

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

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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://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2015/esc_tor.pdf

The Committee comprises five Trustees: Richard Ayre (Chairman), Sonita Alleyne, Mark Damazer, Bill Matthews and Nicholas Prettejohn. The Committee 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.

1 http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/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.

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

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

The findings for all appeals accepted by the Committee are normally 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 normally 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

Patagonia: Earth's Secret Paradise, BBC Two, 25 September 2015

Patagonia: Earth's Secret Paradise was a three part series made in-house by the Natural History Unit for BBC Two. *Fire and Ice* was the first programme in the series and showed images of Patagonia's volcanic landscape and footage of a 'dirty' volcanic eruption which included an ash cloud and numerous flashes of lightning. The programme had used specific production techniques to maximise the impact and visibility of the lightning flashes and had combined these elements to create a composite image of the volcanic eruption. Additionally, as well as the contemporaneous footage, the composite image included film of lightning flashes that had been taken when a different volcano had erupted in 2011. The older images were added to the composite to create a more intense lightning display. The use of a composite image with historic footage of another volcano was not signposted to viewers.

The sequence was made available online and was widely accessed. The BBC then became aware that the composite image contained shots of lightning flashes taken from another volcano. The sequence was re-edited to remove the additional lightning flashes and the BBC Executive reported a serious breach of the BBC's Editorial Guidelines to the Editorial Standards Committee of the BBC Trust in October 2015.

Trustees considered the images combined with the commentary were not presented as a general sequence and were potentially misleading.

The Committee bore in mind the very high regard in which output from the BBC's Natural History Unit is held. They considered this was a serious breach of the Editorial Guidelines for Accuracy.

Human Planet: Deserts – Life in the Furnace, BBC One, 2011

Human Planet: Deserts – Life in the Furnace, had been broadcast in 2011 and described the difficulties faced by Mongolian camel herdsman during winter in the Gobi desert.

The programme described how an infant camel had been killed by wolves. However, having been unable to film a wolf for the programme, a semi-domesticated wolf/dog was filmed instead. Film of the animal was initially used as an illustrative shot only, but the programme went on to include the animal in a story-telling narrative in which the herdsman described how they wished to kill it and were seen apparently firing at it. Trustees noted that the output was an historic episode that had been produced before more stringent editorial processes had been introduced. They agreed that the output breached the Editorial Guidelines and that, had it been a current production, it would have raised significant concerns about accuracy and misleading audiences. However, they also noted that the output had been broadcast five years previously, before the NHU had revised its production processes and training. Trustees agreed that it would be appropriate for the Trust to acknowledge the breach and also include it in its Annual Report and Accounts.

Trustees considered this was a serious breach of the Editorial Guidelines for Accuracy.

Eurovision Song Contest 2015 Grand Final, BBC One, 23 May 2015

Summary of finding

The complainant contacted the BBC to complain that the voting system for the Eurovision Song Contest was unfair and had not been adequately explained to viewers watching at home who voted via telephone/mobile or the Eurovision app.

The Committee concluded that:

- since the UK National Jury and the UK audience had equal voting “power”, both sides could influence the result in the same way, in fact in a tied situation the public vote took priority.
- the voting system used by Eurovision and broadcast on the BBC was fair and that, as long as the system was appropriately explained to viewers there was no breach of the Editorial Guidelines on this point.
- the programme explained to viewers how the voting system worked. The presenter referred to the “50-50” system and that the National Juries had voted the previous night. Further, there were a number of references in the programme to the BBC website, where the voting system was explained.
- the audience would have been aware and would have understand that a 50-50 voting system would inevitably mean that if the public gave a low ranking to a song then it would receive few points and if the National Jury gave a low ranking it too would receive few points.
- the principle of how the voting system worked was outlined to the viewers and they would have understood the consequences of a combined vote. On this point the programme was not in breach of the Editorial Guidelines.
- it would have been preferable for the programme to have specifically referred to the 50-50 voting system and the part played by the National Jury at the time the programme opened the public voting which was about two hours after the voting system had been outlined to audiences. This would have been particularly appropriate given that the 2015 in-vision presenters made no reference to the 50-50 voting system, emphasising only the audience’s vote. This point should be taken into account in the future.
- viewers would have been aware of the voting system and how the National Juries took part in the overall selection of a winner. On this point the programme was not in breach of the Editorial Guidelines.
- the programme had to transmit the full results of the voting on the night of the contest in order to comply with the Editorial Guidelines. The full results for each country (including each juror’s vote) was available the next day online. This added transparency to the contest and would help the audience’s understanding of the voting system. On this point the programme was not in breach of the Editorial Guidelines.

The complaint was not upheld

Serious editorial breaches

Patagonia: Earth's Secret Paradise, BBC Two, 25 September 2015

Summary

Patagonia: Earth's Secret Paradise was a three part series made in-house by the Natural History Unit for BBC2. *Fire and Ice* was the first programme in the series and showed images of Patagonia's volcanic landscape and footage of a 'dirty' volcanic eruption which included an ash cloud and numerous flashes of lightning. The programme had used specific production techniques to maximise the impact and visibility of the lightning flashes and had combined these elements to create a composite image of the volcanic eruption. Additionally, as well as the contemporaneous footage, the composite image included film of lightning flashes that had been taken when a different volcano had erupted in 2011. The older images were added to the composite to create a more intense lightning display. The use of a composite image with historic footage of another volcano was not signposted to viewers.

The sequence was made available online and was widely accessed. The BBC then became aware that the composite image contained shots of lightning flashes taken from another volcano. The sequence was re-edited to remove the additional lightning flashes and the BBC Executive reported a serious breach of the BBC's Editorial Guidelines to the Editorial Standards Committee of the BBC Trust in October 2015.

ESC Trustees agreed this was a serious breach of the Editorial Guidelines and required a written report. Trustees noted that the breach had arisen although the Natural History Unit had stated in 2013 that it would establish a "Gold Standard" which would set best practice for the production of output about wildlife and the natural world. This commitment had been made following public concern about a lack of transparency about how some natural history programmes were made. It reflected the exceptionally high regard, globally, in which output from the BBC's Natural History Unit was held – and a determination that this should not be undermined.

The Executive Report noted that the filming techniques used to record the volcanic eruption included "time lapse photography"; where images were captured at a slower rate than that at which they were transmitted, so that time appeared to speed up; and also "elapsed time photography", which used very long exposures to enable film-makers to capture lightning flashes that would not have been adequately recorded by normal camera-work. These were accurate, contemporaneous images of the explosion. The Executive Producer – who had seen the footage prior to transmission – was aware these techniques had been used. The Executive Producer was not informed that the images of lightning flashes had been enhanced by being combined with additional footage taken from a different volcanic eruption in 2011.

Trustees noted that the sequence had been discussed several times during the production process but the Executive Producer was not told about the 2011 footage. Later, it was explained that the staff member responsible for creating the sequence believed it was intended to convey a general image of the kind of volcanic eruption being described, rather than being specifically associated with a particular eruption. Trustees considered

the images combined with the commentary were not presented as a general sequence and were potentially misleading.

Trustees were aware that Editorial Policy had produced a specialist training course for staff in the Natural History Unit which set out the high editorial production standards expected for this genre – which included information about composite photography. This course had been available for 14 months and was mandatory for NHU staff. The member of staff in question had not undertaken the training course – either because filming schedules had prevented it or because the individual had been booked onto a course that had been cancelled.

As a result of this case, BBC management made a commitment that senior staff working on future projects would have to complete the training before they were allowed to join their production teams. BBC management also reviewed past programming to ensure, as far as they could, that all Natural History Unit output complied with the highest editorial standards. Trustees sought additional reassurance, which was provided, that the BBC would ensure all staff currently working on output had also completed the specialist training course.

The Committee bore in mind the very high regard in which output from the BBC's Natural History Unit is held. They considered this was a serious breach of the Editorial Guidelines for Accuracy.

Executive Report

The Executive reported to the Trust that the programme was the first in a landmark series on Patagonia and that it had been very well received by critics. The key issue was a thirty-second section of footage which purported to show the eruption of a "dirty thunderstorm" and which had been denounced in the press as a "fake". The Executive's report included the following points:

1. The footage was a composite shot, that is, it was comprised of more than one piece of film edited together to create a single shot.
2. Composite images were sometimes, although not frequently, used in natural history films, along with other techniques such as filming in studios or on specially-designed sets.
3. In many cases, the use of specific filming or production techniques was so clear that an on-screen label or a line of commentary was not required for the audience to understand the artifice involved, for example, programmes which include recreating prehistoric creatures or which show obviously speeded-up footage.
4. Over the years, the NHU had appreciated the huge public appetite to understand how programmes were made. Now, *"The Making Of..."* films which accompanied many series often proved nearly as popular as the original films themselves.
5. On this occasion, the programme used images from three cameras. One camera provided landscape footage of the volcano; a second camera filmed the eruption using a time-lapse technique – this footage was replayed in a way that sped-up and intensified the explosion; the third camera recorded the explosion using time elapsed filming – so that it used longer exposure times in order to maximise the

visibility of the lightning flashes. These were all contemporaneous, accurate sources.

6. The footage that was taken from the first camera was additionally digitally edited to remove a number of buildings from the shot, so that the image was more striking.
7. Footage of spectacular lightning flashes from another 'dirty' volcanic eruption was incorporated into the composite shot. This additional footage had been taken in 2011 at Cordon Caulle volcano in Patagonia and superimposed on the Calbuco volcanic eruption filmed in 2015.
8. The script from the relevant part of the programme read:

From deep within the Earth fire is reshaping and building the Andes.
Eruptions spew out jets of ash at over 200 miles per hour blasting
immense plumes 10 miles high.
Debris explodes from the crater with the power of an atomic bomb... every
10 seconds
The volcano's ash cloud becomes supercharged ... sparking dramatic bolts
of lightning

In northern Patagonia... Volcanoes are very much alive.

1. The use of the singular, "volcano", combined with the seamless footage of the sequence gave the impression of a single event, rather than indicating that this sequence represented a particular type of volcanic activity.
2. The footage was reviewed by the Executive Producer at three different points prior to transmission. He was given assurances that there were no trust or compliance issues relating to the footage of the volcanic explosion and was informed that time-lapse and elapsed-time photography had been used.
3. The compliance form was completed and signed off. The Executive Producer was unaware of the inclusion of the 2011 footage.
4. Following transmission, there was an unprecedented online interest in the sequence. BBC Earth posted the volcano/lightning sequence from the film on Facebook, where it attracted 8 million views in 11 hours and 25 million online views over the next few days on a number of platforms.
5. The Executive Producer and the Head of the Natural History Unit became aware of the interest in this sequence and the Executive Producer also noted that the programme's webpage did not have information about how the sequence had been produced. He considered this raised a potential trust issue.
6. The NHU executives considered the output should explain that the sequence was made up of contemporaneous footage that had been formed into a composite shot. The website was amended to ensure that it included information that "unpacked" how the sequence had been produced. The promotion of the sequence on any BBC platform was halted. A re-version of the programme was prepared to replace the original on iPlayer.

7. The Series Producer was asked to write a "Making of..." blog explaining the origins of the sequence.
8. It was only when the blog was circulated that the Executive Producer and the Head of Knowledge commissioning became aware that footage used in the programme had been taken from a different volcanic explosion in 2011.
9. The BBC website removed the clip which included the composite image and checks were carried out to ensure the original version of the programme was not available on iPlayer or through the BBC Store.
10. The Series Producer explained that she considered the footage had been a generic "graphic" which had told the story of a natural phenomenon rather than shown the specific story of one particular event. Therefore she felt it was not misleading the audience.
11. The Series Producer was aware of the specialist training course that had been developed by Editorial Policy for NHU staff. While she was aware that it was mandatory training, she had not completed the course because she had either been out of the country, filming, when it had been run or, when she had been booked onto a course, it had been cancelled.

The Executive reported that it had taken the following actions:

12. Output had been reviewed to ensure there was appropriate signposting, where necessary, for composite images.
13. The NHU Safeguarding Trust course would be reviewed and updated. Senior editorial staff would not be allowed to start work on a production unless they had completed the course; there would be a formal check at the start-up meeting of each production to ensure the relevant training had been completed. Freelance editors cutting NHU films would also be required to attend the NHU Safeguarding Trust Course.
14. The NHU would ensure that all staff already working on output had also undertaken the course.
15. The NHU Executive team and Controller, Factual Production would review the Unit's understanding of trust and compliance issues. Conclusions would also be shared with the independent community.
16. The online team had believed they ran no editorial risks in taking a clip from a complied programme as it carried no information which might have caused them to be concerned about its use. In future, all clips would be agreed with the Series Producer or Executive Producer and signed off before publishing.

Trustees' Finding in Full

Trustees noted the relevant Editorial Guidelines were those for Accuracy, in particular they noted the following sections:

Introduction

The BBC is committed to achieving due accuracy. This commitment is fundamental to our reputation and the trust of audiences, which is the foundation of the BBC. It is also a requirement under the Agreement accompanying the BBC Charter.

The term 'due' means that the accuracy/impartiality 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.

3.2.3

The BBC must not knowingly and materially mislead its audiences. We should not distort known facts, present invented material as fact or otherwise undermine our audiences' trust in our content.

Trustees noted that the BBC's Natural History Unit had been established in Bristol for more than 50 years and had an outstanding global reputation. They considered that NHU output might be considered the apotheosis of Lord Reith's ambition that the BBC should "inform, educate and entertain". They appreciated that, when making programmes about wildlife and the natural world that engaged the audience's attention, there was a significant editorial justification in making the programmes entertaining, so that they found the widest possible audiences with output that was also informative and educative. They noted this was in line with the BBC's public purpose of bringing the UK to the world, and the world to the UK.

Trustees noted that programmes were required to compress and explain complicated stories and that televisual storytelling techniques were a legitimate part of natural history programme production. They noted that audience expectations for this kind of output had evolved over time and that expectations also varied between countries.

Trustees recalled that consideration of appropriate televisual techniques had previously been discussed at the ESC. In 2014, they had published a finding regarding *The Great Bear Stakeout*, BBC One, April 24 2013⁴. The finding had related to the decision to combine contemporaneous footage with commentary and footage which indicated that the events which were being filmed had also been witnessed by the commentator, when they had not been. The programme had been re-edited for iPlayer; however, the Executive had stated that the televisual technique had been considered acceptable in many countries and that the BBC's global partners had chosen to broadcast the original version of the programme. Nonetheless, Trustees and the Executive had agreed about the overwhelming importance of maintaining the reputation of the BBC's natural history output. At that time, the BBC made a commitment to develop production techniques that would represent the "Gold Standard" within natural history output. This was an approach that was endorsed by Trustees. This was to be conveyed to those working on NHU output through a bespoke training programme, drawn up by the BBC's Editorial Policy unit.

Regarding *Patagonia: Earth's Secret Paradise – Fire and Ice*, Trustees noted the following commentary:

Eruptions spew out jets of ash at over 200 miles per hour blasting immense plumes 10 miles high.

⁴ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2013/oct.pdf

Debris explodes from the crater with the power of an atomic bomb... every 10 seconds
The volcano's ash cloud becomes supercharged ... sparking dramatic bolts of lightning

They noted the reference to the single crater and single volcano. They also noted the accompanying filmed sequence which showed the ash-cloud plume and numerous flashes of lightning. They considered that the commentary was intended to reflect what was being shown on screen and that audiences would have understood the sequence to be a specific description of the eruption of a single volcano.

They recognised that it was not always necessary to specifically signpost when composite images were used – and that this would be a judgment that depended on the content and context of the output. They noted that on this occasion there was no signposting in the programme, in the credits, or online that indicated the image was made up of more than one element of film, nor was there any other visual cue (for example, racing clouds) that indicated the footage was not a straightforward representation of events, but had been achieved using specialist recording techniques.

Trustees noted that the Executive Producer had not been made aware of the use of 2011 footage until post broadcast when a blog about the production of the sequence was written.

The blog written by the Series Producer – who had also produced this episode – included an explanation of the techniques used:

...alongside local cameramen, the BBC Earth crew recorded the Calbuco eruption on multiple cameras in timelapse and ultra high definition (UHD). It was an amazing eruption that made world news, and put on a supreme volcanic lightning show. Our aim was to represent the stunning visual spectacle of an eruption.

We took timelapse images from the Calbuco volcano filmed in early 2015 and the lightning shots were superimposed onto the erupting cloud. The lightning shots were taken by an award-winning Chilean photographer, of a nearby Patagonian volcano, Cordón Caulle four years earlier during its eruption, using long exposure techniques. The Cordón Caulle volcano eruption was a very similar event to the Calbuco volcano this year.

These elements had to be combined to create a series of composite images, showing both the size and scale of a Patagonian volcanic eruption, its ash cloud and the repeated strikes of lightning that can occur within it, over many hours.

Trustees noted that this was a clear summary which gave a helpful explanation as to the techniques used and the reasons behind them. They recognised that one effect of putting this information on the NHU web pages had been the significant quantity of press coverage that followed – including reports that the output had been 'faked'.

Trustees' Conclusion

Trustees considered that the BBC's reputation for accuracy and for dealing honestly with audiences was of very great significance and underpinned the trust in which the BBC was held. They acknowledged the desire of BBC management to operate transparently when

concerns about the output arose – even though one repercussion of transparency was a greater degree of scrutiny in other media.

Trustees considered that the breach was the regrettable result of an individual error of editorial judgment. However, they continued to believe that the BBC's Natural History Unit occupied a unique position in terms of the public's engagement with the natural world, their understanding of it and their interest in it.

Trustees considered this was a serious breach of the Editorial Guidelines for Accuracy.

Human Planet: Deserts – Life in the Furnace, BBC One, 2011

Summary

During November's ESC, Trustees discussed with the Executive a further breach related to Natural History Unit output. This was an historic matter that had come to public attention through newspaper coverage.

The documentary, *Human Planet: Deserts – Life in the Furnace*, had been broadcast in 2011 and described the difficulties faced by Mongolian camel herdsman during winter in the Gobi desert.

The programme described how an infant camel had been killed by wolves. However, having been unable to film a wolf for the programme, a semi-domesticated wolf/dog was filmed instead. Film of the animal was initially used as an illustrative shot only, but the programme went on to include the animal in a story-telling narrative in which the herdsman described how they wished to kill it and were seen apparently firing at it.

Trustees noted that the output was an historic episode that had been produced before more stringent editorial processes had been introduced. They agreed that the output breached the Editorial Guidelines and that, had it been a current production, it would have raised significant concerns about accuracy and misleading audiences. However, they also noted that the output had been broadcast five years previously, before the NHU had revised its production processes and training. Trustees agreed that it would be appropriate for the Trust to acknowledge the breach and also include it in its Annual Report and Accounts.

Trustees considered this was a serious breach of the Editorial Guidelines for Accuracy.

Appeal Findings

Eurovision Song Contest 2015 Grand Final, BBC One, 23 May 2015

Background

The Eurovision Song Contest (“Eurovision”) is the annual song competition held, predominately, among the member countries of the European Broadcasting Union (“the EBU”). On 23 May 2015, the Eurovision Grand Final was broadcast on BBC One.

The winner is chosen through a combination of votes by National Juries and viewers from all participating countries (irrespective of whether they are in the final or not). The system combines the jury’s rankings with the viewers’ to give a combined ranking. The voting system is described in the programme as “50-50”.

In 2015, there were 27 countries in the final.

National Juries (each made up of five music professionals) from all 40 participating countries watch the dress rehearsal the day before the televised final. Each National Jury member votes individually, ranking the songs from 1 to 26 (countries cannot vote for their own country). The jury members’ rankings are then added together to give each country’s National Jury an overall ranking for each song. Then on the night of the televised final, audiences in each country vote for their favourite song. This results in another set of rankings of 1 to 26. The overall ranking of the jury for each song is combined with the rankings of the audience for each song to give a final ranking for all the songs. Points are then awarded, country by country, to the top ten ranked songs (12, 10, 8, 7, 6, 5, 4, 3, 2, and 1 respectively). In the event of a tie, the viewers’ higher ranked song is awarded the higher position (and therefore the more points). Finally, all 40 countries’ points are then added up to find the winning song.

The complaint

A viewer complained to the BBC that she believed the voting system of Eurovision was unfair because a small number of “BBC hand-picked” jury members can overturn the public telephone votes of hundreds of thousands. This, the complainant argued, is not adequately explained to the audience. The BBC did not uphold the complaint.

Appeal to the Trust

The complainant appealed to the Trust. In summary, she maintained that the overall voting system for selecting the winner is unfair because “jury members can overturn the public votes” and the system and its consequences are not adequately explained to viewers. She stated, for instance, that a song ranked last by a National Jury (the day before the televised live contest) has effectively no chance of coming first after the public vote.

Applicable Editorial Guidelines and Guidance

The Committee considered the programme against the relevant BBC Editorial Guidelines (“the Guidelines”) - in particular, section 17 - which can be found at: <http://www.bbc.co.uk/editorialguidelines/>. The Guidelines require, among other things, that audience interactivity must be “conducted in a manner that is honest, fair and legal” and that “...votes must have clear rules, which must be made known as appropriate”.

The Committee’s decision

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) all the relevant correspondence, the programme as broadcast and the Trust Adviser’s report.

While the complainant referred to a number of issues, the Committee considered that the following points were raised as a result of her appeal and engaged the Guidelines.

Point A: The EBU voting system is unfair

The complainant believed that a system where five members of a national jury had equal “voting rights” to hundreds of thousands of viewers was fundamentally unfair. The complainant cited the results of Eurovision 2014 where the UK audience ranked Poland 1st but the jury ranked it 25th. The result was that Poland’s overall position was 11th – giving it no points from the UK.

The BBC Executive disagreed. It stated that the jury could disagree with the public and vice versa. Further, in a tied situation the public vote takes priority. The EBU runs Eurovision and sets the voting system believing it to be the fairest system. The EBU decided on this [in 2009] after observing a bias towards countries which have a large number of citizens living abroad. All participating countries have agreed on the voting system and must abide by it. It has been in operation for the past seven years. The EBU⁵ pointed out that a 50-50 system results in those entries that are generally popular with both the jury and the audience doing better than those which are extremely popular in only one of the votes.

The BBC Executive stated that stringent controls and systems are in place for the jury and the audience votes. The names of the members of the National Jury must be broadcast in the programme. All National Juries’ votes are witnessed by a legal notary (or in the case of the UK a lawyer). Random checks are conducted by the EBU’s auditor PwC. The UK public vote is overseen by BBC’s Interactivity Technical Advice and Contracts Unit (ITACU)⁶.

The Committee noted that many television contests use jury votes in a variety of different ways. Trustees recognised that the EBU devised the system and in a manner it believed to be fair. All countries are required to abide by it. Nevertheless, the BBC had to ensure that the programme complied with its Guidelines. Trustees considered that since the UK National Jury and the UK audience have equal voting “power”, both sides could influence the result in the same way (in fact the audience has the edge when there is a tied vote). A low ranking from either the jury or the audience will result in a lower score overall.

⁵ As part of the Trust’s investigation, the EBU decided to submit comments on the complaint.

⁶ The Interactivity Technical Advice and Contracts Unit is a specialist BBC unit that provides advice on all technical aspects of running competitions, votes and awards through the use of telephony.

Trustees noted that the final ranking is based on the results of both the National Jury and the audience and that neither the audience nor the National Jury is aware of how the other votes and so neither can vote tactically.

The Committee considered that the voting system used by Eurovision and broadcast on the BBC is fair and that, so long as the system is appropriately explained to viewers (see below), then there is no breach of the Guidelines.

Point B: The programme had not explained what the complainant regarded as one of the consequences of the voting system to the viewer

The complainant claimed that because the audience do not know the jury's votes (from the night before), then members of the public could effectively be voting for songs which have statistically extremely small chances of being awarded any points. She did not therefore believe that the audience is made fully aware of the voting system and its consequences.

The BBC Executive believed that because the jury and the audience have equal control over the results, it is not significant that the jury has already voted by the time the public casts its votes. Both votes take place "blind" – so no influence can take place and it is therefore fair. The public vote has a material effect on the points awarded.

Specifically, about 20 minutes into the programme the UK presenter explained that the "viewer vote...will be combined 50-50 with the results of the national jury votes. The juries across Europe watched and voted on last night's dress rehearsal". The BBC Executive considered this to be "the most appropriate and impactful time" for the presenter to inform viewers about the voting process. The programme also directed viewers to the terms and conditions on the BBC website.

The BBC Executive argued that the voting system is very well known to the "loyal Eurovision audience" and explained that newspapers had covered the issue in detail.

The Committee considered that the programme explained to viewers how the voting system worked. The presenter referred to the "50-50" system and that the National Juries had voted the previous night. Further, there were a number of references in the programme to the BBC website, where the voting system was explained. The Committee believed that the audience would be aware and would understand that a 50-50 voting system would inevitably mean that if the public gave a low ranking to a song then it would receive few points and if the National Jury gave a low ranking it too would receive few points.

The Committee recognised that there are an enormous number of statistically possible outcomes from the 50-50 voting system. But most importantly it was the same for both the National Juries and the public. The principle of how the voting system works was outlined to the viewers and they would understand the consequences of a combined vote.

On this point the programme was not in breach of the Editorial Guidelines.

Point C: The voting system was not explained to the viewers at the right time

The 50-50 voting system was explained to the audience only once in the programme prior to the public casting its votes. This was about 20 minutes into the programme. The start of the public voting, when the audience was invited to vote, was around 2 hours 13

minutes into the broadcast. Under these circumstances, the BBC Executive was asked whether the 50-50 voting system was explained to the audience at the most appropriate time.

The BBC Executive said the voting system was explained to the audience at the right time, i.e. at the point of greatest impact. This time was chosen because (at about 20 minutes into the programme) it made allowance for late joiners and it was immediately before the first and subsequent acts. It therefore provided viewers with the relevant information before they decided if they wished to vote and who for. The programme also directed viewers to the terms and conditions on the website. The BBC Executive said that it is common practice, in such competitions, for the rules and methods of selecting a winner to be detailed in the terms and conditions.

The Committee believed that it would have been preferable for the programme to have specifically referred to the 50-50 voting system, and the part played by the National Jury, at the time the programme opened the public voting, some two hours after the point at which the voting system was outlined to audiences. The Committee believed that this would have been particularly appropriate given that the 2015 in-vision Austrian (host) presenters made no reference to the 50-50 voting system, emphasising only the audience's vote. Trustees expected this point to be taken into account in the future.

However, overall the Committee accepted that viewers would have been aware of the voting system and how the National Juries took part in the overall selection of a winner. This was through a combination of the UK presenter's comments before the songs were performed and the terms and conditions available on the BBC's website (which was frequently referenced) and also because the competition was well established and the voting system, which had been in place for some years, had been widely commented upon in advance in the media.

On this point the programme was not in breach of the Editorial Guidelines.

Point D: The BBC does not give the full results (jury and audience) on the night

The complainant believed that the BBC should report the full results in the programme.

The BBC Executive explained that the EBU does not make the jury/public vote split available until the morning after the contest. It is possibly the world's biggest and fastest audience vote turnaround. Priority is given to getting the results on air accurately and fairly. Immediately after the event all results are re-scrutinised for any anomalies and then published once the EBU is satisfied. Given this, it seems reasonable to allow, said the BBC Executive, a few hours before publishing.

The Committee did not consider that the programme had to transmit the full results of the voting on the night of the contest in order to comply with the Guidelines. It noted that the full results for each country (including each juror's vote) was available the next day on-line. The Committee believed that this added transparency to the contest and would help the audience's understanding of the voting system.

On this point the programme was not in breach of the Editorial Guidelines.

Finding: Not upheld

Requests to review the Trust Unit's decisions on appeals

The following complainants 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.

In each instance, the Committee was provided with the complainant's appeal/s to the Trust, the response or responses from the Trust Unit and the complainant's request/s to review that decision. The Committee was also provided with the relevant broadcast or published content.

Ashfield Constituency Hustings, BBC Radio Nottingham, 23 April 2015

The complainant wrote to the BBC Trust following the decision of the Editorial Complaints Unit (ECU) not to uphold his complaint about a General Election hustings debate in the Ashfield constituency. The programme, broadcast on BBC Radio Nottingham, featured an all-female audience who put their questions to candidates from the Conservative Party, Labour, the Liberal Democrats, UKIP, and Justice for Men and Boys (J4MB), a party that was contesting two seats in the area. The Ashfield seat had previously been held by Gloria De Piero who was Labour's Shadow Minister for Women and Equality.

The complainant made the following points:

- the BBC had banned men from attending the event and in doing so had prevented male voters from directly interacting with their "own political party", and had prevented the party from any interaction with the "overwhelming majority of its support"
- the questions were "rigged to focus on women's issues" and this had denied J4MB any opportunity to discuss its own manifesto
- the BBC had failed to invite the second J4MB candidate to a hustings event
- this represented interference in the political process and an attempt to censor and sabotage the J4MB election campaign

BBC Audience Services made the following points:

- gender issues had featured strongly in the election campaign and J4MB had chosen to stand against Ms De Piero. Research had indicated that women voters were more likely to be undecided in their voting intentions. The BBC therefore believed it was editorially justified to "unpick policy on women" in front of an all-female audience with two candidates (among others) who had clear views and a public stance on these issues

- there was a fair balance of political views in the audience
- all panellists had the opportunity to express their views
- the BBC's electoral guidelines required BBC Radio Nottingham to give due weight to candidates or parties which had demonstrated substantial electoral support in their area. Inviting J4MB to take part in one of the three hustings events satisfied this requirement
- the Broxtowe Constituency hustings programme had referred listeners on three occasions to an online list of all candidates and parties standing for election
- BBC Radio Nottingham's wider election coverage included five political phone-ins and a significant number of news stories and analysis

The ECU made the following points:

- the J4MB candidate, Mike Buchanan, was given ample opportunity to put his case, and he did so clearly and at length
- there were two occasions when Mr Buchanan chose to answer a question other than that which had been asked. It was reasonable in such circumstances for the BBC moderator to bring the conversation back to the topic at hand
- it was not the case that Mr Buchanan was not given the opportunity to address the electorate. He said during the programme that he was seeking the votes of women as well as men, and the wider listening audience would have featured a broader gender balance than those present at the event

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on the substance of his complaint.

The Trust Adviser's decision

The Trust 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 the Royal Charter and accompanying Agreement between the Secretary of State and the BBC draw a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" and "The operational management of the BBC" are defined as duties that are the responsibility of the Executive Board under paragraph 38, (1)(b) and (1)(c).

She noted that this distinction was important because it was intended to protect the BBC's editorial freedom and independence and the Trust had a role only if, for example, a complaint raised a matter that was a potential breach of the BBC's editorial standards.

She noted impartiality guideline 4.2.5 which states:

"We exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate, as long as there are good editorial reasons for doing so."

The Adviser noted the BBC's view that the selection of a female-only audience was editorially justified in the light of two candidates who had an active interest in gender equality issues. She considered that Trustees would be likely to consider that the decision to invite a female-only audience would constitute an "editorial and creative decision" for the BBC, provided that Mr Buchanan was not prevented from putting forward his views by a hostile audience, or by a choice of questions that put him at an unfair disadvantage compared to other candidates.

The Adviser noted that each candidate was given one minute at the start of the programme to set out his/her case. Members of the audience were then given the opportunity to put their questions to the candidates, each of whom was given the chance to respond. On occasions, the BBC moderator asked follow-up questions and tried to ensure that candidates addressed the specific topic under discussion. At the end of the programme each candidate was given a further one minute for a closing statement.

The Adviser therefore noted that, in line with all the other candidates, Mr Buchanan was given the opportunity to make two statements with an agenda not set by the BBC nor the audience. She noted that Mr Buchanan had used his opening statement to criticise BBC Radio Nottingham and to draw attention to a complaint that J4MB had made about the BBC's *Newsnight* programme. She noted that Mr Buchanan also stated:

"...in our manifesto we outline 20 areas in which the state assaults the human rights of men and boys, through its actions and inactions - there are no areas where the state specifically assaults the human rights of women and girls."

She noted that in his closing statement Mr Buchanan said:

"If you elect me as your next MP, the human rights of men and boys will get onto the political radar for the first time in the world. The men in Ashfield who vote for any of the main parties will be turkeys voting for Christmas. The biggest turkeys will be those voting for Gloria De Piero, who of course was selected from an all-women shortlist – an abomination in a democracy. Ashfield voters deserve the best person for the job, not the best woman. She is of course the minister, the Shadow Minister for Women and Equalities; there is no minister for men, needless to say. And you can be sure that if Labour are elected, we will see the most anti-male government in British history, with feminist bigots such as Yvette Cooper running major departments. Women and girls are also damaged by the state's assault on men and boys (inaudible interruption). I am not ashamed, no I am not remotely ashamed, no I will stand up for the rights of half the population. So I ask you to vote for me, both men and women, let's make a difference, let's treat men and boys as human beings for a damn change."

The Adviser noted that this one interruption (which was inaudible and could equally have come from a candidate as from the audience) was an exception: the tone of the debate was formal and there was no heckling by the audience.

She noted that the subject areas put by the audience were as follows:

- the future of the NHS and a specific question about a local hospital's PFI (Private Finance Initiative) funding arrangements
- the impact of austerity measures on the public sector, and in particular whether these disproportionately impacted on women
- how to eradicate child poverty
- whether primary school children suffered from excessive assessment

The Adviser noted that Mr Buchanan was given the opportunity to answer each of these questions and that he put forward his views about female doctors in the NHS, unequal grant opportunities for female engineering students, the higher tax contribution made by men, male suicide rates and the disproportionate level of male unemployment. She noted that he chose not to answer the question about child poverty and that he attempted to answer the question about primary school assessment by talking about genital mutilation of boys.

The Adviser considered that Trustees would be likely to decide that the majority of questions were on broad policy areas which any candidate in any constituency could be expected to address and that Mr Buchanan was given the same opportunity to address these issues as the other candidates, and had done so. She considered that Trustees would be likely to decide that it was reasonable for the BBC moderator to bring the conversation back to the topic at hand, rather than allowing Mr Buchanan to discuss subjects of his own choice from his manifesto.

She noted that the question which related to the impact of public sector austerity measures on women prompted responses from other candidates which did not exclusively focus on women: for example the UKIP candidate took the opportunity to describe his party's commitment to raise the minimum wage, and the Lib Dem candidate advocated pay rises for public sector workers. She considered that Trustees would be likely to conclude that the questions were not "rigged" against J4MB.

In conclusion the Adviser considered that Trustees would be likely to decide there had been no breach of the BBC's guidelines on impartiality and therefore the decision to select an all-female audience was an editorial and creative decision for the BBC.

Request for review by Trustees

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

- he agreed that it was a legitimate editorial decision to hold a "gender debate" but the debate had not been about gender, but about women's issues, therefore favouring one candidate over another
- the BBC had repeatedly cited "other election coverage" but J4MB had not received fair coverage in other broadcasts, and the BBC had failed to invite the second J4MB candidate to a hustings event or had footage of a J4MB candidate interacting with a male voter

- the BBC's defence of its approach to the event was at odds with the majority of comments on online forums
- the BBC exhibited bias on gender issues with an hour of "feminist propaganda broadcast daily on BBC Three"
- the BBC's "anti-male" feminist stance necessitated the consideration of the complaint by someone outside "this extremist bubble"
- many men in Nottingham had been denied a voice

The Panel's decision

A panel of the Committee considered this request to review the Trust Adviser's decision. Trustees noted the points made by the complainant, the BBC and the Adviser.

The Panel noted the complainant's claim about gender bias at BBC Three, but agreed that as this was a new point of complaint, it could not be considered at this stage of the BBC's complaints and appeals process.

Trustees also noted the complainant's view that the Trust Unit's decision was at odds with views expressed on web forums but, noting that contributors to web forums were self-selecting, did not consider this was a material point.

The Panel also noted that the complainant asked for his complaint to be considered independently. Trustees noted that the Trust is the sovereign body of the BBC but that the roles of the Trust and the Executive Board are separate. The Executive Board is responsible for creative and editorial decisions and for compliance with the BBC's Editorial Guidelines. The Trust approves the Editorial Guidelines and has oversight of the Executive Board. Its decisions on appeals demonstrate that it can and does take a different view on a complaint at the appeal stage (stage 3 of the BBC's editorial complaints and appeals process) to decisions taken by the BBC at stages 1 or 2. The final arbiter of complaints at the BBC is the Trust as opposed to the Executive or the Trust Unit. When the Trust considers an appeal, the BBC and the complainant are on an equal footing.

Trustees agreed that if they took this matter on appeal they would not be likely to uphold this matter given that:

- the decision to invite a female-only audience (given the significance of the undecided female vote, and candidates with a position on gender issues) constituted an "editorial and creative decision". Such decisions were not a matter for the Trust unless they entailed a breach of the editorial guidelines
- Mr Buchanan, in line with all the other candidates, had been given the opportunity to make two statements on an agenda not set by the BBC or the audience
- most of the questions were on broad policy areas and Mr Buchanan was given the same opportunity to address these issues as the other candidates, and had done so

- it was open to each candidate to reply to the question about the impact of public sector austerity measures on women in their own terms – which could include the impact on men
- the BBC's Election Guidelines required BBC Radio Nottingham to give due weight to candidates or parties which had demonstrated substantial electoral support in their area. If this matter was taken on appeal Trustees would be likely to agree that it was appropriate to invite the J4MB to take part in only one of the station's three hustings events
- the Broxtowe hustings event had referred listeners on three occasions to an online list of all candidates and parties standing for election
- it was not necessary to show a J4MB candidate interacting with a male voter in order to meet the requirements of the Election Guidelines

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Panorama, BBC One, 1 June 2015

The complaint concerned an edition of *Panorama*, titled "The Most Dangerous Woman in Britain?" which profiled the SNP leader, Nicola Sturgeon.

The complainant said the programme:

- was "a sycophantic biography", presented by Shelley Jofre, who he alleged was a life-long friend of the SNP leader and whose mother, "an SNP stalwart", had inspired the young Ms Sturgeon.
- was insufficiently critical and too close to the subject.
- allowed her supporters to speak in her favour without balancing views, with the exception of a short contribution from Michael Heseltine.
- did not challenge the SNP with the necessary rigour to expose the Scottish Government's "ineffective" record.
- did not mention that Ms Sturgeon "was responsible for the loss of 4,000 health service posts" in Scotland and "had axed 130,000 College places".

BBC Audience Services and the Editorial Complaints Unit (ECU) made the following points:

- there were possible criticisms of Ms Sturgeon in the areas of health and education that the programme did not explore. But the programme had clearly signposted that it was not a balanced assessment of Ms Sturgeon's record in office.
- the programme script signposted its two main objectives:
 - "I want to know if her party's election victory means the breakup of the UK is now inevitable"; and "I want to understand how Nicola Sturgeon rose from our wee Ayrshire village to become one of the most powerful women in Britain".
- the first of these objectives was appropriately pursued by the inclusion of a range of contributions from politicians and commentators; the second warranted an approach that was more exploratory than forensic.
- the programme made very clear Ms Jofre's mother's friendship with Ms Sturgeon.
- Ms Jofre is not - and never was - a friend of the First Minister. They went to the same school but did not know each other as they were in different years. Ms Jofre had gone to university by the time Ms Sturgeon met her mother. They did not meet until many years afterwards.
- the stated aim of the programme was for viewers to gain an insight into Nicola Sturgeon, both as a politician and on a personal level, and featured her critics as well as her supporters.
- Ms Jofre is an impartial reporter, who used her time with Ms Sturgeon not only to investigate the story behind her rise to power, but also to challenge her on the SNP's record on education and their ambitions for Scottish independence.

The ECU said it did not believe there were grounds for finding that the programme represented a serious breach of editorial standards

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) noted that all BBC output was required to meet the standard of "due impartiality" which, under the Editorial Guidelines, was defined as follows:

The term 'due' means that the impartiality 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.

With regard to signposting, the Adviser noted that the script included the lines, "I want to know if her party's election victory means the breakup of the UK is now inevitable"; and "I want to understand how Nicola Sturgeon rose from our wee Ayrshire village to become one of the most powerful women in Britain".

The Adviser also noted that the programme had made clear its intention, "to go behind the scenes", look at Ms Sturgeon "as you've never seen her before" and see her "taking a trip down memory lane". The title of the programme, "The Most Dangerous Woman in Britain?" was clearly linked to a newspaper headline.

The Adviser considered that, given this signposting, the programme would have met viewers' expectations and that the audience would not have expected a balanced or detailed analysis of the SNP's record or policies in the Scottish parliament.

The Adviser noted the complainant's view that the programme was insufficiently critical, with the exception of a contribution from Michael Heseltine. However, she noted contributions from Fraser Nelson and George Foulkes.

Mr Nelson was quoted as saying that Ms Sturgeon was, "every bit as much a machine politician as the Tories that she so reviles", and "...this is the huge flaw in nationalism and the huge flaw in Nicola Sturgeon's agenda more broadly because the independence debate has eclipsed everything, has taken the space that the far more important questions ought to occupy".

Mr Foulkes was quoted as saying: "...they've taken their eye off the ball and the astonishing thing ... is that they're getting away with it".

The Adviser noted the complainant's view that the programme was insufficiently critical of Ms Sturgeon's record on education. However, she did note that Ms Jofre had stated in her script that Ms Sturgeon had been "attacked from all sides over falling standards," and that the presenter had strongly challenged the SNP leader on the issue of education in the programme's sit-down interview. The Adviser also noted that the programme included a clip from the Conservative Education spokeswoman in parliament, attacking Ms Sturgeon's record.

The Adviser considered that the combination of the inclusion of these elements, alongside what she believed audience expectations of the programme would be, meant that Trustees would be likely to conclude the output met the requirements of the Editorial Guidelines for Impartiality.

Taking this into account the Adviser considered Trustees would be likely to conclude that the appeal did not have a reasonable prospect of success. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal 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 said that:

- the programme was disregarding *Panorama's* standards by using as its title a newspaper headline: "The Most Dangerous Woman in Britain?"
- the programme makers had argued that it did not attempt to present "a balanced or detailed analysis of the SNP's record or policies", but the complainant argued that these policies "are key to the issue of how dangerous the SNP government is to the UK".
- the Adviser had referred to Mr Foulkes' comment that they've taken their eye off the ball" and are "getting away with it" as proof of balanced reporting. But Mr Foulkes should have explained that they're "getting away with it" because they have control of Scottish TV and newspaper media. As a result there was not sufficient scrutiny of the Scottish Parliament by the media and the public were kept in the dark.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

Trustees agreed that if they took this matter on appeal they were not likely to uphold a breach of the Editorial Guidelines given that:

- the programme script had made clear that this was not about Ms Sturgeon's record in office but how she had risen to her present position:

"I want to understand how Nicola Sturgeon rose from our wee Ayrshire village to become one of the most powerful women in Britain."
- this "signposting" made clear that the approach would be exploratory.
- the stated aim of the programme was for viewers to gain an insight into Nicola Sturgeon, both as a politician and on a personal level, and featured her critics as well as her supporters.
- a range of contributions from politicians and commentators was included in the programme.

- the reporter did challenge Ms Sturgeon on the SNP's record on education and their ambitions for Scottish independence.
- the friendship between the reporter's mother and Ms Sturgeon was made clear.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Jim Hawkins in the Morning, BBC Radio Shropshire, 27 April 2015

The complaint concerned an item contained in a General Election phone-in on the Jim Hawkins programme involving five candidates for the Ludlow constituency. At the opening of the phone-in, the complainant put a question to the Conservative candidate asking whether he would reconsider his position and pledge to oppose any potential transfer of A&E services away from Shrewsbury hospital. The complainant made the following points about the item:

- The programme had breached the BBC's guidelines on impartiality by being biased in favour of the Conservative candidate.
- The presenter had been sneering, belligerent and rude to her.

The BBC made the following points at Stage 1 and Stage 2 of the complaints process:

- The Managing Editor of BBC Radio Shropshire apologised that the presenter's tone had been "rather abrupt" at the beginning of the hustings but said that he did change his tone once she had pointed this out.
- The Managing Editor of BBC Radio Shropshire did not believe the programme had failed to be impartial on the issue of A&E, and considered that the BBC had given an appropriate amount of time to what she saw as an important issue.
- BBC Audience Services considered that the Managing Editor of BBC Radio Shropshire had made clear that the BBC took the issue of A&E provision seriously and dealt with it impartially.
- The Editorial Complaints Unit (ECU) believed that the presenter had pursued a reasonable form of questioning when asking the candidates for their positions about the possible transfer of A&E services away from Shrewsbury; the fact that the Conservative candidate was the only one not interrupted by the presenter was a reflection of the fact that he was the only one to address the point.
- The ECU agreed that the presenter's manner towards the complainant had been abrupt. However, it did not believe it amounted to a serious breach of editorial standards and noted the complainant had been given a fair amount of time to make her point and that it was reasonable for the presenter to press the complainant for her response to the replies her question had generated.
- The ECU said it could not take a view on whether the Managing Editor had told the complainant that the reorganisation of emergency services was not an issue of importance to voters in Ludlow as it was outside the ECU's remit. The ECU was confined to considering possible breaches of standards in material broadcast or published by the BBC.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on the substance of her complaint.

The complainant said she believed her complaint had not been handled honestly, fairly or impartially. She said she had found the complaints process hostile and believed she had been treated with contempt throughout the process.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) noted that the complainant considered the appeal raised issues under the Editorial Guidelines for Impartiality, Harm and Offence and Fairness.

The Adviser noted that, under the Royal Charter and accompanying Agreement between the Secretary of State and the BBC, a distinction is drawn between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" is the responsibility of the BBC – the Trust only has a role where there is a possible breach of the Editorial Guidelines. This means that, in general terms, decisions such as what questions to ask and how to follow them up are matters of editorial judgement for the BBC.

The Adviser noted that all BBC output was required to meet the standard of "due impartiality" which, under the Editorial Guidelines, was defined as follows:

The term 'due' means that the impartiality 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 began by considering whether the BBC had failed to be impartial by not scrutinising and questioning the Conservative candidate in the same manner as the other candidates over the issue of A&E services.

She noted that the complainant had said the Conservative candidate was the only one who had not pledged to oppose a transfer of A&E services away from Shrewsbury; she had asked him to reconsider his position. His reply was that he was not ruling anything in or out until he had seen detailed business proposals relating to each of the options about the future of A&E services. The Adviser noted the complainant was dissatisfied with this answer, but she considered Trustees would be likely to agree that the candidate had answered the question put to him.

The Adviser noted that the presenter then asked the other candidates how they were able to make the decision to oppose a transfer of A&E without seeing detailed proposals. She considered that the presenter had interrupted these candidates when he felt they were not answering his question, in order to bring them back to the point of discussion.

The Adviser considered it was a matter of the presenter's editorial judgement to decide which question to ask and then to seek to ensure the candidates answered the point that had been raised. She considered there was a clear editorial justification for pursuing that line of questioning and did not believe this meant the programme had failed to be impartial in its approach to the different candidates.

The Adviser then considered the behaviour of the presenter towards the complainant. She noted that the Guidelines to Fairness, Contributors and Consent stated:

We should treat our contributors honestly and with respect. Our commitment to fairness is normally achieved by ensuring that people provide 'informed consent' before they participate. 'Informed consent' means that contributors should be in

possession of the knowledge that is necessary for a reasoned decision to take part in our content.

She noted the information which contributors would be expected to have included:

- Why they were being asked to contribute and where their contribution would initially appear
- The context of the content
- The nature of their involvement

She understood from the correspondence that the complainant knew she was taking part in a live hustings event and that she was posing a question to election candidates that had sprung from her son having needed A&E treatment.

The Adviser noted the complainant's view that the BBC had acknowledged that the presenter's behaviour was "indefensibly hostile and rude". She also noted that the complainant considered that there was only a "semantic" difference between the words used by the BBC and her own characterisation of them.

The Adviser noted that the Managing Editor of Radio Shropshire had acknowledged that the presenter had been "rather abrupt" to the complainant at the beginning of the hustings and had apologised. She noted that the Managing Editor had also explained how she had pointed out to the presenter that she was unhappy with his manner during the broadcast and said that this had had a significant impact. She noted too that the ECU considered that the presenter's manner "left something to be desired".

The Adviser observed that the complainant had raised the BBC Editorial Guidelines to do with Interacting with Audiences and noted that she had specifically mentioned those that state:

Trust is the BBC's most important value and we must not undermine public trust in the BBC. We will maintain an honest and open relationship with our audiences and we will not intentionally mislead them. When the public engages with us through interactivity they will be treated with respect, honesty and fairness.

The Adviser noted that it was made clear that this was an hour-long hustings with five candidates. She believed that it was apparent to those involved that there would be time constraints upon them.

The Adviser listened to the sequence at the beginning of the programme when the complainant asked her question and considered that the complainant had been given a reasonable amount of time to make her points and to clarify them when asked. The Adviser did not consider that the presenter had been either unfair or disrespectful to the complainant.

The Adviser then examined the exchange between the presenter and the complainant at the end of the segment. The Adviser noted that the complainant was interrupted several times and observed that this was to seek her opinion on the Conservative candidate's response to her question and to clarify how she could consider that public consultation could be described as top down restructuring. The Adviser believed that these questions were relevant to the issue and so did not consider that it was unfair to ask them.

The Adviser considered that the complainant had been given a reasonable opportunity to make her point given that the programme was under time constraints. While the Adviser considered that the presenter might have handled the exchange less abruptly, she did not believe that he had been unfair or disrespectful.

The Adviser then turned to the complainant's concern that the Managing Editor had told her that the reorganisation of emergency services was not an issue of importance to people in the constituency. She noted that the correspondence showed that the Managing Editor of BBC Radio Shropshire had said it was important. Given that this discussion was not part of the broadcast, the Adviser considered that this issue was not in her remit to decide upon.

Finally, the Adviser considered whether the handling of the complaint had been dealt with fairly, honestly and impartially. She noted the complainant considered the complaints process had been "hostile" and that she had been "treated with contempt".

The Adviser noted that the complainant had first contacted the Managing Editor of BBC Radio Shropshire on 27 April 2015 and received a response the same day. The Adviser noted that the Managing Editor had apologised for the presenter being abrupt, had explained why she considered the programme had been impartial and that, while A and E was an important issue, there were other issues that needed to be aired.

The Adviser noted that the complainant wrote to Audience Services on 29 April 2015. A holding response was sent on 8 May 2015 and the complainant had subsequently telephoned the BBC on 19 May 2015. A substantive response had been sent on 20 May 2015 which included an apology for the delay in responding and which had also acknowledged that the complainant had been unhappy with the phone-in.

The Adviser noted there had been a series of exchanges between the complainant and the BBC in which the complainant had sought information about the number of complaints that had been received about the hustings programme. She noted the complainant contacted the BBC four times and that on each occasion the BBC had responded in a timely way and informed her that this was not information that it made available. She noted that finally, on 22 June, Audience Services responded twice on the same day to explain that this was not a service it provided and to apologise as it had nothing further to add.

The Adviser noted that the complainant escalated her complaint to Stage 2 on 8 June 2015. The ECU replied on 26 June 2015 to apologise for the delay in responding and to explain its remit. It wrote again on 20 July 2015 with the outcome of its investigation and began by apologising that the complainant had been unhappy with the BBC's response at Stage 1.

The Adviser considered that the BBC had responded courteously to the complainant and had apologised for any delays in responding. The Adviser could find no evidence that the complaint had not been handled honestly or that the complainant had been treated with contempt throughout the process.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with her appeal. In essence she said that:

- her complaint was not in three parts: the three elements the Adviser identified related to examples.
- her complaint concerned impartiality/bias, fairness and harm and offence. She cited a number of individual guidelines including Election Guidelines and said that they had been broken.
- the approach and tone of the programme fell well short of reflecting the BBC's editorial values on impartiality and fairness.
- the complainant had participated in the programme at the Editor's invitation in good faith. She was the mother of a sick child, she had been treated rudely, (and so unfairly), and interrupted (seven times) and prevented from finishing her point and from interacting with the Conservative candidate. In saying that the presenter had been abrupt to her, the BBC had accepted she had been treated rudely.
- the presenter of the programme had failed to be impartial by not scrutinising and questioning the Conservative candidate in the same manner as the other candidates over the issue of A&E services, by defending the candidate and the proposed plan "Future Fit", and by being openly hostile towards those voicing the views of constituents.
- the Conservative candidate was treated more favourably and other candidates had been subjected to brutal bullying including interruptions (the numbers of interruptions for each candidate were listed), sighs, and not being allowed to complete a point. They were treated unfairly and disrespectfully.
- the other candidates were asked to measure up to the Conservative candidate's reply – that he was waiting for the business case - and the tone showed the BBC supported the Conservative candidate, with the suggestion that other candidates relied on "gut feeling".
- the Conservative candidate's reply was a non-response. He remained on the fence. He had been subject to boos and heckles at an earlier hustings. His reply should have been probed and his record scrutinised. The BBC should have been aware that there was criticism of the consultation process as the options had not been costed.
- the presenter showed his personal bias.
- an earlier hustings programme which had featured a question by the same complainant had been cut to remove the impassioned debate on the same subject with the same candidate (which is why she had been asked to participate in the second hustings event).
- the only reasonable conclusion for this favourable treatment was editorial bias by the Managing Editor.
- key elements of her complaint had been lost, diluted, misrepresented or omitted completely by those handling it. She said those responding to her complaint had failed to address the substance of her complaint and she believed she had been treated with contempt. She said the handling of her complaint had breached the BBC's own procedures.
- the complaints process was unfair – the burden of proof fell on her.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the complainant was deeply concerned about the provision of A&E facilities and had experience of A&E provision at the time of the broadcast, as her young child had been involved in a serious car crash.

The Trustees noted that the issues in front of them were whether the BBC had been correct to consider that the programme concerned had not breached the Editorial Guidelines and whether the handling of the complaint had breached BBC procedures.

Trustees agreed that if they took this matter on appeal they were not likely to uphold a breach of the Editorial Guidelines given that:

- it was made clear to the five candidates and those phoning-in that this was an hour-long hustings and so there would be time constraints.
- the presenter in a time-constrained broadcast must make rapid decisions about which lines of inquiry to pursue and which to leave.
- it was a matter of editorial judgement as to which question to ask and then to seek to ensure the candidates answered the point that had been raised.
- the Conservative candidate had answered the question as to whether or not he would oppose a transfer of A&E services away from Shrewsbury by saying he would not be ruling anything in or out until he had seen detailed business proposals relating to each of the options about the future of A&E services. Although the complainant questioned the validity of this answer it was not necessary to pursue it further in order to meet the standards set out in the BBC's Editorial Guidelines.
- the presenter had asked the other candidates how they were able to make the decision to oppose a transfer of A&E without seeing detailed proposals and had interrupted these candidates when he felt they were not answering his question. Political candidates were expected to be able to deal with public cross questioning. The range of interruptions and the tone were within expectations for a hustings event and did not amount to a breach of the BBC's Editorial Guidelines.
- having listened to the broadcast, Trustees did not consider the presenter had been rude, hostile or unfair to the complainant though they understood that the BBC had apologised to her and recognised she felt she had been treated in a hostile fashion. Trustees noted that a hustings programme like this needed to clarify points and move along swiftly. Trustees did not consider that the interruptions to the complainant or the way the interview with her was conducted amounted to a breach of the Editorial Guidelines.
- Trustees did not agree that this programme, which had been conducted in a typical way for a hustings event, had demonstrated evidence of bias by the presenter or that the handling of this programme combined with the decision to omit some material relating to the A&E debate in an earlier hustings broadcast, demonstrated bias by the Managing Editor.

Trustees agreed that if they took this matter on appeal they were not likely to uphold that the handling of the complaint had breached the BBC's procedures given that:

- the BBC had responded in a courteous manner and had apologised for any delays.
- the correspondence showed that the BBC had sought to address the substance of the complaint.

Trustees noted that the complainant had expressed various other concerns about complaint handling. They wished to explain that:

- the BBC at Stage 1 of the complaints system provides a fresh contact number for each contact so that it could be traced on inquiry. The ECU also provides a reference number at Stage 2. This is why the reference numbers changed.

- the Trust does not take an appeal until the Executive has finished responding. The Framework Agreement between the Secretary of State for Culture, Media and Sport and the BBC sets out that the Executive must answer complaints in the first instance unless they are complaints about the Trust.
- the appeals procedures were not breached when the ECU decided to investigate at Stage 2 of the BBC's complaints system.
- the burden of proof does not fall on the complainant – the Trustees read the complaint and the BBC's response but they also review the material and judge it against the Editorial Guidelines (as does the ECU).

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Flog It!, BBC Two, 11 August 2015

The complainant made the following points:

- *Flog It!* had promoted the trade in ivory by featuring Japanese ivory carvings.
- Although the carved ivory figures were antiques and their sale was therefore legal, any promotion of any kind lent credibility to the immoral trade in ivory.
- The BBC should admit that featuring ivory was an error of judgement and should set an example by refusing to feature ivory in its programmes.

The complaint was not upheld by the BBC.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 23 October 2015.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) noted that the content of programmes such as *Flog It!* was the responsibility of the BBC's Executive Board and was not a matter for the BBC Trust unless there had been a breach of editorial standards. She therefore noted the BBC's Editorial Guidelines on Harm and Offence which stated that:

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

"We must be sensitive to, and keep in touch with, generally accepted standards as well as our audiences' expectations of our content ... audience expectations of our content usually vary according to the service on which it appears.

"When our content includes challenging material that risks offending some of our audience we must always be able to demonstrate a clear editorial purpose, taking account of generally accepted standards, and ensure it is clearly signposted."

The Adviser noted that, referring to these guidelines, the ECU had explained how the BBC approached issues which might cause offence to some members of the audience. The ECU had explained how the degree of potential offence might vary from individual to individual, depending on a range of issues such as personal taste and attitudes, and the context in which potentially offensive material was broadcast. The BBC therefore took into account the content of the material, the context in which it appeared and any editorial justification when considering "generally accepted standards".

The Adviser noted that the BBC had recognised that the inclusion of antique ivory in its programmes was a sensitive subject. The BBC had explained that it did cover ivory poaching and its illegal trade in its news coverage and that more context to explain the issues surrounding the buying and selling of old ivory had been introduced into more recent *Flog It!* programmes.

The Adviser also noted that the ECU had included in its response a link to an article on the *Antiques Roadshow* pages of the BBC website which set out the BBC's position on the inclusion of antique ivory in its programmes featuring antiques:

"Over the course of the long history of the Antiques Roadshow we have occasionally featured antique ivory objects on the programme. Many thousands of pieces were produced over hundreds of years at a time when conservation issues were not as widely recognised as they are today, which is clearly evident from the numbers of pieces we see at every Roadshow.

"We occasionally choose to film such objects as they represent a significant example of antiques which are keenly collected in this country and abroad, which is our editorial brief and more importantly because they are objects of historical and cultural significance that provide a unique insight into previous civilizations."

The page also included an extract from a previous *Antiques Roadshow* from 2014 which discussed the issues involved, and explored the relationship between current ivory poaching and the historical tradition of ivory carving with interviewees from the Born Free Foundation and the Victoria and Albert Museum.

The Adviser noted that the Japanese items featured in this edition of *Flog It!* dated from before 1918 and included pieces which, according to the antiques expert, were "beautifully carved" and of "super quality". The Adviser considered that most regular viewers to *Flog it!* and *The Antiques Roadshow* would not be unduly surprised to see such examples of antique carved ivory which was being legally traded included in the programmes from time to time. Although she recognised that some viewers might disagree with its inclusion, she considered that on this occasion it was editorially justified and she did not agree with the complainant that featuring such pieces meant that the BBC was promoting the illegal trade in ivory.

The Adviser considered that Trustees would be likely to conclude there was no evidence of a breach of the BBC's Editorial Guidelines. Taking this into account the Adviser considered Trustees would be likely to conclude that the appeal did not have a reasonable prospect of success. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal 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 questioned why he had received an answer from a senior editorial adviser and questioned whether the editorial team was policing themselves.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

Trustees noted that the complainant was concerned to receive a reply from a senior editorial adviser. The Panel wished to reassure the complainant that the adviser worked solely for the BBC Trust and not for the BBC Executive.

The Panel agreed that if they took this matter on appeal they were not likely to uphold a breach of the BBC's Editorial Guidelines given that:

- decisions about the content of individual programmes rested solely with the BBC Executive, as the Royal Charter made it clear that the creative and editorial direction of the BBC was a matter for the BBC Executive
- the pieces of Japanese carved ivory featured in this episode of *Flog It!* were of some significance and there was "a clear editorial purpose" in including them
- the law permitted trade in certain ivory products, though trade in modern ivory was illegal, and it was not for the BBC to exclude from its programming all coverage of certain legal activities
- regular viewers of the BBC's antiques programmes would have an expectation that from time to time items made of legally traded ivory would be featured and audiences would be likely to be aware of the issues surrounding the illegal trade in ivory
- given the context in which these carvings had been featured, their inclusion was unlikely to cause widespread offence
- the inclusion of such items did not mean that the BBC had endorsed or promoted the illegal trade in ivory.

The Panel concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Question Time, BBC One, 5 February 2015

The complaint related to an edition of *Question Time* from Finchley in North London. The panellists were the Conservative education secretary Nicky Morgan MP, Labour's shadow education secretary Tristram Hunt MP, George Galloway, the Respect London mayoral candidate, Cristina Odone of the Legatum Institute think tank, and the Guardian's executive editor and columnist Jonathan Freedland. The question posed by an audience member which led to the complaint was:

"Why is anti-Semitism rising in the UK and do you think a certain member of the panel may bear some responsibility for this?"

The complainant made the following points:

- The programme had breached the BBC's guidelines on impartiality.
- The audience was clearly biased against George Galloway.
- The presenter David Dimbleby failed to chair the discussion properly and it appeared that George Galloway was almost "put on trial".
- The programme was organised by "Zionist controllers at the BBC".
- The full question that was broadcast on the programme had not been pre-approved. It was "inflammatory and bullying".
- As *Question Time* is not broadcast live that section of the programme should have been re-shot.
- The programme allowed a "factually incorrect, slanderous and inflammatory" remark by Tristram Hunt to be broadcast when he said that members of the BDS Movement [boycott, divestment and sanctions] "put stickers on 'Jewish' goods".

BBC Audience Services made the following points at Stage 1:

- The agenda on *Question Time* was determined by the audience. The topic of anti-Semitism in the UK was one the BBC believed would be of interest to the audience and viewers alike as it was part of the day's news agenda following a report outlining an increase in anti-Semitic attacks.
- A number of questions were submitted by the audience to the programme on this issue, so its selection was within the normal criteria that *Question Time* applied to topics discussed.
- The submitted question had made no reference to a panel member. When posing his question during the show, however, the audience member did elaborate.
- The remit of the programme was to facilitate lively political debate. Although this discussion became quite heated, George Galloway was given ample opportunity to explain his position and respond to points made by the audience, as were all panellists. A range of opinions were expressed, challenged and debated from the floor and the panel.
- *Question Time* aimed to have an audience that reflected the ethnic make-up of the local area as well as to be politically balanced. This week's audience was no different and included people from a range of faiths.
- *Question Time* was not a scripted programme. Editing out a view by an audience member on the basis of that view being contrary to that held by a panel member or anyone else involved in that debate would not be appropriate.
- David Dimbleby's intervention in the section of the programme on anti-Semitism was to ensure that all contributors had reasonable and ample opportunity to make their views known. He regularly challenged panellists on a wide variety of matters and would continue to do so without fear or favour.

The Editorial Complaints Unit made the following points at Stage 2:

- In relation to *Question Time*, there was no expectation that the audience should be unbiased; the programme aimed to feature a range of opinion from different parts of the country over a period of time.
- As the venue on this occasion was in a parliamentary constituency with a high proportion of Jewish voters, it was entirely consistent with reasonable expectations that there should have been substantial Jewish representation in the audience and vigorously-expressed dissent from some of George Galloway's comments on Israel.
- Some of Mr Galloway's points were greeted by cheering and one audience-member concluded by saying "what George said about Gaza is 100% correct".
- In relation to Mr Dimbleby as chairman, the expectation was not that he should ensure an equal balance of views, either among the panellists or the members of the audience called on to speak, but that he should ensure due opportunity for differing opinions to be expressed.
- In this case he did this by giving each member of the panel an opportunity to speak and gave Mr Galloway the right of reply. He intervened either to keep panellists to the point or to quieten the audience so that Mr Galloway had a proper opportunity to express his views, and by ensuring that the contributions from the audience reflected more than one view.
- The additional words added to the question as posed by the audience member added an element of contentiousness and an element of implied criticism of Mr Galloway but he was given proper opportunity to respond.
- Tristram Hunt did not mention the BDS movement so viewers would have had no reason to associate them with the labelling of products in supermarkets.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 30 October 2015 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) noted that all BBC output was required to meet the standard of "due impartiality" which, under the Editorial Guidelines, was defined as follows:

The term 'due' means that the impartiality 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 noted the complainant's view that the audience had been biased against George Galloway and that this had been deliberate on the part of the BBC. She noted the responses from the BBC which had explained the policy of the programme when selecting audience members, and that *Question Time* aimed to have an audience that reflected the ethnic make-up of the area where the programme was being recorded, as well as being politically balanced. The Adviser noted that the *Question Time* website also referred to how audiences were selected, broadcasting the programme from venues around the country "to make sure that a broad cross-section of licence-payers have the chance to take part directly and that a diverse range of British opinion is represented in the studio audience".

She noted that the BBC had explained that on this occasion this had meant that as Finchley was in a parliamentary constituency with a high proportion of Jewish voters, there had naturally been a substantial Jewish representation in the audience.

The Adviser also noted that as well as those in the audience who clearly opposed Mr Galloway's views, support for him had also been expressed through the contribution of audience members who were asked to comment by the chairman and through applause which greeted Mr Galloway's comments on several occasions.

The Adviser then noted the complainant's view that the chairman of the programme, David Dimbleby, "was not doing his job correctly".

She noted the programme website which stated that:

"It is an article of faith for the programme that it is driven by members of the audience - David Dimbleby, as chairman, is their champion in getting answers from the politicians and in promoting lively debate - not just among the panel, but between the panel and the studio audience."

The Adviser considered the response from the BBC which had explained that the role of the chairman was not to ensure an equal balance of views in the programme but to ensure that there was an opportunity for all the differing opinions to be expressed. She also noted that panel members should enjoy the right of reply. She noted that all the panellists had been allowed the opportunity to answer the question on the rise in anti-Semitism and that, in addition, George Galloway had been allowed to respond to criticisms put forward by other panel members and members of the audience.

The Adviser also noted that when some members of the audience had attempted to shout at Mr Galloway, David Dimbleby on several occasions had reminded the audience to be quiet and at one point he said:

"Look ... a number of you are just shouting - there are a number of people who I can see who are actually agreeing with what George is saying... I want this to be - as it should be on *Question Time* - a reasoned debate not a shouting match."

David Dimbleby had then invited contributions from those who appeared to be speaking out in support of Mr Galloway.

The Adviser then noted the complainant felt that the question "Why is anti-Semitism rising in the UK?" should have been re-recorded to exclude the reference to "a certain panel member". Given the nature of *Question Time*, although it had not been the question that had been originally submitted, she did not consider it was beyond what the audience would have expected. She noted the response from the BBC which had pointed out that although the remark had clearly been aimed at Mr Galloway and had been contentious, he had been given plenty of opportunity to respond to it.

The Adviser then considered the complainant's view that a remark by Tristram Hunt was "factually incorrect, slanderous and inflammatory". The complainant said that Mr Hunt had said that "BDS members put stickers on 'Jewish' goods". She noted the relevant section of the programme. Mr Hunt had actually said:

"The figures from the Community Security Trust today are deeply worrying of Jews being attacked for being Jews... and when you read the report about old

men being attacked on the way to synagogues, about gravestones being desecrated, about the labels put on Jewish produce in supermarkets...”

The Adviser noted that Mr Hunt had made no reference to the BDS Movement and that the remark therefore could not be considered factually incorrect, slanderous or inflammatory. Taking these points into account the Adviser considered Trustees would be likely to conclude that the appeal did not have a reasonable prospect of success. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal 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 said that:

- Mr Hunt had referred to “Jewish goods”. No-one was putting labels on Jewish goods. The only people who put labels on Israeli goods was the BDS Movement. The statement was therefore slanderous.
- He challenged the statement that the submitted question had made no reference to a panel member and felt that the question posed on the programme was “heavily weighted” and excuses should not be offered for it.

The Panel’s decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

Trustees agreed that if they took this matter on appeal they were not likely to uphold a breach of the Editorial Guidelines given that:

- the programme aimed to have an audience that was representative of the ethnic make-up of the area where it was being recorded, and it would be the expectation that it would include a range of opinion from different parts of the country over a period of time.
- because Finchley was a parliamentary constituency with a high proportion of Jewish voters it was reasonable therefore to expect some criticism from some of the audience of George Galloway’s views on Israel.
- the BBC had explained that the question as recorded was different from the question proposed beforehand. The Trustees saw no evidence to doubt this.
- the chairman of *Question Time* ensured that Mr Galloway had the appropriate opportunities to reply and put forward his opinion and to answer criticisms from the audience and from other panel members.
- Mr Galloway was an experienced politician and a robust interviewee and was well able to make his points.
- the chairman of the programme also ensured that audience members who had expressed support for Mr Galloway were invited to speak.
- the chairman had intervened appropriately in the debate to quieten the audience to ensure that Mr Galloway’s views were heard.
- Trustees noted the complainant’s statement that the only organisation that added labels to Israeli goods (as opposed to Jewish goods) was the BDS. However, Trustees agreed that it was a passing reference (in which the BDS was not referred to) in a longer answer in which the MP was trying to explain the fear of anti-Semitism through references to the issues that British Jews encountered in

their lives. It was not the role of the BBC to intervene to clarify every potentially unclear or contentious point made by panellists, especially when other participants in a debate were able to do so.

Trustees agreed that if they took this matter on appeal they were likely to decide that a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Appeals against the decisions of BBC Audience Services and BBC News not to correspond further with the complainant

The BBC's editorial complaints system has three stages. During the first two stages complaints are considered and replied to by the BBC. At the third stage the Trust may consider an appeal against a decision by the BBC.

Complaints are answered at Stage 1 by BBC Audience Services. Where complainants remain dissatisfied after a Stage 1 response, they can request a further response at Stage 1. If they are still dissatisfied they may escalate their complaint to Stage 2. Complaints at Stage 2 are answered either by the BBC's Editorial Complaints Unit, or by a senior manager within the BBC.

However, under the Complaints Framework, it is open to the BBC to close down correspondence at any stage – this means the BBC notifies the complainant that it does not wish to respond further. The complainant can appeal to the Trust if they consider the BBC was wrong to close down the correspondence. This is what happened in the following cases. Where a complainant appeals to the Trust in these circumstances, and Trustees uphold the appeal, the complaint is sent back to the BBC for a further response.

The Editorial Complaints and Appeals Procedure⁷ explains that:

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

fails to raise an issue of breach of the Editorial Guidelines; or

is trivial, misconceived, hypothetical, repetitious or otherwise vexatious.

In all of the following cases the complainants had appealed on the substance of their complaints but as BBC Audience Services had ceased handling the complaints at Stage 1 the point put to the Trustees was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

In each of the instances below, 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 Committee was provided with the complainant's correspondence with the BBC, the complaint's appeal/s to the Trust, the response/s from the Trust Unit and the complainant's request/s to review that decision. The Committee was also provided, where appropriate, with the relevant broadcast or published content.

⁷ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/complaints_fr_work_ed_complaints.pdf

Decision of BBC Audience Services not to respond further to a complaint about Today, BBC Radio 4, 3 August 2015

The complaint concerned an interview with Chris Leslie MP, the then Shadow Chancellor of the Exchequer, about concerns he had voiced regarding Jeremy Corbyn's economic strategy.

The complainant made the following points:

- *Today* was biased in that it frequently interviewed contributors who were critical of Jeremy Corbyn, but featured few supporters.
- *Today* had an agenda of "smearing" Jeremy Corbyn rather than properly debating his policies.
- This particular interview was inconsistent with a previous interview and was therefore biased. The style of the interview was in "stark contrast" to one carried out on 24 July with a representative of the RSPB on habitat protection laws.
- The presenter was unhappy for "abstract" answers to be given in this earlier interview but then was perfectly happy for them to be given by Chris Leslie. This constituted bias.

BBC Audience Services made the following points:

- BBC News had been careful to cover the Labour leadership campaign in a fair and balanced manner, aiming to reflect all viewpoints within the debate.
- At the start of the Labour leadership contest Jeremy Corbyn was a relatively unknown outsider, who had often taken a position against the mainstream of his party.
- Jeremy Corbyn's potential to win the leadership had become the big story of the campaign, polarising the party and causing some of Labour's most senior figures to speak out against him. It also raised serious questions about the future direction of the party. These issues had been reflected in the BBC's coverage.
- BBC News had also explored the reasons behind Mr Corbyn's appeal by talking to his supporters such as Hilary Benn, Lucy Powell and John McDonnell, and to Mr Corbyn himself.
- The presenter had not displayed bias but had been professional during the interview. It was the duty of the presenter to challenge the views being put forward by Chris Leslie and ask questions on behalf of the listeners. During the interview Mr Leslie was given sufficient time to put his views across.
- Most politicians expect their views to be put under scrutiny and are prepared to respond with corresponding firmness.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 11 October 2015 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the complainant's appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success – she decided it did not.

The Adviser noted first that the complainant felt *Today* had repeatedly interviewed politicians critical of Mr Corbyn and failed to feature his supporters on the programme. The complainant felt that these interviews concentrated on Mr Corbyn's electability rather than his policies.

The Adviser noted that the reply from Audience Services had outlined the reasons why BBC News considered Jeremy Corbyn's potential to win the Labour leadership contest to be one of the most important stories of the campaign. Audience Services had explained that this aspect of the campaign had therefore been reflected in the BBC's coverage. She noted that Audience Services had acknowledged the interviews with Mr Corbyn's critics and had also stated:

“...we have also heard from his supporters, notably members of his Shadow Cabinet, e.g. Hilary Benn, Lucy Powell and John McDonnell. We believe we have reported on stories surrounding his leadership of the Labour Party in a duly impartial manner, allowing our audience to make up their own minds in their own time.”

She also noted the programme had included an interview with Mr Corbyn himself in June in which he had been questioned at length about his economic policies. She therefore did not consider Trustees would be likely to conclude the programme had failed to include voices supporting Mr Corbyn in its output.

The Adviser then noted that the complainant felt that the *Today* programme had been biased because the presenter had shown an inconsistent approach in the interview with Chris Leslie MP compared to one previously on 24 July. The complainant considered that the interview on 3 August had “concentrated on the abstract idea of whether [Jeremy Corbyn] was electable or not” rather than debating his policies. The Adviser noted that the earlier interview referred to by the complainant was with a representative of the RSPB and was about an online petition to stop the European Union from weakening two habitat protection laws. On that occasion, the presenter had challenged the use of the broad “abstract” term “nature” asking the interviewee for specific examples of where “nature” was in danger.

The Adviser noted that in the interview with Chris Leslie MP on 3 August the presenter had asked him about criticisms he had voiced about Jeremy Corbyn's economic policies and then about the future of the Labour party should he be elected leader.

She noted that the BBC had pointed out that the role of the presenter was to ask questions of contributors that might be in the mind of the listener and to elicit information so that the audience might make up their own minds on the issue. She noted that this had been the approach in both the interviews highlighted by the complainant. She noted that the two interviews in question were on two different issues. She did not consider it was sensible or meaningful to try to compare them.

She noted that on both occasions, the presenter had pressed the interviewees to clarify their views and both had been given time to respond. She did not agree therefore with the complainant that this had constituted a biased approach.

She considered that Trustees would be likely to conclude that the output met the requirements of the Editorial Guidelines. She noted that, as long as output met the required editorial standards, decisions such as which questions should be asked or which interviewees should be invited to take part in a programme were matters of editorial discretion for the BBC and were not matters for the Trust to consider.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- the inconsistent approach to the two interviews was evidence of bias.
- with the RSPB the interviewer was unhappy with the “abstract” response from the interviewee but that was not his attitude towards the “abstract” response from Chris Leslie MP.
- *Today* focused continually on the electability of Jeremy Corbyn but the coverage was neither informative nor insightful. To press the case that someone is unelectable is pure speculation. Politics should be about setting out a vision and then it is up to the electorate to vote for the vision or dismiss it. It is not just about winning power.
- the leadership coverage demonstrated how *Today* was “wrapped up” with the Westminster bubble that was solely obsessed with winning power and internal party conflict.

The Panel’s decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they were not likely to uphold the appeal given that:

- decisions about the content of interviews rested solely with the BBC Executive as part of the creative and editorial direction of the BBC and were not a matter for the Trust unless there was evidence of a breach of editorial standards.
- the BBC had referred to interviews with the supporters of Jeremy Corbyn as well as to interviews with those critical of him. It had also referred to an interview on *Today* with Mr Corbyn himself in which he had been questioned about his economic policies.
- Mr Corbyn’s electability was an important issue in the campaign and had therefore featured in BBC News coverage.

- the two interviews, with the RSPB and with Mr Leslie, were entirely different and could not usefully be compared. The role of the interviewer was to elicit information for the benefit of the listener and to press for clarification when required.
- a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about BBC News coverage of The UN Independent Commission of Inquiry on the 2014 Gaza conflict

This complaint is about an allegation that the BBC failed to cover The UN Independent Commission of Inquiry on the 2014 Gaza conflict. The complainant made the following points:

- The UN report was not covered on the BBC's main current affairs programmes or the BBC website even though the conflict itself was much covered at the time.
- The failure to cover the report further reinforced the perception that the BBC was pro-Israel and had censored the report.
- The webpage article mentioned by Audience Services was more concerned with Israel's response to the report rather than the report's contents. This was in line with the pro-Israel bias of the BBC.

BBC Audience Services made the following points:

- Not everyone would agree with the BBC's choices on which stories to cover, and the prominence given to them. These were subjective decisions made by news editors.
- There were several factors taken into consideration when deciding how to put together news bulletins. For example, whether the story was new and required immediate coverage, how unusual the story was, and how much national interest there was in the story.
- These decisions were always judgement calls rather than an exact science.
- In this case, BBC News did cover the UN report and its findings on the day of its publication on 22 June 2015. It was covered extensively on the BBC News Channel, on radio bulletins throughout the day as well as on the BBC News website. Audience Services included a link to the story.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 14 October 2015 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the appeal against the decision by Audience Services not to correspond further had a reasonable prospect of success – she decided it did not.

The Adviser noted that choices about which stories to cover on BBC News programmes were editorial decisions which were the responsibility of individual news editors and programme producers. As such, they were a matter for the BBC's Executive Board, and the BBC Trust would only become involved if they had led to a breach of editorial standards.

The Adviser noted the complainant's view that a failure to cover the UN report on the BBC's main radio current affairs programmes was indicative of a bias in favour of Israel. She noted that Audience Services had informed the complainant that the story had been covered on the BBC News Channel and on radio news bulletins throughout the day - including, the Adviser noted, the *Six O'Clock News* on BBC Radio 4. She also noted that the report had been covered on BBC television's *News at Ten* on 22 June, in a report by the BBC's Chief International Correspondent Lyse Doucet. This report could be found at: <http://www.bbc.co.uk/news/world-middle-east-33230339>. She also noted that the BBC had provided a link to the story which had appeared on the BBC's website on 22 June: <http://www.bbc.co.uk/news/world-middle-east-33223365>

The Adviser noted also the complainant's view that "a non-appearance on [*Today* and the *World at One*] indicates the BBC wants to hush the story up as they are the programmes that set the news agenda". The Adviser noted that the timing of the story was also a factor in how much coverage it might receive on any one particular programme as well as how new or interesting the story was.

Given these examples of coverage the Adviser could not agree with the complainant that the BBC had "totally ignored" the UN report and she decided there was therefore no evidence of any bias.

She also noted that, subsequently, the BBC had broadcast an edition of HARDTalk with William Schabas, who had previously chaired the commission of inquiry into the Gaza conflict for the UN, which centred on the UN report and she considered the complainant might be interested to see this: <http://www.bbc.co.uk/programmes/n3csy4r5>

The Adviser then noted that the complainant felt that the article pointed out to the complainant by the BBC on the BBC News website was biased in favour of Israel as it was "more concerned with Israel's response to the report rather than the report's contents." She noted the opening paragraph of the article which read:

"Both Israel and Palestinian militants may have committed war crimes during the 2014 Israel-Gaza conflict, UN investigators have said. In a [long-awaited report](#), the UN team said there was evidence of 'serious violations' by both sides. Israel dismissed the investigation as 'politically motivated and morally flawed', while Hamas said it wrongly equated 'the victim and executioner'."

The story then had a section of analysis of the content of the report followed by a short section at the end containing reaction from Israeli Prime Minister Benjamin Netanyahu and Hamas official Ghazi Hamad.

Having considered the story on the BBC News website the Adviser could not agree with the complainant that the article demonstrated "the pro-Israel bias of the BBC" by ignoring the content of the UN report in favour of Israel's reaction to it.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 raised the following points:

- What evidence was there that editors and producers were not being biased in their editorial choices?
- *Today* and *The World at One* may have been demonstrating bias by ignoring the report as it was not featured on either programme. The circumstantial evidence was overwhelming.
- What else was of such great importance that it pushed the report off the agenda?
- Lots of stories "showing Israel in an appalling light" had been side-lined by *Today* and *The World at One*.
- The story was obviously "new" when the report was published and "how interesting" the story was not relevant. The major remit of the BBC was to educate the population rather than to tell them what they want to hear.
- "A few obscure articles in remote parts of the BBC" was not sufficient coverage of the report.
- The website article in question was neither in-depth nor balanced.
- If the Israelis have committed war crimes "isn't this something the BBC should make a big thing of...?"

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took the substance of this matter on appeal they would not be likely to uphold a breach of the Editorial Guidelines given that:

- the editorial and creative direction of the BBC was a matter for the BBC's Executive Board and not the BBC Trust. This was set out in the Royal Charter. Decisions concerning which stories were covered on BBC News programmes were the responsibility of individual news editors and programme producers.
- given the report had been covered (though not to the extent the complainant would have wished or on the particular radio programmes he felt set the agenda), it was evident that the BBC had reported on the issue and had not demonstrated bias by failing to report it.
- the website article had included a section of analysis of the main points of the report which included criticism of both Israel and the Palestinians and which included the view that war crimes may have been committed by both sides. The article included reaction from both sides and had not therefore ignored the content of the report in favour of Israel's reaction to it.

Trustees agreed that if they took this matter on appeal they were likely to decide that a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about Today, BBC Radio 4, 24 August 2015

The complaint concerned an exchange between the presenter Justin Webb and BBC News's Paris correspondent Hugh Schofield during a report on the decision of President Hollande to award the Legion d'Honneur to the individuals who had tackled and overpowered a terrorist on the Thalys train in August 2015. The complainant said that there was giggling in the studio which was disrespectful. There should be an apology.

Presenter

The French President is going to give medals to the Americans who overpowered a gunman on that Thalys train. Hugh Schofield is our correspondent in Paris. What are they going to get Hugh?

Correspondent

They will be made Chevaliers of the Legion d'Honneur - that's the lowest level of the Legion d'Honneur which goes up to Grand Master of course, which is the President himself, but it's still an honour, and an honour that they will get as foreigners and that's why it's happening so quickly, I imagine, and there will be a ceremony in an hour or so presided over by the President, and I know that the Prime Ministers of Belgium and the Netherlands have also been invited to attend – I'm not sure if they are coming, but of course it's all a sign of the extreme gratitude that the French government feel towards these brave men.

Presenter

An extremely odd turn of events for their holiday.

Correspondent

Indeed it was, indeed it was. And they were speaking again at a press conference yesterday afternoon at the American Embassy and again they impressed once more, with that ... I mean, they came across, I think, as archetypes of that masculine American virtue which the French admire but envy as well at the same time and there is the background for all this of course, just the echoes of World War 2, the debarquement and Normandy and so on. I think there's a lot of relief here that there is a French person involved as well, even though this French person is being honoured anonymously because he has refused to come forward and wants to protect his anonymity.

Presenter

And more serious questions too about security on trains too....

BBC Audience Services made the following points:

- They said there had been no intention to appear disrespectful. The presenter had found it rather funny that the correspondent was not sure exactly who was going to the award ceremony and his amusement was apparently rather contagious.
- Neither was being disrespectful and the presenter went on to raise the very serious subject of security on trains following the Thalys train attack.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on the substance and handling of his complaint. He made the following points:

- He asked the Trust to review the behaviour of the presenter and the correspondent.
- He believed a formal apology was warranted irrespective of what caused the laughter in the studio as he considered listeners would have believed they were mocking the “extreme act of bravery” carried out by the individuals.
- He considered the response from the BBC Complaints team to his substantive complaint was dismissive, inappropriate and personally offensive.
- Audience Services had addressed him twice incorrectly by writing to him using his first name followed by an initial instead of using his surname.
- He considered it arrogant and inappropriate for Audience Services to state they did not believe he had raised a significant issue of general importance.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the complainant’s appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success. She decided it did not.

She noted that all BBC output was required to meet the standards set out in the Editorial Guidelines: www.bbc.co.uk/editorialguidelines. The introduction to the section on Harm and Offence stated:

The Agreement accompanying the BBC Charter requires us to apply “generally accepted standards so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material”. ... Applying ‘generally accepted standards’ is a matter of judgement, taking account of the content, the context in which it appears and editorial justification.

The Adviser noted that the complainant had said that: “Barely restrained giggling could be clearly heard throughout the interview”. However, reviewing the programme, she did not consider this characterised the interview accurately. The interview was lighter in tone when Hugh Schofield was describing the different national stereotypes – that the French were, perhaps, envious of the “archetypes of ... masculine American virtue” and felt “relief... that there is a French person involved as well” – and that the tone became significantly more serious when they turned to the subject of ongoing security matters. However, she did not consider there was any indication that either the presenter or the correspondent was acting in a way that was disrespectful and she noted that the correspondent drew attention to the “extreme gratitude” that the French felt towards the two Americans.

The Adviser acknowledged that the complainant had found the report offensive but she believed Trustees would be likely to conclude that the exchange did not breach Editorial Guidelines on Harm and Offence. It followed from this that she did not consider they would be likely to conclude it was appropriate to issue an apology for the output.

The Adviser turned to the issue of complaints handling. She noted that the complainant had been sent two letters that had addressed him by his first name and second name

initial rather than using his surname. She agreed this was regrettable and noted that Audience Services had already apologised. When an error had been made and an apology had been issued, Trustees usually considered the matter had been resolved. In terms of the content of their response, the Adviser considered Audience Services had been right to indicate that the output did not raise a matter that was likely to be in breach of the Guidelines – although she regretted that the complainant had found this offensive.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- the laughter had occurred when the levels of the Legion d'Honneur were being discussed.
- others had heard the item and agreed there was a perceived lack of respect for the awards by the presenter and correspondent.
- the Adviser's view would have been biased by knowing the cause of the amusement.
- he was satisfied that the presenter and correspondent did not intend to be disrespectful and fully accepted that there was another, albeit not obvious, cause for their amusement.
- rather than the BBC taking the position that there was no case to answer, he would have preferred a simple apology in the *Today* programme to the effect that the presenters' amusement was in no way related to the subject matter being discussed, and an acknowledgement that their exchange could have been misinterpreted as disrespectful.
- with regard to the handling of his complaint, he acknowledged that he had received an apology for the error in the way he had been addressed. He accepted the apology but expressed concern at what he considered a "pro forma" approach adopted by Audience Services. He felt that if a more personal approach had been taken, it would have led to a swifter resolution of his complaint.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if the matter of substance was to be put before them on appeal they would not be likely to uphold a breach of the Editorial Guidelines given that:

- the exchange between the presenter and the correspondent made it clear that the French government was honouring the men out of extreme gratitude for their brave actions.
- the tone of a part of the discussion became light-hearted in nature, but the subject of national security was treated seriously.
- from time to time on a live and unscripted programme like *Today* presenters could express amusement at something they hear from a contributor, even if humour had not been intended, and doing so would usually be within the expectations of the audience provided that it did not cause widespread offence.
- Trustees agreed that the audience in general would not have found the conduct of this interview disrespectful or offensive.
- it followed that Trustees did not consider an apology was necessary in the circumstances.

Given that Trustees did not think they would uphold a breach of the Editorial Guidelines on the substance, and taking into account that Trustees considered a reasonable response had been provided by the BBC Executive,

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about Today, BBC Radio 4, 5 October 2015

The complaint concerned a comment made during the business news on *Today* by the presenter, Simon Jack.

The complainant made the following points:

- Simon Jack inaccurately described the Conservative Party as “basking in the afterglow of an emphatic election win”.
- The Conservative win was achieved with barely a quarter of registered UK voters – this could not be described as “emphatic” by any reasonable measure.
- The “emphatic” epithet was stated as fact and the phrase was stressed within the sentence.
- The BBC should explore “the legal and moral implications for the authority of Government with such a small democratic mandate.”

BBC Audience Services made the following points:

- Simon Jack’s comment related to how the Conservative Party might be feeling and was not stated as a fact.
- As the acting Chief Economics Correspondent, he was expected to give his professional opinion on certain topics.
- Given that the Conservative’s election win was largely unexpected, his summary of the mood at the Party conference was fair and accurate.
- The complainant’s view that there should be more discussion about democratic mandates would be shared with senior managers and *Today*’s production team.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 3 November 2015 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the complainant’s appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success – she decided it did not.

The Adviser noted that all output was required to meet the standards of due accuracy. The term “due” meant that 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 Adviser noted what Simon Jack had said during the introduction to the business news section of *Today* which came live from the Conservative Party conference:

"The Conservative Party may be basking in the afterglow of an emphatic election win and an opposition that the folks here would describe as in disarray. But one theme always retains the power to start a fight on the dance floor here and that is of course Europe."

She noted that the business news was coming live from the Conservative Party conference in Manchester and that the introduction was an attempt to convey something of the mood of delegates. She considered the correspondent had considerable editorial leeway to reflect the mood of the conference and that this would have been well within the expectations of the audience. She noted that the BBC had referred to this in their response to the complaint – stating that he was entitled to give his "professional opinion on specific subjects".

The Adviser noted the complainant had also queried whether it had been right to describe the win as "emphatic". She noted that Audience Services had explained that the win had been described as emphatic because, in the run up to the Election, the widespread expectation was that no party would win an outright victory. She noted Audience Services had explained that:

"Considering the nature of the Conservative's win in the election, namely that it was largely unexpected, we felt Simon's summary of the mood at the Party conference was fair and accurate."

She noted the complainant's view that the Conservatives won only around 25 per cent of all registered voters to gain their majority and that this figure could not be described as "emphatic". However, whilst the Adviser appreciated that the complainant felt the BBC should do or should have done more to explore the nature of the democratic mandate she considered this to be a different issue and she did not consider that the use of the phrase "emphatic election win" in this particular case was inaccurate.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- the description of the Conservative Party election victory as "emphatic" was inaccurate
- despite being almost a throwaway remark, it raised a matter of significant general importance - the nature of a democratic mandate and how this is reported by the BBC
- the Adviser's view was that his was an accurate description yet the use of the word "emphatic" was based on barely 25% of registered voters
- she had restated the view of the BBC, and if the collective view of the BBC is that a General Election victory with only 25% of registered voters is "emphatic" there is little chance of any meaningful debate about the nature of a democratic mandate and the implications for the authority of any government.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they were not likely to uphold the appeal given that:

- this was being broadcast live from the Conservative Party conference in Manchester and the introduction was intended to give a taste of the mood of conference delegates
- part of the role of BBC correspondents was to give a professional judgement on stories within their area of expertise and that this would be the widespread expectation of the *Today* audience
- the unexpected nature of the Conservative Party win (and the fact that it delivered the party an overall majority in Westminster and an end to a coalition government) the description was reasonable and in no way inaccurate.
- a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about the online article *Is new India state capital Amaravati more bane than boon?*

The complaint related to a BBC News online article, headlined: *Is new India state capital Amaravati more bane than boon?* The article can be found at this link: <http://www.bbc.co.uk/news/world-asia-india-34612799>

The complainant made the following points:

- The article was one-sided and was therefore biased.
- The title suggested that the proposed new capital city, Amaravati, would be the “bane” of Andhra Pradesh. This was a misrepresentation of the facts.
- The article included the concerns of the National Green Tribunal (NGT) about the environmental impact, yet failed to emphasise the financial need for a new capital.
- The article was overly negative about the effect of the proposed new capital on farmers and failed to go into sufficient detail about the land pooling proposals which would be of great benefit to local farmers and farm workers. The article also wrongly suggested that land acquisition was done by force by the police.
- More than 60 percent of the state population would be likely to support the new capital. The BBC should write an article based on a survey of the local population.

BBC Audience Services made the following points:

- The article’s headline had not stated that Amaravati would be the “bane” of the country but raised the question whether it would be a good or bad thing for the plans to go ahead.
- The aim of the article was to highlight concerns being raised both by farmers and the NGT about the plans. The farmers were concerned that their land was being taken away from them without any choice being offered while the NGT were concerned about the ecological effect of the plans.
- The article also featured the Andhra Pradesh chief minister N Chandrababu Naidu who gave his response to agricultural concerns and allegations that police force was used to pressure farmers to surrender their land to the state.
- The point made by the complainant about the benefits of this project to farmers was interesting but equally it was clear that not all farmers were happy with the proposal. One of their representatives, Mallela Harindranath Chowdary, had been willing to voice his concerns in the article.
- Nowhere in the article was it suggested that Amaravati should not be the capital of Andhra Pradesh. A feature article about a specific region did not need to be based on surveys of the local population.
- The role of BBC News was to look at all sides of the issue. The article was not overly negative but heard from a range of contributors who gave a broad overview of the positives and negatives of the decision.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 6 November 2015 on the substance of his complaint. He said that “the BBC should have considered views of multiple people instead

of basing an article upon a single person view who is opposing the capital city just for his political benefits”.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the complainant’s appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success. She decided that it did not.

The Adviser noted that all BBC output was required to meet the standards set out in the Editorial Guidelines. In terms of impartiality, output had to meet the standard of “due impartiality” which was defined as follows:

The term ‘due’ means that the impartiality 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.

She did not agree, however, with the complainant that the headline stated the capital city would be the bane of the state; she considered that it posed a question as to whether the proposed development would be a good or a bad thing and considered that this carried the expectation that the article would explore the views on both sides.

The Adviser understood that the complainant also felt that the article focused too heavily on the negative effects of the proposed development and did not go into enough detail about the advantages to farmers. She noted the reply from the BBC which had pointed out that the article was designed to examine concerns which had been raised about the development. The BBC said it had featured both sides of the debate, highlighting the concerns of interested groups but also hearing a number of times from the Andhra Pradesh chief minister N Chandrababu Naidu.

She noted the content of the article which included the view of farmers’ leader Mallela Harindranath Chowdary:

“Mr Naidu has gone back to his one-sided development talk that benefits corporates and businesses at our expense. He is taking away land from the most fertile agrarian belt in India, which yields three crops a year.”

The article had also contained the view of environmentalists who said that the state had not followed “any of the procedures or complied with requirements to carry out a project of this scale” and who said that the destruction of forests would be “an invitation for an ecological disaster”.

However, the Adviser also noted that the chief minister himself had said:

“Some people would have seen a challenge, but I saw a great opportunity. Amaravati will not only be India’s best new city and capital, but a leading global destination. I want to build it with people’s participation. I want everyone to own a part of it.”

The article had also briefly outlined his proposals, detailed his previous success with the development of Hyderabad and had included his answer to the criticisms voiced by Mr Chowdary including the allegation that the government was using police force to pressure farmers to surrender their land.

The Adviser did not therefore agree with the complainant that the article had been one-sided and had featured only the negative effects of the proposals.

She noted the complainant's view that the article should have included more detail about the economic benefits to farmers of the voluntary land pooling scheme. She also noted the interesting aspects of the scheme the complainant had mentioned in his appeal. However, while she considered these were all interesting points, she noted there was no requirement for the article to go into the sort of detail that the complainant had suggested in order for it to be balanced. She considered Trustees would be likely to conclude the report met the requirements of the Editorial Guidelines for impartiality.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- the article should have considered the interests of all those concerned when discussing the development of Amaravati
- the article should have balanced the views it contained of the minority with the views of the majority of the people in the region
- the article did not explain the voluntary land pooling system, and the economic and educational benefits of this policy to farmers were not explored
- the use of the phrase "police force" is a falsification of the facts. No such action has taken place in the development of the proposed new capital
- the article focused on the negative aspects when referring to the National Green Tribunal, which had not given its final verdict and had not objected to the planning process
- the article did not consider the two options for the location of the capital city - either to build within an existing human habitat or to proceed with the damaging deforestation of forest lands
- Amaravati was "an aspiration and a promise for future generations of the people of Andhra Pradesh".

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they would not be likely to uphold the complaint given that:

- the introduction to the article had made it clear that the intention was to examine some of the concerns that had been raised about the proposed development of Amaravati
- the article had featured a number of different views including those of interested groups who had voiced concerns about the scheme. However, it had also included views in support of the development
- as the BBC had pointed out, the article had included the views of the Andhra Pradesh chief minister N Chandrababu Naidu who had referred to his previous success with the development of Hyderabad and had outlined his plans for Amaravati
- the article had also included the chief minister's response to the allegation that the government was using police force to pressure farmers to surrender their land
- although it was the case that the article had not gone into the sort of detail that the complainant would have wished about the role of the National Green Tribunal and the advantages that the complainant saw in the land pooling scheme, it was not necessary for these aspects to be included for the article to be duly impartial and duly accurate
- a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about the online article “Iberia airline denies that pilot made ‘Palestine’ remark”

The complaint was about the article which can be found at this link:

<http://www.bbc.co.uk/news/world-middle-east-34665549>

The complainant made the following points:

- The article was inaccurate about the formation of Israel. It stated that Israel became independent following the collapse of the Ottoman Empire at the end of the First World War; however, there was a gap of 31 years.
- Such basic factual errors lead to a pro-Israel bias.
- The article itself was about a chance remark by a single Spanish pilot and was trivial. It should not have been the lead Middle East story when the murder, injury, and arrest of Palestinians had been ignored, and when land seizures, house demolitions and demonstrations by Palestinians also went unreported by the BBC.

BBC Audience Services made the following points:

- The position in the sentence of the phrase “following the collapse of the Ottoman Empire” related to “British Mandate Palestine” and not Israel’s independence.
- It was not clear that this was ever the lead story on any of the BBC’s indexes. After further investigation there was no record of the story being on the front page of the BBC News website.
- This was an unusual story with allegations that prompted an investigation and the release of a statement, regretting any offence to passengers, from the largest Spanish airline. The BBC believed this would be of interest to readers.
- As no mention was made by the complainant of specific stories that he felt the BBC had failed to report, it was difficult to respond in detail to what was a subjective point about the comparative newsworthiness of this particular article.
- BBC News would continue to cover a range of stories from the Middle East on the BBC News website, including those involving Palestinians. However, incidents where the scale of deaths or casualties in the conflict was low were not uncommon and therefore not every attack or violent death would be reported.
- The BBC understood that not everyone would agree with the choices made about which stories were covered and the prominence given to them. These were subjective decisions made by news editors, and the BBC accepted that not everyone would think the BBC was correct on each occasion.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 9 November 2015 on the substance of his complaint. The complainant added that BBC reporting of the Middle East focused almost exclusively on Israeli deaths and injuries. He said that the more numerous cases of death and injury to Palestinians were rarely reported. He said that the BBC also generally ignored anything that explained the underlying causes of the violence:

“the 48 years of Occupation in Gaza and the West Bank, and 67 years since the uprooting of the Palestinian nation and creation of generations of refugees; constant expansion and land seizures by the illegal Israeli colonists, supported by the Israeli Defence Force; unremitting economic, social and political blockade, which enforces poverty, misery and degradation on the whole Palestinian population”.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the point she should consider was whether the complainant’s appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success – she decided it did not.

The Adviser then noted the complainant’s view that the article itself was trivial and should not have been covered as “the lead Middle East story” when other stories relating to the death and injury of Palestinians were ignored. She noted the reply from the BBC which had explained that their investigations had not been able to establish the prominence that had been given to the story. However, she noted that they had explained why BBC News had judged that this was a story worthy of coverage and had acknowledged that not all readers would necessarily have agreed with this judgement.

The Adviser noted that the complainant also felt that BBC News had failed to cover significant news stories from the Middle East which focused on the suffering of Palestinians and that this was evidence of bias. She noted, however, that the BBC had pointed out to the complainant that the BBC was committed to covering a wide range of stories from the Middle East on the BBC News website, including those involving Palestinians. The BBC had explained that because of the frequency of violent attacks in the Israel-Palestinian conflict BBC News could not routinely report each attack or death.

The Adviser noted that the content and placement of news stories covered by BBC News was the responsibility of individual news editors and such issues were editorial decisions which were the responsibility of the BBC’s Executive Board. They were not a matter for the BBC Trust unless they involved a breach of editorial standards. She noted that the BBC had pointed out that such decisions were subjective and that not everyone would agree with every decision.

The Adviser considered that as the complaint had not suggested any evidence of bias Trustees would be likely to conclude that this was a matter for the BBC’s Executive Board and not for the Trust.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- the Trust Adviser had not addressed the points he had put forward in his appeal

- the deaths and injuries to Palestinians were roughly ten times the rate of deaths and injuries to Israelis; however, BBC reporting of deaths and injuries focused almost exclusively on Israeli casualties
- Palestinian death and injury was mentioned only as a secondary aspect, when a Palestinian was hurt or killed in an actual, suspected or alleged attack on an Israeli. So the most significant occurrences of death and injury in the conflict were largely ignored by the BBC
- this gave the impression that events on the ground were exactly the opposite of what they were in reality
- the BBC generally ignored anything that explained the underlying causes of the violence.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they were not likely to uphold the complaint given that:

- decisions about which elements to include in a news story rested solely with the BBC Executive as the Royal Charter made it clear that the creative and editorial direction of the BBC was a matter for the BBC Executive. Therefore deciding which incidents were reported and how much background information was included in any one article was a matter for the Executive unless there was a breach of editorial standards
- a reasonable response had been provided by the BBC Executive to general allegations. It had explained that:
 - BBC News was committed to covering a wide range of stories from the Middle East and these would include those involving Palestinians
 - because of the frequency of stories involving violent attacks in the Israel-Palestinian conflict BBC News could not report every attack or death
 - decisions about what to include in news stories were subjective and not everyone would agree with every decision made
 - it would not be possible for each news story to go into detail about the causes of the conflict. However, a large number of stories examining the background to the conflict were available on the BBC website.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Decision of BBC Audience Services not to respond further to a complaint about the use of the word “Tory” on the Daily Politics programme

The complainant made the following points:

- The programme and one of its presenters, Andrew Neil, had breached the BBC’s guidelines on impartiality by using the term “Tory” to describe the Conservative party.
- “Tory” or “Tories” were slang expressions often used as insults by the left wing opposition. The BBC therefore was a left wing mouthpiece.
- The BBC refused to use the term “Daesh” to describe the Islamic State group despite its common usage in other countries because the Director-General felt it could damage the BBC’s impartiality. Using the word Tory showed double standards.

BBC Audience Services made the following points:

- The term “Tory” or “Tories” had been around for centuries and the origins of the Conservative party could be traced to the “Tory” faction which emerged in the late seventeenth century.
- The Conservative party themselves accepted the word “Tory” applied to them, but they had said that they would like to be called Conservatives some of the time as this was what appeared on ballot papers.
- The BBC therefore used the words “Tory” or “Tories” sometimes and the Conservative party had no objection to this.
- The BBC recently reported on how people felt about the name of the Party. Some people felt the terms were interchangeable, some preferred “Tories” while others preferred “Conservatives”. The BBC’s own style guide suggested Conservative should be used in the first instance but “Tory” was acceptable for later references.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 12 November 2015 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided the point she should consider was whether the complainant’s appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success – she decided it did not.

The Adviser noted that all BBC output was required to meet the standard of “due impartiality” which, under the Editorial Guidelines, was defined as follows:

“The term ‘due’ means that the impartiality 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 noted that the BBC had explained in its response its policy regarding the use of the word "Tory". It had referred to the BBC's style guide, which suggested that "Conservative" should be used in the first instance but that "Tory" was acceptable for later references. It had also explained that the Conservative party itself had no objection to the use of the term. The BBC's response had also included a link to an online article which explored the historical roots of the term and the current attitude of Conservative party members to its use. The Adviser did not therefore consider that the use of the word "Tory" demonstrated a lack of due impartiality and did not believe it would be interpreted on its own as a pejorative term by the audience.

The Adviser noted that the complainant had compared the BBC's use of the word "Tory" with its use of the term "Islamic State". She noted that the complainant had referred to the reported response of the Director-General, Tony Hall, to a letter from 120 MPs which had asked the BBC to refer to the group as "Daesh". She noted that the complainant said that Lord Hall's response – that to use the pejorative word "Daesh" could damage the BBC's impartiality by suggesting support for those who coined it - showed double standards. However, the Adviser did not consider that given the historical context of, and the current attitude to, the use of the word "Tory", the two examples could be compared.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser 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 said that:

- this was bias
- the term "Tory" which was two hundred years old, referred to a previous party and was widely used by critics of the Government as a derogatory term. By using it the BBC was siding with the Opposition and its use was therefore biased
- "Tory" or "Tories" were slang expressions often used as insults by the left wing opposition. The BBC therefore was a left wing mouthpiece
- the BBC was promoting "the current attitude of Conservative party members" by its use of the word "Tory"; if the BBC used "Conservative" then usage of "Tory" would become less.
- the BBC supported broadcasting protection for Daesh over the current government.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Adviser.

The Trustees noted that the issue in front of them was whether the decision by BBC Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they were not likely to uphold the appeal given that:

- the word "Tory" was not generally regarded as offensive or indicative of bias, was rooted in Conservative Party history and was used by many Conservatives
- the decision to use the word "Tory" was an editorial and creative decision and therefore one for the BBC Executive and not the Trust
- the reference to the Director-General's position on the word "Daesh" was not relevant to the use of the word "Tory" on the *Daily Politics*
- a reasonable response had been provided by the BBC Executive.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

Admissibility decisions

The BBC's editorial complaints system has three stages. During the first two stages complaints are considered and replied to by the BBC. At the third stage the Editorial Standards Committee (ESC) of the BBC Trust may consider an appeal against a decision by the BBC.

Complaints are answered at Stage 1 by BBC Audience Services. Where complainants remain dissatisfied after a Stage 1 response, they can request a further response at Stage 1. If they are still dissatisfied they may escalate their complaint to Stage 2. Complaints at Stage 2 are answered either by the BBC's Editorial Complaints Unit, or by a senior manager within the BBC.

However, under the Complaints Framework, it is open to the BBC to close down correspondence at any stage – this means the BBC notifies the complainant that it does not wish to respond further. The complainant can appeal to the Trust if they consider the BBC was wrong to close down the correspondence. Where a complainant appeals to the Trust in these circumstances, and Trustees uphold the appeal, the complaint is sent back to the BBC for a further response.

The Editorial Complaints and Appeals Procedure⁸ explains that:

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

- o fails to raise an issue of breach of the Editorial Guidelines; or
- o is trivial, misconceived, hypothetical, repetitious or otherwise vexatious.

In the cases where BBC Audience Services had ceased handling the complaints at Stage 1, the complainants appealed to the Trustees on the substance of their complaints. However, the point put to the Trustees was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

In the cases which progressed to Stage 2 the decision for the Trustees was whether to take the complaint as an appeal or whether it had no reasonable prospect of success and was not admissible.

In each of the following cases the Committee was provided with the complainant's correspondence with the BBC and the complainant's appeal/s to the Trust. The Committee was also provided with the relevant broadcast or published content.

⁸ http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/complaints_fr_work_ed_complaints.pdf

News at Ten, BBC One, 11 October 2015

The complaint concerned a report on the *News at Ten* on 11 October 2015 about the latest developments in ongoing violence in Israel and the Palestinian territories. The complainant said a location report from Jerusalem by the BBC's Middle East Correspondent was biased in favour of the Palestinian perspective.

The studio introduction to the coverage began with the news that a Palestinian woman and her two-year-old daughter had been killed in an Israeli air strike in the Gaza Strip following Palestinian rocket attacks. The introduction went on to note that escalating violence over the previous fortnight had left four Israelis and 20 Palestinians dead.

In her report the Middle East Correspondent spoke to the father of a Palestinian man who had been shot dead by Israeli security forces after he had attacked an Israeli couple in Jerusalem's Old City the previous weekend.

The complainant made the following points:

- The report began with Palestinian casualties, presenting the false narrative that the Palestinians suffered first in the latest wave of violence.
- Reporting the Israeli reaction first and not the terrorist action which preceded it was a deliberate attempt to portray Israel as the aggressor, and the Palestinians as the perennial victim.
- The theme continued with an interview with the father of a dead Palestinian murderer rather than with relatives of the murdered Israeli victims.
- The coverage also failed to report praise for the attacks in the Palestinian media and its incitement of such murders.
- The BBC was institutionally anti-Semitic.

BBC Audience Services made the following points:

- The report looked at the increasing violence from both sides of the conflict.
- During the live introduction to the report in the early evening news the reporter mentioned recent Palestinian casualties, but also pointed to the stabbing of three Israelis in Hadera and emphasised that this was the third such attack on Israelis that weekend.
- Whilst reporting on the Israeli Defence Force's strike in Gaza the reporter reflected Israel's position that the IDF were targeting a weapons facility following a rocket attack into southern Israel.
- The report went on to mention Israel's security forces stopping a potential attack on the road to Jerusalem earlier that day.
- In the sequence with the father of the Palestinian who had been shot dead by Israeli security forces viewers were given a clear account of what Muhannad Halabi had done.
- The BBC tries to tell the story of the conflict as experienced by both sides, across programmes and bulletins and over time. Sometimes this means it cannot reflect the full extent of the complexities of the conflict during one standalone report.
- Two days earlier in a dispatch by the same reporter on the BBC *News at Ten*, video footage was shown of Muhannad Halabi's attack on the Israeli couple. The reporter spoke to the injured wife of the man he had killed.
- Audience Services said they did not believe the complaint raised a significant issue of general importance that might justify further investigation; they would not therefore, correspond further on the issue.

Appeal to the BBC Trust

The complainant contacted the BBC Trust saying that he wished to escalate his complaint. He said the BBC had failed thus far to explain why the perpetrator's family alone had been interviewed and accorded sympathy in the process, whilst the victims' family had not. This was biased and manipulative reporting. The complainant reiterated his view that the BBC was institutionally anti-Semitic.

The Panel's decision

A panel of the Committee noted the points made by the complainant and the BBC.

They noted that the issue in front of them was whether the decision by Audience Services to decline to enter into further correspondence was correct on the basis that the Editorial Guidelines had not been breached.

Trustees agreed that if they took this matter on appeal they were not likely to uphold the appeal. In reaching their decision they took account of the following factors:

- Decisions about which elements of a story to include in a report rested solely with the BBC Executive as the Royal Charter made it clear that the creative and editorial direction of the BBC was a matter for the Executive and not for the Trust. Therefore deciding which aspects of an issue to include in an item of content on a particular occasion was a matter for the Executive, and the Trust would have a role only if, for example, output did not meet the BBC's editorial standards (as set out in the Editorial Guidelines) – which the complainant considered was the case here.

The grounds on which the complainant argued that the content was not impartial were that the report included an interview with the perpetrator's family but not with the family of the victims.

- Trustees noted the report included the wider context in which Muhannad Halabi had carried out the attack:

"Among Palestinians living under Israeli occupation there's plenty of support for the recent outbreak of DIY unrest, including a spate of stabbings.

"Palestinians say anger and frustration are driving ordinary people to carry out attacks. What's striking is that there's no sign of involvement by militant groups. The attacks are being carried out by individuals. It's a low-tech approach – and it's catching."

Trustees also noted that the audience was informed in clear, precise language that the interviewee's son had murdered two people:

"This is the family home of Muhannad Halabi, a Palestinian law student turned killer. Last weekend the 19-year-old stabbed an Israeli couple, killing the husband and a rabbi who intervened. His father Shafiq is grief-stricken but unapologetic."

- As noted in the response from Audience Services the editorial ambition for a long-running story such as the Israel/Palestinian conflict is that over time a wide range

of perspectives is reflected across news and current affairs programming as a whole.

- In the primary reporting of the attack by Muhannad Halabi two days earlier, the injured wife of one of his victims was interviewed by the same correspondent; her report appeared on the *News at Ten* and, as also noted in the response from Audience Services, she spoke from her hospital bed of her fear and pain, and of the poor treatment she endured by Palestinian passers-by while she lay wounded on the street.
- Reflecting the perspective of the perpetrator's father on this occasion did not indicate support for his son's actions but sought to offer insight as to why some individual Palestinians who were not members of recognised groups committed individual acts of violence.
- The BBC aims to reflect the world as it is; whilst the content may have been challenging to some of the audience, and perhaps had the potential to cause offence, there was a clear editorial purpose in explaining to the audience the level of support for these DIY attacks within the Palestinian community and what might be driving them.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

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

The Life Scientific, BBC Radio 4, 4 August 2015

The complainant appealed to the Trust against a decision by the BBC to reject his complaint as being out of time. He had originally complained that a claim made by the interviewee Professor Sir Geoff Palmer, that Sir Keith Joseph had made what the complainant said was a racist remark during an interview at Reading University in 1964, was not plausible and breached the Editorial Guidelines on fairness and accuracy.

The complainant made the following points:

- The story was not plausible for many reasons e.g. a former permanent secretary at the relevant ministry said that it was virtually inconceivable that an active politician could have been a ministry representative on an official committee and that Sir Keith Joseph had no relevant qualifications. This policy had been in place by the 1960s.
- He referred the BBC to articles in the Spectator which had explored the issue.
- Sir Keith Joseph was not at the relevant ministry, had no interest in the subject and was not connected to either of the universities concerned.
- Sir Keith Joseph had a life-long opposition to race prejudice.

BBC Audience Services made the following points:

- Complaints should be made within thirty days of transmission.
- The complaint would be added to the audience feedback report.

BBC Radio made the following points:

- The thirty day time limit is set to balance a fair opportunity for audiences to raise concerns with efficient use of the licence fee.
- Professor Sir Geoff Palmer stood by his story.
- It would take significant time to research this issue diverting production resources away from programmes. This would not be an effective use of the licence fee.
- This was not a claim uncovered by the programme but had been debated at length in other media.
- It was a small part of a wide ranging interview and the impact was mitigated somewhat by observations that fifty years ago such remarks were commonplace and viewed rather differently by society in general.
- Although the matter was out of time the complainant had raised questions of fact that merited consideration before the story is repeated on Radio 4, therefore programme makers would be advised that the story had been challenged and the points raised should be taken into account before any plans were made to retell it in the future.
- It was hoped that the complainant would consider this a reasonable outcome in the circumstances.

The Panel's decision

A panel of the Committee noted the points made by the complainant and the BBC.

The Trustees noted that the issue in front of them was whether to admit the appeal and consider whether the decision by the BBC to decline to enter into further correspondence was appropriate on the basis that the complaint was out of time.

Trustees agreed that the matter was not admissible having concluded that:

- the complaint should not have been rejected initially merely on the grounds of having exceeded the time limit as it was serious in nature and there was some force in the complainant's argument that he needed extra time to submit his complaint.
- the second reply from BBC Radio appropriately pointed to other factors – in particular that it was not cost-effective to research this issue.
- the complainant had raised fairness but fairness complaints were first party complaints which should be brought by the person involved or those who represented the person or (where the person was deceased) the next of kin.
- if the Trustees were to consider the substantive issue of accuracy, it would be up to Trustees to attempt to decide the truth or otherwise of Professor Palmer's allegation, "on the balance of probabilities". On the one hand, they noted that the complainant had appeared to have gathered some evidence to substantiate his position, though none of the persons with whom he said he had spoken were present at (or associated with) the interview in 1964. On the other hand, Professor Palmer had first-hand knowledge of what transpired at the interview and continued to stand by his account. Trustees considered it extremely unlikely that they would be able to reach a robust conclusion on that basis: some fifty years have passed since the alleged incident and Trustees would only be able to place limited weight on people's recollections of the time. Further, any attempt to locate relevant evidence would be expensive and time-consuming and would be extremely unlikely to conclusively prove the allegation regarding the statements made, therefore Trustees did not believe it would be proportionate and cost-effective (in terms of 5.10 of the Editorial Complaints Procedure) to take the substantive complaint on appeal.
- Trustees considered that, given that the alleged incident occurred some fifty years ago, the programme makers were limited in their ability to "check and cross check facts", to "gather material using first hand sources" (other than Professor Palmer) and to "corroborate claims and allegations made" as per section 3.1 of the Editorial Guidelines. Trustees noted that section 3.1 contains the phrases "wherever possible" and "where appropriate" and they did not believe that it was reasonable to expect the programme to have made further checks in these circumstances to verify the allegation. The programme makers appear to have been aware that Professor Palmer had made the allegation before and it had appeared in a number of publications, including during the lifetime of Sir Keith Joseph (who did not appear to have taken legal action for defamation at the time).
- the reply from BBC Radio was reasonable and reasoned.

Accordingly, Trustees decided not to take the appeal on the basis that it was not proportionate and cost-effective and there was no reasonable prospect of the appeal succeeding.

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

Complaints closed at Stage 1b and complainants subject to the Expedited Complaints Procedure (November & December 2015)

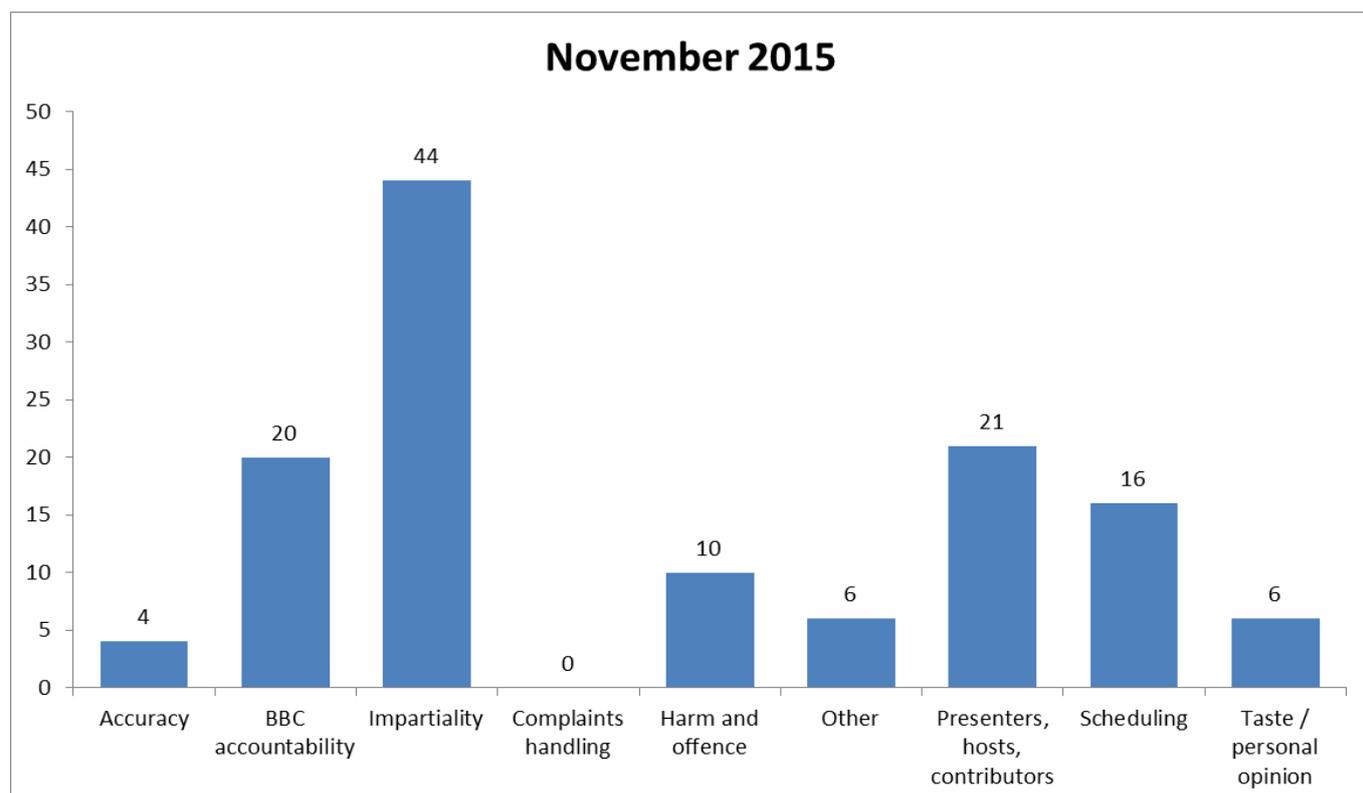
Complaints closed at Stage 1b

The BBC Trust published a revised complaints framework and associated complaints procedures in June 2012. Previously the editorial and general complaints procedures allowed for two responses at Stage 1 (“1a” and “1b”) before escalation to Stage 2; the new procedures put in place the right for the BBC to end correspondence on trivial, misconceived, hypothetical, repetitious or otherwise vexatious complaints at the “1b” point so that resources could be focussed on dealing with substantive complaints more quickly.

The Trust committed to asking BBC Audience Services for records of the complainants to whom this procedure was applied, and the subjects covered, and to reporting on these.

November 2015

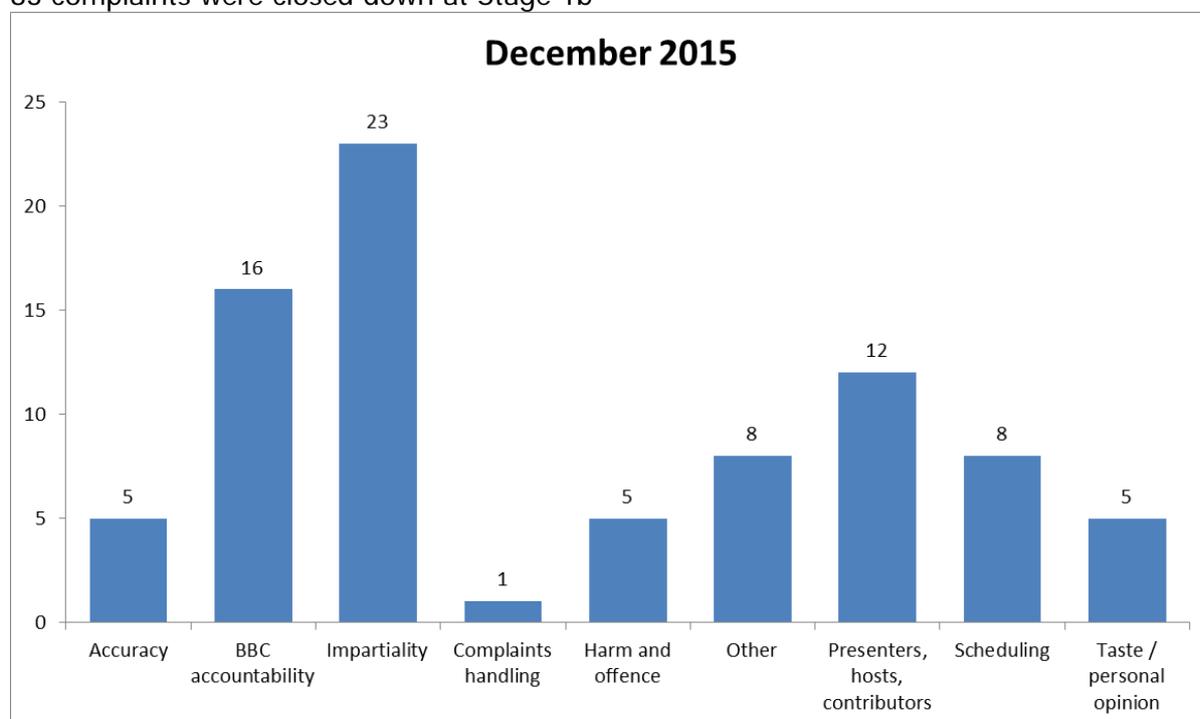
127 complaints were closed down at Stage 1b



Issues included: this month *'Impartiality'* included high complaint numbers of pro-Israeli and pro-Palestinian bias generally, and in specific reports of individual violent incidents in the Middle-East, complaints of anti-Labour bias in coverage of the Service of Remembrance, bias against Rugby League, anti-male bias in discussions about sexism, bias towards migrants, towards homosexuality, and of misrepresentation of Jeremy Corbyn's position on 'shoot-to-kill' policy; *'Presenters, hosts, contributors'* included complaints about presenters wearing or not wearing poppies, 'gabbling' presentation on Radio 3, complaints that women presenters' voices are 'nasal', along with a wide variety of views about the personal characteristics and styles of individual presenters; *'BBC Accountability'* included complaints about methods of making charity appeal donations, opinions on staff redundancies, the number of journalists reporting from Paris, use of the terms Isis vs Daesh, the variety of red button content and the gender balance of panel shows; *'Scheduling'* included complaints about the displacing of programmes by a BBC News Special programme and too much coverage of the shootings in Paris.

December 2015

83 complaints were closed down at Stage 1b



Issues included: this month *'Impartiality'* included detailed points alleging judging biases in 'Strictly Come Dancing', complaints of bias towards bombing Syria in coverage of the Parliamentary debate, bias towards climate change in Radio 4's 'Changing Climate', complaints of general pro-Israeli or pro-Arab/Palestinian bias, and of bias towards Lewis Hamilton in 'Formula 1' coverage; *'Presenters, hosts, contributors'* included complaints about Iain Lee's interviewing style and about his resignation, and a variety of detailed views about the characteristics or interviewing styles of other presenters; *'BBC Accountability'* included complaints about the cancellation of 'Cuffs', detailed views about the use of the term 'Isis' or its alternatives, that the county location of Wythenshawe was reported inaccurately, complaints about the music used on the BBC News Channel, and complaints about BBC Three moving to an online-only service; *'Scheduling'* included complaints about switching 'Davis Cup' coverage from BBC Two to BBC One and the incorrect sequencing of 'Eggheads' repeats.

Expedited Complaints Procedure

The complaints framework also contains provision for dealing with complainants who persistently and repeatedly make complaints of a vexatious or other nature. This Expedited Complaints Procedure may be used at any stage of the BBC's complaints procedures. Complainants are generally subject to this procedure for a period of up to two years.

Correspondence from complainants who are subject to the Expedited Complaints Procedure must be read but does not require acknowledgement. A complaint which raises an issue of breach of any relevant Guidelines or Policies should be investigated in accordance with the usual procedure.

The BBC Executive and the BBC Trust may use this expedited complaints procedure only where a complainant has a history of persistently or repeatedly making complaints which:

- (a) Are trivial, misconceived, hypothetical, repetitious or otherwise vexatious
- (b) Fail to raise an issue of breach of any relevant Guidelines or Policies
- (c) Use gratuitously abusive or offensive language
- (d) Are shown in investigation to have no reasonable prospect of success or
- (e) After rejection of the complaint at an earlier stage, are persistently and repeatedly appealed unsuccessfully at the next stage

Complainants subject to the Expedited Complaints Procedure at Stage 1 – November 2015

Following the expiry of their previously applied Expedited Complaints Procedure, one complainant was subject to the Expedited Complaints Procedure at Stage 1 in November 2015 after continuing to submit a high volume of complaints without reasonable prospect of success.

Complainants subject to the Expedited Complaints Procedure at Stage 1 – December 2015

No complainants were subject to the Expedited Complaints Procedure at Stage 1 during December 2015.