate.

The Committee concluded that:

- where the headline of the original output was materially inaccurate, it was not appropriate to repeat the inaccurate element(s) of the title or headline of the original output in the heading of a summary of a complaints finding.
- sufficient transparency would have been achieved by the inclusion of the Associate's name in the heading of the summary of the ECU's finding, the omission of the inaccurate elements of the headline, and an acknowledgement that this was a finding.
- the body text was easily legible to non-visually-impaired readers, the formatting of the heading, sub-headings and body text were appropriate, and the body text had not been relegated to the relative status of 'small print', as the complainant had argued.
- the summary of the finding was published in a context from which it was clear that the material had been found to be at fault and this was not tantamount to repeating the errors.
- where the ECU had found that a headline was materially inaccurate, the inaccuracy should not be repeated in the headline or URL-generating fields of the Metafaq upload form. This practice should be applied to all future summaries of the ECU's findings.

The complaint was upheld

For the finding in full see pages 9 to 16.

Appeal Finding

Watchdog, BBC One, 8 May 2013

1. Background

On 8 May 2013 *Watchdog* ran the following short item in its round-up section:

“Ryanair charging British passengers more than those who booked their flight in other countries – not for much longer, maybe. The airline has compensated a musician from London who threatened to bring a claim of indirect race discrimination. [The complainant] paid nearly £2,400 for seven return tickets from Stansted to Croatia, then discovered it would have been £400 cheaper to book the same flight at the other end. Ryanair agreed to pay the difference provided he didn't disclose details of the deal but it now says the payout was a mistake, denies discrimination and insists it hasn't settled. However [The complainant] has the money and still has the right to say whatever he wants. His message: if you've been over-charged by Ryanair be sure to claim.”

The script was voiced by presenter Anne Robinson over images of the flight booking and the complainant.

2. The complaint

Stages 1 & 2

The complainant contacted the BBC to complain that he had been portrayed unfairly and inaccurately, as the programme had implied that he had breached a confidentiality agreement with Ryanair when he had not entered into any such agreement.

In reply, BBC Complaints stated that *Watchdog* had a duty to reflect both positions: that of Ryanair and the complainant. They stated that the programme had implied no wrongdoing on the part of the complainant and they had not said that the complainant had agreed to non-disclosure.

The complainant escalated his complaint to the ECU. He complained that the BBC should have informed him that Ryanair thought the payment was a mistake, and that the BBC should have offered him a right to respond.

The ECU did not uphold the complaint. In its view, Ryanair did not consider that there was an agreement in place, therefore they could not argue that the complainant was subject to a confidentiality clause. This, coupled with the statement that the complainant still had the right to say whatever he wanted, led the ECU to decide that viewers would not have concluded that the complainant had behaved in any way dishonourably.

Appeal to the Trust

The complainant appealed to the Trust on 13 September 2013. The BBC Trust's Senior Editorial Complaints Adviser decided not to place the appeal before the Trustees as she did not think it had a reasonable prospect of success. The complainant was informed of this decision and asked the Trustees to review it. The Trustees agreed to consider the complainant's appeal.

The complainant raised the following points in relation to the accuracy and fairness of the item:

Point (A) The programme implied that the complainant had breached a confidentiality agreement with Ryanair, when he had entered into no such agreement.

Point (B) By stating that "Ryanair agreed to pay the difference, provided that [the complainant] didn't disclose details of the deal", and then referring to "the payout", the programme implied that the complainant had agreed to non-disclosure, as something can only be "agreed" between two or more parties; and viewers would incorrectly perceive that the complainant had dishonoured this "deal" by disclosing its details.

Point (C) The statement at the end of the piece that the complainant "still has the right to say whatever he wants" did not offset the false impression and was instead "nonsensical" in terms of the report taken as a whole.

Point (D) An average viewer (the complainant's nephew was suggested as an example) would be likely to gain the impression that the complainant had breached a confidentiality agreement with Ryanair.

Point (E) The complainant had received legal advice that there was a legal settlement in place between himself and Ryanair; the programme did not air this point of view.

Point (F) In creating this impression, the programme had defamed the complainant and seriously damaged his reputation.

Point (G) The programme had failed to inform the complainant before the programme was first broadcast of Ryanair's claim that the payout was a "mistake", therefore denying him the right to reply to rebut Ryanair's claims.

3. Applicable Editorial Guidelines

The sections of the BBC's Editorial guidelines relating to Accuracy and Fairness, Contributors and Consent are applicable to this case. The full guidelines are at: www.bbc.co.uk/editorialguidelines

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 Editorial Adviser's report, and the subsequent submissions from *Watchdog* and the complainant.

The Committee was also provided with a timeline of correspondence and events between the complainant, Ryanair and *Watchdog*. It noted that the complainant had sent an email to Ryanair's solicitors on 16 April 2013 setting out the terms he would be willing to accept as settlement and that he received a payment into his account from Ryanair, equal to the sum included in this letter on 18 April 2013. However, the Committee also noted that on 17 April 2013 Ryanair had responded to the complainant's email of 16 April 2013 setting out their own terms and requesting confirmation from the complainant that he accepted

these terms – but that this email had been filtered into the complainant's spam folder and was therefore not read by the complainant at the time he provided *Watchdog* with his statement for broadcast.

Points A-F

The Committee noted the complainant's view that the programme had implied that he had agreed to non-disclosure. It also noted the complainant's argument that use of the word "agreed" created this impression, as something can only be agreed between two or more parties. The Committee acknowledged that it would have been preferable for the script to have said that Ryanair "offered" to pay the difference. However, the Committee noted that the second half of the sentence used the wording "provided that..." which made clear that this was an offer of agreement by Ryanair.

The Committee also noted that the script reflected Ryanair's insistence that it had not settled, which confirmed that Ryanair did not believe there was an agreement in place. The Committee noted that this decreased further any likelihood of the audience understanding that the complainant had agreed to non-disclosure. Furthermore, the penultimate line of the item made it clear that the complainant "has the money and still has the right to say whatever he wants", making it unlikely that the audience would have understood there to be a non-disclosure agreement in place.

The Committee noted the complainant's view that an average viewer would be likely to gain the impression that the complainant had breached a confidentiality agreement with Ryanair. The Committee noted that the context of this brief item was to commend the actions of the complainant in taking on a large company such as Ryanair, and that the concluding line was his message to others to make a claim if they had been over-charged. On the basis of the information and evidence before them, the Committee did not consider it likely that the audience would have seen the complainant in a negative light as a result of the *Watchdog* item.

Not upheld

Point G

The Committee noted that the BBC's requirements for due accuracy meant that *Watchdog* was required to accurately reflect the positions of both Ryanair and the complainant in this case. Whilst the Committee noted that by the time of broadcast *Watchdog* had been informed by Ryanair that it did not consider that any agreement had been made, it did not accept that the BBC was under any obligation to resolve the misunderstanding between the two parties. The Committee concluded that the script provided an accurate reflection of each party's contradictory point of view. The Committee also noted that *Watchdog* had contacted the complainant on 7 May 2013 by email to ask if he was absolutely sure that his email of 16 April 2013 had not been replied to. The Committee concluded that *Watchdog* had fulfilled its obligation to due accuracy by doing so, and there was no obligation to bring to the complainant's attention Ryanair's apparent disagreement over the nature of the disputed "settlement".

The Committee noted that the BBC had not made an allegation of wrongdoing, iniquity or incompetence on the part of the complainant and that there was therefore no requirement under the Fairness guidelines for the BBC to offer a right to reply to the complainant.

At the request of the complainant, the Committee revisited point G at its May meeting to decide whether the discovery by *Watchdog* that Ryanair disputed the settlement was a “significant change” to the programme, which might have affected the complainant’s decision to participate. If so, the *Watchdog* team should have made him aware of it under Editorial Guideline 6.4.4.

The Committee considered that the discovery was not a significant change to the programme, and accordingly *Watchdog* was under no obligation to inform the complainant of it.

Not upheld

Finding: Not upheld

Online summary of Editorial Complaints Unit's finding: Re-use of Inaccurate Headline

This appeal originally came before the Editorial Standards Committee at its January 2014 meeting. The Committee decided that one element of the appeal qualified for consideration. This element was considered at the April 2014 meeting and is reflected below. The Committee decided that the remainder of the appeal did not qualify to proceed for consideration. The elements of the appeal which were not considered can be found under Rejected Appeals.

1. Background

In Bristol Crown Court on 29 February 2012, the complainant's friend and business associate ('the Associate') pleaded guilty to, and was convicted of, fraudulent trading. On 8 March 2012, the Associate was sentenced to 8 months' imprisonment.

The Associate's conviction and sentencing were reported in a BBC News online report dated 8 March 2012, entitled "Money laundering drugs gang boss [the Associate] jailed" ('the Article').

In a complaint brought by the complainant on the Associate's behalf, the Editorial Complaints Unit ('ECU') found that the Article, including its headline, was materially inaccurate. The Article was subsequently removed from, and the ECU's finding published on, the BBC's website.

ECU findings are published online at <http://www.bbc.co.uk/complaints/comp-reports/ecu/>, while summaries of earlier ECU findings are archived in half-yearly reports at <http://www.bbc.co.uk/complaints/comp-reports/ecu-archive/>.

Summaries of recent ECU findings can be accessed via the BBC's *Corrections & Clarifications* webpage by date. The summary in question is accessible via: http://www.bbc.co.uk/helpandfeedback/corrections_clarifications/corrections_july2013.html (the 'July Corrections & Clarifications Page').

The summary itself appears at <http://www.bbc.co.uk/complaints/comp-reports/ecu/moneylaunderingdrugsboss> (the 'Finding Summary Page').

2. The complaint

Stage 1

On 15 May 2012 the complainant wrote to the then BBC Director-General to complain about the Article, which he claimed inaccurately linked the Associate with money laundering, leading a drugs gang and other crimes, with which the Associate had no involvement. The Director-General's office referred the complainant to the ECU.

Stage 2

On 14 June 2012 the complainant wrote to the ECU, requesting:

... a retraction, correction and apology with respect to your defamatory unsubstantiated and unjustified article on 8 March 2012, when our⁴ founder director [the Associate] was sentenced to 8 months in custody at an open prison

⁴ "Our" appeared to refer to the company on whose notepaper the complainant had written in his capacity as director.

for a breach of regulatory restrictions, described as “fraudulent trading”, although none of our customers or creditors had suffered any loss.

The ECU’s provisional finding, sent to the complainant on 30 November 2012, upheld the complaint on two points:

1. The allegation that the Associate was a “drugs gang boss”

Although BBC News considered that this description of the Associate’s role was justified, the Head of Editorial Complaints saw nothing in the investigating police officer’s comments that implied that the Associate conducted the role of a “drugs gang boss”, and the Head of Editorial Complaints knew of no other basis for such a description.

2. The allegation that the Associate was involved in a money laundering operation of considerable scale

While noting that the Associate was convicted in 2007 in Hong Kong on three counts of money laundering and fined in the region of £250,000, the Head of Editorial Complaints found that the reference to “a money laundering scam” in connection with the Associate’s fraudulent trading conviction was materially inaccurate.

On the basis of the inaccuracies identified, the article was amended.

The complainant was dissatisfied with the ECU’s provisional finding, stating in an email of 11 December 2012 that both the headline and the body of the article remained inaccurate.

Following further correspondence, the Head of Editorial Complaints wrote to the complainant on 26 March 2013. Noting that the Article had been removed from the BBC’s website, the Head of Editorial Complaints enquired whether, in view of the length of time that had elapsed, he might take it that the complainant did not want to comment on the ECU’s provisional finding.

Following a response in which the complainant raised concerns about other items of BBC output concerning the Associate, the Head of Editorial Complaints wrote to the complainant on 3 April 2013, stating that, as the complainant had not commented on the ECU’s provisional finding, he would proceed to finalise it and to arrange for online publication of a summary of the finding and the further action that would be taken.

On 2 July 2013, the Head of Editorial Complaints wrote to inform the complainant that the summary had been posted on the BBC’s website.

Appeal to the Trust

The complainant appealed to the BBC Trust on 27 July 2013. He complained about “the BBC’s unhelpful postings⁵ headlining the Crimes and the name [of the Associate], without any apology” and stated that he was seeking (among other things) an apology.

The Trust Unit asked the ECU to respond further on the following two points:

1. that no apology was offered during the course of the complainant’s correspondence with the ECU; and

⁵ ie, the online summary of the ECU’s findings.

2. the erroneous headline “Money laundering drugs gang boss [the Associate] jailed” was used as the heading to the summary of the ECU finding on the complaints pages of the BBC website.

The Head of Editorial Complaints responded to the complainant on 3 October 2013. After offering his apologies (the omission of which had been an oversight) to the complainant and the Associate on behalf of the Executive, the Head of Editorial Complaints stated:

On the second point, I should explain that it is our invariable practice (except where a summary relates to several items) to identify each summary by the title of the programme or the headline of the online item concerned, this being the simplest and most reliable way of ensuring that the material can be easily identified and accessed. From time to time this does involve re-using a headline which we have found to be erroneous, but, as it is in a context where the premise is that the material has been found to be at fault in some way and where the text of the summary identifies and corrects the errors, it isn't tantamount to repeating the errors or renewing any defamatory implications they may have had.

The complainant was not satisfied with this explanation. He wrote to the ECU on 4 October 2013, stating:

We disagree with your third paragraph⁶ and consider your headings in “Bold”, with the retraction in small print, to be “tantamount” to repeating the defamation. If you had time to “google” the page for [the Associate], you would need to be blind to miss this. Your “invariable practice” could be seen as a fault.

The complainant also wrote to the Trust on 4 October 2013, stating that he had expected a full apology to be published on the BBC website and a letter to be sent to the Associate. He expressed disappointment that no-one was prepared to meet him, in order to hear what he had to say (which he claimed could not be written).

Further correspondence ensued, and on 11 November 2013 the Trust's Head of Editorial Standards wrote to the complainant. After apologising on behalf of the BBC Trustees to the complainant and the Associate for the errors contained in the Article, she explained that the Trust did not normally invite complainants to make representations in person, and she set out the reasons why she thought a meeting would be of no assistance and might be unhelpful. Noting that the Associate was legally advised, the Head of Editorial Standards concluded by suggesting that, if the Associate considered he had been defamed, he should contact the BBC's litigation department.

On 28 November 2013, the Trust's Senior Editorial Complaints Adviser ('the Adviser') wrote to the complainant, advising him that she did not consider that his appeal had any reasonable prospect of success, and that she had decided that it should not proceed to a hearing before the Committee.

The Adviser noted that the correction to the Article had appeared on the appropriate webpage – the BBC's *Corrections & Clarifications* page – which was intended to set out “the BBC's responses to editorial, technical and corporate issues”, and that the matter was clearly labelled as a complaint that had been upheld.

The Adviser considered that the Committee would be likely to conclude that, when reporting a complaint about an online article, it was reasonable to use the article's headline to identify the subject of the complaint, as this ensured that those who may

⁶ ie, the paragraph concerning the online summary of the ECU's findings, quoted above.

have read the original article would recognise it had been corrected. The Adviser also considered it would be very difficult to present a correction to an article that had an erroneous original headline if the original headline were not mentioned.

On 7 December 2013 the complainant wrote to a number of recipients, including the Trust Unit. He stated:

... your refusal to recognise that repeating the defamatory headings in bold type is most unhelpful when the majority of people checking the entries for [the Associate] do not read further to find that you are acknowledging your mistakes.

The complainant expressed dismay that no-one would meet him, and that the Trust's Complaints Adviser was "withholding information from the trustees". The complainant concluded by asking the Trust to reconsider its position.

At its meeting on 22 January 2014, the Committee agreed to take that part of the appeal regarding the use of the erroneous headline on the summary of the ECU finding.

3. Applicable Editorial Guidelines

The Editorial Guidelines applicable to this case are those on Accountability. The full text of the Editorial Guidelines can be found at <http://www.bbc.co.uk/editorialguidelines/>.

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 Editorial Adviser's report and subsequent submissions from the complainant and the Head of Editorial Complaints.

The Committee noted that this appeal raised issues that required consideration of the Guidelines relating to Accountability.

The Committee considered whether the publication of the summary of the ECU's finding in the form in which it was published was an appropriate remedy. In the Committee's view, this required consideration of:

- the wording and format of the summary; and
- the context of the summary, including:
 - the webpages via which users might navigate to the summary;
 - the wording of the 'hits' generated when the Associate's name and 'BBC' were entered into a search engine such as Google; and
 - the format of the URL of the webpage on which the summary appeared.

Wording and format of the summary

The Committee noted that the summary of the ECU's finding stated:

Money laundering drugs gang boss [the Associate] jailed, bbc.co.uk: Finding by the Editorial Complaints Unit

Complaint

This item, drawn from a BBC West television news piece, reported the conviction and sentencing of the Chinese businessman [the Associate] at Bristol Crown Court. An associate of [the Associate] complained on his behalf that it was seriously inaccurate.

Outcome

[The Associate] had been neither accused nor convicted of money laundering on this occasion (though he had been convicted on three counts of money laundering in Hong Kong in 2007), and there were no grounds for describing him as a drugs gang boss.

Upheld

Further action

Staff will be reminded to ensure the wording used in accounts of court cases accurately reflects the content and outcome of the proceedings.⁷

The Committee noted that Editorial Guideline 19.4.7 stated:

When the Editorial Complaints Unit identifies a serious breach of the standards in these Guidelines, its finding will normally be published on the BBC complaints website. It may also direct the BBC to broadcast an apology or correction.

The Committee noted that Guideline 19.4.7 did not specify the form in which the ECU's findings were to be published, which was consequently in the ECU's discretion.

The Committee noted that, according to the Head of Editorial Complaints, there was no document in which it was set out as policy that summaries of ECU findings should be headed with the title or headline of the items they concerned.

The Committee noted that it was not disputed that the headline of the Article was materially inaccurate. The Committee also noted that, while the body text of the summary expressly addressed both of the inaccurate allegations contained in its heading (ie, that the Associate was (i) involved in money laundering and (ii) a drugs gang boss), it did not expressly acknowledge that the headline itself was incorrect.

The Committee took the view that, where the headline of the original output was duly accurate, the re-use of that headline to identify the ECU's finding was a valuable aid to transparency in the BBC's complaints process, as it allowed the finding to be readily matched with the original output to which it referred. However, the Committee recognised that (as the Head of Editorial Complaints had implicitly acknowledged) this practice was not necessarily of universal application, and that circumstances might arise in which it was inappropriate to re-use the headline of the original output.

The Committee considered that there was scope for flexibility in the formulation of the title of a summary.

⁷ <http://www.bbc.co.uk/complaints/comp-reports/ecu/moneylaunderingdrugsboss>

The Committee noted that the Head of Editorial Complaints had acknowledged that, in rare cases where the publication of the title of a programme or the headline of an online item would lead to the identification of individuals whose identity should be protected, or would perpetuate an infringement of privacy which had been the subject of the complaint, the title or headline would not be referenced.

The Committee reminded itself that one of the functions of the BBC's complaints process, of which the ECU was a key component, was the maintenance of the editorial standards set out in the Editorial Guidelines. In the Committee's view, online summaries of ECU's findings should be exemplars of the highest editorial standards. The Committee concluded that (as with cases in which issues of privacy arose), in rare cases where the headline of the original output was materially inaccurate, it was not appropriate to repeat the inaccurate element(s) of the title or headline of the original output in the heading of a summary. To take a hypothetical example, the Committee doubted that, if an inaccurate headline were to concern a more prominent person, the ECU would contemplate re-using it in the heading of the summary of its finding.

In the instant case, the Committee considered that sufficient transparency would have been achieved by the inclusion of the Associate's name in the heading of the summary of the ECU's finding, the omission of the inaccurate elements of the headline, and an acknowledgement that this was a finding.

With regard to the formatting of the text of the ECU's finding, having viewed the webpage in question, the Committee considered that the body text was easily legible to non-visually-impaired readers, that the formatting of the heading, sub-headings and body text were appropriate, and that the body text had not been relegated to the relative status of 'small print', as the complainant had argued.

Context of the summary

The Committee noted the Head of Editorial Complaints' view that the summary of the finding was published in a context from which it was clear that the material had been found to be at fault, that the text of the summary identified and corrected the errors, and that this was not tantamount to repeating the errors.

- Webpages

The Committee noted that the following text appeared at the top of the BBC's *Corrections & Clarifications* webpage:⁸

Corrections & Clarifications

This page contains the BBC's responses to editorial, technical and corporate issues. It includes apologies, significant corrections, statements and responses, and findings from the BBC Trust.

It does not include routine corrections to news stories, minor on-air apologies and schedule changes.

The Committee noted that the identical text appeared at the top of the July Corrections & Clarifications Page,⁹ on which the summary of the ECU's finding was listed.

⁸ http://www.bbc.co.uk/helpandfeedback/corrections_clarifications/index.html

⁹ http://www.bbc.co.uk/helpandfeedback/corrections_clarifications/corrections_july2013.html

The Committee noted that the Main ECU Finding Summaries Page¹⁰ stated:

These are findings of complaints recently upheld or resolved after referral to the independent Editorial Complaints Unit for independent investigation at stage 2. Earlier ECU findings are archived in half-yearly reports at [Archived ECU reports](#).

Although the Committee felt that the above wording provided helpful and appropriate signposting to readers who accessed the summary of the ECU's finding via those webpages, the Committee believed that the summary should also be considered in its broader context, because not all readers would access the summary via this route: in the Committee's estimation, many readers would by-pass those pages, accessing the summary directly via an HTML link from the results page of a search engine such as Google.

- Google search results

The Committee noted that the first two 'hits' of a Google search for keywords "[the Associate]" and "BBC" yielded headlines and descriptions (known as 'snippets') that included the materially inaccurate allegations. The Committee understood that the content of headlines and snippets was generated automatically by Google, using various sources including the webpage's content, title and meta tags.¹¹

Noting the Head of Editorial Complaints' submission, in so far as it concerned the BBC's internal 'Metafaq' system,¹² the Committee concluded that, where the ECU had found that a headline was materially inaccurate, it would be both feasible and desirable for the ECU not to repeat the inaccuracy in the headline field of the Metafaq upload form. The Committee recommended that, in such circumstances, the content of the headline field should state that this was a finding. In the Committee's view, this practice should be applied to all future summaries of the ECU's findings, but, for reasons of proportionality, should not be applied retrospectively to the ECU's previous findings.

- The URL

The Committee noted that the URL of the webpage on which the summary appeared contained the following string:

... moneylaunderingdrugsboss

The Committee noted that this string implicitly referenced two allegations concerning the Associate – that he was (i) involved in money laundering and (ii) a drugs gang boss – both of which the ECU had found to be materially inaccurate. The Committee noted that these material inaccuracies were therefore embodied in the URL of the webpage on which the summary of the ECU's finding was published.

The Committee noted that, according to the Head of Editorial Complaints, the use of programme titles and online item headlines in URLs had become accepted practice after an incident had made clear that a degree of standardisation would protect against the creation of URLs with inappropriate content.

In the Committee's view, the rigid application of such a policy could lead to undesirable outcomes, as in the instant case. The Committee recommended that, in rare cases where

¹⁰ <http://www.bbc.co.uk/complaints/comp-reports/ecu/>

¹¹ See: <https://support.google.com/webmasters/answer/35624?hl=en>

¹² Metafaq is the system the BBC uses to automatically upload findings onto its website.

the ECU had found that the heading of the original output was inaccurate, the ECU should use its discretion not to repeat the inaccuracy in the URL. The Committee therefore recommended that, in such circumstances, the 'Entry ID' field of the Metafaq form (which generated the relevant part of the URL) should not contain any string that embodied any element of inaccuracy. Noting the practice of populating the Entry ID field with the headline of the summary, the Committee inferred that this recommendation could be achieved by amending the headline as discussed above. In the Committee's view, this practice should be applied to all future summaries of the ECU's findings, but, for reasons of proportionality, should not be applied retrospectively to the ECU's previous findings.

For all the above reasons, the Committee concluded that the online publication of the summary of the ECU's finding was not an appropriate remedy, and the Committee directed the ECU to amend the summary of its finding accordingly.

The Committee felt this complaint had helpfully highlighted an issue of editorial standards. The Committee therefore invited BBC Editorial Policy to consider whether there might be more appropriate ways of cataloguing unusual cases such as this, and to report back to the Committee on this issue.

Finding: 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.

Use of inaccurate headline, BBC News website

The complainant asked the Editorial Standards Committee, at its January 2014 meeting, to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Committee.

The complaint

The complainant wrote to the BBC in May 2012, addressing his concerns to the then Director-General regarding a BBC Online article which he said inaccurately linked Mr He Jia Jin with money laundering, leading a drugs gang and other crimes with which he had no involvement. Following the advice of the Director-General's office, he complained to the ECU in June 2012.

The ECU's Stage 2 provisional finding was sent to the complainant on 30 November 2012 and included an apology for the delay in completing their investigation, which was in part due to the length of time taken to obtain a transcript of the court hearing.

The ECU upheld two parts of the complaint:

1. The allegation that Mr He was a "drugs gang boss".

The Head of Editorial Complaints stated that, although BBC News considered that this description of Mr He's role was justified, he saw nothing in the investigating police officer's comments which implied that Mr He conducted the role of a "drugs gang boss", and knew of no other basis for such a description. He upheld this part of the complaint.

2. The allegation that Mr He was involved in a money laundering operation of considerable scale.

The Head of Editorial Complaints found that the reference to "a money laundering scam" in connection with his conviction at the Bristol trial was materially inaccurate. He upheld this part of the complaint.

The Head of Editorial Complaints also stated that he was unable to take a view on the point of complaint regarding other criminal activities of which Mr He was accused as these were unspecified in the complaint.

The complainant was not satisfied with the finding. Following further correspondence, in which the complainant raised concerns about other reporting about Mr He linked to the original BBC online article, the Head of Editorial Complaints wrote to the complainant on 26 March 2013 informing him that the online article headlined "Jia Jin He jailed over £350m fraud", (which he understood to be a revised version of the article which prompted the original complaint) had been taken down from the BBC's website.

The complainant was not satisfied with this response. He said in his email of 28 March 2013:

“You have taken down the first article but you have left the others and they are all attributed to the BBC”.

To support his complaint, he attached a copy of all the results returned by Google when he entered the search term “bbc jia jin he”.

The Head of Editorial Complaints responded on 3 April 2013 explaining that the ECU’s finding was in relation to the complaint raised about the accuracy of the BBC Online article originally headlined “Money laundering drugs gang boss Jia Jin jailed”. In order for further complaints about the continued presence of linked BBC articles on the internet to be investigated, he explained that the complainant should now follow the BBC’s complaints procedure by submitting further complaints to BBC News Online at Stage 1.

The complainant was unhappy with this response and continued to express his concerns to the ECU.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 27 July 2013, as he was unhappy with the responses received at Stage 2 and the fact that he had not been permitted to meet any representative of the BBC. He said that he had also “struggled with the ‘procedures’ of the BBC’s Editorial Complaints Unit”.

He explained that on 30 November 2012, the Head of Editorial Complaints upheld two of his complaints but a summary of the finding was not seen until 3 July 2013. He complained about “the BBC’s unhelpful postings headlining the Crimes and the name He Jia Jin, without any apology”.

The complainant said that he was seeking an apology and also required the BBC to “take down further unjust slander (Human Trafficking, Fake DVDs and other crimes) as the major part of this campaign of defamation originated in BBC programmes and News items”.

The Trust Unit asked the ECU to respond further to the complainant on the following points:

- That no apology was offered during the course of the complainant’s correspondence with the ECU; and
- The erroneous headline “Money laundering drugs gang boss Jia Jin He jailed” was used as the heading to the summary of the ECU finding on the complaints pages of bbc.co.uk.

The Head of Editorial Complaints responded to the complainant on 3 October 2013:

“On the first point, I must acknowledge an oversight. When a complaint has been to any degree upheld, it is my regular practice to offer apologies to the complainant, on behalf of the BBC, either in the provisional finding or when finalising the finding, for the lapse in editorial standards which he or she has

identified. For some reason (perhaps the unusual number of exchanges in the course of our correspondence), I failed to do this, so I hope you will now accept my apologies, on behalf of the BBC, for the errors which you identified in the item. As you were complaining on Mr He's behalf, the apology of course extends to him too.

"On the second point, I should explain that it is our invariable practice (except where a summary relates to several items) to identify each summary by the title of the programme or the headline of the online item concerned, this being the simplest and most reliable way of ensuring that the material can be easily identified and accessed. From time to time this does involve re-using a headline which we have found to be erroneous, but, as it is in a context where the premise is that the material has been found to be at fault in some way and where the text of the summary identifies and corrects the errors, it isn't tantamount to repeating the errors or renewing any defamatory implications they may have had."

The complainant did not feel that this was a satisfactory outcome and wrote to the Trust again on 4 October 2013 saying that he had expected a full apology to be published on the BBC website. He had also expected a letter to be sent to Mr He as well. He said he was very disappointed that no-one was prepared to meet him to hear what he had to say, which could not be written.

Decision of the Senior Editorial Complaints Adviser

The Senior Editorial Complaints Adviser (the Adviser) carefully read the correspondence that had passed between the complainant and the BBC, and she acknowledged that the complainant was very concerned about the issue on behalf of Mr He Jia Jin.

The Adviser noted that the complainant had raised concerns that the output was not factually accurate and that the ECU had upheld the allegations of inaccuracy on two points in their Stage 2 finding:

- The allegation that Mr He was a "drugs gang boss"; and
- The allegation that Mr He was involved in a money laundering operation on a considerable scale.

The Adviser understood that the complainant had appealed to the Trust regarding the way in which the ECU had presented their finding, and because he wished to have a further apology for himself and for Mr He Jia Jin.

The Adviser noted that the ECU had now taken down one of the articles complained about, and that the ECU had apologised on behalf of the BBC Executive for the factual errors contained in the article, and also for not issuing the apology sooner.

The Adviser noted that the Head of Editorial Standards, BBC Trust, had also written to the complainant on 11 November 2013 and extended her own apologies on behalf of the Trustees. The Adviser was sure that the Trustees would also wish her to extend her own apologies to the complainant and to Mr He. She acknowledged that the complainant requested that a full apology be published on the BBC website. However, she noted that the correction had appeared on the appropriate site – the BBC's Corrections and Clarifications page, which was intended to set out "...the BBC's responses to editorial,

technical and corporate issues” and the matter was clearly labelled as a complaint that had been upheld.

She noted that where the Executive do accept a breach and apologise, as they had done in their letter of 3 October 2013, 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). The Adviser did not believe that the matter of the delayed apology raised such serious issues that further action would be required. She therefore considered the complainant’s appeal did not have a reasonable prospect of success on this point.

The Adviser acknowledged the complainant’s concern about the headline of the ECU’s Stage 2 finding, and the fact that it did not include an apology:

Money laundering drugs gang boss Jia Jin He jailed, bbc.co.uk: Finding by the Editorial Complaints Unit

She noted that the Head of Editorial Complaints had addressed this point in his letter of 3 October 2013:

“I should explain that it is our invariable practice (except where a summary relates to several items) to identify each summary by the title of the programme or the headline of the online item concerned, this being the simplest and most reliable way of ensuring that the material can be easily identified and accessed. From time to time this does involve re-using a headline which we have found to be erroneous, but, as it is in a context where the premise is that the material has been found to be at fault in some way and where the text of the summary identifies and corrects the errors, it isn’t tantamount to repeating the errors or renewing any defamatory implications they may have had.”

The Adviser considered that Trustees would be likely to conclude that, when reporting a complaint about an online article, it was reasonable to use the headline to identify the subject of the complaint as that ensured that those people who may have read the original report would recognise it had now been corrected. She also considered it would be very difficult to present a correction in an article which had an erroneous original headline if the original headline was not mentioned. She did not consider that the complainant’s appeal against the headline of the ECU finding would have any reasonable prospect of success.

The Adviser acknowledged that the complainant was unhappy that he had not been offered the opportunity to meet with anyone at the BBC to discuss the points of the case. She considered Trustees would be likely to agree with the view of the Head of Editorial Standards, BBC Trust, who had explained to the complainant in her email of 11 November 2013:

“We do not normally invite complainants to make representations in person, and in this case I don’t think this will be of assistance and in fact may not be helpful as anything you may tell me can only be used by the Trust if it is recorded and shared with the BBC and later published. It is most helpful for all concerned if arguments are made on paper unless a complainant has a disability and cannot cope with written correspondence. It provides a record which helps the Trustees make their final decision which is published and should contain appropriate reasoning based on the evidence.”

The Adviser acknowledged the complainant's concern about the delay in presenting the ECU finding on the BBC complaints website. She noted that one element of the delay was due to the ECU waiting for comments from the complainant to its provisional finding which had been sent to him on 30 November 2012. The Adviser noted the complainant had indicated in correspondence with the ECU that he might wish to provide comments and, accordingly, the ECU had extended the deadline for comments on the provisional finding. The Adviser noted that the Head of Editorial Complaints had written to the complainant again on 3 April 2013 stating that as he had not received comments on the terms of the provisional finding, he would finalise it on the basis of his letter of 30 November 2012 and proceed with arrangements to publish a summary of it.

The Adviser noted that the complainant felt that there had then been an excessive subsequent delay of three months in publishing the finding at the beginning of July 2013. She also noted the complainant was concerned that his efforts to raise complaints about other online content relating to Mr He with the ECU had not been successful.

She noted that in his email to the Head of Editorial Complaints on 21 March 2013, the complainant had requested that the Head of Editorial Complaints should 'google' the name He Jia Jin. He stated that the news reports returned by the search were "unsupported and unjustified..." and queried: "...why do you continue to display the other fictions with correction and apology?"

The Adviser noted that this request had come some considerable time after the complainant had been sent the provisional finding relating to the article he had originally complained about. She also noted that the Head of Editorial Complaints responded to this point on 3 March and stated:

"I can only address specific complaints which have reached the ECU through the BBC's complaints procedure, as I have done in the case of your complaint about the article originally headlined 'Money laundering drugs gang boss Jia Jin He jailed'. As you know, I passed your complaint about an earlier article to BBC News Online. If you wish to initiate complaints about other items, it is open to you to do so by following the process set out at <http://www.bbc.co.uk/complaints/handlecomplaint/>.

"If doing so, it will help to progress matters if you make clear that you are complaining on Mr He's behalf and are authorised to do so."

She also noted the Head of Editorial Complaints had responded to a further email from the complainant on 12 April, repeating this position, and had stated:

"My functions don't extend beyond dealing with complaints about particular items as and when they reach the ECU via the BBC's complaints procedure. If complaints about other items referring to Mr He reach me in that way, I will deal with them."

The Adviser noted the complainant sent several further emails to the Head of Editorial Complaints between this exchange and the finding being published. She noted these exchanges included an emailed letter from Mr He which also referred to other online articles about him and she noted too that the complainant had also sought a meeting with the then Director-General of the BBC to discuss this matter. She noted that on 2 July, the Head of Editorial Complaints had notified the complainant that the notice regarding the upheld complaint had been published and stated:

"I have not replied to your recent emails because, as I hope I made clear in my emails of 3 and 12 April, I can be of no assistance unless and until complaints about the items which continue to concern you reach the ECU for investigation through the BBC's complaints procedure."

The Adviser considered Trustees would be likely to conclude that the Head of Editorial Complaints had given responses which were in line with the Complaints Procedure. She noted this was a three-stage process and was intended to provide a clear path for those who wished to complain and had been established to ensure that concerns were dealt with in a way that was reasonable, timely and cost-effective. She also noted the response from the Head of Editorial Standards, BBC Trust, of 11 November 2013, who had further reassured the complainant.

Therefore, in terms of the way the complainant's complaint had been handled, she considered Trustees would be likely to conclude the BBC had given the complainant a reasonable response to his concerns about other online content and had indicated to him how he could continue to pursue other elements of his complaint. Therefore she considered this element of the appeal did not have a reasonable chance of success and should not be put before Trustees.

The Adviser acknowledged that the complainant and Mr He were both very concerned about the issues raised concerning factual accuracy of the BBC's reporting in this case, and also about the way in which the complaint had been handled, but she did not believe that the appeal had any reasonable prospect of success. She therefore decided that it should not be placed before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal:

- He suggested that the headline to the ECU correction might be read by people who do not read further to find the BBC is acknowledging a mistake.
- He felt that being asked to commence with complaints about other website articles at stage 1 was unhelpful.
- He was concerned at the decision not to meet him and felt that the Trust Unit was withholding information from Trustees.
- Mr He wished to have a proper apology published.
- Mr He's recent prison sentence was for a regulatory offence, fraudulent trading, in which no one lost any money or was defrauded, but it gave the BBC an excuse to accuse him of other crimes with which he had no connection.
- This was damaging and should be rectified.

The Committee's decision

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

The Committee noted that the complainant did not accept the reasoning given by the Trust's Senior Editorial Complaints Adviser not to proceed with the appeal. The Committee noted that the complainant felt that by not meeting him the Trust Unit had effectively withheld relevant information from the Committee. The Committee was clear that it could consider the issues raised in the request for a review on the basis of the paperwork in front of the Committee, and that the Trust Unit had not acted incorrectly in deciding not to meet the complainant.

The Committee agreed to take on appeal that aspect of the appeal which related to the headline of the ECU decision.

The Committee noted that the ECU had upheld two elements of the complainant's complaint:

- The allegation that Mr He was a "drugs gang boss"; and
- The allegation that Mr He was involved in a money laundering operation of considerable scale.

and that the Head of Editorial Complaints found that the reference to "a money laundering scam" in connection with his conviction at the Bristol trial was materially inaccurate.

The Committee wished to add its apology to the complainant and to Mr He for the inaccuracies acknowledged by the ECU. However, the Committee was satisfied that, were it to take this appeal it would be likely to conclude that the apology made by letter by the Head of Editorial Complaints at the ECU on 3 October 2013 and the published correction was sufficient action by the BBC and that a further published apology by the BBC was not appropriate. There was no reasonable prospect of success for this element of the complaint.

The Committee confirmed that if there was a fresh specific complaint about another BBC online article then it should be made to Stage 1 so that BBC News had the opportunity to respond in the first instance before it was investigated by the ECU. This was in accordance with the editorial complaints procedure. The Committee agreed that were it to take this appeal it would be likely to conclude that the complainant had been correctly informed of the route for complaints. There was no reasonable prospect of success for this element of the complaint.

The Committee therefore decided that one element of this appeal did qualify for consideration but the remainder of the appeal did not qualify to proceed for consideration. The considered element of the appeal can be found under Appeal Findings.

Why do England fans sing No Surrender? BBC News Online

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.

The complaint

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit (ECU) not to uphold his complaint about the BBC News Online article: 'Why do England fans sing No Surrender'. The song 'No Surrender' has been linked to Northern Irish unionist or loyalist politics. The article can be found at: <http://www.bbc.co.uk/news/magazine-22688494>

The complainant said that the article was only published for one reason: "...to tarnish the good name of Glasgow Rangers Football Club".

He stated that the article had been published before the England v Ireland football match at a time when tensions were running high after the murder of the British soldier, Lee Rigby, and there were fears of disturbances at the football match. The complainant believed that if there were any disturbances at the match, the article had set the notion in people's minds that it was Rangers Football Club's fault.

The complainant received an initial response from BBC News, and the complaint then proceeded to Stage 2 for a response from the Editorial Complaints Unit (ECU). It was considered against the guidelines on Impartiality and Harm and Offence.

The Complaints Director made the following points in his provisional Stage 2 finding:

- The subject of the article was clear from the headline and the opening paragraphs. It drew attention to the Football Association's call to England supporters not to sing songs which might be considered offensive by their Irish counterparts and highlighted one song in particular.
- The article went on to ask why England fans had adopted the song "No Surrender". It quoted Andy Lyons, editor of football fanzine *When Saturday Comes*, who suggested it began when English fans started to follow Rangers in European competitions, following the ban on English clubs playing in Europe. Lyons said there was no concrete evidence for this, though the theory was a common one.
- The Complaints Director thought it was clear that Andy Lyons was putting forward a theory about when English fans first started to sing this song, but was not suggesting that those who sing the song at football matches were necessarily responsible for any unrest or violence.
- The Complaints Director did not agree that the article gave the impression that Rangers FC or its fans were responsible for, or involved in, any unrest which might have been caused by England supporters, or were in any way associated with current English supporters who sing the song at matches.

The complaint was not upheld.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust, saying that he did not agree with the findings of the ECU at Stage 2. He asked the Trust Unit to review this complaint. He believed that the BBC News Online article which was the subject of his complaint, and also other articles which he referred to as background information, were “deliberately damaging to Glasgow Rangers Football Club and our fans”. He also felt the reporting was damaging to the BBC and its relationship with licence fee payers.

The Trust Unit’s decision

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

The Adviser noted that in his appeal, the complainant referred to other examples of BBC content in support of his current complaint. However, she noted that these had not been raised at stage 1, nor when the complaint had been escalated to stage 2. The additional information was sent to the BBC after the ECU had acknowledged it would investigate the original complaint and the Complaints Director had made clear that he would not consider these additional elements. He had written:

I have borne your concerns in mind during my investigation but I should make it clear that the remit of the Editorial Complaints Unit is limited to considering specific items broadcast or published by the BBC and so I have had to focus on whether the particular article which prompted your complaint led to a serious breach of the BBC’s Editorial Guidelines.

The Adviser noted that the Complaints Framework established that new points of complaint could not be introduced during the complaints process and it stated:

Your complaint should include all of the points about the item that you wish to be considered as the BBC may not consider new or different points after Stage 1a of the Procedure has concluded.

The Adviser also noted that the Complaints Framework stated complaints should be made about content within 30 working days of broadcast or publication. The Framework established that the Trust would only consider complaints after the BBC had responded to them. In this instance, the BBC had not responded to the additional elements of the complaint and they would, in any event have been out of time if the complainant had raised them at stage 1 with the BBC. Therefore in considering the appeal, the Adviser considered only the article that had been the subject of the initial complaint.

The Adviser considered the complaint against the guidelines on Impartiality and Harm and Offence.

The Adviser noted that the complainant believed that the article “Why do England fans sing No Surrender?” was put out for only one reason: “...to tarnish the good name of Glasgow Rangers Football Club”.

The Adviser noted that there were two references to Glasgow Rangers Football Club in the article and were both contained in a quote from Andy Lyons in the paragraphs which read:

It is assumed that the adoption of the song [No Surrender] came from mixing between Rangers fans – some of whom had loyalist sympathies – and English fans in the 1980s, says Lyons. After 1985, English clubs were banned from European competition after the deaths of 39 Juventus fans in a European Cup Final with Liverpool.

During the ban, some English fans started to follow Rangers in Europe and there were Rangers fans who supported England. The song - which seems linked to Northern Irish unionist or loyalist politics - may have been adopted at this point, says Lyons.

While this theory is a common one, there's no concrete evidence, notes Lyons.

The Adviser noted that the complainant had not been satisfied with the preliminary decision of the ECU's Complaints Director. The ECU's Complaints Director had written a second letter confirming the decision on 22 November 2013, which stated:

Firstly, in my view, it was clear that the article put forward a theory about the origins of England fans singing a particular song. It did not say the theory was a fact and so I cannot agree that readers would assume it was true. Indeed, there was a line in the article which said "No-one seems to have an exact explanation" which would have guarded against the kind of definitive understanding you suggest.

Secondly, if readers were likely to associate any one group with the potentially offensive sentiments of the song then it seems most likely that group would be the England fans that choose to sing it. I cannot agree that readers would be left with the impression that Rangers FC is "a truly offensive club with truly offensive fans" purely on the basis that some people think it is possible that fans of the club may have introduced English supporters to the song over 25 years ago.

The Adviser considered Trustees would be likely to agree with this view and she did not consider she had seen any evidence that the article had been written with an intention to "...tarnish the good name of Glasgow Rangers Football Club" as the complainant believed. Nor did she consider Trustees would conclude there was any evidence that suggested the article was in breach of the Guidelines on Harm and Offence.

It followed from this that she did not consider the appeal had a reasonable prospect of success and she did not propose to put it before Trustees.

For completeness, the Adviser noted that Trustees had previously considered the additional points raised by the complainant about the BBC's coverage of Rangers Football Club and they had not found there had been a breach of the BBC's Editorial Guidelines. However, she noted that Trustees had partially upheld a complaint about references to "old club" and "new club" in some online articles. She thought the complainant might be interested to read the finding, which is included in the following bulletin:

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2013/apr_may.pdf

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He made the following points in support of his challenge to the Trust's decision:

- He reiterated the 12 points he had made in his second letter to the ECU (dated 4 November 2013) and which he had also included in his appeal to the Trust. These points included references to online BBC and other media articles which the complainant had supplied in support of his complaint. (The ECU had declined to take these additional elements into consideration at Stage 2 as they fell outside the parameters of the Complaints Framework.)

The complainant said he had not been aware initially of the complexity of the process for submitting complaints and had made these back-up points in good faith in order to help the ECU with their investigation. He said he was just trying to find someone at the BBC who was responsible enough to see that “the constant jibes from BBC Scotland have to stop” because it was damaging football, and also relationships with family and friends.

- The complainant emphasized his firm belief that the BBC had published the online article ‘Why do England fans sing No Surrender’ **before** the game between England and Ireland, not **after** the game, in order to tarnish the good name of Glasgow Rangers and Glasgow Rangers fans and plant the suggestion that the team and the fans would be responsible for any troubles which might break out. He stated:

And now with the correct timing of this article being known and not the BBC perceived timing this carries with it “a matter of substance” for you to escalate further to the trustees.

The Committee’s decision

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

The Committee noted the complainant’s concern about the timing of the publication of the online article ‘Why do England fans sing No Surrender’, but did not agree that evidence had been presented to suggest that the article had been written with an intention to “...tarnish the good name of Glasgow Rangers Football Club”.

The Committee appreciated that this matter caused the complainant deep concern and understood that this mattered greatly to him. However, the Committee agreed with the ECU’s decision that the article did not give the impression that “Rangers FC or its fans were responsible for, or involved in, any unrest which might have been caused by England supporters, or were in any way associated with current English supporters who sing the song at matches”.

The Committee did not consider that evidence had been presented that would be likely to lead it to conclude that the article was in breach of the guidelines on Impartiality and Harm and Offence.

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

Israel: Facing the Future, BBC Two, 17 April 2013

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.

The complaint and appeal to the BBC Trust

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit (ECU) not to uphold her complaint about bias and factual inaccuracy in *Israel: Facing the Future*, a documentary shot on location in Israel and the West Bank, which explored rising tensions within Israel and what impact they might have on the prospects for a two-state solution.

The majority of the issues identified by the complainant in this appeal had earlier been raised by other complainants, also in relation to *Israel: Facing the Future*. The previous complaints had been considered by the BBC Trust Senior Editorial Complaints Adviser (the Adviser) at the end of 2013. The Adviser decided at that time that none of the points should proceed to be heard on appeal and her decision was ratified by the Editorial Standards Committee at its meeting in November 2013. The details of the decision were published in the Editorial Standard Committee Bulletin in January 2014 and can be read at http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2013/nov.pdf (pp 50-96)

Accordingly, in deciding the merits of this appeal, the Adviser drew directly, where relevant, from her considerations in those earlier appeals. She quoted verbatim, as appropriate, from those published decisions in giving her reasoning as to why the issues raised here should also not proceed to be heard on appeal.

The complainant alleged the programme promoted an Israel-centred narrative and that while lip service was paid to Palestinian concerns it was insufficient to expose the true realities of what many had identified as apartheid.

She asserted that the few opportunities provided to Palestinians to voice their concerns were not enough to understand the nature of the situation. The complainant drew a distinction between subjective evidence heard in the programme as to how Palestinians "feel" and "evidence", not heard, which the complainant said would have demonstrated that discrimination against Palestinian citizens of Israel is a fact.

The complainant said the programme's selection of clips distorted the situation. For example, she said it highlighted Israeli fears fuelled by inflammatory speeches of Palestinian preachers but did not include balancing voices of inflammatory statements showing "rabid anti-Gentile and anti-Arab material published by Israeli rabbis who are paid by the state".

Below is a summary of the points considered by the Adviser. The complainant's detailed arguments in support of the individual points are reflected in the Adviser's decision below. While the numbered points were not listed in the complainant's letter of appeal, they were those points considered by the ECU and it could be assumed from the correspondence that the complainant had intended the ECU's rejection of those points to be considered by the BBC Trust:

- 1 it was inaccurate to say Israel is an open and dynamic society with many freedoms

- 2 it was inaccurate to say that within a few minutes flying time are hostile borders
- 3 Ahmadinejad did not threaten to “wipe Israel off the map”
- 4 it is inaccurate to say Arabs in Israel benefit from a good education
- 5 it is inaccurate to state that Israel defeated Arab armies waiting to attack: it was a war of choice
- 6 settlements are illegal under international law; it should have been clearly stated rather than hedged around with qualifications
- 7 the Palestinian Authority is not in control in the occupied territories, Israel is. The PA has as much control as Israel allows
- 8 it is inaccurate to talk about rockets fired from Gaza without mentioning the blockade.

The Trust Unit’s decision

The relevant correspondence was reviewed by the Trust Unit and the Senior Editorial Complaints Adviser and an independent editorial adviser watched the programme.

The Senior Editorial Complaints Adviser (the Adviser) decided that the complainant’s appeal did not have a reasonable prospect of success.

The Adviser noted the focus of the complainant’s appeal was her assertion that the programme promoted an Israel-centred narrative and that it paid only lip service to Palestinian concerns. She noted too that the letter of appeal highlighted specific information which the complainant considered ought to have been included in the programme and was not and her contention that the failure to include such content meant the audience would not understand the nature of the situation.

The Adviser noted the overarching requirement in the editorial guidelines is for “due accuracy” and “due impartiality”:

The term ‘due’ means that the impartiality/accuracy must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation.

The concept of “due weight” in the Impartiality guideline was also considered relevant, in particular clause 4.4.2 which states:

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’...

Nevertheless, the omission of an important perspective, in a particular context, may jeopardise perceptions of the BBC’s impartiality. Decisions over whether to include or omit perspectives should be reasonably and carefully reached, with consistently applied editorial judgement across an appropriate range of output

The Adviser noted also clause 4.4.8 of the guideline on impartiality (Controversial Subjects) which states:

Due impartiality normally allows for programmes and other output to explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed. When dealing with 'controversial subjects' this should be clearly signposted, should acknowledge that a range of views exists and the weight of those views, and should not misrepresent them.

The Adviser noted how the programme defined its scope of ambition in the opening pre-title sequence, which in the guidelines is referred to as "signposting". Whilst the introduction noted that the changes of government in many neighbouring countries in the wake of the Arab Spring had brought a new dimension to Israel's security concerns, the focus of the introduction were the challenges from inside Israel:

...but as my journey across the Holy Land shows, Israel faces new challenges from within the country. The religious population is growing and so are the tensions. There's increasing disaffection from Israel's Arab minority. And yet Israel is also a country that can surprise; what you see here is not always what you are told to expect.

This is an extraordinary scene, thousands and thousands of Israeli citizens, all of them anti Zionists all of them Jews. Israel is approaching a crossroads, the path it takes could have a huge impact on this the most volatile region of the world and therefore all of us.

The Adviser noted that the clearly stated ambition of the programme (as articulated in the introduction quoted above) was to discuss the rise of religious nationalism amongst the Jewish population of Israel, i.e. it had flagged that this would be an "Israel-centred narrative". The programme went on to discuss how that might impact on the continued search for a solution in the Israeli/Palestinian conflict. Therefore the programme carefully managed audience expectation regarding the extent to which it might discuss other related matters or reflect other perspectives. In the Adviser's view the requirement would therefore be, that where the programme also chose to raise the issue of Israel's Arab citizens or indeed wider issues in the Israeli-Palestinian conflict, that the content was duly accurate and had not misrepresented the issue.

Any decision to omit or include specific information would be a legitimate exercise of editorial judgement and not as a rule a matter which could be tested against the guidelines.

The Adviser then turned to the specific issues highlighted by the complainant in the course of the correspondence and identified in the numbered summary above.

1. it was inaccurate to say Israel is an open and dynamic society with many freedoms

This point was raised in almost identical terms by some of the complainants whose appeals about *Facing the Future* were considered previously by the Adviser. The Adviser's decision at that time, that the point should not proceed to be heard on appeal was endorsed by the Editorial Standards Committee. The reasoning noted below in the discussion for this appeal is largely the same as for the previous appeals which raised the same issue.

The Adviser noted how the point was summarised by the complainant at Stage 2:

There are more than 30 laws that discriminate against indigenous Palestinian citizens of Israel based solely on their ethnicity. Thus they are rendered second or third class citizens in their own land.

The Adviser noted the relevant section of commentary:

This is Tel Aviv but it could be Barcelona or even San Francisco, there are many freedoms here which are unheard of in almost the entire Middle East region, equal rights for women, for gays, a free press, to name but a few, this is an open and dynamic society.

The Adviser noted how the programme reflected the particular position of Israeli citizens of Arab descent:

One in every five Israeli citizens is an Arab, descendants of those Arabs who remained when the state of Israel was formed in 1948. They were given full and equal citizenship and many Israeli Arabs have benefitted from what the Israeli state has to offer like good education and health care...But in general Israeli Arabs are much poorer than their fellow Jewish citizens; they have fewer jobs and believe they're treated as second class citizens.

The Adviser noted how elsewhere in the programme a range of Israeli Arab contributors discussed their perception of inequality:

John Ware:

How do you think the average Israeli Jew sees, thinks of the average Israeli Arab?

Sayed Kashua, Israeli Arab comedy writer:

As a threat, as someone that you cannot really trust...

Israelis think that there is something called the culture of the Arabs, by which they mean the mentality of the Arab. The average Israeli would think that the Arab because of his culture, the mentality is more violent and most of the Israelis would think that you are much more primitive. It's like hell and you are not really accepted like a real citizen...

John Ware:

You've elected Arabs to the Knesset, there are Arab judges... So on the ground in what way do Israeli Arabs feel discriminated against?

Sayed Kashua:

Discriminated? In all aspects of life that you can imagine, first of all it's, I think it would be impossible to make us feel comfortable or welcome in Israel if there is no solution with the Palestinians, that's for sure. We can survive if they fix it with the Palestinian people. That's still the major problem for us, it's very complicated to belong to a state that's fighting your nation.

The Adviser noted too that the comedy writer's views were reinforced later in the programme by a group of Palestinians from the Occupied Territories. The programme included a dramatic sequence in which the group highlighted Israeli restrictions on their

freedom of movement, that they cannot visit Jerusalem without a permit. The Adviser noted also the following exchange:

John Ware:

But the old guard is losing its appeal, this generation of Palestinians say they're no longer interested in a separate Palestinian state their focus is on getting full civil rights to give Palestinians a better life.

Do you think it's still got life in it or do you think the two-state solution is now dead?

Samir Khraisha:

I think it's dead. I don't see even myself involved in this political process if we're talking about the West Bank. West Bank is nothing, it's a few rocks and mountains... Share it with them... I want to take my basic rights, that's it.

Hurriyah Ziada:

The West Bank for us is a big prison so putting me and locking me in the West Bank and preventing me to go anywhere I want preventing me to go to Jerusalem where I was born, preventing me from going to Falujah which is where I am originally from, this is treating me like an animal in a cage. I don't think a two-state solution will live because I don't think it's a just solution so we're never gonna have peace without justice.

John Ware:

Sorry, what's full justice? Is it one state or two states?

Samir Khraisha:

Full justice simply simply simply is going from Ramallah to the beach, having a moment of peace ... the beach in Jaffa, in Acre, in Haifa...

John Ware:

Which is in Israel, I know you call it Palestine but they call it Israel

Samir Khraisha:

They call it Israel, I don't really care if I'm ruled by a rabbi or a sheikh or a PA (Palestinian Authority) or an Israeli or whatever, all I care is to just go peacefully to move, not being shot, not being harassed, not being humiliated in the checkpoints, just peacefully just like that, want to have a beer on the beach, that's it.

The Adviser noted the database of the Adalah organisation for minority Arab rights cited by the complainant at Stage 2 in support of her assertion that there are "more than 30 laws that discriminate against indigenous Palestinian citizens of Israel based solely on their ethnicity" and that they are second or third class citizens in their own land.

The Adviser noted the legal situation is complex and it would not have been a straightforward matter for the programme to have declared, as perhaps the complainant would have wished, that there is a substantial body of legislation that discriminates against Israel's Arab population. Much of the Adalah database cited by the complainant referred to proposed legislation rather than active legislation. Some of the laws related only to the occupied territories and those that related to Israel, while they may have had the effect of discriminating against the Israeli Arab population, were not drafted quite so transparently and would therefore be a matter of interpretation and implementation.

The Adviser was satisfied that it would be considered duly accurate to refer to Israel as an open and dynamic society in the context in which the statement was made in the programme. Separately from that, the commentary made it clear that Arabs are discriminated against in Israeli society in a number of ways, and this was reinforced by first hand testimony. In the context of a programme which had signposted its primary focus was to discuss internal tensions within Israel's Jewish population, in the Adviser's opinion due weight was accorded to the Israeli Arab perspective.

Accordingly the Adviser did not think the point would have a reasonable prospect of success were it to proceed to appeal.

2. it was inaccurate to say that within a few minutes flying time are hostile borders

The Adviser noted the relevant section of commentary:

Tel Aviv may look like any other Mediterranean holiday resort but actually isn't. Just a few minutes flying time from here are hostile borders. This country has been almost continuously at war ever since its foundations 65 years ago.

The Adviser noted the complainant's contention that Israel has peace treaties with Jordan and Egypt. She noted too the complainant's rejection of the Stage 1 response noting the jihadist attacks from Egypt, which the complainant said reflected action by freelance operatives rather than armies "itching to attack".

The Adviser was in agreement with the ECU's view at Stage 2:

.. it was clear from the context that Mr Ware was juxtaposing the external appearance of Tel Aviv, as it might be viewed by an outsider, with a less obvious or visual current and historical reality. I think it is reasonable to say that Israel has faced attacks from (and indeed launched attacks against) Gaza and Lebanon in recent years. I also think the reference to a time span of 65 years would have made it clear to viewers that Mr Ware was not just referring to the present day. On that basis, I cannot conclude that the script line was inaccurate or materially misleading.

The Adviser did not think the point would have a reasonable prospect of success were it to proceed to appeal.

3. it is inaccurate to state that Iran threatened to "wipe Israel off the map"

This point was raised in almost identical terms by some of the complainants whose appeals about *Facing the Future* were considered previously by the Adviser. The Adviser's decision at that time that it should not proceed to be heard on appeal was endorsed by the Editorial Standards Committee. The reasoning noted below in the discussion for this appeal is largely the same as for the previous appeals which raised the same issue.

This was the relevant section of commentary:

... Hamas (is) backed by Iran whose President has threatened to wipe Israel off the map."

The complainant said in her submission at Stage 2 that there was a dispute about the translation of some comments made in 2007 by the Iranian President Ahmadinejad and that she considered the source used by the BBC in support of its interpretation, the Middle East Resource Centre, "has a long and undistinguished record of providing translations from the Arabic that support an Israeli political agenda".

The Adviser recalled her reasoning for the decision not to proceed with the allegation on appeal when it was raised by other complainants in similar terms, as noted in the ESC November 2013 bulletin:

(The Adviser) noted the accuracy of the statement was disputed by the complainant who asserted that "there has never been a definitive translation of what Ahmedinejad said" and the BBC should have reflected that the matter was disputed and controversial. The Adviser noted from correspondence at Stages 1 and 2 the sources cited by the complainant to support her assertion. The Adviser noted that there are invariably a number of ways in which any word or phrase can be translated from one language into another. The Adviser considered it was clear from the comment that the intention was to communicate that Iran would like there to be no Israel and that that was how Mr Ahmadinejad's comments had been understood across the world. She noted too that Iran had not chosen to issue any clarification and that comments from Mr Ahmadinejad throughout his presidency consistently showed him to be hostile to Israel and to the Jewish people. For example, she noted that even as recently as February 2013, ahead of his speech at the United Nations, President Ahmadinejad angered UN diplomats by talking positively of Israel's future elimination. ..In her view, both directly and indirectly Iran has been shown in the past to support those who wish for Israel's destruction, including Hamas (which she noted was the context for the comment's inclusion in the programme)....she noted, as had the ECU at Stage 2, a decision by the BBC Board of Governors in 2006, which upheld the translation as duly accurate (it was with reference to the use of the quote by Andrew Marr during an edition of Sunday AM):

"The Committee noted the inherent problem with accuracy in translations. It noted that all the translations varied to a greater or lesser degree, and it was difficult to decide which, if any, was the most accurate...

"The Committee felt that the language used by the Iranian President was highly emotive by its nature and had been recognised as such in the international condemnation of what he had said. Andrew Marr had done nothing more than highlight this in his introduction."...

"I therefore do not believe the use of the quote was misleading or that it was a breach of the impartiality guidelines."

The Adviser considered that it was unlikely that the Editorial Standards Committee would regard it appropriate or necessary to revisit a decision made by its predecessor committee on the Board of Governors.

The Adviser confirmed that the issue was essentially the same for this appeal as for the previous appeals, that the complainant for this appeal had not supplied any evidence which might gainsay her earlier decision, and that therefore the allegation should not proceed to appeal on this occasion either.

4. it is inaccurate to say Arabs in Israel benefit from a good education

This point was raised in almost identical terms by some of the complainants whose appeals about *Facing the Future* were considered previously by the Adviser. The Adviser's decision at that time that it should not proceed to be heard on appeal was endorsed by the Editorial Standards Committee. The reasoning noted below in the discussion for this appeal is largely the same as for the previous appeals which raised the same issue.

The Adviser noted the context provided by the programme (with the relevant section in bold):

One in every five Israeli citizens is an Arab, descendants of those Arabs who remained when the state of Israel was formed in 1948. They were given full and equal citizenship and **many Israeli Arabs have benefitted from what the Israeli state has to offer like good education and health care...**

But in general Israeli Arabs are much poorer than their fellow Jewish citizens, they have fewer jobs and believe they're treated as second class citizens.

The Adviser noted that the phrasing in the programme was not precisely the same as that suggested in the complainant's allegation: the commentary said "many Israeli Arabs have benefitted from what the Israeli state has to offer like good education", whereas the allegation was that it was inaccurate to state that "Arabs in Israel benefit from a good education".

The Adviser noted the complainant's submission at Stage 2 which cited 2004 Israeli government data revealing that the state provides three times as much funding to Jewish students as to Arab pupils.

The Adviser noted the allegation that

Israel also exerts political control in that only teachers approved by the secret service can be employed and the curriculum is limited in what the teacher can present, so the children do not have access to their own history or contemporary culture.

The Adviser recalled her reasoning for the decision not to proceed with the allegation on appeal when it was raised by other complainants in similar terms, as noted in the ESC November 2013 bulletin:

The Adviser acknowledged there are reliable statistics showing for example that Israeli Arabs are proportionately underrepresented at Israeli universities, both in the numbers who apply and the percentage who are accepted. But she noted also that there are a range of initiatives which the state say they are doing to address this, including Arab support services, additional language tuition and making it compulsory to include Arabic language versions of university websites – all with the aim of improving higher education access. More than 5,000 Israeli Arabs attended Israeli universities in 2010/2011, a substantial number, although proportionately half that of Jewish Israelis in higher education...

The Adviser considered that the inclusion of the information that Israeli Arabs are generally poor, that they have fewer jobs and they feel they are treated as second class citizens, along with the testimony heard in the programme about the discrimination Israeli Arabs face ensured that overall the due accuracy was achieved. She took into account that this was not the main focus of the

programme and that therefore there would be no requirement for a detailed examination of health and education provision to Arab Israelis. Many Arabs have demonstrably benefitted from Israel's first world education and health provision, and elsewhere in the programme the audience was made aware that it may not have been to the same extent as that enjoyed by Jewish Israelis.

Accordingly, the Adviser decided that the allegation would not have a reasonable prospect of success and should not proceed to appeal.

5. it is inaccurate to state that Israel defeated Arab armies waiting to attack: it was a war of choice

This point was raised in almost identical terms by some of the complainants whose appeals about *Facing the Future* were considered previously by the Adviser. The Adviser's decision at that time that it should not proceed to be heard on appeal was endorsed by the Editorial Standards Committee. The reasoning noted below in the discussion for this appeal is largely the same as for the previous appeals which raised the same issue.

The Adviser noted the context:

The West Bank has been under Israeli control since 1967 when Israel defeated Arab armies threatening to attack. Faced with unexpected territorial gains, Israel is reluctant to part with the new territory for fearing the Arabs might strike again.

The Adviser recalled her reasoning for the decision not to proceed with the allegation on appeal when it was raised by another complainant in similar terms, as noted in the ESC November 2013 bulletin:

The Adviser observed that there have always been competing narratives about the extent of Israel's vulnerability and to what extent the various wars in which she has been involved could be characterised purely as defensive wars. She noted that in the last thirty years some of the strongest evidence that the situation was more nuanced than Israel's earlier writers of history allowed has come from a group of Israeli historians who became known as "revisionist". Avi Shlaim, Professor of International Relations at Oxford University, is a member of that group and is widely respected, including in Arab circles, for his authoritative and well-sourced critique of Israel's military and diplomatic history using primary documentary sources and first hand testimony from some of those most closely involved, on both the Israeli and "Arab" sides. The Adviser noted that Avi Shlaim is also one of the sources cited by the complainant.

In relation to the statement in the programme regarding the 1967 war, this was Mr Shlaim's unequivocal conclusion in a book he authored:

"The speed and scale of Israel's military victory led some observers to suspect that Israel launched the war not in self-defence but in order to expand its territory. Arab observers, in particular, were inclined to believe that Israel deliberately provoked the Six-Day War in order to fulfil its long-standing territorial ambitions. This view is without foundation. The Six-Day War was a defensive war. It was launched by Israel to safeguard its security not to expand its territory. The main enemy was Egypt. The chief aims were to open the Straits of Tiran, to destroy the Egyptian army in Sinai, and to restore the deterrent power of the IDF. Political and territorial objectives were not defined by the government when it gave the IDF the

order to strike. War aims emerged only in the course of the fighting in a confused and contradictory fashion.”

The Adviser noted the complainant’s assertion for this appeal that Israel went to war by choice. She noted the citation by the complainant of a statement attributed to Menachem Begin who had been the Chief of the General Staff for Israel during the war:

“In June 1967, we had a choice. The Egyptian Army concentrations in the Sinai approaches (did) not prove that Nasser was really about to attack us. We must be honest with ourselves. We decided to attack him”.

In the Adviser’s view this did not mean that there would not have been a war if Israel had not launched its pre-emptive strike. What is generally accepted is that tensions were high, that there was a military build-up of Egyptian forces in the Sinai and that it was this and Syria’s closing of the Straits of Tiran that prompted Israel to launch its pre-emptive strike. She concluded that the evidence demonstrates there was a clear threat of attack to which Israel made the decision to respond. The statement in the programme was in her opinion well sourced, based on sound evidence and presented in clear precise language.

Accordingly, the Adviser decided that the allegation would not have a reasonable prospect of success and should not proceed to appeal.

6. settlements are illegal under international law; it should have been clearly stated rather than hedged around with qualifications

This point was raised in almost identical terms by some of the complainants whose appeals about *Facing the Future* were considered previously by the Adviser. The Adviser’s decision at that time that it should not proceed to be heard on appeal was endorsed by the Editorial Standards Committee. The reasoning noted below in the discussion for this appeal is largely the same as for the previous appeals which raised the same issue.

The Adviser noted the relevant script:

...it’s easy to forget that the UN and even most of Israel’s allies have declared these settlements illegal. Israel disputes this; it’s a touchy issue for those who live here.

The Adviser noted the complainant’s assertion that the programme should have just said they are illegal.

The Adviser considered, as had the ECU, that the use of the word “declared” was definitive and the audience would not have been misled into thinking that the settlements are not considered illegal. In the Adviser’s view, the nuance in the script was to highlight Israel’s isolation and to emphasise that even her allies are not in agreement with her, rather than to avoid a more explicit statement.

Accordingly, the Adviser decided that the allegation would not have a reasonable prospect of success and should not proceed to appeal.

7. the Palestinian Authority (PA) is not in control in the occupied territories, Israel is. The PA has as much control as Israel allows

The Adviser noted the relevant section of commentary:

I'm on my way to Ramallah, although Israel occupies most of the West Bank most Palestinians are governed day to day by the Palestinian authority based here.

The Adviser noted the terms in which the complainant raised the issue earlier in the correspondence:

The PA has only as much control over the occupied territories as Israel allows. Israel expropriates land, water and destroys livelihoods, while illegally imprisoning political activists and children from within the territories. The PA cannot stop the Israeli army from arresting, imprisoning, torturing and killing Palestinians. In fact the PA acts to police Israel's borders.
(Stage Two submission)

The PA has the amount of authority that local councils have in this country. We do not say that our local authority governs us. The PA only acts as far as Israel allows it. Israel is the master in this matter. Under occupation, the occupier governs and the subjects acquiesce under the threat of the gun. Many Palestinians say that the PA governs the occupied territories in the same way as Vidkun Quisling governed occupied Norway between 1940 and 1945. Ware even allows the Israelis an excuse for the continued occupation, namely their fears of greater extremism from the Palestinians. In the issue of occupation, it is not the occupiers' view that has merit, but international law. (Stage Two response to ECU decision)

The Adviser noted how the complainant raised the issue in her letter for this appeal, and particularly her response to the assertion from the ECU Complaints Manager that the Palestinian Authority is now represented at the UN and that its powers go beyond those of a local authority in this country:

(The ECU Complaints Manager) challenges my views on the nature of the Palestinian authority. I grant his point that Palestine is now represented in the United Nations, but not as a full member. He states that the PA is the elected Government of Area A. But does not add that the term of the President of the PA ended in 2009 and no further elections have taken place. (The Complaints Manager) states that the PA provides security. The PA does not provide security to its citizens, in that Israel can and does arrest anyone it chooses, whenever it chooses. The PA's security force acts mainly to control its own population in the interests of the Israeli state and is funded to that end. So it is not Palestinian security that is their object, but Israeli security.

The Adviser noted the ECU's comments at Stage 2:

It is clear that Mr Ware drew a clear distinction between Israel's occupation of the West Bank and the "day to day" government carried out by the Palestinian Authority. I think this reference has to be considered in light of comments elsewhere in the programme; Mr Ware drew attention to the restrictions that are imposed on the movement of Palestinians; he said "The West Bank may now be home to both Israelis and Palestinians but only the Israelis enjoy the rights that go with citizenship. The Palestinians here are stateless"; he said "Israelis also fear that if they relinquish control of the West Bank to the PA the more radical Islamist group Hamas might take over".

The Adviser wholly agreed with the ECU that the reference to the authority of the PA has to be seen in light of comments elsewhere in the programme, which made it clear that there are a whole range of restrictions imposed by Israel which limit movement, security

and opportunity for what the programme refers to as “stateless” Palestinians. Notwithstanding the comment in the programme regarding the PA’s day-to-day governance of much of the West Bank, the Adviser did not consider the audience would have been likely to have been misled into thinking that Israel does not have a considerable measure of control over the lives of Palestinians living in the occupied territories.

Accordingly, the Adviser decided that the allegation would not have a reasonable prospect of success and should not proceed to appeal.

8. it is inaccurate to talk about rockets fired from Gaza without mentioning the blockade

The Adviser noted the relevant section of commentary in which the reporter was exploring Israeli attitudes towards the Palestinians and the Palestinian Authority:

Israelis also fear that if they relinquish control of the West Bank to the PA the more radical Islamist group Hamas might take over. They point out that when Israel forcibly removed 9,000 settlers from Gaza in 2005 rocket attacks increased.

The Adviser noted the complainant’s assertion that it was inaccurate to talk about rockets fired from Gaza without mentioning the blockade.

The Adviser noted the ECU’s view:

...it was reasonable for a programme such as this to achieve the necessary due accuracy (and balance) over its duration; it was not necessary for every fact or point of view to be followed by a contrasting or conflicting point of view, so long as a range of views and perspectives were aired at some stage.

In this case, viewers would have understood that Israelis fear an increase in rocket attacks if they “relinquish control of the West Bank” and so would have judged the comment accordingly. Elsewhere, as you may recall, there was a sequence which showed Israeli air strikes on Gaza and images of dead and injured Palestinians with the following script:

“But the Netanyahu government shows no sign of withdrawing and this is damaging an image already tarnished by the use of overwhelming force. When Israel invaded Gaza in 2008 far from sympathising with Israel that it was acting in self-defence, what the world saw were pictures of dead Palestinians.”

The Adviser noted the editorial justification for mentioning rocket attacks at the point it did, i.e. to illustrate Israeli fears, and elsewhere, for example, reflecting Palestinian victims of Israeli violence where the narrative called for it.

The Adviser considered that Trustees would be likely to agree with the ECU’s conclusion that the programme as a whole expressed a range of views on the situation in the West Bank and Gaza and there was no requirement for the blockade to be mentioned. Therefore, for all the reasons set out above, the Adviser considered the appeal did not have a reasonable prospect of success and she did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with her appeal. In relation to the bulleted points the complainant reiterated her arguments and allegations from her letter of appeal. She rejected the Adviser's reasoning on each point as insufficient and in some instances added additional arguments in support of her allegation.

In relation to the signposting of the programme, the complainant challenged the reference made by the Adviser to the sequence of protesting orthodox Haredi Jews to illustrate her conclusion that the programme had established its focus as the rise of 'religious nationalism'; the complainant said Haredis were in fact anti-Zionist and what they were doing was the opposite of 'religious nationalism'. The complainant said the nationalists were "a different group altogether": some religious and others secular.

The Committee's decision

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

The Committee noted that, in her decision for this complaint, the Adviser had relied (where relevant) on her reasoning for the previous complaints about *Facing the Future* which had been considered and endorsed by the Committee at the end of 2013. The Committee confirmed the Adviser had been correct to take this approach and that it would be unlikely to overturn its decision on broadly similar allegations about the same content, unless it had been demonstrated that the reasoning which applied then no longer pertained.

The Committee noted the points where reasoning for previous complaints had been applied were 1, 3, 4, 5 and 6 above. The Committee considered its earlier decisions alongside the complainant's submissions in her letter of appeal and her subsequent challenge to the decision not to proceed. The Committee decided, as it did at the end of 2013, that the Adviser had correctly decided on this occasion that these allegations should not proceed to appeal.

The Committee then considered the other points made in the complainant's challenge. The Committee considered that the Adviser's decision had dealt comprehensively with all of the remaining points raised by the complainant in her appeal; in the Committee's view the additional comments made by the complainant challenging the Adviser's decision did not include any evidence that required that decision to be set aside.

The Committee concluded that, as detailed in the Adviser's decision not to proceed with the appeal, this was clearly signposted as a programme that would be examining tensions within Israel. The Committee acknowledged that Haredi Jews have a specific agenda in relation to the State of Israel, but they are nevertheless considered Israelis and travel on Israeli passports. The Committee noted that in addition there were a range of voices and agendas heard in the programme to illustrate the programme's thesis of tensions within Israel challenging the two-state solution, such as Tzipi Hotovely and Paula Stern, the settler in the West Bank supermarket.

The Committee agreed with the Adviser that there would have been no requirement to go into any detail about broader issues in the conflict and that the programme had made clear that a range of other views exist and the weight of those views in relation to the issues being discussed. In the Committee's view those aspects which the complainant

alleged should have been included would not have been required in order for the programme to achieve due accuracy and due impartiality; they were instead matters of editorial judgement for the programme makers. A viewer of the programme would in the Committee's view have been left with a duly accurate understanding of the basic roots of the conflict, the basis for Palestinian claims on the territory occupied by Israel and the discrimination and ongoing dangers faced by Palestinians and Israeli Arabs whilst the conflict continues.

The Committee agreed with the Adviser's decision that it would be likely to conclude that this was a duly accurate and duly impartial report.

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

“Syria chemical attack: What we know”, 24 September 2013, BBC News website

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.

The complaint

The complainant wrote to the BBC to complain about a BBC News Online article which was a lengthy summary of what was known about the use of chemical weapons in Syria in August 2013. The article included a wide range of information about the nature of the chemical attacks and the number of people who were thought to be affected.

The complaint concerned the BBC's interpretation of a UN weapons inspectors' report into the alleged use of chemical weapons in Syria. The relevant section of the report: Appendix 5 of UN report on the Alleged Use of Chemical Weapons in the Ghouta Area of Damascus on 21 August 2013, can be found here:

http://www.un.org/disarmament/content/slideshow/Secretary_General_Report_of_CW_Investigation.pdf

The article that is the subject of this appeal can be found via this link:

<http://www.bbc.co.uk/news/world-middle-east-23927399>

The element of the article which is the subject of this complaint relates to the description of the paths the rockets carrying the nerve gas were thought to have taken.

The particular section of the article in dispute is as follows:

“Allegations

The UN mission was not asked to ascertain who was behind the attack.

However, by examining the debris field and impact area where the rockets struck in Muadhmiya¹³ and Ein Tarma, the inspectors found ‘sufficient evidence’ to calculate azimuths, or angular measurements, that allow their trajectories to be determined ‘with a sufficient degree of accuracy’.

When plotted on a map, the trajectories converge on a site that Human Rights Watch said was a large military base on Mount Qassioun that is home to the Republican Guard 104th Brigade.”

A map accompanying the article illustrated the above points.

The complainant considered the article was inaccurate and stated:

“...the UN inspectors state clearly in their report that they are only able to estimate the trajectories of the rockets at the point of final impact. One of the rockets has hit an adjacent apartment building before final impact so the bearing used has no relation to the original launch point. Nothing in the UN report indicates the ranges from which the rockets were fired and there is no evidence the rockets found in

¹³ There are multiple spellings of this suburb of Damascus, Syria. We have reproduced the spellings provided by each author.

East Ghouta would have the range suggested by the BBC's map, or could even have been fired from government controlled territory."

After a series of exchanges with the Middle East Desk, the complainant pursued his complaint to Stage 2 of the complaints process. The ECU did not uphold his complaint.

Appeal to the BBC Trust

The complainant said the ECU had misread the UN report. The complainant had made additional points at earlier stages of the complaint but these were not reiterated at the appeal stage.

The Trust Unit's decision

The Senior Editorial Complaints Adviser (the Adviser) carefully read the correspondence that had passed between the complainant and the BBC, and she acknowledged the strength of the complainant's feelings. An independent editorial adviser also reviewed the article and all the associated material.

In reviewing the complaint, the Adviser took into account all the relevant Editorial Guidelines (<http://www.bbc.co.uk/guidelines/editorialguidelines/guidelines/>) and, in particular, those concerning Accuracy.

The Adviser noted that Appendix 5 of the UN report began with a description of rocket parts recovered from the terrace of an apartment building in Moadamiyah (BBC spelling is Muadhmiya). The description, on page 18 of the report, included the following:

"The members of the Mission discovered, at this location, a small crater/impact point in the stone tiles which formed the floor of the terrace. Stone and earth debris were scattered outside of the crater as well as small metal fragments were visible in the locality. Of primary interest was the intact rocket motor found coincident to the impact crater. This rocket motor was noted to have stone and earth debris impacted in the front section of the motor identical to that found in the crater. There was no indication of damage around the crater area having been caused by blast or explosives. This implies that the warhead was not present upon final impact. Noting the location of the impact crater and other damage to the upper parts of existing fence/trellis work, the inspectors followed the trajectory of the rocket and determined that it initially impacted the corner of the second floor of an adjacent apartment building to the east, with either the warhead functioning or shearing off from the body at that point and the motor section having sufficient kinetic energy to continue along its path to its terminal impact location...

"...the team moved to the adjacent apartment building where the initial debris from the first impact/functioning of the rocket was found...This location was also surveyed and no intact identifiable munitions fragments were located. Masonry debris and smaller metal fragments were noted..."

For ease of reference, the Adviser called this Rocket A.

The Adviser noted that this section of the UN report was predominantly concerned with the description of the ordnance recovered, and that it contained no evaluation of the direction from which Rocket A might have been launched.

The final section of Appendix 5 was headed "Consideration on the likely trajectory of the rockets", the Adviser noted. This began by explaining that the UN mission had investigated five impact sites, three of which were not useful when it came to working out the trajectories of the rockets involved. The UN report then said the following on page 22:

"However, Impact site number 1 (Moadamiyah) and Impact site number 4 (Ein Tarma) provide sufficient evidence to determine, with a sufficient degree of accuracy, the likely trajectory of the projectiles."

In the view of the Adviser, the meaning of this sentence was unambiguous and the UN inspectors were saying that, in the case of these two particular sites, they could say with some confidence from which direction the rockets had come.

She noted that the report had then gone on to describe Sites 1 and 4, and that it was the description of Site 1, in particular, that was relevant to this complaint, because the complainant maintained that the rocket described under Site 1 was the same as Rocket A, detailed above. The following was the description of Site 1:

"The munition linked to this impact site, by observed and measured characteristics, indicatively matches one of the variants of the M14 artillery rocket, with either an original or an improvised warhead (not observed at the impact site). In the final stage of this trajectory, the projectile hit and pierced through a vegetal screen existing over one of the adjacent walls, before impacting the ground producing a shallow crater.

"The line linking the crater and the piercing in the vegetal screen can be conclusively established and has a bearing of 35 degrees. This line represents an inverse azimuth to the original trajectory of the rocket, that is to say, the original trajectory of the projectile, as it hit the ground, had an azimuth of 215 degrees."

The UN report then went on to describe a second impact site, with an azimuth of 214 degrees, so very similar to the first site. It concluded:

"Both relative positions are fully congruent with the dispersion pattern commonly associated with rockets launched from a single, multi-barrel, launcher."

The Adviser agreed that there were certainly some similarities between the description of the site of Rocket A and the description of Site 1: both were at Moadamiyah; Rocket A caused a "small crater/impact point", while the rocket at Site 1 produced a "shallow crater"; the warhead was not present at the site of Rocket A, and the warhead was "not observed" at Site 1; there was "damage to the upper parts of existing fence/trellis work" at the site of Rocket A, while at Site 1 "the projectile hit and pierced through a vegetal screen existing over one of the adjacent walls".

However, there were also some important differences between the two descriptions, in the Adviser's view: in the case of Rocket A, the inspectors reported it had "initially impacted the corner of the second floor of an adjacent apartment building", while at Site 1, no mention was made of the rocket having initially hit a neighbouring building; no mention was made of a second impact site near the site of Rocket A, while at Site 1 there was another impact site nearby with a similar azimuth.

The Adviser noted that the complainant, having understood the site of Rocket A and Site 1 to have been one and the same, had then gone on to argue that no meaningful

calculation could have been made about the direction of the rocket in question at launch because it had subsequently been deflected by having hit another building before travelling through vegetation and then landing at its final site.

The Adviser did not share the complainant's view, and she thought it unlikely that the Trustees would, either, for the following reasons.

First, there were some important differences between the descriptions of the site of Rocket A and Site 1 (she noted that the ECU had tried to get clarification on this from the UN but that it had said it had had nothing further to add to the text of the report).

Second, the complainant had emphasised as part of his argument that the UN report had stated that the calculation relating to Site 1 had been based on the trajectory of the rocket "as it hit the ground". However, in the Adviser's view, it would have made little sense for the description of Site 1 to have gone into so much detail about the trajectory of the rocket if all it had been describing was the very final stage of its journey, once it had already been deflected by hitting the corner of a building.

Third, the section on Site 1 clearly refers to "the original trajectory of the projectile" and describes its azimuth. This section also references a second site nearby with a similar azimuth, which the Adviser considered it was reasonable to read as relating to a second rocket. She agreed with the BBC's argument that this second site appeared to support the findings from the first site.

Fourth, the section beginning on page 22 of the UN report is clearly headed "Considerations on the likely trajectory of the rockets" and the text goes on to state:

"Impact site number 1 (Moadamiyah) and Impact site number 4 (Ein Tarma) provide sufficient evidence to determine, with a sufficient degree of accuracy, the likely trajectory of the projectiles."

The Adviser noted that it was these two trajectories that had been referred to in the text of the BBC article, attributed to the UN inspectors and referenced on the accompanying map.

For these reasons, she could not see that it could be successfully argued that the BBC article or the ECU had misinterpreted the UN report.

In summary, for all the reasons stated above, the Adviser considered there was no reasonable prospect of the Trustees finding the article had been in breach of the Accuracy Guidelines, and the appeal would not, therefore, be put before the Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He made the following further points in support of his complaint:

- Professor Sellstrom has made a number of comments which make the Editorial team's reading, and the Adviser's reading of his Report untenable.
- Professor Sellstrom has confirmed the rocket referred to in his report, and for which an azimuth was given, originally hit another building.

- Professor Sellstrom has also confirmed that, in his opinion, the rockets shown to his team in East Ghouta had a short range (Under 2 km).
- Professor Sellstrom has also confirmed that we do not currently know who was responsible for the sarin attack in Ghouta.

The complainant said it was therefore quite clear that the BBC report which was the subject of his complaint (and much of the BBC reporting on other channels) was based on a misreading of the UN Report (if the authors had indeed read the report) and seriously and fundamentally misinformed the public in claiming the UN Report indicated the rockets which allegedly hit Moadamiya and West Ghouta must have been fired from a particular Syrian government base (when this base was actually out of range of the rockets allegedly fired).

He said it appeared that the BBC and its adviser had not been following the issue very carefully. He said that the relevant quotes from Professor Sellstrom could be found in his comments after the release of the report at the UN and also in his more recent CBRNe World interview. He suggested that a further attempt was made to contact Professor Sellstrom if any confirmation was needed.

He said the BBC might also want to consult some ballistics experts on the reliability of an azimuth calculated after a rocket has deployed its warhead and hit masonry.

He concluded his request for a review of his appeal by stating that misinterpreting a UN Report in such a way as to point the finger of blame at one of the participants in a civil war (and in so doing make a UK military intervention more likely) was a very serious matter.

The Committee's decision

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

The Committee noted that the complainant believed the article made inaccurate claims that the azimuths given in the UN inspection team's report on the alleged use of chemical weapons in Syria could be used to calculate the range and trajectories of the rockets found in two locations. He believed there was nothing in the UN report to indicate the ranges from which the rockets were fired, and there was no evidence that the rockets found in East Ghouta would have had the range suggested by the BBC.

The Committee noted that the complainant did not accept the reasoning given by the Adviser not to proceed with the appeal. He believed it was clear that the BBC report which was the subject of his original complaint was based on a misreading of the UN Report and seriously misinformed the audience by claiming that "the UN Report indicated the rockets which allegedly hit Moadamiya and West Ghouta must have been fired from a particular Syrian government base" when this base was actually out of range of the rockets allegedly fired.

The Committee noted the detailed response sent at Stage 2 from the ECU which concluded that the article was not based on information in the UN report:

"I also cannot agree that the article and map misrepresented the possible range from which the rockets were fired. The map only showed the potential launch area for the 140mm rockets which hit Moadamiyah (shown as an orange ring) and made no reference to the range of the 330mm rockets which hit Ein Tarma. Furthermore, the map made it clear that the launch areas for the rockets were based on information from Human Rights Watch not from the UN report. The article did not claim that the azimuths given in the UN report could be used to calculate the range of the projectiles; this was based on information from Human Rights Watch. The article clearly stated that 'The UN inspectors did not identify the projectiles', thus guarding against the possibility that readers would have assumed the range of the missiles was based on UN information or evidence."

The Committee also noted that the complainant had referred to additional comments made more recently by Professor Sellstrom which he considered supported his case. Trustees noted that in interviews given in 2014, the Professor had reiterated his view that it was not possible to be sure who was responsible for the attacks. In terms of trying to estimate the trajectories of rockets that had hit buildings, he made the following point:

"At the best impact sites we could follow the projectile. They had marks of the projectile coming through the building material and impacting in the ground. The building material was quite soft, so we were able to talk about the trajectory because we could follow the rocket through lightweight building material and into the soil. We could sample on the way and get a picture that fitted. That was only in a few cases."

http://www.cbrneworld.com/uploads/download_magazines/Sellstrom_Feb_2014_v2.pdf

The Committee felt that the original article reflected the findings of the UN report. Trustees noted that the original article had made clear that: "The UN mission was not asked to ascertain who was behind the attack."

However, it noted that Professor Sellstrom had later said the following in the same CBRNe World interview:

"It is good that we took those trajectories, but the distance these rockets travelled is not very far, so it is misleading to use trajectories to try and find the focal point of the trajectory as they are only travelling a kilometre or something like that."

The Committee had already noted that the article had not attributed the information on the potential launch areas of the rockets to the UN report but on information from Human Rights Watch. It noted too that the original UN report which was referred to in the article had not included information about the likely distances that the rockets had travelled, so did not consider that it would be likely to conclude significant information had been omitted from the report. It did not consider, therefore, that this subsequent remark by Professor Sellstrom indicated the BBC had inaccurately reported the UN's findings.

The Committee noted that there were further sources that had been cited in the article in relation to the matter of where the rockets might have come from. For example, the article attributed the point that the Syrian government was believed to have M-14 rockets and the necessary launching system to the organisation Human Rights Watch, and reported other views, such as "The White House said US agencies had assessed 'with high confidence' that the Syrian government was responsible", and "The French intelligence assessment concluded that the attack 'could not have been ordered and carried out by

anyone but the Syrian government’.” The article had also reported the Syrian and Russian governments’ denials that Syria was responsible for the attacks, and had stated:

“President Assad accused rebel groups supported by the US, Turkey and Saudi Arabia of using chemical weapons to turn around the conflict in Syria because they were losing. He also said it would have been illogical for the military to use weapons of mass destruction in an area where its soldiers were present.

“Russia also challenged the US to present its evidence, with President Vladimir Putin describing claims that the Syrian government was responsible as ‘utter nonsense’. Russian officials suggested that rebels had sought to provoke international military intervention.”

The Committee did not consider Professor Sellstrom’s comments affected the accuracy of the information in the article. Not all of the information came from the UN report, and in any case, Trustees noted that the UN had chosen not to make any amendments or changes to its report. They considered they would be unlikely to conclude that the BBC had misinterpreted the UN report resulting in an inaccuracy in its article, for the reasons above and for all the reasons set out in detail in the Adviser’s Decision letter.

The Committee did not believe it would be likely to conclude that the article breached Editorial Guidelines on Accuracy.

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

BBC News website, Israel and Palestinian Territories country profile pages

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.

The complaint

The complainant wrote to the BBC about the "Facts" web pages contained in the country profiles of Israel and the Palestinian Territories on the BBC News website. The respective pages can be found here:

<http://www.bbc.co.uk/news/world-middle-east-14628840>

<http://www.bbc.co.uk/news/world-middle-east-14631271>

Whereas other country profiles list the country's capital, the Israel profile states:

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

The Palestinian Territories profile states:

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

The complainant believed the entries were not clear and the BBC should not assume that someone would know what having embassies in one place and a seat of government elsewhere meant.

She said that the international legal position was clear in that Jerusalem was not Israeli.

She felt it was "easy enough to write that East Jerusalem is Palestinian and West Jerusalem is Israeli", and that it was important to do so in order to be truthful, accurate and clear.

She also said that by "refusing to acknowledge international law on the status of Jerusalem, the BBC is giving the Israel point of view, thereby showing bias towards Israel".

In her appeal she made a request for the BBC to amend the entries so that they were "clear and unequivocal and reflect the internationally agreed legal position".

She said that such an amendment would "both address the issue of bias and that of duty to inform and educate".

Appeal to the BBC Trust

The complainant's appeal was consolidated with a number of appeals from other complainants on this issue and all received the same consolidated response from the Trust Unit. The points raised by the complainants were summarised:

- It was inaccurate to describe Israel's "seat of government" as being in Jerusalem.

- One complainant asked the BBC to amend the Profile pages so that they were a) clear and unequivocal and b) reflected the internationally agreed legal position, which was that Israel had illegally annexed Palestinian East Jerusalem.
- That the only body which referred to Jerusalem as Israel's capital was Israel – and therefore, in referring to it as the “seat of government” the BBC could be seen to be endorsing the perspective of the Israeli state.
- The capital of Israel “recognised by the world” was Tel Aviv.
- That if the description of Israel's “seat of government” was to relate to Jerusalem, the web pages should make clear the government was based in West Jerusalem.
- The web pages should make clear that East Jerusalem has been earmarked the future Palestinian capital.
- The web pages should make clear that Jerusalem was a divided city.
- The BBC was required by its Mission Statement to “inform and educate”. The BBC Profiles did not reflect this statement as the information presented was confused, incomplete, over-complicated and consequently misleading.
- One complainant considered that the reference to “Palestinian Territories” was inaccurate as the UN General Assembly had accepted Palestine as a state and pages should be amended to reflect this.
- The profile pages should include further information about the population of the areas. One complainant stated:

“It would not require much effort to mention the 537,000 settlers living in Palestine (including Occupied East Jerusalem), the 20,000 Israelis and 20,000 Syrians living in the Occupied Syrian Golan Heights and the 1,617,000 “Israeli” Palestinians living in Israel.”

The Trust Unit's decision

The relevant correspondence was reviewed by the Trust Unit, the Senior Editorial Complaints Adviser and an independent editorial adviser.

The Senior Editorial Complaints Adviser (the Adviser) considered that the complainants' appeals did not have a reasonable prospect of success.

The Adviser considered the complaints related to the BBC's Editorial Guidelines relating to Accuracy and Impartiality.

She noted that the ECU had responded to all the complainants at Stage 2, referring them to a previous adjudication by the BBC Trust, in the context of the Olympic country profile pages. The ECU noted that the Trust was the BBC's sovereign body, and the judgements of the ESC were binding on the BBC. The ECU stated that they were therefore not able to revisit this matter.

In her consolidated response to all the complainants, the Adviser noted that many points of complaint were covered by an ESC finding in January 2013 (referred to below). She noted that the Committee said that its considerations for that 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 Adviser noted the following points from the ESC's decision which were relevant to these complaints:

"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 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...."

"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."

"...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 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....”

“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...”

“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.”

The Adviser considered that all the points of complaint listed above, apart from the last three, had therefore previously been considered by the Trustees of the Editorial Standards Committee. On those points, the Trustees had not considered the country profile pages were in breach of the Editorial Guidelines on either Accuracy or Impartiality. Therefore, on those points, the Adviser did not consider the points raised had a realistic prospect of success and did not propose to put them before Trustees.

Of the remaining three points, the first referred to the BBC’s mission to “inform and educate”. The complainant considered that the BBC Profiles did not meet this standard. The Adviser noted that the Complaints Framework required all points of complaint to be made at stage 1 and that it stated:

2.7 Your complaint should include all of the points about the item that you wish to be considered as the BBC may not consider new or different points after Stage 1a of the Procedure has concluded.

The Adviser considered there was good reason for this as it allowed complaints to be addressed in an efficient manner. She noted this element of the appeal had not been raised earlier in the correspondence and considered it would not be appropriate for it to be put before Trustees. For completeness, however, she considered that as these elements of BBC output had already been put before Trustees and had been found to be duly accurate and duly impartial, she did not consider there was evidence that Trustees would find the pages were contrary to the BBC's mission to inform, educate and entertain.

The second remaining point related to the use of the term "Palestinian Territories". One complainant stated that the title "Palestinian Territories" was inaccurate as the UN General Assembly has accepted Palestine as a state. She therefore claimed that the country title should be amended to reflect this.

The Adviser noted that the ECU had responded at Stage 2 to this point and had drawn the complainant's attention to the "Overview" page of the Palestinian territories web page. This had outlined the attempt by the Palestinian National Authority/Palestinian Authority for the Palestinian state to be recognised by the UN. The ECU response stated:

"It is a fact that an independent state of Palestine remains an aspiration of the Palestinian people, so I do not believe that it is misleading to refer here to the Palestinian Territories. I'd add that I see little prospect of readers being misled, given that the UN position that you refer to is included in the 'overview' section for the Palestinian Territories:

The PNA made a symbolic bid for recognition at the UN as the 'State of Palestine' in 2011, mainly in an effort to highlight the lack of movement in relations with Israel.

This failed to gain the required support, but UNESCO - the UN cultural and educational agency - did admit the 'State of Palestine' as a member in October.

In November 2012, the UN General Assembly voted to upgrade the status of the Palestinians to that of a 'non-member observer state' - a move that allows them to take part in General Assembly debates and improves their chances of joining UN agencies."

The Adviser noted that the BBC had updated the "Overview" section of the Palestinian Territories profile to reflect the UN General Assembly's vote upgrading their status to that of a "non-member observer state". She noted that, while many countries recognised 'Palestine' as an independent state, it was not yet eligible to join the UN as a fully independent country. The Adviser considered Trustees would be likely to conclude the complainant had been given a reasonable response by the BBC at Stage 2 and there was no evidence that the BBC profile pages were inaccurate in their description of the current status of the Palestinian Territories. Therefore she considered that this point of appeal to the Trust would have no reasonable prospect of success.

The final point of appeal related to the population figures quoted on each "Facts" page, which one complainant considered were inaccurate and biased.

The Palestinian Territories page stated: Population: 4.4 million (UN, 2010)

The Israel page stated: Population: 7.7 million (UN, 2012)

The complainant stated at Stage 1:

"I wonder why the Jewish settlers of the West Bank including East Jerusalem are part of the population of Israel, while the indigenous Palestinians of the 'disputed territories' (4,200,000 excluding East Jerusalem) which are controlled by Israel (i.e. the whole West Bank and Gaza), are not counted: this is illogical and confusing."

At Stage 2 this complainant stated:

"'Israel Proper' is the pre June 1967 state and yet its population includes the Israeli colonists in the West Bank with East Jerusalem, and in the occupied Syrian Golan Heights. You do not show the population of the 'Palestinian Territories' – Gaza, the West Bank (including East Jerusalem)..."

The Adviser noted the ECU responded to this aspect of the complainant on 10 July 2013 and had stated:

"Assessing the true population of a state whose borders are the subject of dispute is not straightforward, and I can see that there might be an argument for a figure which reflects only those Israelis living in areas which are indisputably Israel under international law. However it remains the case that those living beyond those areas are also Israeli citizens, and in practice and under Israeli law, a part of their population, and I think therefore it is right that this figure includes them. Certainly that seems to be the view of the UN, who are cited as the source for those figures. Indeed I think it could reasonably be argued that to exclude the settlers from population would serve to downplay their impact on the region and on the occupied territories.

I could only consider this section to have misled readers if it gave a materially misleading impression of the fact – for instance, suggesting that the occupied areas were properly part of Israel, or that all Palestinians were Israeli citizens. I must say [I] do not think it likely that readers would reach either conclusion. There is nothing in that number to support either suggestion, and the country profile as a whole makes the facts of occupation, and the number of settlers, very clear:

The Palestinians in the West Bank and eastern Jerusalem have lived under Israeli occupation since 1967. The settlements that Israel has built in the West Bank are home to nearly 500,000 people and are deemed to be illegal under international law, although Israel disputes this.

In relation to this point and in reference to the page for the Palestinian territories you have said that it does not show the population of the territories. In fact it contains the UN estimate of the Palestinian population: 4.4 million. I think it is right that those people are counted as a part of this population, rather than that of Israel, and I do not see how this would amount to an inaccuracy. Indeed to count those Palestinians as citizens of Israel when they are not would risk seriously misleading the audience on a very significant point."

In her appeal to the Trust this complainant stated:

"The excuse of a limited space is unacceptable. It would not require much effort to mention the 537,000 settlers living in Palestine (including Occupied East Jerusalem), the 20,000 Israelis and 20,000 Syrians living in the Occupied Syrian Golan Heights and the 1,617,000 'Israeli' Palestinians living in Israel."

The Adviser noted that there was a BBC News profile for the Golan Heights which contained the information requested by the complainant:

Population estimate: 20,000 Israeli settlers, 20,000 Syrians

The Adviser noted that the population statistics quoted in the "Facts" pages of the Israel and Palestinian Territories profile clearly attributed the sourcing to the UN. She noted that this sourcing enabled interested readers to further interrogate the statistics on the UN's own website.

She noted that defining statistics in this area was difficult, with disputed borders and notions of citizenship. She therefore noted the importance of the "Overview" section; which included much detail about the history and disputed borders of Israel, including the following paragraph:

"The settlements that Israel has built in the West Bank are home to nearly 500,000 people and are deemed to be illegal under international law, although Israel disputes this."

She also noted that the "Overview" page for the Palestinian territories started by stating:

"The Palestinian population of around ten or eleven million people is divided between historic Palestine and a diaspora, mainly in neighbouring Arab countries."

The Adviser noted the BBC's guidelines on due accuracy and due impartiality which state that both "must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation".

The Adviser considered Trustees would be likely to conclude that the figures given in the webpages were in line with the amount of detail expected by users in the context of a general overview and that the source was given so that more information could be sought if desired. She considered Trustees would be likely to conclude there was no evidence of a breach of the BBC's Guidelines on either Accuracy or Impartiality and therefore this final point of appeal did not have a reasonable prospect of success and should not be put before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with her appeal. She said that although she did not mind the impersonal feel of the response, she did mind her complaint being bundled up with others, so that her specific points of complaint had not been dealt with.

She made the following points:

- She made her original complaint because she could not make sense of the two online country profiles (Palestine and Israel) when taken together. They begged other

questions and were confusing and illogical. She complained in October 2013 via the BBC's online form which limited the number of characters/words she could use.

She said this was part of what she wrote:

"the BBC is propagating misinformation and giving an Israeli viewpoint. This is NOT its role and absolutely contradicts: 'we are independent, impartial and honest'.
http://www.bbc.co.uk/aboutthebbc/insidethebbc/howweare/mission_and_values/"

- She had had to look elsewhere to find out the exact status of Jerusalem. This made her angry, both for her own wasted time, and for people who would not have the time, or may not have spotted the inconsistencies between the two profiles, and would therefore not have gained an accurate picture; this was a substantial failure by the BBC.
- She could not believe why and how the BBC could ignore both UN Resolutions, international legal opinion, and (as she found out later) the view of the British Government on the status of Jerusalem. She did not understand how the BBC could take its own path on this subject.
- She believed the BBC has not given due weight to the UN's various rulings and to international legal positions; the BBC has treated them as of less importance than Israeli actions on the ground. By doing this, balance has been lost, resulting in a definite bias towards Israel.
- She said that as she has still not had answers to these points she would like the Trust to look at her specific complaints, independent of others. She considered that by consolidating them with others, their focus had been lost. She emphasised that she had raised important points, which justified investigation by the Trust.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser (the Adviser) and the complainant's letter asking the Committee to review her decision. The Committee was also provided with the BBC News website pages in question.

The Committee acknowledged the complainant's concerns that the country profile pages for Israel and Palestine did not meet the BBC Editorial Guideline requirements for due Accuracy and due Impartiality.

The Committee noted the complainant's dissatisfaction at receiving a consolidated response which she felt had not fully addressed all her specific points of complaint. However, the Committee noted that the Adviser had explained that in order to ensure administrative and cost efficiency, appeals on this subject were consolidated in accordance with paragraph 5.6 of the Editorial Complaints and Appeals Procedure. This was intended to ensure that the key reasons for the decision on the issues raised in the complaints were communicated to complainants in an efficient manner.

The Committee noted the Adviser's response that, in the previous ESC adjudication in the context of the Olympic country profile pages, Trustees had not considered that those profile pages were in breach of the Editorial Guidelines on either Accuracy or Impartiality.

The Committee noted that the webpages that were the subject of that previous decision were based on the webpages that were the subject of the present appeal and contained materially identical information on the Israel and Palestine profiles, and therefore agreed with the Adviser that its previous finding was relevant to the present appeal. The Committee further agreed that its decision in that case had fully addressed many of the current complainant's arguments, in the sections set out by the Adviser in her decision.

The Committee acknowledged that the complainant did not agree with the Trust's original decision but it considered that her concerns had been addressed in that decision. Further, the Committee noted that it had not seen any evidence to suggest that it should depart from the reasoning adopted in the earlier decision.

Notwithstanding this, the Committee noted three points that had been raised in the present appeal but had not featured in the Olympic pages decision:

The first remaining point referred to the BBC's mission to "inform and educate". The complainant considered that the BBC Profiles did not meet this standard. The Committee noted that this element of the complaint had not been made in accordance with paragraph 2.7 of the Complaints Framework which requires all points of complaint to be made at Stage 1. However, the Committee was of the view that as it had previously considered these elements of BBC output and found them to be duly accurate and duly impartial, it was unlikely to conclude that the pages were contrary to the BBC's mission to inform, educate and entertain.

The second remaining point related to the use of the term "Palestinian Territories". The Committee believed it would be likely to conclude that the complainant had received a reasonable response from the BBC at Stage 2 drawing the complainant's attention to the "Overview" page of the Palestinian territories web page. This had outlined the attempt by the Palestinian National Authority/Palestinian Authority for the Palestinian state to be recognised by the UN.

The Committee noted that the Adviser had informed the complainant that the BBC had updated the "Overview" section of the Palestinian Territories profile to reflect the UN General Assembly's vote upgrading their status to that of a "non-member observer state", and had further noted that while many countries recognised "Palestine" as an independent state, it was not yet eligible to join the UN as a fully independent country.

The Committee was not of the view that evidence had been presented which would be likely to lead it to conclude that the BBC profile pages were inaccurate in their description of the current status of the Palestinian Territories.

The third remaining point related to the population figures quoted on each "Facts" page, which the complainant considered were inaccurate and biased.

The Committee noted that the Adviser had given a detailed response to this point in her Decision letter, explaining that defining statistics in this area was difficult, with disputed borders and notions of citizenship, and also noting the importance of the "Overview" section, which included much detail about the history and disputed borders of Israel. She had noted that

"The settlements that Israel has built in the West Bank are home to nearly 500,000 people and are deemed to be illegal under international law, although Israel disputes this."

She had also noted that the "Overview" page for the Palestinian territories stated:

"The Palestinian population of around ten or eleven million people is divided between historic Palestine and a diaspora, mainly in neighbouring Arab countries."

The Committee considered that the figures given in the webpages were in line with the amount of detail expected by users in the context of a general overview and that the source was given so that more information could be sought if desired.

The Committee believed it would be likely to conclude that there was no evidence that the country profile pages which were the subject of this appeal had breached the BBC's Guidelines on either Accuracy or Impartiality.

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

The National Lottery Live, BBC One, 13 October 2013

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.

The complaint

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit (ECU) not to uphold his complaint about geographical references to parts of Britain on *The National Lottery Live* on 13 October 2013.

The complainant said that when Chris Evans pointed to the map he was visually indicating the north east of England, but was speaking about the north east of the UK. The complainant said that the north east of England was not the same as the north east of the UK. The complainant believed it was indicative of the way BBC presenters and newsreaders in general dismissed parts of Great Britain which were outside England.

Audience Services responded on 24 October 2013, saying that Chris Evans had been referring to the regions of England and had referred to the North East and that he had referred to Scotland separately.

The complainant made a follow-up complaint on 24 October 2013. He objected to the way that the regions of England were differentiated from each other, but Scotland was just referred to as 'Scotland'.

The complaint was passed to the Controller of Broadcast, Camelot UK Lotteries Limited for his comments. He stated that:

"To give some context to the layout of the map – the UK is divided into twelve electoral regions made up of the nations and regions of the UK. We have used this template as the basis for deciding the regions shown on the map."

The complainant escalated his concerns to the Editorial Complaints Unit at Stage 2, asking why Scotland was deemed a 'region' of the United Kingdom, whereas that was not the case with England, which was divided up into distinct English regions. He said that it showed a very insular view of the UK. He requested that when referring to the North East of England, presenters stated this, as it was not the North East of the UK as had been suggested by Chris Evans when he pointed to the map on *National Lottery Live*.

Having considered the complainant's concerns against the Editorial Guidelines on Accuracy, the ECU did not uphold the complaint. The ECU stated in its finding of 9 January 2014:

"While I regret that you found this geographical breakdown of the week's winners inaccurate and attributed this to an insular approach, there isn't....a requirement in the context of a programme of this kind to apply the accuracy guidelines in the way that would be required of news or factual content."

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 16 January 2014 as he was not satisfied with the response at Stage 2. He asked the Trust to review the ECU's finding and made the following points:

- The ECU had only defended what had been decided by insular views of the BBC.
- The reference to 'informal and everyday use' of phrases surely only applied to the everyday use of such phrases by English viewers.
- In essence, viewers from Scotland, Wales and Northern Ireland were treated differently from English residents, but the ECU could not, or would not, recognise that.

The Trust Unit's decision

The Senior Editorial Complaints Adviser (the Adviser) carefully read the correspondence that had passed between the complainant and the BBC and watched the output in question. She acknowledged the strength of the complainant's feelings about this matter.

The Adviser noted that the complainant had raised concerns that the output was not accurate and implied that Scotland was a region of the UK rather than a country within the UK with its own distinct regions such as those referred to in England.

The Adviser noted that the ECU had referred to the Guidelines on Accuracy in the Stage 2 response, explaining that the accuracy for an entertainment programme such as *National Lottery Live* would not be the same as for factual content. She noted the dialogue between Chris Evans and Alan Dedicoat and considered the ECU's Stage 2 response which stated:

"In earlier correspondence the programme-makers explained that the map reflects the twelve UK electoral regions, comprised of the three nations and nine English regions. This seems to me to be a practical way of illustrating the breakdown of winning tickets in a manner that works visually in the graphic and breaks the map down into a sufficient number of areas to give a sense of the distribution of the winning tickets without making it over-complicated. The show has been running for a considerable time, and in any event I think viewers are sufficiently familiar with the colloquial use of phrases such as 'the North West/the North East' etc. as references to English regions not to be confused into interpreting them to mean anything else. ...I also feel that while Chris Evans' approach to the map reflected the somewhat haphazard and high-octane atmosphere of the show, Mr Dedicoat's response to the question 'OK 84 – where AI?' strongly reinforced Scotland's status when he said 'That's Scotland – very much Scotland'."

The Adviser acknowledged the complainant's view that Scotland was referred to as a 'region' of the United Kingdom, rather than a country with its own separate regions, and thereby demonstrated an insular viewpoint. However, she agreed with the ECU that the colloquial language used in reference to the map would have been clearly understood by audiences.

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

standards which did not apply in this case. Decisions, such as how to explain the distribution of lottery winners across the UK, were part of the “editorial and creative output” of the BBC and were the responsibility of the BBC Executive.

The Adviser considered that Trustees would be likely to conclude the programme met the requirements for due accuracy set out in the Editorial Guidelines. She did not therefore believe the appeal had a reasonable prospect of success and did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated his main point that Scotland is not a region of the UK despite the electoral region divisions. He considered that the electoral regions had been used as an excuse to give more importance to regions of England.

The Committee’s decision

The Committee was provided with the complainant’s appeal to the Trust, the response from the Senior Editorial Complaints Adviser (the 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 that the complainant did not accept the reasoning given by the Adviser not to proceed with the appeal. The Committee noted the complainant’s concern that the regions of England were differentiated from each other, whereas, he said, Scotland was just referred to as ‘Scotland’. He felt that Chris Evans had demonstrated this in the way he referred to the North East on a map during an edition of *National Lottery Live*.

The Committee noted that the Adviser had explained that the requirement for due accuracy in an entertainment programme such as *National Lottery Live* would not be the same as for factual content. The Committee noted the ECU’s response at Stage 2:

The Committee agreed with the ECU and the Adviser that the colloquial language used in reference to the map would have been clearly understood by audiences.

The Committee did not agree with the complainant’s view that the electoral regions had been used as an excuse to give more importance to regions of England, and did not believe it would be likely to conclude that the content which was the subject of the complaint breached Editorial Guidelines on Accuracy.

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

Have I Got News For You, BBC One, 25 October 2013

The complainant, a member of the public, 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.

The complaint

The complainant contacted the BBC about *Have I Got News For You*, broadcast on 25 October 2013. His complaint concerned a reference made to Prince Harry by the host, Jo Brand, when she was talking about the royal christening of Prince George. She said:

"George's godparents include [x] Van Cutsem. I presume that's a nickname, in that [x] Van Cutsem and Harry then snorts 'em."

The complainant considered this an "outrageous unfounded allegation".

Audience Services sent a response on 30 October 2013 which stated:

"Have I Got News For You is a satirical news quiz and the audience is used to the often irreverent humour. This line was a play on words as part of a section on the surnames of those involved in the christening of Prince George and was clearly tongue-in-cheek."

The complainant remained dissatisfied and renewed his complaint, he considered the programme had made a false allegation.

Audience Services sent a further response which referred the complainant to the Editorial Complaints Unit and stated:

"In-keeping with some of the jokes featured in the past, we included a scripted joke which played on a name; on this occasion the name was van Cutsem, with a nod to Harry's reputation as the party prince. Given the established audience expectations for this irreverent, post-watershed BBC One series we felt that such a joke was editorially justified, would not have exceeded those expectations, and would be in line with the BBC's Editorial Guidelines."

The complainant remained unhappy and pursued his complaint to Stage 2. It was investigated by the Editorial Complaints Unit (ECU) which did not uphold the complaint.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 17 January 2014. He made the following points:

- He did not believe the ECU's Complaints Director had taken his complaint seriously, or addressed the main issue.
- He asked how it could be a joke for one of the comedians on the programme to allege that the Queen's grandson was "involved in serious criminality and in gross breach of the Army discipline code".

The Trust Unit's decision

The Senior Editorial Complaints Adviser (the Adviser) carefully read the correspondence that had passed between the complainant and the BBC and watched the relevant output. She acknowledged the strength of the complainant's feelings about this matter.

The Adviser considered the complaint against the Editorial Guidelines on Accuracy. The Guidelines can be found in full here: <http://www.bbc.co.uk/guidelines/editorialguidelines>.

The Adviser noted that the Guidelines explained that the demands of due accuracy varied depending on the output – so that if a serious matter was the subject of a documentary, the degree of accuracy required would be greater than if the same serious subject were featured in a comedy panel show. The Adviser considered this was broadly understood by audiences.

The Adviser noted that the Guidelines also required that programme makers took into account the expectations of their audience. She noted that *Have I Got News for You* had been running for more than 20 years and was a very well established satirical comedy programme. She considered this was a significant point when considering the complainant's view that a parallel could be drawn between output on *Newsnight* and output on *Have I Got News for You*. She considered the expectations of the audiences would be very different for the two programmes and the requirement for due accuracy was far more exacting for a news and current affairs programme than it was for a well-established comedy programme.

The Adviser noted that in this instance the complainant's main concern was that the BBC had broadcast an allegation that Prince Harry had taken illegal Class A drugs by saying "[X] Van Cutsem and Harry then snorts 'em". He did not find this amusing and believed that the BBC should not make inaccurate allegations even as a 'joke'.

The Adviser noted the ECU response to this point:

"The nub of this, it seems to me, is whether a viewer might reasonably take from this that it was actually being alleged that Prince Harry was a cocaine user and I have to say that I think, on balance, that this is very unlikely. *Have I Got News For You* has a well established reputation for humour that is robust, often uncomfortably personal and sometimes simply grotesque. That alone, it seems to me, helps to guard against anything said on the programme being taken as necessarily true. I do think that, in this case, the audience will have understood that an opportunity was being exploited to have some fun with the name Van Cutsem rather than that allegations of drug taking were actually being made about Prince Harry."

The Adviser agreed with the ECU response. She also noted – as the ECU's Complaints Director had done, that the joke had been followed by a comment from Ian Hislop, who had interjected: "Have we lost the lawyers" and considered this would alert viewers to the idea that this was a contentious statement that should not be taken seriously. She considered that, given the audience expectations of this well established programme, Trustees would be likely to conclude the output met the requirements of the Editorial Guidelines for Accuracy.

For completeness, the Adviser noted that the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" was specifically defined in the Charter (paragraph 38, (1) (b)) as a duty that was the responsibility of the Executive

Board, and one in which the Trust did not get involved unless, for example, it related to a breach of the BBC's editorial standards - which the Adviser did not believe was the case here. Therefore, the Adviser considered that decisions about what jokes to feature on *Have I Got News for You* were the responsibility of the Executive.

It followed from that, that the Adviser considered the appeal had no reasonable prospect of success and she did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal.

He reiterated his view that it was alleged during *Have I Got News For You* that "without any evidence being provided, that a serving soldier who is also fourth in line to the throne has committed a serious criminal offence and breached the Army's discipline code". He suggested this did not meet the high standards required by the BBC's Editorial Guidelines.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser (the 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 that *Have I Got News For You* alleged "without any evidence being provided, that a serving soldier who is also fourth in line to the throne has committed a serious criminal offence and breached the Army's discipline code".

The Committee noted the arguments which had been put forward by the ECU and the Adviser, and agreed that the content of the programme would have been likely to meet the likely audience expectation of due accuracy for a long-established satirical comedy programme of this kind. It noted the show included jokes which were playing on far-fetched situations, unlikely juxtapositions and improbable word plays.

The Committee noted the response of the Complaints Director at Stage 2:

"The nub of this, it seems to me, is whether a viewer might reasonably take from this that it was actually being alleged that Prince Harry was a cocaine user and I have to say that I think, on balance, that this is very unlikely. *Have I Got News For You* has a well established reputation for humour that is robust, often uncomfortably personal and sometimes simply grotesque. That alone, it seems to me, helps to guard against anything said on the programme being taken as necessarily true."

The Committee agreed with this view and also noted that it was in the tradition of British comedy to extract broad humour from the Royal Family.

The Committee did not believe that there would be a reasonable prospect of success for an appeal on the grounds that the programme had breached the BBC's Editorial Guidelines on Accuracy.

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

Decision of BBC Audience Services not to respond further to complaint about the 0830 news bulletin, BBC Radio 3, 9 December 2013

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.

The complaint

The complainant wrote to the BBC Trust following the decision of BBC Audience Services not to respond further to his complaint about a BBC Radio 3 news bulletin story on 9 December 2013 which reported on how comparatively few girls attending mixed state school chose to study Physics A-level.

The news bulletin had stated:

"Research suggests almost half of mixed state schools in England are reinforcing gender stereotypes when it comes to A-level choice according to a study from the Institute of Physics. Just one girl for every four boys takes physics A-level in England. It found that not enough was being done to challenge the idea that certain subjects were for girls and others for boys and it's warning this prevents young people from discovering their potential."

The complainant felt that the report was sexist and was "actually discriminatory and divisive. And wrong. It is student choice, so if female students do not want to do that A-level – why blanket blame schools for being sexist."

He asked whether the News Editor expected the different sexes to be 100% equal in all things. He felt that the Editor had subjected listeners to his own opinion. He considered the story demonstrated that the BBC was innately sexist.

BBC Audience Services responded on 24 December 2013 explaining the BBC's editorial policy with regard to impartiality and the reporting of a range of views. The response included the following statement:

"I understand you feel it was divisive and discriminatory for the bulletin to report that only 25% of A Level Physics students were female. I note you feel that this is a student's personal choice and the blame can't be held by the school.

BBC journalists are made well aware of our commitment to impartial reporting. They are expected to put their own political views to one side when carrying out their work for the BBC. They seek to provide the information which will enable listeners to make up their own minds; to show the political reality and provide the forum for debate, giving full opportunity for all viewpoints to be heard."

The complainant was not satisfied and sought a further response. Audience Services sent a final response on 6 January 2014 explaining that they felt they had responded as fully as they could and had nothing further to add.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust as he was not satisfied with the response received at Stage 1b from Audience Services which stated that they could not engage in

further correspondence on the issue. The complainant appealed on the substance of his complaint about the Radio 3 news bulletin of 8.30am on 9 December 2013.

The Trust Unit's decision

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

The complainant had appealed on the substance of his complaint which concerned a BBC news report about research from the Institute of Physics which indicated that girls from mixed state-funded schools were less likely to study physics at A-level than boys in the same schools. The Adviser noted, however, that BBC Audience Services had ceased handling this complaint at stage 1 and that the complaint had not gone to stage 2. She therefore decided that the point she should consider was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

The Adviser noted that in an interview on Radio 4's *Today* programme, broadcast on the same day as the Radio 3 news bulletin, the Curriculum and Diversity Manager for the Institute of Physics had provided more information about the report. She had stated on *Today* that the research, using data from the National Pupil Database, suggested that "for girls, it made a massive difference as to what type of school they went to whether they progressed to A level physics".

She said the point she wanted to make was that the aim should be for everyone to have equal access and equal opportunity to do the things they find most interesting and rewarding.

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

The Adviser appreciated that not everyone would agree with the decisions that were made about what news stories to cover in each bulletin.

The Adviser noted that the news story was a report into research which suggested the extent to which girls studied physics A level was related to the kind of school they attended. The Adviser noted that the kind of contextualisation of the report which had emerged during the Radio 4 interview on the *Today* programme was not included in the much shorter Radio 3 news bulletin. However, she considered Trustees would be likely to conclude that the Radio 3 bulletin had clearly stated the source of the story, which was new research from the Institute of Physics, and had given a reasonable, albeit brief, summary of the key finding – namely, that girls attending mixed, state schools were less likely to study physics at A level.

She did not consider she had seen evidence that suggested the item had not met the BBC's Editorial Guidelines and considered that BBC Audience Services had explained that journalists were aware of the requirement to be impartial in BBC output.

The Adviser also noted that the Complaints Framework [Editorial Complaints Procedure] stated:

At all stages of this Procedure, your complaint may not be investigated if it:

1.7.1 fails to raise an issue of breach of the Editorial Guidelines

The Adviser considered that Trustees would be likely to conclude that Audience Services had provided a reasonable response to the complainant's concerns and it was therefore appropriate for Audience Services to decline to engage in further correspondence on this issue. It followed from this that she did not consider the appeal had a reasonable prospect of success and she did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal.

He did not think that the Adviser had made a valid case for rejecting his appeal by quoting the Curriculum and Diversity Manager from the Institute of Physics. He said that if research merely **suggested** something, it could not be stated categorically that it was so, and the Institute's warning that young people could be prevented from discovering their potential had not been validated.

He said that to take this 'suggestion' and then to call the school prejudiced was wrong.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser (the Adviser) and the complainant's letter asking the Committee to review her decision. The Committee was also provided with the section of the bulletin in question.

The Committee noted the complainant's concern that BBC Audience Services had declined to take his complaint as they did not consider the points he raised suggested a possible breach of Editorial Standards and they felt they had responded as fully as they could.

The Committee considered whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

The Committee noted that the complainant did not consider that the Adviser had made a valid case for rejecting the arguments he had put forward in his appeal, and he questioned the integrity of the research cited by the Curriculum and Diversity Manager from the Institute of Physics.

The Committee did not consider that any evidence had been presented which would be likely to lead it to conclude that the item did not meet the Editorial Guideline requirements for due Impartiality, and noted that Audience Services had explained the BBC's commitment to impartiality amongst its journalists.

The Committee agreed that the substance of the complaint was unlikely to be successful if brought on appeal. The Committee was satisfied that there was no reason to conclude that the complaint was so serious as to warrant the Trust over-riding the decision of Audience Services not to correspond further with the complainant on this issue.

The Committee concluded that the appeal did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to complaint about Today, BBC Radio 4, 28 June 2013

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.

The complaint

The complainant wrote to the BBC Trust following the decision of BBC Audience Services not to respond further to his complaint about the edition of the *Today* programme broadcast on 28 June 2013.

The complainant wrote to the 'Editors' of the *Today* programme at Broadcasting House on 28 June 2013, complaining about news bulletins within that day's edition of *Today*. He was concerned about a line from the bulletin which stated: "Most grooming is carried out online by white men". The complainant queried whether white men were disproportionately guilty of carrying out more online grooming, or whether this was simply a reflection that the UK had a greater number of white men than men from ethnic minorities. The complainant asked what information would support the statement and considered that, if white men were not disproportionately more likely to carry out online grooming, the statement amounted to: "a gratuitous racial slur on the white male population" and he asked that the Editors of *Today* treat his letter as a formal complaint.

He received no response from the *Today* Editors and sent a follow-up complaint on 22 August 2013. He did not receive a response and on 14 November 2013 complained to the BBC Complaints Department in Darlington, in accordance with the BBC's formal complaints process. He stated "As it is now almost three months since the second letter and I have received no response it appears that I am not going to get one, so I have no choice but to go down the formal complaint route".

BBC Audience Services responded on 2 December 2013, explaining that complaints were now handled centrally and should be submitted to BBC Complaints in the first instance. On the substance of the complaint, they stated:

"We cannot comment on the specific example you have given as that programme was broadcast on the 28th June, as it is therefore out of time (complaints should normally be submitted within 30 working days of the transmission). What we can say, in more general terms, is that factors such as race, ethnicity or religion are usually only mentioned if they are considered editorially justified and an important element of the story. In context, the comments you allude to would not necessarily be unjustified or 'gratuitous' as you put it, although as explained, we cannot comment on specifics unless a more recent example or incident is given."

The complainant disputed the decision by Audience Services to consider his complaint 'out of time' because he had made his first complaint within 30 days of transmission.

He sent a further letter on 5 December 2013 stating his view that if complaints were handled centrally, it was the duty of the individual programme teams to pass them on to the central body tasked with dealing with them. He repeated his request for a response on the substantive complaint.

Audience Services sent a final response on 23 December 2013 explaining that if complainants contacted programme teams directly, there was no guarantee of a response. They did not feel it was appropriate to circumvent the complaints process on this occasion. They explained that the time limit was imposed because it became increasingly difficult to research complaints as time has elapsed.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust as he was not satisfied with the response received at Stage 1b from BBC Audience Services. He said he did not believe that their refusal to investigate his complaint was justified.

He said that the refusal to investigate his complaint rested on the fact that his complaint had, in the view of the BBC Complaints Department, been sent to the wrong address, because he had sent it directly to the *Today* programme.

He believed that the proper action for the *Today* programme team to have taken on receipt of his letter would have been to direct the complaint to the correct department, in this case, BBC Complaints, and to advise him, as the sender of the letter, that this had been done instead of simply ignoring it.

He also raised the possibility that the real reason for not investigating his complaint was that the Complaints Department did not believe that his substantive complaint was serious enough to warrant further investigation. He said it was serious and that "casual racism does not become acceptable simply because it is directed towards Caucasians".

The Trust Unit's decision

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

The complainant had appealed on the substance of his complaint about the news bulletins in the *Today* programme. The Adviser noted, however, that BBC Audience Services had ceased handling this complaint at stage 1 and that the complaint had not gone to stage 2. She therefore decided that the point she should consider was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

The Adviser noted that the complainant had initially attempted to contact the *Today* programme directly by letter on 28 June 2013 and had followed this up with a further letter on 22 August 2013. He had then written to Audience Services in November 2013.

The Adviser noted that the process for making a complaint was set out in the BBC's Complaints Framework:
http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/complaints_framework/2012/editorial_complaints.pdf

The relevant sections are set out below for ease of reference:

2.1 You should make your complaint within 30 working days of the date on which the content was broadcast or first published in a BBC owned magazine. If you write after that time, please explain why your complaint is late. Exceptionally, the

BBC Executive may still decide to consider your complaint, but only if it decides there was a good reason for the delay...

2.4 If the Executive decides not to investigate your complaint because it is late, you can ask the Trust to review that decision...

All complaints should be made to BBC Audience Services, as follows—

- through the BBC website: <http://www.bbc.co.uk/complaints>; or
- by telephone:

03700 100 222*

03700 100 212* (text phone)

*24 hours, charged as 01/02 geographic numbers; or

- by post:

BBC Complaints, PO Box 1922, Darlington, DL3 0UR

If you do not direct your complaint to one of the above, the BBC cannot guarantee that your complaint will be replied to.

The Adviser considered the time frame for making a complaint was clearly set out and that it existed for good reason as it became increasingly difficult to respond to complaints properly as time passed since the original broadcast.

She also noted the framework stated that complainants were only guaranteed a response if they made their complaint to BBC Complaints. She considered this was also done with good reason as many programmes had production teams which were disbanded once a series was off air, that production teams moved offices with some regularity and in any event, it could prove difficult to keep track of correspondence in the production office of a busy programme.

The Adviser agreed that programme makers would be expected to send correspondence on to BBC Complaints; however, she had seen no evidence that showed the letters had been received by the *Today* programme team.

She noted that the complainant said that BBC Complaints had “refused to investigate” his complaint. She also noted that the response from BBC Audience Services dated 2 December 2013, while confirming that they would be unable to comment on the specific complaint, as it was submitted beyond the 30 working day time limit, did give a general response about BBC editorial policy:

“What we can say, in more general terms, is that factors such as race, ethnicity or religion are usually only mentioned if they are considered editorially justified and an important element of the story. In context, the comments you allude to would not necessarily be unjustified or ‘gratuitous’ as you put it, although as explained, we cannot comment on specifics unless a more recent example or incident is given.”

The Adviser noted that the Complaints Framework had been amended in 2012 to make the complaints process “faster, simpler and easier to understand”. The changes that had been introduced – which included the introduction of the single BBC Complaints contact centre – were intended to ensure the BBC handled complaints efficiently and did not allow

complaints to go unanswered. She noted that the letter sent by the complainant directly to the Darlington address was given a timely response by Audience Services within the recommended 20 working day timeframe.

The Adviser noted that the complainant had been invited to submit a further specific example concerning what he described as "casual racism", as long as it was a more recent one and met the 30 working day requirement for submission of complaints.

The Adviser considered that Trustees would be of the view that Audience Services had acted appropriately in closing down the correspondence because the complaint had been made outside the timeframes set out in the Complaints Framework. She considered Trustees would conclude that it was reasonable for the BBC to decline to engage in further correspondence on this issue. It followed from this that she did not consider the appeal had a reasonable prospect of success and did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He noted that the Adviser said she had seen no evidence that his two letters of complaint had been received at the BBC. He suggested that even if the Post Office had failed to deliver one of his two letters, it was most unlikely they would have failed to deliver both, which meant that there was a possibility that the letters had either gone astray within the BBC's internal postal system or they had been received and not actioned. He felt that the possibility of both of his letters going astray was tiny. That being the case, he felt it would have been reasonable for the BBC to investigate his complaint. He felt that a responsive and responsible organisation would not hide behind the complaints procedure to avoid dealing with legitimate and timely complaints, particularly as the detailed complaints procedure only seemed to be readily available to the internet-literate.

The Committee's decision

The Committee was provided with the complainant's appeal to the Trust, the response from the Senior Editorial Complaints Adviser (the 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 that BBC Audience Services had declined to take his complaint as it was made outside the time limit set out in the Editorial Complaints and Appeals Procedure. The Committee also noted that the complainant said he had made two complaints directly to the *Today* Editors, to which he had received no response, prior to his contacting Audience Services, and this was the reason his complaint had been submitted to them outside the usual time frame of 30 working days following the broadcast of the programme which was the subject of his substantive complaint.

The Committee noted that the Adviser had explained the reasons for the 30 working day deadline and had also explained that complainants could not be guaranteed a response unless they made their complaints through BBC Audience Services, as set out in the Complaints Framework. The Committee noted the complainant had been invited by Audience Services to submit a further specific example concerning what he described as "casual racism", as long as it was a more recent one and met the 30 working day requirement for submission of complaints. The Committee agreed that the BBC had responded appropriately when it said that it could not reply to the complaint as it had

been made outside the 30 working days stipulated in the Editorial Complaints and Appeals Procedure.

Nonetheless, the Committee expressed its regret that the complainant's letters to *Today* had gone unanswered. The Committee was surprised that this was the case as *Today* had a good track record for answering listener correspondence; it noted that the Trust's Complaints Adviser would contact *Today* to establish whether the complainant's letters reached the production team. [At the request of Trustees the non-receipt of the letters was later checked and the *Today* programme explained that it had not received either letter.]

The Committee considered whether the matter raised in the original complaint was so serious that an exception should be made. The Committee noted that the substantive complaint concerned a line from a news bulletin within the *Today* programme which stated: "Most grooming is carried out on-line by white men". The complainant queried whether white men were disproportionately guilty of carrying out more online grooming, or whether this was simply a reflection that the UK had a greater number of white men than men from ethnic minorities. The Committee noted the line did not indicate which was the case but considered that had the complaint come to the Committee it would be likely to be considered duly accurate in either case (assuming the fact was as reported). The Committee agreed that the substance of the complaint was unlikely to be successful if brought on appeal. The Committee was satisfied that there was no reason to conclude that the complaint was so serious as to warrant the Trust over-riding the normal complaints procedure.

The Committee concluded that the appeal did not have a reasonable prospect of success.

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