

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

News at Six, BBC One, 16 November 2015

Summary of finding

The complaint concerned an item on the *News at Six* on BBC One, three days after 130 people had been murdered in terror attacks in Paris, and just a few hours before David Cameron was due to deliver a speech setting out the government's counter-terrorism strategy.

The item included a clip of the Labour leader, Jeremy Corbyn stating:

"I am not happy with a shoot to kill policy in general. I think that is quite dangerous and I think can often be counter-productive".

The report said this was the Labour leader's response to a question it had put to him as to whether he would be "happy for British officers to pull the trigger in the event of a Paris style attack".

In fact, Mr Corbyn had given that answer in response to a question asking whether he would be happy to order police or military "to shoot to kill" on Britain's streets. The previous question from the same interview, which was not included in the *News at Six* report, had asked him whether, if we saw here the kinds of horrors in Paris, he would order "security services" onto the streets to stop people being killed. In answer to that question Mr Corbyn had replied:

"Of course you'd bring people onto the streets to prevent and ensure there is safety within our society, much better that's done by the police than security services, much better we have strong and effective community policing, neighbourhood policing and a cohesive society that brings people together, obviously that is essential and so that's one of the messages I'll be putting to the Prime Minister."

The Committee found no evidence that there was a deliberate attempt to mislead audiences: indeed the clip used in the *News at Six* came from an interview the BBC had conducted with Mr Corbyn earlier in the day which had already been published in its entirety on the BBC website so the context of the questioning was clear to anyone who chose to watch it online.

The Committee noted however that its responsibility as the regulator was to consider the complaint which had been brought in respect of this particular programme item, about which the complainant had raised two specific concerns: that the news report misrepresented Mr Corbyn's views on the use of lethal force and that it had wrongly suggested he was against the additional security measures which the item had said the Government was proposing.

Trustees considered that the report dealt with a critical question at a time of extreme national concern. Consequently the audience would have an expectation that a scripted item on the BBC's prime time television news programme on such a day would reflect with the greatest accuracy what the Leader of the Opposition had said on the matter. Trustees found that, according to this high standard, the report had not been duly

accurate in how it framed the extract it used from Mr Corbyn's interview.

Trustees considered that the effect of the inaccuracy was compounded when the report went on to state that, consequent from Mr Corbyn's answer:

"[the Prime Minister's] message and the Labour leader's couldn't be more different."

The information in the news report regarding the Prime Minister's forthcoming message was a list of some of the measures the government was said to be proposing. This list did not include a reference to "shoot to kill", and none of the measures listed in the report had been put to Mr Corbyn by the BBC. The report's conclusion was evidenced only by an answer he had given specifically to a question about "shoot to kill".

Trustees had no reason to doubt that the report for the *News at Six* had been compiled in good faith. But they understood the complainant's point when he said that:

"If the BBC considered that Mr Corbyn's position was that he was opposed to police opening fire while terrorists were in the process of committing mass murder then it was required to have put that question to him.

BBC News argued to the Trust in their response that the premise of the interview was clear, 'The Times' had reported that morning that the military were to shoot on sight, that Mr Corbyn had answered in generalities and not clarified his position until the next day, and that it was standard practice to re-phrase a question in different words to try to get an answer. In the Committee's view it would have been legitimate for the report to have reflected on Mr Corbyn's track record on the use of force, and to remark on any lack of clarity in his latest responses when he was asked a range of questions on the topic.

However, Trustees considered it was not duly accurate to present, as fact, Mr Corbyn's position on a specific question he had not been asked and then to rely on the response he had given to a different question to support the contention that "[the Prime Minister's] message and the Labour leader's couldn't be more different."

The complainant had said that the item was biased and there was an intention to misrepresent Mr Corbyn's position. But Trustees agreed that there was no evidence of bias or any intent by the BBC or any individual to misrepresent Mr Corbyn's position. It also noted that there had been no complaint either by Mr Corbyn himself or by anyone on his behalf.

The Editorial Guidelines place a responsibility on the BBC to take particular care when a "controversial subject" might be considered to be a "major matter". The standard of impartiality the BBC must achieve is therefore higher. The Committee considered that the attacks in Paris, and how Britain should prepare to respond to similar attacks if they were to happen here, were major matters of considerable importance, and in such circumstances the BBC had a particular duty to audiences to ensure the accuracy of the context in which politicians' views are best understood by audiences. The breach of due accuracy on such a highly contentious political issue meant that the output had not achieved this standard. As a consequence the Committee therefore decided, on balance, that the item was not duly impartial.

Finding: Upheld as breaches of accuracy and therefore as a breach of impartiality

Inside Out, BBC English Regions, 1 February 2016 & BBC News Channel

Summary of finding

Inside Out is a magazine programme transmitted in the BBC regions – in this case BBC South East – weekly from September to March.

The complained-about item was a report investigating changes to the tax and benefit system and the impact they would have on buy-to-let landlords. One of the changes mentioned in the item was a change introduced in the Summer Budget in 2015 which became section 24 of the Finance (No. 2) Act 2015. A cut-down version of the report was later transmitted on the BBC News Channel.

Name A, who is a landlord and lobbyist with a website/blog/group of landlords called Property118 is the former sister-in-law of the reporter, Name B. She did not appear in the television reports but did appear on Radio Kent.

The appeals from four complainants to the BBC Trust covered due impartiality, due accuracy and conflict of interest.

Regarding due impartiality, the complainants stated that the item was not impartial because it only addressed the matter from the point of view of the buy-to-let landlords. The Committee concluded that:

- the BBC was entitled to focus on one angle of a story
- the item also included the government's perspective
- the *Inside Out* item (but not the News Channel piece) additionally featured an economist and housing market expert for the Centre for Business and Economic Research
- overall both items gave arguments for and against the changes
- all arguments did not have to be included to achieve due impartiality
- although the complainants argued that the interviewee from the Centre for Economics and Business Research could not be seen as an expert but as a lobbyist, it was appropriate to describe the interviewee as an expert in that this was her area of expertise
- although all interviewees except the one from the Centre for Economics and Business Research in the *Inside Out* item were sourced through Name A and Property118 it did not infringe due impartiality because due impartiality was maintained through the use of a substantial clip from the then Chancellor's Budget speech, a quote from the Treasury and, in relation to *Inside Out*, the interviewee from the Centre for Economics and Business Research.

The appeal was not upheld on impartiality.

Regarding conflict of interest, the complainants stated that the reporter found her interviewees and, they alleged, much of the editorial stance of the item, through her sister-in-law. They also alleged that the real or perceived conflict of interest was further apparent in that Name A gave an interview on BBC Radio Kent on the morning of the transmission of the *Inside Out* item on section 24. There was a trail for the *Inside Out* item at the end of the radio interview.

The Committee concluded that

- the reporter had let the BBC know of the connection with Name A
- safeguards were put in place to guard against any perceived conflict of interest
- the protections put in place had broken down as Name A had appeared on air in an item which had then trailed the *Inside Out* item
- it was not intrinsically wrong or a conflict to suggest a story or source contacts gained from a friend, family member or other close contact.
- however, the perception of a conflict of interest in the making of the item was very likely to arise. It would have been far better had another reporter been asked to cover the story.
- The perception of a conflict of interest was enough to breach the Editorial Guidelines.

The appeal was upheld on conflict of interest.

The Committee considered two further matters of due accuracy and due impartiality raised by complainants. They concerned the terminology used in the *Inside Out* item and a script-line about who would be affected by the change in legislation. Trustees agreed that these were not matters of material inaccuracy and thus were duly accurate and duly impartial.

The appeal was not upheld on accuracy and impartiality.

Finding: Upheld as a breach of conflict. Not upheld with regard to accuracy or impartiality

Stargazing Live, BBC Two, 20 March 2015 and iWonder: Which stars were you really born under?, bbc.co.uk

Summary of finding

Stargazing Live was one of three astronomy programmes broadcast on 20 March 2015. iWonder published associated material.

The (western) zodiac is the apparent path taken by the sun over a year. It is an area in space like a belt in the plane of the earth's orbit. It is divided into twelve divisions with names with which most people are familiar: Capricorn, Taurus etc. These divisions are fixed. The zodiac is used by astronomers and by astrologers. These divisions are commonly called "star signs" although the name is not technically correct. The zodiac divisions are not the same as the twelve constellations (groups of stars) which have the same or similar names. At one time the positions of the constellations did largely match the zodiac divisions but over millennia that has changed. The divisions of the zodiac or, astrologically speaking, the signs, have remained fixed. The constellations have moved.

The complainant's appeal covered a range of points. Two were taken (the points which were not taken are covered in a finding later in the bulletin).

The complainant argued that it was wrong for the programme and online guide to say the character traits of the zodiac star signs were determined by the constellations; this was a reference to the script line which said: "It was the Greeks who came up with the idea of the personal 'star sign' – character traits determined by the constellation behind the Sun on the day you were born".

Trustees agreed that:

- the constellations and the zodiac are different and distinct concepts. The item would have been more precise if it had been clear that the Greeks believed that character traits are affected by the position of the zodiac in relation to the Sun on the day of birth.
- the standard set by the Editorial Guidelines was not one of absolute accuracy, but of due accuracy.
- the broadcast item and edited online guide were clear about their intention and scope, which was to explain the difference between the positions of the observable constellations and the zodiac divisions, explain precession in a digestible way and explain that an individual's birth sign is not necessarily the same as the constellation behind the Sun on the day they were born.
- Taking into account, the subject and nature of the item and the programme as a whole, which aimed to bring astronomy to a wider audience, as well as the expectation of the audience for the popular science programme Trustees concluded that it was not materially inaccurate to say "It was the Greeks who came up with the idea of the personal 'star sign' – character traits determined by the constellation behind the Sun on the day you were born".

The complainant also argued that the BBC should have indicated to users of the iWonder guide that the text had been corrected to delete "unknown at the time" and insert "known as precession". This was with regard to the lines "The dates of the 'star signs' were fixed, over 2,000 years ago, when the zodiac was first devised. Then, they corresponded to the

constellation of stars that appeared behind the Sun on the day you were born. But an astronomical phenomenon, **unknown at the time**, means that the constellations have drifted since then”.

Trustees agreed that:

- the text change in the guide’s introduction from “unknown at the time” to “known as precession” was not a material change in the context of the item as a whole which needed to be indicated to users on the iWonder guide.
- it had been appropriate for the BBC to inform users of its iWonder Facebook pages, where many of the complaints about the iWonder guide had originated, about the text change from “unknown at the time” to “known as precession”.
- within the context of the iWonder guide it would have been difficult to signpost the changes on the guide itself, without unduly confusing new users.

The Committee concluded there had not been a breach of the accuracy guidelines.

Finding: Not upheld with regard to accuracy

Reporting Scotland, BBC One, 5 February 2016

Summary of finding

This edition of *Reporting Scotland* featured an item that focused on a post on the website of the think tank the Resolution Foundation which examined a proposal by the Scottish Labour party to raise income tax. The presenter introduced the piece as follows:

“Raising income tax in Scotland could reduce the impact of spending cuts and would weigh most heavily on higher earners. That’s according to an independent report. Both Labour and the Lib Dems have called for a tax rise in April when new powers are handed to Holyrood. But the SNP says that raising taxes now would cause pain to many Scottish households.”

The complainant said it was a blog and the BBC misled its audience by giving undue weight to what was a personal opinion piece by describing it as an independent report. The complainant also said that the programme failed to be impartial because the blog, which he said supported the Labour Party’s position on income tax, was not politically neutral as it was a personal opinion piece by a former Director of Policy for the Labour Party.

Trustees agreed that:

- the manner in which people and organisations communicated online was evolving and that there were no clearly defined boundaries over what would appear in a blog or report.
- In this case the post was a statistically based examination of the issue rather than one based on personal opinion.
- while acknowledging that it might have been better if the programme had described the Resolution Foundation item as a blog rather than a report, the Committee agreed that describing it as a report was duly accurate and that the audience would not have been materially misled.
- the post was analytical in tone and had been linked to other Resolution Foundation material on its website. It did not advocate the policy and the article took steps to avoid partisanship. It had pointed out possible shortcomings with the policy.
- as the blog was on the Resolution Foundation website and was linked to other material by the Foundation and as an interviewee from the Foundation had appeared on the programme, the post was endorsed by the organisation. Given that the Foundation was established as non-partisan, the Committee agreed that the programme had been duly accurate to describe the post as independent.
- in these circumstances there was no requirement to set out the authors previous posts at the Treasury and with the Labour Party in order to achieve due impartiality.

The Committee considered that there had not been a breach of the guidelines.

Finding: Not Upheld with regard to accuracy or impartiality

Appeal Findings

News at Six, BBC One, 16 November 2015

Complaint

The appeal concerned an item on the *News at Six* on the British government's proposed security measures following the terror attacks in Paris three days previously in which 130 people had been murdered.

The complainant contended that the use in the news report of a comment by the Leader of the Opposition, Jeremy Corbyn, misrepresented Mr Corbyn's views on the use of lethal force. The complainant said that the report also wrongly suggested that Mr Corbyn was against what the programme had reported as the government's proposed security measures.

The clip used in the news item was taken from a longer interview conducted by the BBC's Political Editor earlier that day.

Appeal to the Trust

The complainant considered that the item on the *News at Six* was inaccurate and biased and asked the Trust to consider two points on appeal:

- that the question in the original interview was "substantively different" from how it was paraphrased in the subsequent news report; this misled the audience and was politically damaging to Mr Corbyn
- that Mr Corbyn was presented as opposing the government's measures whereas the full interview with Mr Corbyn "showed that this was simply not the case".

Applicable Editorial Guidelines

The full text of the Editorial Guidelines is at:
<http://www.bbc.co.uk/editorialguidelines/>

The following sections of the editorial guidelines are applicable to this appeal:

Section 3, Accuracy

Section 4, Impartiality

The Committee's decision

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) a report from an Independent Editorial Adviser and subsequent comments from the complainant (dated 26 September 2016, 9 December

2016 and 2 January 2017) and BBC News (dated 15 September 2016 and 9 December 2016).

Point (A) – whether the report was duly accurate in how it presented Mr Corbyn’s views about the use of lethal force

The Committee noted the relevant extract from the report on the *News at Six*:

POLITICAL EDITOR

Earlier today I asked the Labour leader Jeremy Corbyn if he were the resident here at Number 10 whether or not he would be happy for British officers to pull the trigger in the event of a Paris style attack.

JEREMY CORBYN

I’m not happy with a shoot-to-kill policy in general. I think that is quite dangerous and I think can often be counter-productive. I think you have to have security that prevents people firing off weapons where you can. There are various degrees of doing things, as we know. But the idea you end up with a war on the streets is not a good thing.

The Committee noted that the clip of Mr Corbyn which was used in the *News at Six* report was taken from a longer interview conducted earlier in the day. Trustees noted the relevant section from the interview and the actual questions Mr Corbyn was asked, one of which (bolded below) had elicited the response from which the comment used in the programme item was taken:

POLITICAL EDITOR

If we saw the kinds of horror in Paris, here, if you were Prime Minister, would you order security services onto the street to stop people being killed?

JEREMY CORBYN

Of course you’d bring people onto the streets to prevent and ensure there is safety within our society, much better that’s done by the police than security services, much better we have strong and effective community policing, neighbourhood policing and a cohesive society that brings people together, obviously that is essential and so that’s one of the messages I’ll be putting to the Prime Minister.

POLITICAL EDITOR

But if you were Prime Minister, would you be happy to order people - police or military - to shoot to kill on Britain’s streets?

JEREMY CORBYN

Er, I would...I’m not happy with a shoot-to-kill policy in general, I think that is quite dangerous and I think can often be counter-productive. I think you have to have security that prevents people firing off weapons where you can. There are various degrees of doing things, as we know - but the idea you end up with a war on the streets is not a good thing, surely you have to try to work and prevent these things happening – that’s got to be the priority.

The Committee noted the points raised by the complainant in his letter of appeal:

- the question in the original interview was “substantively different” from how it was paraphrased in the subsequent news report
- the effect of the way the interview was edited was to suggest that Jeremy Corbyn was opposed generally to police being able to use lethal force where they considered it necessary to stop terrorists who were attacking the public
- this was a long-standing government commitment and the implication that Jeremy Corbyn was opposed to it was highly politically damaging for him
- it amounted to more than just a reporter taking a politician’s answer out of context:

“it is her actually falsifying the context, in order to cause Mr Corbyn maximum political damage”

“[The Political Editor] gave viewers the clear impression that she had asked Corbyn to endorse the police use of firearms in the event of a Paris style attack, and then played a clip of him unmistakably failing to endorse this. In possession of the facts as reported by the [Political Editor], viewers had to conclude that Corbyn’s statement of opposition to a shoot to kill policy was either an indirect way of saying no to the question she claimed to have asked him – ‘whether or not he would be happy for British officers to pull the trigger in the event of a Paris style attack’ – or was at absolute best a worryingly equivocal answer to that question.”

- the BBC’s defence is essentially that Mr Corbyn has a well-known position of opposition to violence in any form. But there is a difference between having an *opportunity* to endorse a position and failing to do so, and actually being *asked* to endorse a position and failing to do so. To present the former as the latter is misleading
- if the Political Editor thought that Mr Corbyn actually was opposed to the police firing on terrorists who are in the middle of committing acts of mass murder, why not ask that question?

The Committee noted the BBC’s response to the complainant’s points:

- Mr Corbyn’s remarks were not taken out of context
- the Labour leader fully understood the import of the questions that were being asked
- his comments were reported accurately and impartially by the BBC

The Committee noted the BBC’s contention that the broader context in which the interview with Mr Corbyn took place was relevant to the report achieving due accuracy and due impartiality. The BBC asked the Trust take into account the following:

- the request for the interview with Mr Corbyn was made three days after the Bataclan attack in Paris and was granted with the clear understanding that Mr Corbyn would be asked for his view about what the government should do to combat the jihadist threat in response to the Paris attacks; he had attended a government security briefing two days earlier
- on the morning of the interview *The Times*’ front page had reported a change in the government’s attitude, instructing the military to abandon its established ‘cordon and negotiate’ stance in favour of shooting terrorists on sight to try to

prevent large scale casualties in the event of a Bataclan-style attack:

"The Political Editor's notes from the day show that government measures that were actively being canvassed included reviewing and expanding the presence of armed police, and, crucially, the possibility of a switch to a shoot to kill policy for jihadi gunmen, as outlined in *The Times*.

"In her report, the Political Editor said:

"Now the government of course hopes they'll get political agreement on all the *kinds of measures that they are taking* but their moves are not without controversy." (BBC's emphasis)

"The use of a shoot to kill order was obviously the most controversial of all these possible measures.

"While this was not referred to in the separate studio introduction, which did not prove a comprehensive list of such measures and which was written by the Six production team rather than by the Political Editor, it formed the clear basis of her report..."

The Committee noted the basis on which the BBC contended that the reflection of Mr Corbyn's position in the *News at Six* report was duly accurate and duly impartial:

- every question in the interview focused on how the government ought to respond to the Jihadi threat
- throughout the interview, when asked about how the government ought to combat the threat at home and abroad, Mr Corbyn's responses were evasive
- Mr Corbyn would have been familiar with the standard editorial practice which was adopted on this occasion by the Political Editor in trying to get an answer to a key question at a time of intense political debate: to ask the same question again, using a slightly different form of words
- the editor of political newsgathering who was in the room throughout the interview with Mr Corbyn recalled that Labour's Director of Communications, Seamus Milne, who was also there, realised Mr Corbyn's answers would cause him political trouble

The Committee noted the BBC's view that:

"It was clear to Mr Corbyn both from the agreed subject matter of the interview and the questions that were asked of him that, while he attempted to seek refuge in generalities, he knew he was being asked specifically about what he would do in the event of armed engagement in an ongoing hostage situation such as Paris where there was a clear and immediate threat to members of the public.

"...the phrasing of the script in fact reflected the understanding by both sides of the specific subject area of the interview and captured both the intent of the interview and the political obfuscations that emerged. The scripting of the report did not, as the complainant suggests, misrepresent Mr Corbyn's views. Instead, it reflected the full nature of the encounter."

The Committee noted information from the BBC that over the following 24 hours Mr Corbyn was given several opportunities by the Political Editor to clarify his comments and

did not do so and that neither did his office make the case that he had been taken out of context.

The Committee noted the BBC's request that it also take into account reports from a number of media sources, including the BBC, that at a private meeting of Labour MPs in Westminster that same evening Mr Corbyn repeatedly failed to give a clear response to what he had meant when he said "shoot to kill" could "often be counter-productive" and that he continually evaded questions about his remarks.

The Committee noted that Mr Corbyn's interview with the BBC was one of a series of media interviews he gave that day, but that he did not appear to have been asked specifically about "shoot to kill" by other journalists: in neither of the two other extended interviews he did for television, with ITV and for Sky News, was he asked about his attitude towards the use of lethal force in the event of a terror attack on Britain.

The Committee noted a report on Sky News and an article in the Daily Mirror (extracts of which appear below) were representative of accounts of what was alleged to have happened during the meeting of Labour MPs at Westminster:

SKY NEWS

"At a meeting of the Parliamentary Labour Party on Monday night, Mr Corbyn was shouted down by MPs after saying in an interview that he was "not happy" with the policy.

"MP John Mann told Mr Corbyn that his niece was locked in a Paris toilet on Friday when the terror attacks happened, thinking she was going to be murdered.

"When Mr Corbyn was asked if his earlier remarks in which he suggested shoot to kill could "often be counter-productive" meant that terrorists brandishing Kalashnikovs should not be shot, Mr Mann complained he didn't receive a clear response from the Labour leader."

DAILY MIRROR

"The Labour leader was challenged after ruling out a free vote on Syria air strikes and saying 'I'm not happy with the shoot-to-kill policy'

"Mr Corbyn was branded "a f***** disgrace" by one of his own shadow ministers tonight after a fiery meeting of Labour MPs.

"The Labour leader was challenged over a string of remarks in the wake of the Paris terror attacks which killed 129 people on Friday.

"A number of moderate Labour MPs left tonight's weekly meeting shaking their heads and refusing to comment.

"But one shadow minister at the Westminster gathering said: "He doesn't answer anything. He got roasted, he's a f***** disgrace.""

The Committee noted that the day after the *News at Six* item, and the reportedly stormy meeting of Labour MPs at Westminster, Mr Corbyn posted that his comments had been taken out of context (although he did not say by whom):

"I am ... disappointed that comments I made yesterday in regard to a 'shoot to kill' policy have been taken out of context..."

"...I would like to clarify my position. As we have seen in the recent past, there are clear dangers to us all in any kind of shoot to kill policy. And we must ensure that terrorist attacks are not used to undermine the very freedoms and legal protections we are determined to defend."

"But of course I support the use of whatever proportionate and strictly necessary force is required to save life in response to attacks of the kind we saw in Paris."

The Committee noted the BBC's contention that despite the eventual claims that Mr Corbyn's comments had been taken out of context, it was internal criticism that had led to the formulation of a "clarification" of his position. Trustees noted the BBC's contention that the way the story played out:

"...confirms our firmly-held position that his remarks were reported in an accurate way on the *News at Six*, that they were accepted as such by the key protagonists who had knowledge of the full interview, its context and its political nuances."

Trustees considered all of the reasons the BBC had given as to why it believed the content was duly accurate. The bullet points below summarise the BBC's position followed in each case by the Committee's view:

- Mr Corbyn would have understood he was being asked about domestic security in the light of events in Paris;

Trustees agreed, and noted that the complainant had not contended otherwise

- the *News at Six* report had "captured both the intent of the interview and the political obfuscations that emerged";

Trustees accepted this was the BBC's genuinely held view but did not agree. The Committee believed that the formulation in the report did not reflect a conflation of two questions and two answers but rather presented Mr Corbyn's answer to a specific question about "shoot to kill" as an answer to a different question which he had not in fact been asked.

- the interview as a whole amounted to a series of evasions to what was essentially the same question;

Trustees acknowledged that the transcript of the full interview demonstrated that Mr Corbyn had given a number of answers which lacked clarity and as a result question were put to him again on a range of terrorism related issues.

However, Trustees noted that Mr Corbyn was not, as the programme item suggested, asked whether he would support "British officers" (which, Trustees judged, the audience would probably understand to mean "police officers") "pulling the trigger", in the event of a "Paris-style" attack (which, Trustees judged, the audience would probably understand to mean terrorists in the act of killing or threatening to kill civilians).

Viewers had been given the impression that Mr Corbyn's expressed unhappiness with "shoot to kill" was his response to this question which he had not been asked.

- subsequent events, leading to Mr Corbyn's "clarification" of his position 24 hours later, supported the BBC's contention that its interpretation of Mr Corbyn's position had been correct;

Trustees agreed that the BBC report had been followed by a political row, given the reports of the stormy meeting which followed and the "clarification" Mr Corbyn eventually made. However, Trustees considered that the suggestion that those events supported the contention that the report was duly accurate was at least in part a circular argument, given that the issue is whether the BBC had accurately reported his comments in the first place;

- *The Times* had reported that morning that the government were considering changing the strategy of "cordon and negotiate" to "take swift action to neutralise terrorists"; Mr Corbyn would have understood a question about "shoot to kill" in that context

Trustees considered that the phrase "shoot to kill" can carry more than one meaning: a significant part of the audience might understand it to mean a policy of going beyond merely the minimum necessary use of lethal force to save life in immediate danger, instead meaning the deployment of military or special forces authorised to shoot terrorist suspects even though they might not be posing an immediate threat to life.

In that context it would be unsurprising that Mr Corbyn would express his unhappiness with a "shoot to kill policy in general", as he put it. It did not follow from that that he was not prepared to see police officers use deadly force where necessary on terrorists engaged in the act of taking and threatening to take innocent lives, as had been the case in Paris.

Trustees considered that, for the BBC to draw reliable conclusions from Mr Corbyn's answer to its question on "shoot to kill" it would have been necessary to have used clearer, unambiguous language to define its meaning;

- in its response to this appeal the BBC put considerable weight on the report in *The Times* indicating a change in strategy for dealing with terrorist attacks; the BBC said it was "the most controversial of all these possible measures" and asserted that it was the "clear basis of the *News at Six* report". The Political Editor's notes had recorded the government as not denying it was under consideration. This was the opening paragraph of *The Times* article:

"Special forces will be deployed and ordered to shoot to kill if jihadist gunmen corner a large number of people in a siege in a British city, *The Times* has learnt."

But neither the specific report in *The Times*, nor the issue of any change in government policy on this point were raised with Mr Corbyn during his interview for the BBC;

(As it happened Mr Cameron made no reference to such a policy either in his

Mansion House speech that evening or in his statement to the Commons the following day, either as a formal proposal or as a change in operational strategy. This did not mean however that it had not been under consideration.);

Trustees did not consider it was obvious that Mr Corbyn would necessarily have had *The Times'* report about "shoot to kill" in mind when answering the question, as the BBC had implied. Trustees felt that there could be no presumption that the audience of the *News at Six* report would have been aware of the claim in that morning's Times or would have judged Mr Corbyn's answers in the light of it.

Trustees had no reason to doubt that the report for the *News at Six* had been compiled in good faith, and they noted the fact that the BBC had published the whole unedited interview on its website in advance of the *News at Six*.

Trustees accepted that there was no deliberate attempt to mislead audiences as to what Mr Corbyn had said or the context in which he had said it. But whilst it would have been legitimate to have reflected on any lack of clarity by Mr Corbyn when asked a range of questions on the topic, the BBC was wrong in this case to present an answer Mr Corbyn had given to a question about "shoot to kill" as though it were his answer to a question he had not in fact been asked. The BBC's obligation was to report with the greatest accuracy what Mr Corbyn had said and then, if it wished, point out what it regarded as any ambiguities or lack of clarity.

The United Kingdom's response in the event of a Paris style attack here was a critical question at a time of extreme national concern. The audience would have an expectation that a scripted item on one of the BBC's prime time television news programmes on such a day would reflect with the greatest accuracy what the Leader of the Opposition had said on the matter.

In conclusion the item was not duly accurate with regard to this point.

Finding: upheld as a breach of accuracy

Point (B) – whether the programme was duly accurate in how it presented the political debate about the government's proposed security measures

The Committee noted the script of the report as broadcast on the *News at Six*:

POLITICAL EDITOR

We learned earlier today that seven terror plots have been foiled so far this year. No surprise then that the Home Secretary announced there will be nearly 2000 more members of the intelligence services, airport security will be stepped up not just here but also British expertise around the world. And also there will be more armed police - most visibly and strikingly perhaps there will be armed police guarding the England France football friendly match at Wembley tomorrow night. Now the government of course hopes they'll get political agreement on all the kinds of measures that they are taking but their moves are not without controversy.

Earlier today I asked the Labour leader Jeremy Corbyn if he were the resident

here at number 10 whether or not he would be happy for British officers to pull the trigger in the event of a Paris style attack.

JEREMY CORBYN

I'm not happy with a shoot-to-kill policy in general. I think that is quite dangerous and I think can often be counter-productive. I think you have to have security that prevents people firing off weapons where you can. There are various degrees of doing things, as we know. But the idea you end up with a war on the streets is not a good thing.

POLITICAL EDITOR

Well in the light of what's happened in the last 72 hours some people might find that extraordinary. Some of his own MPs do. But by the same token there'll be many of his own supporters who say it's heartening that Jeremy Corbyn is sticking to principles that he's held all his political life; the fundamental objections that he has to violence in any form. But as the Prime Minister prepares to give a major speech on the threat that we face in this country in a few hours here in London tonight, his message and the Labour leader's couldn't be more different.

The Committee noted the complainant's contention that Mr Corbyn was presented in the *News at Six* report as opposing the government's measures whereas the full interview "showed that this was simply not the case".

The Committee noted the BBC's response highlighted the following sentence from the *News at Six* report:

"Now the government of course hopes they'll get political agreement on all the kinds of measures that they are taking but their moves are not without controversy.

The Committee noted the BBC's contention in its response to this appeal that:

- the Political Editor's notes indicated a switch to a shoot to kill policy for jihadi gunmen was being canvassed
- that it "was obviously the most controversial of all these possible measures":
 - "it formed the clear basis of the report and thus her phrase 'these efforts are not without controversy', when referring to the government measures, was intentional and accurate."

Trustees noted the complainant's view on the BBC's response:

"They say that some kind of shoot to kill policy was in fact being "canvassed" by the government. [The Political Editor] as we know, asked [Mr Corbyn] about such a policy. He stated his opposition. Somehow this means that she was entitled to infer his opposition to all the other measures that she had listed in her report, but which she hadn't asked him about."

"...I do not see how you could possibly legitimately infer someone's opposition to measures you consider *less* controversial from the opposition to measures you consider *more* controversial

The Committee considered that the structure of the news report implied that the “controversy” related to a difference in position between the Prime Minister and the leader of the Opposition on shoot to kill. But given Trustees’ decision on the previous point, it would also be a failure of due accuracy if the report were relying on the party leaders’ implied political differences on shoot to kill, to suggest that Mr Corbyn’s position on that also reflected opposition to those specific measures which the report had outlined.

The Committee considered how Mr Corbyn responded when he was asked about domestic security in the original interview:

“This is a time we need to think very carefully about where we go in the long run. But immediately we need to ensure whether there is reasonable levels of security to prevent such a thing happening anywhere else in Europe or here.”

...

“I’m looking forward to what the Prime Minister has to say tomorrow at the end of the G20 summit. But I am also looking forward to him saying that in the interests of the ordinary people in this country he will rescind the cuts to the police force that he was about to push through and he will recognise the importance of community policing and neighbourhood policing in building up good relations, rather than the danger of a very small number of people, anywhere in the world, deciding there’s something romantic, there’s something glamorous, or there’s something good about joining ISIL.”

...

(Question) “If we saw the kinds of horror in Paris, here, if you were Prime Minister, would you order security services onto the street to stop people being killed?”

“Of course you’d bring people onto the streets to prevent and ensure there is safety within our society, much better that’s done by the police than security services, much better we have strong and effective community policing, neighbourhood policing and a cohesive society that brings people together, obviously that is essential and so that’s one of the messages I’ll be putting to the Prime Minister.”

The Committee noted the three proposed domestic security measures which were listed in the *News at Six* report:

- 2000 more intelligence staff
- increased airport security
- more armed police

The Committee noted that:

- none of those measures was put to Mr Corbyn during the interview, nor had Mr Corbyn been quoted elsewhere that day suggesting that he would be likely to oppose those measures

- the only explicitly “negative” response on domestic security matters in Mr Corbyn’s interview were his comments that he was “not happy with a shoot-to-kill policy in general”
- as noted previously, this was not amongst the proposals the Political Editor said the government were putting forward
- where Mr Corbyn did engage on domestic security measures in the interview, he indicated that he supported an increased visible police presence, albeit he put the emphasis on policing by consent rather than expressing a support for an increase in armed police; his response on that point was not used in the news item
- having framed Mr Corbyn’s opposition to “shoot-to-kill” as his response to a question about armed intervention in a live hostage situation, the report then appeared to use that “opposition” to suggest that he was more generally opposed to government policy.

The Committee concluded that the lack of clarity regarding what was meant by “shoot to kill”, and the failure to inform the audience that the BBC understood it was a measure being considered by the government in the event of jihadi gunmen staging an attack in the UK, had resulted in a lack of clarity overall on what exactly the BBC contended that the Labour leader was opposing.

The report’s conclusion - that the messages of the Prime Minister and the Labour leader could not be more different - hung on a question which had not been put and a particular interpretation of an answer to a question about “shoot to kill”.

Trustees had already decided that it was not duly accurate to present, as fact, Mr Corbyn’s position on a question he had not been asked. It therefore followed that in the absence of any evidence that he opposed any of the specific measures outlined in the *News at Six* report, it was also not duly accurate to then rely on Mr Corbyn’s “answer” about shoot to kill to support the contention that there was a wide gap between how he and Mr Cameron would handle an ongoing terrorist attack and the security threat more generally.

Finding: Upheld as a breach of accuracy

Impartiality

Trustees considered whether the breaches of accuracy had also led to a failure to be duly impartial. They considered the complainant’s assertion that the item was biased and there was an intention to misrepresent Mr Corbyn’s position. Trustees saw no evidence to support the complainant’s assertion that the report’s context had been falsified “in order to cause Mr Corbyn maximum political damage”. . Indeed, as noted above, the BBC had published the full interview with him on the BBC Website on the afternoon of 16 November, before the *News at Six*, so the context of the questioning was clear to anyone who chose to watch it online.

The BBC is responsible for achieving due impartiality in its output. Trustees noted that the Editorial Guidelines place a responsibility on the BBC to take particular care when a

“controversial subject” might be considered to be a “major matter”. The standard of impartiality the BBC must achieve for major matters is therefore higher. They considered that the issue was a matter of intense debate which had reached a decisive moment in the controversy: three days after the Paris attacks and hours before the Prime Minister was due to make what the news item referred to as a “major speech on the threat that we face in this country”. The attacks in Paris, and how Britain should prepare to respond to similar attacks if they were to happen here, were major matters of considerable importance. In such circumstances the BBC has a particular duty to ensure the accuracy of the context in which politicians' views are best understood by audiences. The breach of due accuracy on such a highly contentious political issue meant that the output had not achieved due impartiality. Trustees agreed they had seen no evidence of bias. However the Committee decided on balance that because of the breaches of accuracy as a consequence the item was also not duly impartial.

Finding: Upheld as a breach of impartiality in consequence of the breaches of accuracy

NOTE: This appeal was originally considered at a meeting of the Editorial Standards Committee in October 2016 following an investigation by an independent editorial adviser in which the BBC participated and on which both the complainant and the BBC News Directorate were invited to comment. It was initially upheld and, in keeping with usual practice, the finding was provided to both the complainant and the BBC with an invitation to comment on any errors of fact or process. It was considered afresh on 12 January 2017 after the BBC asked for the appeal to be reconsidered because they had not involved the Political Editor in their final response.

Inside Out, BBC English Regions, 1 February 2016 & BBC News Channel

Background

Inside Out is a magazine programme transmitted in the BBC regions – in this case BBC South East – weekly from September to March.

The complained-about item was a film lasting 12'35". A cut-down version (duration 7'35") was later transmitted on the BBC News Channel.

The introduction to the original piece said:

"There are thousands of buy-to-let landlords in the South East. Some are ordinary working people trying to boost their income by renting a property on the side. A few have built rental empires. But are changes to the tax and benefit system likely to see private landlords giving up? Name B reports:"

The News Channel introduction was similar:

"Staying with housing - there are two million private buy-to-let landlords in the UK. Many are ordinary working people, trying to boost their income by renting a property on the side. A few have built rental empires. But are changes to the tax and benefit system likely to see private landlords giving up? Name B reports from the South East of England."

One of the changes mentioned in the item was a change introduced in the Summer Budget in 2015 which became section 24 of the Finance (No. 2) Act 2015.

Name A, who is a landlord and lobbyist with a website/blog/group of landlords called Property118 is the former sister-in-law of the reporter, Name B. She did not appear in the television reports but did appear on Radio Kent. Her link with the television items is described in the finding below.

Appeal to the BBC Trust

The four complainants were concerned about the same two issues: impartiality and conflict of interest, although one complainant appealed regarding only the conflict of interest matter and not regarding the impartiality of the programme as broadcast.

Applicable Editorial Guidelines

<http://www.bbc.co.uk/editorialguidelines/>

The following sections of the Editorial Guidelines are applicable to this case:

- Impartiality – 4.2.1, 4.4.1, 4.4.4, 4.4.5, 4.4.6, 4.4.8
- Conflict of Interest – 15.2.2, 15.2.3, 15.4.25

The Committee's decision

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's report and subsequent additional information. It specifically noted the responses to that report from the complainants.

The Committee noted that a number of issues around landlords were covered in the item. The payment of housing benefit directly to the tenant, stamp duty and non-payment/anti-social behaviour by tenants were cited in the item as factors disrupting the buy-to-let landlord's capacity to earn a living. However, the core of the piece – and the complained-about section – concerned changes brought about by section 24 of the Finance (No. 2) Act 2015. This measure was announced in the Summer Budget in 2015. [This was known as clause 24 before the Bill was enacted. The Bill was enacted on 18 November 2015. Once the Bill became an Act clause 24 became section 24. Both terms are used in this finding.]

With regard to section 24 the Committee noted that:

- A link to the government's summary of the legislation said the objective was: "To make the tax system fairer, the government will restrict the amount of Income Tax relief landlords can get on residential property finance costs (such as mortgage interest) to the basic rate of tax. This will ensure that landlords with higher incomes no longer receive the most generous tax treatment. To give landlords time to adjust the government will introduce this change gradually from April 2017 over 4 years."
- According to the National Landlords Association which opposed it: "Section 24 of the Finance Bill aims to remove landlords' ability to deduct from taxable income their finance costs related to residential property, replacing this relief with a tax 'reduction' equivalent to the basic rate of Income Tax. In practice this will result in those landlords with an income exceeding the upper threshold of the basic rate will be [*sic*] taxed on a significant portion of their turnover, rather than profit."
- David Gauke MP, then a Treasury minister and now Chief Secretary to the Treasury, gave the rationale for the clause in the Budget debate: "Clause 24 makes changes to ensure that all individual residential landlords get the same rate of tax relief on their property finance costs. This change will make the tax system fairer. Landlords with the largest incomes will no longer receive a more generous tax treatment. The distortion between property investment and investment in other assets will be reduced, and the advantage landlords may have over those who work hard to save for a deposit in order to own their own home will be minimised."
- Companies are not affected, nor are properties used as holiday lets (both of which were referred to implicitly in the item).
- During the debates on the measure, MPs received considerable lobbying and referred to the number of angry contacts in their speeches.
- There was also a proposed Judicial Review of the change, backed by the National Landlords Association and crowd-funding, which was mentioned in the *Inside Out* item.

The Committee first considered whether the matter should be considered as a “controversial subject” and a “major matter” under the Editorial Guidelines.

Trustees concluded that, although housing, like education and the NHS is of great societal importance, that did not mean that all coverage of a specific issue within these wider subject areas could be considered controversial. This specific issue – the impact upon landlords of changes to the tax system – was not, at the time of transmission, a “controversial subject”. In deciding this Trustees noted that there was not at this time a high level of public or political contention and debate about this aspect of housing policy nor was it a matter of intense debate or importance in a particular area of the UK. The matter was not particularly topical. The issue was not so intrinsically serious as to be controversial. Trustees agreed that neither the proposed Judicial Review and its funding, nor the fact that different lobby groups were engaged by the issues in the item, meant that it was, of itself, controversial within the guidelines.

Having decided it was not a “controversial subject”, it followed that it could not be a “major matter”. They noted that one complainant argued that this change related to the financial stability of the nation and thus this was a major matter but Trustees disagreed that this change, already in legislation, amounted to a major matter.

The Committee then proceeded to consider impartiality. Trustees noted that the complainants had raised the following points in relation to the impartiality of this item:

- The item was not impartial because it only addressed the matter from the point of view of the buy-to-let landlords (and a vulnerable tenant) and used seven interviewees, mostly sourced by a landlords’ lobbying site, none of whom were in favour of section 24. One of the complainants listed the interviewees as follows:
 - Buy-to-let landlord with a property management business serving other landlords, as stated in the programme
 - Buy-to-let landlord
 - Senior economist at the for-profit Centre for Economics and Business Research
 - Head of Policy at the National Landlords Association, an industry lobby group that was actively campaigning against clause 24
 - Buy-to-let landlord and campaigner against clause 24 who was seeking to get clause 24 struck from statute via judicial review
 - Buy-to-let landlord who stated in his contribution to the programme that “the government and certain lobbies have got a witch hunt on landlords and they won’t be happy till they’ve put every landlord out of business”
 - A tenant in one of the properties let or managed by a buy-to-let landlord, who stated that if her rent is paid to her directly she will spend it on Guinness
- The complainants considered that the subject was portrayed as if about “ordinary people” versus the government, while leaving out the stories of a far greater number of “ordinary” people who were unable to buy property because buy-to-let landlords inflated prices. Individuals trying to buy their own homes had to

compete with buy-to-let landlords who could borrow on an interest-only basis from pre-tax income, whereas people buying their own homes had to borrow on a repayment basis out of post-tax income. "Ordinary, responsible landlords" would also benefit from reduced competition.

- Complainants considered that to balance the landlords' perspective with a clip from the 2015 Budget and a quote from the Treasury was not enough to ensure due impartiality.
- It omitted a key reason for the changes which was that these measures were to be brought in in part to address a financial stability risk identified by the Bank of England:

"For the wealthiest, every pound of mortgage interest costs they incur, they get 45p back from the taxpayer. All this has contributed to the rapid growth in buy-to-let properties, which now account for over 15% of new mortgages, something the Bank of England warned us last week could pose a risk to our financial stability. So we will act [...] we will retain mortgage interest relief on residential property, but we will now restrict it to the basic rate of income tax."

Trustees noted that the item on both *Inside Out* and the News Channel focused on the effect of the various changes on buy-to-let landlords. The Committee agreed that the BBC was entitled to focus on one angle of a story. This is explained in the BBC Editorial Guidelines:

"Due impartiality normally allows for programmes and other output to explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed."

In terms of impartiality the guidelines also explain that:

"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."

Trustees noted that it is possible to achieve impartiality across a series such as *Inside Out* but were clear that the BBC had not attempted to do so in this case. For example, arguments for and against section 24 were not included in different programmes. Trustees therefore went on to consider whether due impartiality was achieved within the item.

Trustees noted that having looked at benefit and stamp duty changes the item then considered the impact of section 24. Arguments against section 24 were put by an interviewee from the National Landlords Association who said that:

"we predict that something like 600,000 landlords will have to exit the market, and take with them their properties. So it stands to reason, frankly, that some of those properties may go on to the market, may be bought by the kind of, kind of individuals and households the Chancellor wants to encourage into owner-occupation. A lot of them won't be. A lot of them will be the shared housing, the student housing. The housing, frankly, that's desperately needed in lots of, lots of parts of the country, particularly in the South East."

Trustees noted a case history was given of a buy-to-let landlord with two properties bought to boost his pension. The reporter explained that following the implementation of section 24:

“He’s calculated he’ll only take home around £400, and that’s if interest rates don’t go up. If that happened he’ll either have to put up rents if he can, or subsidise his tenants from his own wages, to live in his houses.”

The landlord then said that:

“It’s very unfair... It’s, not affecting big business, it’s not affecting the super wealthy, it’s affecting people like myself who are just trying to provide for themselves in their retirement.”

The item also interviewed a landlord who was changing his property to a holiday let, one landlord who wanted to sell and another who was planning to judicially review the government.

Trustees noted that the item also included the government’s perspective:

Reporter: Some landlords may think that clause 24 is unfair, but in his last Budget George Osborne said that he was making the tax change to create fairness.

George Osborne: Today I set out three important changes that will address unfairnesses in our taxation of property, and put the security of home-ownership first. First, we will create a more level playing field between those buying a home to let, and those who are buying a home to live in. Buy-to-let landlords have a huge advantage in the market, as they can offset their mortgage interest payments against their income, whereas home-buyers cannot.

The *Inside Out* item (but not the News Channel piece) also contained the following:

Reporter: So will the Chancellor’s aim of helping ordinary people get on the housing ladder by raising taxes for buy-to-let landlords work? Name C is an economist and housing market expert for the Centre for Business and Economic Research⁴.

Interviewee: Well it’ll probably work for some, and not so much for others. So for people that were already very seriously considering buying a home, and that have already been saving up for a deposit, it probably can help them that there will be less competition for the properties that are available on the market, from buy-to-let investors. So more homes will be available to first time buyers. But having said that there is other people [*sic*] - for example current property owners, people who are choosing to rent, or aren’t in a position to save up for a deposit, and of course existing tenants – that probably won’t be helped by the change in the taxation.

The programme also explained the following:

⁴ The name of this organisation was referred to in the programme as the Centre for Business and Economic Research. It is, however, called the Centre for Economics and Business Research (Cebr) and is referred to as such in this finding where it is not a direct quote.

Reporter: The government has made the move because it's worried about the fall in home-ownership among younger people. The Treasury told us they're taking strong action:

"By restricting the mortgage relief available to landlords, we have removed the unfair advantage they enjoyed over others trying to buy a house."

"Only 1 in 5 landlords are expected to pay more tax as a result of the reform and they will still enjoy generous tax reliefs to help with the upkeep of the properties they let."

The Committee noted that one of the complainants thought there had been a lack of due impartiality because:

"[The reporter] chose to include no contributors whatsoever who are the intended beneficiaries of Clause 24. Not one prospective first time buyer, nor one normal, working, private tenant were included in her report. In fact no effort was made to secure any contributors who supported Clause 24 at all."

Trustees, however, concluded that overall the item on *Inside Out* and also on the News Channel gave arguments for and against the changes and that due impartiality was appropriate to the item. It was not necessary to include a potential beneficiary from section 24 or a tenant who was in work to achieve due impartiality, or those landlords who would benefit from reduced competition. Nor was it necessary to include the Chancellor's reference to financial stability to achieve due impartiality given the item included his arguments that this would make the system fairer. The Committee decided it was the prerogative of the programme-makers to select which clip of the Chancellor's speech to include. A substantial extract had been used which was germane to the focus of the item. It was not necessary to include a reference to the argument that this change also dealt with a risk to financial stability in order to achieve due impartiality and accuracy. All arguments did not have to be included to achieve due impartiality.

The Committee noted that all interviewees except the one from the Centre for Economics and Business Research in the *Inside Out* item were sourced through Name A and the website, Property118. All the interviewees in the BBC News Channel item came through Name A's contacts.

Trustees considered the role of the interviewee from the Centre for Economics and Business Research. The Editor South East said that the expert was not sourced by Name A, but that the reporter was aware of her work from the BBC Business unit.

The complainants suggested that the interviewee from the Centre for Economics and Business Research could not be seen as an expert but as a lobbyist as she advised landlords and developers, including some who might be affected by the change in the legislation.

However, the Committee considered that it was appropriate to describe the interviewee as an expert in that this was her area of expertise. Her contribution was carefully balanced and contributed to the impartiality of *Inside Out* rather than detracting from it.

The Committee noted that the sourcing of the interviewees concerned the complainants who considered that this affected the due impartiality of the item.

It noted that one complainant had said that the content should be considered against the BBC Editorial Guidelines relating to campaigns. Trustees noted the relevant guidelines which say:

4.4.20

... the BBC must remain independent and distanced from government initiatives, campaigners, charities and their agendas, no matter how apparently worthy the cause or how much their message appears to be accepted or uncontroversial.

4.4.21

Careful thought will be necessary to ensure perceptions of the BBC's impartiality are maintained when content is scheduled topically and coincides with a third party's campaign. It is advisable to contact Editorial Policy.

Trustees noted that Name A described herself as a campaigner and that Name B had described the website as a lobbying website in a reply for the Trust. They noted that one complainant said that the two pieces were run at the moment that the Property118 lobbying group began fundraising for a Judicial Review of clause 24. However, Trustees noted that the item did not mention any appeal for funds. The item said that:

"...they've raised finances through an online appeal, in eight days reaching a target of £50,000. They have now taken on top lawyer Cherie Blair QC to front their legal battle."

The Committee did not consider the campaign guidelines applied. Whilst acknowledging that Property118 saw themselves as campaigners, Trustees considered that the issue was not particularly topical. It was already law and the broadcasts did not coincide with a campaign.

The Committee agreed that it did not infringe due impartiality for all except one interview to be sourced through someone connected with the story because due impartiality was maintained through the use of a substantial clip from the then Chancellor's Budget speech, a quote from the Treasury and, in relation to *Inside Out*, the interviewee from the Centre for Economics and Business Research.

NOT UPHOLD ON IMPARTIALITY

The Committee noted that the complainants had raised the following points in relation to Conflict of Interest:

- The reporter, Name B, found her interviewees and, they alleged, much of the editorial stance of the item, through her sister-in-law, Name A, who is both a landlord and a well-known campaigner on landlords' interests.

The complainants cited posts on the landlord blog and forum site Property118, to support their contention. As one complainant alleged: "Name A wrote on 5th December 2015: 'We have an opportunity here, a journalist and a film crew available to us. Can we use our collective brains to use this chance to maximum advantage', stating in another post that 'we need a good sob story about how tenants will be affected by these changes' and 'we are trying to position this as decent landlords having no choice but to evict longterm/vulnerable tenants'."

- The complainants alleged that, because in the end all except one of the interviewees were sourced through the reporter's former sister-in-law – and all of those used in the cut-down News Channel version – there was a conflict of interest in the making of the item because Name A stood to benefit from positive coverage of the clause 24 story and it was to her advantage that this should be covered by the BBC.

The Committee noted that the BBC has always denied this and that in Stage 2 correspondence the Head of BBC London & BBC South East said:

“There was no contact between the Editor and Name A. The Editor was aware that Name B had spoken to her former sister-in-law, who with her obvious interest, was legitimate to use as a source.”

The Committee noted that he said that the item “came from a suggestion by (the reporter) in a meeting when they were thrashing around ideas”. The Committee noted that safeguards were put in place by the Editor to guard against any perceived conflict of interest. These safeguards were:

“The ultimate decision about which examples the programme used lay with the editor, as did the questions asked and the answers selected in the final edit... The programme editor was aware from the outset of the relationship between Name B and Name A. One of the safeguards put in place was that her role was confined to providing contacts for the programme and she was not included in the broadcast.”

The Committee noted that the complainants allege that the real or perceived conflict of interest was also apparent in that Name A gave an interview on BBC Radio Kent on the morning of the transmission of the *Inside Out* item on section 24. There was a trail for the *Inside Out* item at the end of the radio interview.

At Stage 1 the BBC said that: “Any interview involving Name A on BBC Radio Kent has no connection to this *Inside Out* television broadcast”. The BBC later explained that *Inside Out* share their list of stories with the TV newsroom and the various radio stations... “they then follow up if they're interested. Normally it's up to the radio station what they do (run clips, interview the reporter, fix other interviews) ... this is mainly from practical concerns - the small *Inside Out* team doesn't have the capacity to do bespoke stuff for lots of outlets, particularly on [transmission] day. The only proviso is that anyone doing a story from the programme trails it.”

Trustees noted that the managing editor of Radio Kent could not remember the specifics of how the item was set up. He explained that usually, because they are in the same building as *Inside Out*, there is co-operation. The *Inside Out* team would provide a list of contacts of interviewees and often a radio version. Usually, unless there was a good reason for the television programme to be involved in setting up a specific guest, it would be left to Radio Kent to make the bookings. Name A's contact details had been given to Radio Kent by Name B, the reporter. The Committee noted there was some confusion about who was aware that Name A was the reporter's former sister-in-law. Name B said that she had informed the producer that Name B was her former sister-in-law and also that she was a Kent landlord who ran a lobbying website. (A complainant pointed out that she did not run the website.) However, the managing editor said that he had been unaware of this fact until after the transmission and that she would not have been used as an interviewee had he known of the relationship beforehand. *Inside Out* took a different view and said that:

“There are plenty of occasions when we interview people who are related to people who work in the BBC, as happens across the BBC. What I would expect is two things 1) the person to be a legitimate and appropriate guest 2) for the interview not to be done by the person with the relationship.”

The Committee noted that the reporter had also contacted Radio Wiltshire, where she had previously worked, to tell them that her item would be on the General News Service (GNS) list of possible stories on the day of transmission. GNS regularly offers stories of local interest around the BBC's network of local radio stations. Name B had provided the station with the contact details of a local buy-to-let landlord of five properties who was a member of Property118 and he had been interviewed during the morning programme. Name B was booked to be interviewed during the same morning sequence on Radio Wiltshire, but this had not actually taken place for unrelated reasons. There would have been no trail of the *Inside Out* piece as part of any coverage on Radio Wiltshire or other local radio stations as they are not part of the transmission area in which this edition of *Inside Out* is broadcast.

The Committee noted that other radio coverage on the morning of the *Inside Out* transmission had been facilitated by GNS from the radio newsroom.

The Committee decided, given

- the story had been proposed by someone whose former relative in law had an interest in it
- and that relative had made an overt appeal for contributors on a public website, which included saying that this was an opportunity for a particular and advantageous angle to be pursued by a lobby group,

that Editorial Guideline 15.4.25 was engaged:

“The onus is on the journalist, content producer or on-air talent to let the BBC know if they (or, in certain circumstances, their family or close personal contacts) have any outside interests which could be perceived as a conflict of interest.”

The Committee acknowledged that the reporter had let the BBC know of the connection. It was not intrinsically wrong or a conflict to suggest a story or source contacts gained from a friend, family member or other close contact. Many journalists gained stories from people they knew in the community or from family and friends. Nor was it improper to seek to humanise a policy story with a human interest angle. The reporter could not be held to account for the way her former sister-in-law had tried to get interviewees.

However, the Committee considered that the perception of a conflict of interest in the making of the item was very likely to arise. Whilst Trustees fully accepted that editorial control of *Inside Out* and the News Channel item had remained with the BBC, they considered that it would have been far better had another reporter been asked to cover the story. In the circumstances the protections put in place had broken down as Name A had appeared on air in an item which had then trailed the *Inside Out* item. The perception of a conflict of interest was enough to breach the Editorial Guidelines.

The Committee decided that the audience might well not be confident in this case that: “our editorial decisions are not influenced by outside interests, political or commercial

pressures, or any personal interests..." and that reinforced what the Committee decided was a breach of this Editorial Guideline.

UPHOLD ON CONFLICT OF INTEREST

The Committee considered other matters raised by complainants.

1. A complainant said it was not accurate and was a sign of a lack of impartiality that the relevant part of the legislation was referred to in the piece as "clause 24" rather than the official "section 24". The complainant said this was the terminology used by the lobby group Property118 and was therefore an indicator of the item's lack of impartiality.

Trustees noted the relevant extracts from *Inside Out*:

Reporter: But perhaps the bigger concern for many landlords is clause 24 of the Finance Act, which will be phased in from next April. Under clause 24 many landlords will be taxed on the whole of their rental income, without being able to offset all of their mortgage interest costs.

...

Reporter: Clause 24 doesn't affect companies with more than 15 properties, but it will affect ordinary people who have large mortgages on their buy-to-lets.

...

Reporter: At the moment he makes £2,500 a year profit from his buy-to-lets once he's paid the mortgages, but when clause 24 comes into force he's calculated he'll only take home around £400, and that's if interest rates don't go up.

...

Reporter: Some landlords may think that clause 24 is unfair, but in his last Budget George Osborne said that he was making the tax change to create fairness.

...

Reporter: Lots of us complain when our pockets are hit by tax rises, but not very many of us would consider taking the government to court over it. But that's exactly what one disgruntled landlord's doing with clause 24. [Name D] works as cabin crew for an airline, but over the years he's built up a portfolio of 15 properties. Along with another landlord he's seeking a Judicial Review to challenge clause 24.

The Committee noted that the references to "clause 24" in the news item, whilst not precisely the same, were very similar.

The Committee noted that clause 24 became section 24 when the Bill was enacted in 2015. Therefore at the time of broadcast these references were to section 24. Trustees agreed that it would have been preferable to have used the correct term. However, the Committee decided that this was not material to the focus of the item (it was not for example suggesting that the Act was still a Bill and was the subject of Parliamentary scrutiny). Therefore this was duly accurate and duly impartial.

2. A complainant said that the script-line,

“Clause 24 doesn’t affect companies with more than 15 properties, but it will affect ordinary people who have large mortgages on their buy-to-lets”

was inaccurate because those affected were not companies but individuals. The 15 properties rule applied to the stamp duty changes and not section 24 and there had been a confusion between the two.

The Committee noted that the script line was strictly speaking correct but it was not relevant (income tax does not affect companies) and might be taken to mean that section 24 affected companies with fewer than 15 properties which was not the case. However, Trustees agreed that whilst, once again, they would have liked to have seen a firmer grasp in scripting, this was not a material inaccuracy in context, and the script was duly accurate and duly impartial.

NOT UPHOLD ON ACCURACY/IMPARTIALITY

Stargazing Live, BBC Two, 20 March 2015 and iWonder: Which stars were you really born under? bbc.co.uk

Background

Stargazing Live was one of three astronomy programmes broadcast on 20 March 2015, which observed and tracked the passage of the solar eclipse. It was an hour-long programme broadcast live from Jodrell Bank – part of the Jodrell Bank Centre for Astrophysics at the University of Manchester. It featured a mix of live studio interviews conducted by Dara O Briain – an amateur astronomer - and his co-presenter Professor Brian Cox – a physicist - and pre-recorded items voiced by them. It also included location-based inserts, with a mix of live interviews, conducted by reporters at the scene, and pre-recorded items.

The programme covered a range of subjects to complement its reporting of the solar eclipse, including a film about the secrets of the Sun; a visit to the Space Craft Testing Centre at the European Space Agency in Holland and a film about how to find Orion and why Polaris is going to drift away from the North Pole and lose its significance.

Appeal to the Trust

The complainant's appeal covered a range of points. The Trust Adviser (the Adviser) considered them all and decided that Trustees would be likely to conclude that they did not concern a breach of editorial standards and did not have a reasonable prospect of success and that it was therefore not appropriate, proportionate or cost effective to proceed with them. The complainant was informed of the detailed reasons for the Adviser's decision not to put these points to the Trustees in a letter dated 22 June 2016. Following a request from the complainant, the Trustees reviewed this decision at their July meeting and agreed to consider two specific points of appeal:

Point A: That it was wrong for the programme and online guide to say the character traits of the zodiac star signs were determined by the constellations; this is a reference to the script line which said: "It was the Greeks who came up with the idea of the personal 'star sign' – character traits determined by the constellation behind the Sun on the day you were born."

Point B: The BBC should have indicated to users of the iWonder guide that the text had been corrected to delete "unknown at the time" and insert "known as precession".

Applicable Editorial Guidelines

The editorial guidelines on Accuracy are applicable to this complaint. The full guidelines are at www.bbc.co.uk/editorialguidelines

The Committee's decision

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

In reaching its decision the Committee took full account of all the available evidence and correspondence, including (but not limited to) a report from an Independent Editorial Adviser.

Point (A): That it was wrong for the programme and online guide to say the character traits of the zodiac star signs were determined by the constellations; this is a reference to the script line which said: "It was the Greeks who came up with the idea of the personal 'star sign' – character traits determined by the constellation behind the Sun on the day you were born."

The Committee noted that although *Stargazing Live* was a live programme the content, which was the subject of the complainant's appeal, was a scripted and pre-recorded item within it, which was introduced and voiced by Dara O Briain. The same item was posted on the BBC website, in an edited form, as an iWonder guide: "Which stars were you really born under?" It was one of fourteen guides produced to complement the *Stargazing Live* series and to help audiences to get hands-on with the Universe.

The Committee noted the relevant section of the transcript of the programme and online guide and that the sections shown in bold were broadcast on television but were edited out of the item when it was posted online:

DARA O BRIAIN (in studio): Now, one of the things we'd hoped to see during the eclipse but didn't – it wasn't all a success - was the stars behind the Sun. Now they've always been of significance historically because they're the constellations of the zodiac. But astronomically what does that mean?

Dara O Briain (commentary): To understand the zodiac you need to see the stars behind the Sun. They're normally too dim to see in daylight, although you might spot them during an eclipse. At the moment Pisces takes pride of place. But as we orbit round the Sun, a different constellation appears behind it each month.

Ancient astronomers named this ring the zodiac, meaning "circle of animals" **and they use it as a celestial map to help chart the passage of the seasons. Dr Radmila Topalovic is an astronomer at the Royal Observatory, Greenwich.**

DR RADMILA TOPALOVIC: The zodiac band was very important for our ancestors. They used it to help with their agriculture. They needed to know when to plant their crops, when to reap the harvest, and the way they knew that was by looking for the signs of the zodiac, which they used as a giant calendar essentially.

DARA O BRIAIN: Ancient astronomers didn't stop there though. It was the Greeks who came up with the idea of the personal "star sign" – character traits determined by the constellation behind the Sun on the day you were born. The astrologers ran with this and that's where the problems started for the astronomers out there. Because the dates of the "star signs" were fixed, over 2,000 years ago, when the zodiac was first devised. And since then? Well things have changed a bit.

DR RADMILA TOPALOVIC: The Earth is affected by the gravitational pull of the Moon and the Sun and they introduce a wobbling effect in the Earth. That whole

effect is called precession and the Earth itself behaves a little bit like a spinning top.

DARA O BRIAIN: This spinning top completes a wobble every couple of seconds. The Earth is a little more cumbersome – it takes about 26,000 years. The result is that since the signs were fixed, the constellations have drifted by a whole month.

DR RADMILA TOPALOVIC: Let's say you were born towards the end of January; this would mean that the Sun should be in the constellation of Aquarius. But in actual fact if you were to look at where the Sun is on the day of your birthday, you would see that it's not in Aquarius at all, it's in the neighbouring constellation of Capricorn.

DARA O BRIAIN: So now your "star-sign" is not the constellation behind the Sun on the day of your birth. **And if that wasn't disappointing enough there's another surprise in store. Enter Ophiuchus the serpent holder. His constellation was missing from the original zodiac.**

DR RADMILA TOPALOVIC: There are twelve signs of the zodiac. But within the zodiac band there are thirteen constellations – patterns of stars. And the thirteenth one is called Ophiuchus and it actually squeezes in just between Scorpius and Sagittarius. But it's not one of the twelve signs of the zodiac.

DARA O BRIAIN: But still the Sun sits in front of Ophiuchus for a full nineteen days a year. So if you were born between November the thirtieth and December the eighteenth then why not claim yourself a totally new star sign.

DARA O BRIAIN: Heh if you want to know what constellation was behind the Sun on the day you were born you can go to the Star Gazing website and find out, that'll be a fun thing to do, 'cos Astrology is for fun. It's just not for making important decisions about your health. I'll take the letters, I'll take the letters this year you know you're constantly getting the letters I'll take the passion.

BRIAN COX: Address your anguished cries at the advance of reason to DaraOBriain@bbc.co.uk

The Committee noted that the complainant explained that constellations and zodiac signs are different things and that it is a zodiac sign which determines an individual's character traits and therefore the script line was incorrect and misleading when it said: "It was the Greeks who came up with the idea of the personal 'star sign' – character traits determined by the constellation behind the Sun on the day you were born."

The Committee noted the detailed explanation the complainant provided as to why a zodiac constellation is not the same as a zodiac star sign:

"They are very different things. The term 'zodiac constellation' applies to a group of stars that lies in the area of sky measured by the zodiac. Different cultures, and even the same cultures at different periods of history, have recognised varying numbers of constellations in this region of the sky, as adjustments were made to constellation boundaries. However, the zodiac itself, being a mathematical division

of an astronomical circle, has only ever been divided into twelve equally spaced 'zodiac signs'. The words 'constellation' and 'sign' depict different things:

A constellation can be visibly seen. It is a grouping of stars that appear together in the sky, as the word constellation suggests (it derives from the Latin con, 'together' + stellas, 'stars').

A sign communicates information. Zodiac signs, sometimes popularly called 'star signs', are determined by astronomical principles. The astronomers who originated the zodiac system also worked as astrologers and sought to attach and extract more than purely astronomical information from them; however, zodiac signs never have, and never will be visible - nor are they expected to make a close astronomical alignment with the constellations whose names they share. This would not be possible because constellations vary greatly in size whereas zodiac signs do not."

The Committee noted the information from the production team about some of the sources it used when it researched the historical development of star signs in astrology. It also noted the editorial justification provided by the programme's Series Producer for the script lines that said that the (Ancient) Greeks believed a person's character traits were determined by the constellation behind the Sun on the day a person was born:

"Many of our viewers would be aware that certain observable constellations carry names that are familiar from popular astrology, in particular horoscopes and birth signs. Yet they may not appreciate the relationship between the constellations and the astrological terms, and they may not appreciate that the zodiac itself (a term familiar to most from astrology) exists as an observable astronomical feature in which those constellations lie, nor that the positions of the observable zodiacal constellations no longer correlate with the positions of the astrological zodiac ... the essence of this point is laid out as part of a simple but engaging story, by necessity in concise form, in light conversational language appropriate to a dialogue between Dara and his astronomy-inclined Stargazing audience, and consisting of a series of simple points intended to inform without passing judgement. Those points are:

1. The idea of astronomical birth signs is ancient, most strongly attributed to Greek astrologers (although I acknowledge the influence of Babylonian, Egyptian and Mesopotamian astrologers might also be considered if time permitted)
2. The essential idea behind birth signs is that one's character traits are under the influence of the heavens at time of birth, and in particular the position of the astrological zodiac in relation to the sun is considered influential.
3. The astrological zodiac was itself defined originally by the positions of key star constellations relative to the sun.
4. The observable positions of those star constellations no longer correlate with the zones of the zodiac and their positions relative to the sun, despite sharing the same names."

The Committee noted the complainant's additional points:

- The astrological zodiac and the astronomical zodiac are the same thing and that constellations lie in the zone of the zodiac but do not represent the zodiac signs.
- The zodiac itself is an "invisible, imagined, astronomical construct".

- The constellations which lie within the belt of space the zodiac covers do not correlate with the zodiac divisions and never have done so not least because there are 13 of them and they vary in size.
- The astrological meanings associated with the zodiac signs, (which constitute the character traits of “star signs”) are mainly drawn from seasonal and geometric/numerical associations. These are only attributed to the zodiac signs, and not the constellations which do not maintain a constant relationship with the Earth’s seasons nor present the geometrical and numerological patterns which are present in the Zodiac.

The Committee noted that the programme team described the *Stargazing Live* audience as a family audience with general interest in factual entertainment and that their knowledge of astronomy potentially ranged from very superficial to enthusiastic amateurs, and even to professional level in some cases. It also said that its audiences tune in for entertainment, for an introduction to the awe and spectacle of space and the night sky, and for accurate and up to date information on the science of its study, delivered with the wit and informality that Dara O Briain and Brian Cox, its two presenters, are known for.

Trustees appreciated that the constellations and the zodiac were different and distinct concepts, and that astrology was based on the latter. They agreed that the item would have been more precise if it had been clear that the Greeks believed that character traits are affected by the position of the zodiac in relation to the Sun on the day of birth. However, they noted that the standard set by the Editorial Guidelines was not one of precision or absolute accuracy, but due accuracy. Its requirements vary:

“The term ‘due’ means that the 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.” (Editorial Guidelines, paragraph 3.1)

The Committee agreed that the broadcast item and edited online guide were clear about their intention and scope, which was to explain the difference between the positions of the observable constellations and the zodiac divisions, explain precession in a digestible way and explain that an individual’s birth sign is not necessarily the same as the constellation behind the Sun on the day they were born.

The Committee also took into account the subject and nature of the item and the programme as a whole, which aimed to bring astronomy to a wider audience, as well as the expectation of the audience for the popular science programme.

Taking these considerations into account, Trustees concluded that it was not materially inaccurate (or, put another way, that it was duly accurate) to say “It was the Greeks who came up with the idea of the personal ‘star sign’ – character traits determined by the constellation behind the Sun on the day you were born”.

The Committee concluded there had not been a breach of due accuracy in this case.

Finding on Point (A): Not upheld

Point (B): The BBC should have indicated to users of the iWonder guide that the text had been corrected to delete “unknown at the time” and insert “known as precession”.

The Committee noted that the BBC’s Editorial Guidelines on accuracy state that:

“When a material change is made to an item of content, the change should normally be indicated to users unless, for example, there are legal or editorial reasons not to do so.”

The Committee noted that the text under discussion as Point B of the appeal was unique to the iWonder guide “Which stars were you really born under?” It had not previously been broadcast in the *Stargazing Live* programme.

The Committee noted that when the iWonder guide was originally posted online the first page of the guide read:

Which stars were you really born under?

What’s your star sign?

A staggering 98% of people in the UK know the answer to this question. But did you know around 86% of us were actually born under a different constellation to our star sign?

The dates of the ‘star signs’ were fixed, over 2,000 years ago, when the zodiac was first devised. Then, they corresponded to the constellation of stars that appeared behind the Sun on the day you were born. But an astronomical phenomenon, **unknown at the time**, means that the constellations have drifted since then. So which stars were you actually born under?

The Committee also noted that the iWonder guide explained the meaning of precession in the third section, which was called: “Why your stars don’t match your star sign”. The relevant script lines said:

DR RADMILA TOPALOVIC: The Earth is affected by the gravitational pull of the Moon and the Sun and they introduce a wobbling effect in the Earth. That whole effect is called precession and the Earth itself behaves a little bit like a spinning top.

DARA O BRIAIN: This spinning top completes a wobble every couple of seconds. The Earth is a little more cumbersome – it takes about 26,000 years. The result is that since the signs were fixed, the constellations have drifted by a whole month.

The Committee noted the email provided by the complainant that showed one of the BBC’s research sources, an academic in this field, had also alerted the production team to “an inaccuracy” and explained that “the phenomenon by which the stars move against the seasons, precession of the equinoxes, was measured by Hipparchus in the 2nd century, and may have been observed, although not accurately measure, much earlier.”

The Committee noted that on 26 March 2015, following the posting of a range of critical comments about the guide, and specifically about the use of the phrase “unknown at the time”, on the BBC iWonder Facebook page, the BBC posted the following:

“Thanks for your comments on this guide. We are currently looking into the points you have raised.”

The Committee then noted that on the following day, 27 March 2015, BBC iWonder posted the following comment on its Facebook page:

“The guide has been amended to correct the sentence that stated that the astronomical phenomenon of precession was not known at the time that the zodiac was first devised.”

The Committee noted that the complainant had contacted the BBC on 27 April 2015 and claimed the amendment should have been clearly signposted to users of the iWonder guide. The Committee noted that the complainant said that in removing a “very significant remark” without leaving any “notification of this important amendment” the BBC had breached its accuracy guidelines on the management of online content.

The Committee noted that iWonder was launched in January 2014 but that in May 2016 the BBC Executive’s Online Creative Review had decided to close the service and iWonder had now closed and a working group had been established to decide what should happen to the site’s content.

The Committee noted that the BBC Executive had been unable to contact the former iWonder Science Editor, but that it believed the Editor had made the text changes to the guide in response to complaints on social media about whether precession was known about when the zodiac was devised and that the change was regarded as a clarification.

The Committee noted that the post on the BBC iWonder Facebook page that highlighted the text change referred to the amendment being made to “correct the sentence”.

The Committee noted that the BBC Executive did not consider the text change from “unknown at the time” to “known as precession” as a material change that required to be indicated to users of the iWonder guide on BBC online. The Committee also noted that the BBC Executive considered that to flag up the clarification and explain the reasons behind it would only have confused its readers. The Committee also noted that the BBC Executive had pointed out that notification of the change was posted on the iWonder Facebook page on 27 March 2015.

The Committee concluded that the text change in the guide’s introduction from “unknown at the time” to “known as precession” was not a material change in the context of the item as a whole which needed to be indicated to users on the iWonder guide.

The Committee also agreed that it had been appropriate for the BBC to inform users of its iWonder Facebook pages, where many of the complaints about the iWonder guide had originated, about the text change from “unknown at the time” to “known as precession”. It also agreed that within the context of the iWonder guide it would have been difficult to signpost the changes on the guide itself, without unduly confusing new users.

The Committee concluded there had not been a breach of the accuracy guidelines relating to Managing Online Content.

Finding on Point (B): Not upheld

Reporting Scotland, BBC One (Scotland), 5 February 2016

Background

This edition of *Reporting Scotland* featured an item that focused on a post on the website of the think tank the Resolution Foundation which examined a proposal by the Scottish Labour party to raise income tax.

The presenter introduced the piece in the following way:

“Raising income tax in Scotland could reduce the impact of spending cuts and would weigh most heavily on higher earners. That’s according to an independent report. Both Labour and the Lib Dems have called for a tax rise in April when new powers are handed to Holyrood. But the SNP says that raising taxes now would cause pain to many Scottish households. Here’s our Business Correspondent David Henderson.”

Complaint

The complainant said that the programme was inaccurate to have described the item on the Resolution Foundation as “an independent report”. He said it was a blog and as such was “a de-facto online diary” and “contains the personal views, experiences and/or opinions of an individual”. As a result, he believed the BBC misled its audience by giving undue weight to what was a personal opinion piece by describing it as a report.

The complainant also believed that the programme failed to be impartial because it had said the report was independent and did not make clear that the blog, which he said supported the Labour Party’s position on income tax, was not politically neutral as it was a personal opinion piece by a former Director of Policy for the Labour Party.

The BBC did not uphold the complaint at Stages 1 and 2.

The BBC responded to these complaints in the following way:

- Other media outlets had described the item as a report and that the boundaries between reports and blogs had been blurred as methods of delivering information had changed.
- It did not share the complainant’s view that the item on the Resolution Foundation website was supportive of the Labour party in Scotland.
- The Resolution Foundation is an independent think tank with executives from across the political spectrum.
- The *Reporting Scotland* item had included a contribution from a spokesman from the Resolution Foundation which demonstrated that the organisation endorsed the report.
- It did not believe it was materially misleading to describe the blog as “an independent report”.

Appeal to the Trust

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

He said that, if the Resolution Foundation wanted to publish the item as a report, it could have done so through its own internal mechanisms.

He also said that the item had supported the Scottish Labour Party's position on income tax at a crucial time in the Scottish election campaign.

Applicable Editorial Guidelines

The relevant editorial guidelines relating to Accuracy and Impartiality are applicable to this case. The full guidelines are at www.bbc.co.uk/editorialguidelines

The Committee's decision

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

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

Point (A): The programme failed to be accurate by describing the item as "an independent report".

The Committee began by noting that the item concerned appeared in the media section of the Resolution Foundation website under the heading Blogs. Trustees noted that the posts in this section of the website were written by those working for the Foundation and highlighted issues that the organisation focused on to do with economic and social policy. The blog in question was attributed to Torsten Bell. By clicking on his name a reader could link through to a brief biography which made it clear that he was the current Director of the Resolution Foundation and a former Director of Policy for the Labour Party and had previously worked in the Treasury. Trustees further noted that the blog had a sub-heading that highlighted that it came under the Foundation's work on welfare and tax reform and that it was linked to other Resolution Foundation posts on this theme at the end of the article.

The Committee noted that, under the headline "Scottish Labour has a tax policy – let the debate commence", the blog examined a proposal by the Scottish Labour party to raise income tax and considered whether this was a good idea. The blog began:

"Scottish Labour has a tax policy – specifically a tax *raising* policy. That's a big change, whether you support it or not. In the decade and a half since devolution it is the first time the party will go into a Scottish Parliamentary election with proposals to change income tax."

The blog included graphs and statistics to support its analysis of whether the Scottish Labour party proposal was progressive or not before saying:

"Scottish political parties have set out more concrete proposals for tax changes in the run up to May's election than we have seen in any previous Scottish election. Now is the time for those proposals to be tested and debated. Indeed one of the benefits of proposals being set out now is that the debate can take place before the election rather than after it."

Trustees noted that the complainant had written to the Foundation and asked:

“...if I were writing an article which referenced a Blog Post, would it be accurate to describe the Blog Post as being ‘a report published by the Resolution Foundation’?”

The Committee noted the response from the Foundation:

“An accurate citation would be ‘a blog by x of the Resolution Foundation’ you could also add ‘published on their website’ and provide a link to the blog for clarity.”

Trustees observed that the manner in which people and organisations communicated online was evolving and that there were no clearly defined boundaries over what would appear in a blog or report.

In this case, Trustees agreed that the post was a statistically based examination of the issue rather than one based on personal opinion.

As a result, while acknowledging that it might have been better if the programme had described the Resolution Foundation item as a blog rather than a report, the Committee agreed that describing it as a report was duly accurate and that the audience would not have been materially misled.

The Committee then considered whether the programme had been duly accurate to describe the blog as independent when the author had previously been a Director of Policy for the Labour Party.

The Committee noted that the Resolution Foundation describes itself as “non-partisan” and that its senior staff included a former Conservative minister as Executive Chair as well as Mr Bell. It further noted that the Foundation is primarily funded by the Resolution Trust and that there is no evidence on its part of any particular political allegiance.

The Committee observed that the post was analytical in tone and had been linked to other Resolution Foundation material on its website. It did not advocate the policy and the article took steps to avoid partisanship. It concluded:

“Advocates of Scottish Labour’s plans to raise income tax and reduce spending cuts can correctly argue that the proposals would raise money and do it in a progressive way. But those opposed may argue that there are even more progressive ways to bring in revenue, that the plans will still take money from middle earners pockets, or that cutting spending is the right thing to do in the first place. Let the debate commence.”

It further noted that a Senior Economic Analyst from the organisation appeared on the programme describing the proposed tax as progressive.

The Committee concluded that as the blog was on the Resolution Foundation website and was linked to other material by the Foundation and as an interviewee from the Foundation had appeared on the programme, the post was endorsed by the organisation. Given that the Foundation was established as non-partisan, the Committee agreed that the programme had been duly accurate to describe the post as independent.

As a result, the Committee considered that there had not been a breach of the accuracy guidelines in relation to Point A.

Finding: Not Upheld

Point (B): The programme failed to be impartial by not making clear that the author of the item was a former Director of Policy for the Labour Party.

The Committee began by reminding itself that the author of the report had been Director of Policy for the Labour Party before becoming Director of the Resolution Foundation. Trustees noted that the complainant had said:

“These Labour party links *were* added to an online article that afternoon (before Reporting Scotland aired) after complaints were made on social media.”

Trustees noted that they had concluded that the blog was endorsed by the Resolution Foundation, a non-partisan organisation in that it appeared on its website, was linked to other related material and an interviewee had appeared on the programme from the Foundation. Trustees had concluded that it was duly accurate to describe it as independent. Trustees also noted that the blog had not advocated a particular party's policy and had pointed out possible shortcomings with the policy.

Trustees agreed that in these circumstances there was no requirement to set out Mr Bell's previous posts at the Treasury and with the Labour Party in order to achieve due impartiality.

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.

BBC Online article, iWonder: Which stars were you really born under? bbc.co.uk

Background

The (western) zodiac is the apparent path taken by the sun over a year. It is an area in space like a belt in the plane of the earth's orbit. It includes all apparent positions of the sun, moon and most familiar planets. It is divided into twelve divisions the names of which most people are familiar with: Capricorn, Taurus etc. These divisions are fixed. The zodiac is used by astronomers (scientists whose fields of study are outside earth's atmosphere) and by astrologers (who study the position and movement of celestial bodies for influence on human events). These divisions are commonly called "star signs" in daily newspaper horoscopes, and people are aware of which "star sign" they were "born under" although the name is not technically correct. That is because the zodiac divisions are not the same as the twelve constellations (groups of stars) which have the same or similar names. At one time the positions of the constellations did largely match the zodiac divisions but over millennia that has changed. The divisions of the zodiac or, astrologically speaking, the signs, have remained fixed. The constellations have moved.

Complaint

The complaint related to an online article which the complainant considered was inaccurate and deliberately misleading:

<http://www.bbc.co.uk/guides/zp4fvcw>

He made the following points:

- the use of the word "really" in the title of the guide "Which stars were you really born under?" (and also the iWonder Facebook page) implied that astrologers had made false claims and misleading statements
- the phrase "star signs" was a misnomer used by tabloid newspapers. Since stars were not involved the correct term would be "sun sign"
- the guide stated that "The dates of the 'star signs' were fixed, over 2,000 years ago, when the zodiac was first devised" without explaining that they were deliberately fixed by astronomers and astrologers to align with the Earth's seasons
- the interactive section "Find your constellation. Click the hand below and scroll to your birth date to discover your astronomical star sign" was misleading. No-

one was assigned a constellation and there was no such thing as an “astronomical star sign”

- the words “Capricorn” and “Scorpio” were used incorrectly to refer to the constellations of Capricornus and Scorpius
- in the video, the phrase “Why your stars don’t match your star sign” was misleading and should read “Why the constellations don’t match the signs of the zodiac”
- the phrase “The astrologers ran with this and that’s where the problems started for the astronomers out there...” was incorrect as the “problems” were fixed by astronomers who were aware of the problem of shifting constellations
- the video stated that “Let’s say you were born towards the end of January - this would mean that the Sun should be in the constellation of Aquarius. But in actual fact if you look at where the Sun is on the day of your birthday, you would see that it’s not in Aquarius at all, it’s the neighbouring constellation of Capricorn.” This suggested that astrologers made false claims when it confused signs and constellations. They were in fact “entirely different”
- the article was part of a “wider smear campaign” against astrology.

BBC Audience Services made the following points at Stage 1:

- the guide contained no judgement of astrology and did distinguish between astrological star signs and the constellations of the zodiac
- there was no intention to offend. Many people did not know that constellations were not linked to star signs, making this an interesting and helpful way to explain the astronomical phenomenon of the Earth’s precession
- the guide was from the astronomical perspective, but linked to another BBC news piece which gave the perspective of prominent astrologers
- the guide aimed to identify where the zodiac was in the sky, which stars occupied that region and how their apparent movement related to the sun. This information would not be common knowledge to the audience, and so was a key factual starting point in the video
- it highlighted that the 12 astrological signs of the zodiac no longer corresponded in calendar terms to the astronomical constellations in which the sun actually appeared. This was an accurate and non-judgmental statement, from both astronomical and astrological points of view
- the aim of the article was not to claim that the zodiac was wrong. The wording was specifically chosen to be non-judgmental. The article simply explained why the astrological signs of the zodiac no longer corresponded to the positions of the constellations. It did not conclude that star signs were therefore invalid
- it did not explain how astrologers were historically aware of, and accounted for, precession. However, as the item had not claimed the contrary either, the information suggested by the complainant for inclusion was not essential to the understanding of the basic point
- the item concluded that people would still have a “star sign” but it was not the same as the constellation behind the sun on their birth date
- the article simply used the familiar term “star sign” but made a clear distinction between astronomical constellations, and astrological zodiac/‘star’ signs. At no point did the item refer to constellations as star signs, but rather referred to the historical association between the constellations and the zodiac regions named after them. To the audience, the term “star sign” was a popular and familiar synonym.

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

- the article aimed to introduce viewers or readers to the fact that there was a discrepancy between the present incidence of the relevant constellations and incidence of the astrological divisions of the zodiac
- the words “really” and “actual” did not suggest an unreal or false claim but introduced the fact that there was a discrepancy
- the complaints about accuracy either concerned approximations or simplifications which were justifiable in that context, raised issues which were not material to an understanding of the matters the item focused on, or flowed from interpretations the item did not warrant
- even if “star signs” was a misnomer, it was virtually universal in common usage, and the distinction was not vital in a context where the focus was on the difference between 2,000 years ago and now in the positions of the constellations with which the divisions of the zodiac were originally identified
- the statement “The dates of the ‘star signs’ were fixed, over 2,000 years ago, when the zodiac was first devised” was not inaccurate - the article did not purport to explain the origins of the zodiac in detail
- the interactive feature simply served to illustrate that “an astronomical phenomenon, known as precession, means that the constellations had drifted since then”
- “Capricorn” might be the name of a sign of the zodiac while “Capricornus” was the name of a constellation but they referred to the same thing, in the sense that the constellation Capricornus was the same pattern of stars as the pattern of stars originally identified with the division of the zodiac named Capricorn
- that there was no intention to mislead or misinform was shown by the fact that, while Dr Topalovic was saying “the neighbouring constellation of Capricorn”, the screen was occupied by a picture of the constellation labelled “Capricornus”
- the phrase “your stars” would not be misleading to readers familiar with the terminology of popular horoscopes
- the word “problem” was rather loosely used and connected to the observation that “things have changed a bit” since the zodiac was first devised. However, that would not have affected the readers’ understanding of the matters under discussion
- although there was a distinction between signs and constellations, it could not be said that they were “entirely different” in the sense of “unrelated”.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 18 April 2016 on the substance of his complaint.

Decision of the Trust Adviser

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

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

“The term ‘due’ means that the 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 that the complainant had gone into considerable detail in pointing out what he considered to be the factual inaccuracies and omissions in *Which stars were you really born under?* and she noted his view that these had been “designed to denigrate astrology.” She noted the BBC’s responses which had addressed his points of complaint in equal detail.

The Adviser noted section 1 of the guide:

“A staggering 98% of people in the UK know the answer to this question. But did you know around 86% of us were actually born under a different constellation to our star sign?

“The dates of the ‘star signs’ were fixed, over 2,000 years ago, when the zodiac was first devised. Then, they corresponded to the constellation of stars that appeared behind the Sun on the day you were born. But an astronomical phenomenon, known as precession, means that the constellations have drifted since then. So which stars were you actually born under?”

She noted that this had clearly set out the intention of the guide - to explain why the astrological signs of the zodiac no longer corresponded to the astronomical constellations in which the sun actually appeared. She noted that, although the complainant would have wished the guide to include additional background information, given this context, there was no requirement under the BBC’s guidelines to include more historical or scientific detail.

She also noted that the BBC was required to consider the likely audience for its content. She noted the responses from the BBC which had addressed in turn each of the complainant’s points relating to the accuracy of the article. She considered these had been addressed in some detail and that the guide itself had taken into account the requirements of a general audience which, unlike the complainant, was not likely to be expert in the field of astronomy and astrology.

In addition the Adviser noted that section 5 of the guide was titled *Where Next?* and featured a link to an article on “what the astrologers say”. This examined the astrologer’s view of the effect of precession and included contributions from Russell Grant and the late Jonathan Cainer.

The Adviser noted that the complainant had considered his complaint to be an example of the “systemic bias” of the BBC against astrology by its inclusion of “misleading information, errors, omissions and misrepresentation”. She noted that the information provided by the complainant to support this assertion did not include any examples of instances of alleged bias.

Taking all 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 article was deceitful by conflating “signs” with “constellations”
- it played on the ambiguity of the word “stars”, misrepresented astrologers, contained factual errors and misleading wording and omissions which led to bias
- misleading, incorrect and damaging content was not acceptable because as the BBC claimed, it was “appropriate to the output and audience expectation”
- the complainant’s suggestions were not based on “historical or scientific detail” but were simple corrections
- others were misled by the article and he had submitted evidence to show that. It was disingenuous to say they had simply misunderstood
- the author was not an astronomer or an expert in astrology but was a known critic of astrology
- since the BBC had not consulted an astrologer, the BBC was not in a position to reject the claim that the article was misleading, incorrect and unfairly damaging to the livelihood and reputation of astrologers
- he had provided seven separate instances of what amounted to a BBC campaign against astrology over the years but the Adviser’s letter dealt with only this instance
- the article was part of a “negative and biased campaign” which was contrary to the Editorial Guidelines that controversial subjects should be treated with due accuracy and due impartiality and failed to be “inclusive, to consider the broad perspective and ensure the existence of a range of views are appropriately reflected”
- the article should at least contain the following disclaimer: “This article makes no claim that the Zodiac is wrong or that star signs are invalid” which were the words of the BBC complaints department.

The Panel’s decision

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

Trustees noted that the complaint had raised past matters but agreed that the focus of this appeal should be on the online article which he had complained about. It was generally impractical and disproportionate to consider complaints which were not raised within thirty working days of broadcast/publication or of the events complained of.

Trustees did not agree that the subject matter of this article, the phenomenon known as the Earth’s precession, was a controversial matter. The guidelines for reporting controversial matters did not apply to this article. The general requirement for the BBC to be “inclusive, considering the broad perspective and ensuring the existence of a range of views is appropriately reflected” applied to the BBC’s output as a whole over time.

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

- precession and the existence of a “thirteenth” constellation were known facts and periodically resurfaced as a matter of media interest
- when considering “due accuracy” the BBC was required to take into account the subject and nature of the content, the likely audience for the content and how the content was signposted

- the introduction to the guide had been clear about its intention and scope
- the guide was written from an astronomical perspective but a link was also provided to an article which included the views of astrologers on the effect of precession on the zodiac. (The article noted that precession affected an astrology system used in India and other people with an interest in Vedic astrology where the signs do shift.)
- the article was intended for a general audience and therefore used common terminology likely to be familiar to the reader. It was seeking to explain a complex astronomical phenomenon by reference to something with which nearly everyone is familiar – the concept that the reader of the guide is born under a sign of the zodiac
- the personal views of the author about astrology were not relevant as long as the guide met the requirements of the Editorial Guidelines
- published content by other media outlets submitted by the author appeared to show misunderstanding - but each outlet was writing for its own audience and choosing the language and story line that might best sell the story. The BBC could not be responsible for the way other outlets had understood and/or chose to retell the effects of precession set out in the iWonder guide
- the BBC had addressed in detail the complainant's points about inaccurate and misleading content, and Trustees agreed that
 - o in context the words "which stars were you really born under?" were duly accurate and did not imply a false claim
 - o the words "stars" and "star signs" were in common use and, whilst not technically correct in astrological terms, were used with due accuracy
 - o this was presented from an astronomical perspective and did not distort astrological claims
 - o it was not necessary to say that the zodiac had been fixed to align with the seasons to achieve due accuracy
 - o it was not inappropriate or a failure to be duly accurate or impartial to invite people to find the constellation of their birth/astronomical star sign
 - o it would be helpful if the constellations of Capricornus and Scorpius had been properly named in the script instead of being called Capricorn and Scorpio but in this context the names were duly accurate and Capricornus was shown in a graphic on screen
 - o the suggestion that the fixing of the zodiac caused problems for astronomers was a minor linking sentence and not materially misleading (but for the record astronomers knew about the concept of precession and so understood where the constellations were in relation to the zodiac)
 - o the suggestion that if the reader was born towards the end of January the sun should be in the constellation of Aquarius but in fact was in Capricornus is duly accurate as it seeks to explain precession
- Given this context the article was duly accurate and impartial.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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

Request to attend a meeting of the Editorial Standards Committee (ESC) and to forgo the word limit for appeal submissions

With regard to: Decision of BBC Audience Services not to respond further to a complaint about a lack of BBC coverage concerning multinationals using EU laws to reclaim taxes from the British government

The complainant made the following points:

- A range of newspapers had carried reports saying that the British government was having to repay billions in tax to UK based multinational companies because of European Union law, but the BBC had failed to report on this.
- The Vote Leave campaign had said that the UK government would no longer have to repay around £43 billion to multinationals in this way if the country left the European Union. By failing to report on the issue, the BBC was guilty of bias.

BBC Audience Services made the following points:

- It understood that not everyone would agree with the BBC's choices of which stories to cover and the prominence given to them.
- The decisions about what goes into a news bulletin were always judgement calls rather than an exact science and the BBC had to ensure that claims from other media outlets were factual and trustworthy.
- It was grateful for feedback about stories that listeners felt had been overlooked or marginalised and the complainant's concerns would be circulated to senior management.

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

The complainant appealed to the BBC Trust 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 that it did not.

The Adviser noted that the complainant had said that the BBC had failed to be impartial because it had chosen not to report on claims that the British government was having to repay billions in tax to UK based multinational companies because of European Union law.

The Adviser carried out an internet search and found that BBC News had published an online article on 7 June 2016 on this issue as part of its Reality Check series on claims made during the EU referendum. She noted that it stated that the claim under review was:

“Vote Leave says membership of the EU means the UK will have to pay out up to £43bn in tax refunds to multinational businesses.”

The Adviser noted that the report explained that the £43 billion was not a definite commitment but what HMRC considered to be the most the UK might have to pay if it lost every legal case against it. She further noted that the article said it was unclear how much of the potential liability was connected to cases where the UK’s membership of the EU has any impact.

A link to the full article can be found below:

<http://www.bbc.co.uk/news/uk-politics-eu-referendum-36427050>

The Adviser noted that the complaint had principally been that the BBC had failed to report the claim. She noted, however, that the BBC had reported the claim and had also included an analysis that explained that it was a figure that was open to dispute.

She noted that decisions about what stories to cover and how to report them were editorial matters that rested with the BBC; the Trust only intervened if output raised a matter that was a possible breach of the BBC’s Editorial Guidelines, which was not the case here.

The Adviser considered Trustees would be likely to conclude that BBC Audience Services 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 to Trustees

Following the decision of the Trust Adviser (dated 26 September 2016) not to proceed with the complainant’s appeal against the decision of BBC Audience Services not to respond further to his complaint, the complainant made the following request regarding a review of his appeal by Trustees:

- He said he was unable to condense his request for a review of his complaint by Trustees into 1,000 words as it was not possible to cover all the material in sufficient detail for Trustees to make an informed decision within this word limit.
- He explained that there were three elements to his complaint:
 1. an outline of the story, which he believed the BBC should report
 2. an explanation of why he thought the BBC was falling short of its Editorial Guidelines in not reporting this story
 3. an account of his dealings with the BBC, together with a critique of the article produced by the Reality Check Team on this subject.
- He said that he would prepare a detailed note for the Trustees but would like to be present when the Trustees considered his complaint because it concerned a complex subject and it was not possible to condense his concerns into the specified word limit of 1,000 words.

The Committee's decision

The Committee considered the complainant's appeal to the BBC Trust, the Trust Adviser's decision and the complainant's correspondence with the BBC.

Trustees began by considering the request to exceed the word limit of 1,000 words. They noted that the complainant had explained his position to the BBC Executive and this paperwork would be in front of Trustees when they considered his request to review the Adviser's decision. His complaint should be contained within that paperwork. The request to review the Adviser's decision should not advance new grounds or fresh arguments. In particular it was not necessary to submit a detailed critique of the Reality Check item which was not the subject of his initial complaint and which the complainant said had not been written at the time of his complaint. Trustees felt that the information already collated during the course of the complaint would suffice.

Trustees agreed that there were no reasons to make an exception to the BBC Complaints process which states that complaints should be limited to 1,000 words.

Trustees then turned to his request to attend and present his request for review in person. Trustees noted that he considered the subject to be complex and wished to present it personally.

Trustees agreed that this did not amount to exceptional reasons. The complainant had been able to explain his complaint of bias by omission to the Executive in writing and should be able to summarise his reason for disagreeing with the Adviser's decision in writing given he should not advance fresh grounds of complaint at this stage of the procedure.

The request to exceed the word limit and attend in person was refused.

Sunday Politics, BBC One, 13 March 2016

The complaint concerned an item which sought to examine how the Labour Party was dealing with allegations of anti-Semitism. A filmed report was followed by a live studio interview with the Labour MP John Mann, Chair of the All-Party Parliamentary Group against Antisemitism.

The complainant made the following points:

- the item made the assumption that the Labour Party did indeed have a problem with anti-Semitism and it was therefore biased
- apart from a 25-second clip with James Schneider, a supporter of Jeremy Corbyn, and an interview with activist Gerry Downing, there was no alternative viewpoint to the six-minute interview with John Mann and the clip of Wes Streeting
- this "massive disparity in the time allocated to those who supported the view that anti-Semitism is rampant in the Labour Party" demonstrated bias
- no evidence of anti-Semitism was provided. Andrew Neil did not challenge Mr Mann's view that there was a problem of anti-Semitism in the Labour Party nor ask him to provide examples
- Mr Neil encouraged him. There was no attempt to challenge, to probe, or to examine
- Mr Mann was not tested by Mr Neil because he shared Mr Mann's prejudices. His questions did not test the underlying assumption that anti-Semitism existed in the party ("Why has it come back?")
- Mr Neil questioned whether Jeremy Corbyn was "doing enough" referring to "his friends in Hamas and Hezbollah" - this was a distortion of Mr Corbyn's use of the word "friends" and was therefore biased
- Mr Mann was not a neutral party. He defined anti-Semitism as opposition to Zionism and support for the Palestinians and had a long record of deliberately confusing anti-Semitism and anti-Zionism.

BBC Audience Services made the following points at Stage 1:

- the item looked at allegations of anti-Semitism amongst some Labour student members at specific universities
- this was an analysis of whether or not the Labour Party had problems with anti-Semitism not a look at the Israel/Palestine situation
- the item did not suggest that Jeremy Corbyn was "racist"
- a representative from Momentum, James Schneider, was included in the item. He said that Jeremy Corbyn was attacked for his long-standing commitment to anti-war, anti-imperialism, peace in the Middle East, before adding that "he does absolutely condemn anti-Semitism ... there is not a shred of anti-Semitism in his personal make-up"
- the programme felt it was editorially justified to commission and air a film looking at whether Labour had a problem dealing with allegations of anti-Semitism
- the programme pointed out that the party itself had established an inquiry into accusations of anti-Semitism within the Labour Club at Oxford University and also learned that the chair of the inquiry had extended her investigation to include students at the London School of Economics
- the film was an accurate report of the facts which led this issue to become one of public concern and the film and the subsequent interview provided comprehensive analysis of the issue

- Wes Streeting provided a short clip for the film and Mr Mann was a live interviewee. The inclusion of a clip from James Schneider in the film meant there was a balancing voice in the piece
- Mr Mann was being interviewed in his position as Chairman of the All-Party Parliamentary Group against Antisemitism – a position he had held since 2005. The group's website said it existed "to combat anti-Semitism and help develop and seek implementation of effective public policy to combat anti-Semitism". Mr Mann therefore spoke on behalf of MPs from a range of parties represented in Parliament
- Mr Mann had been a Labour MP since 2001 so it was editorially justified to seek his view on whether or not Labour was dealing appropriately with allegations of anti-Semitism
- Mr Mann also pointed out that he had met and discussed the issue with Jeremy Corbyn and pointed out that Mr Corbyn was not in any way anti-Semitic. He said that as Chair of the APPG, he believed his party needed to take more robust action to deal with allegations of anti-Semitism.

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

- the programme did not seek to explore the question of how anti-Semitism might be defined, but the narrow question of how Labour had engaged with these criticisms
- the Labour Party was apparently approached for a representative to speak on this point but the planned guest was stood down by them. The Shadow Cabinet Minister who appeared on the programme was not prepared to discuss the issue
- this would not relieve the programme of the responsibility to meet "due impartiality" but it indicated that this was not a school of thought the Labour Party felt warranted representation in the debate
- Jeremy Corbyn's statement on the issue did not attempt to draw a distinction between what was or was not anti-Semitism, but stated a low tolerance for it, in any form
- given that context, due impartiality would not require the inclusion of someone who would argue it was not happening
- the view that this was not fair criticism and that the accusation was being used as a pretext to attack parts of the membership was aired by Gerry Downing
- the argument was also put by James Schneider that this criticism was unfair on Mr Corbyn, and arose from his commitment to peace in the Middle East
- these contributions were relatively short in the context of the whole piece but the guidelines recognised that "due" impartiality was resistant to simple quantification, and this should be judged against the context of what the report set out to explore
- no controversy attached to the idea that anti-Semitism was offensive and wrong
- although Mr Mann did not face any robust questions on his position, given that the focus of his contribution was that anti-Semitism was wrong and the problem only a small one, this did not offer evidence of bias.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 11 August 2016 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the complainant's appeal did not have a reasonable prospect of success.

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.

"Due impartiality is often more than a simple matter of 'balance' between opposing viewpoints. Equally, it does not require absolute neutrality on every issue or detachment from fundamental democratic principles."

The Adviser noted the complainant's view that the responses from the BBC had not addressed the fact that there was a long interview "whereby John Mann MP was able to assert continuously that there was widespread anti-Semitism in the Labour Party without ever being challenged by Andrew Neil". She noted he was concerned about the "massive disparity in the time allocated to those who supported the view that anti-Semitism is rampant in the Labour Party and those who didn't" and the "utter failure of Andrew Neil to challenge at any point or seriously question John Mann MP on his assertions".

The Adviser noted the introduction to the item which set out the aims of the piece:

"Does Labour have a problem dealing with allegations of anti-Semitism? The party's worried enough to have established an inquiry into the Labour Club at Oxford University where there are accusations that members used off-colour language to describe Jewish people and the Sunday Politics has been told that the investigation will now look at new claims from another university. It comes after an activist with controversial views was allowed back into the party then promptly chucked out again last week."

The piece went on to explain why the investigation was being carried out by Labour Peer Baroness Royall into the Oxford University Labour Club, the results of which were given to the NEC in May 2016 and put into the public domain in August.

The Adviser considered that this introduction clearly set out the context for the report and for the live interview with John Mann MP which followed, namely to discuss how successful the Labour Party had been in addressing allegations of anti-Semitism. Andrew Neil then posed the question to John Mann: "Is there an anti-Semitism problem in the Labour Party?" to which Mr Mann replied: "Of course there is that's why these issues have got attention. It's not a big problem but a small problem, when it comes to racism, needs to be dealt with."

The Adviser noted that John Mann was being interviewed in his capacity as Chair of the All Party Parliamentary Group against Antisemitism. She noted that he had referred to anti-Semitism within the Labour Party as "a small problem" and later on in the interview had referred to "small incidents". She did not therefore agree with the complainant that he had asserted continuously that it was widespread and that this should therefore have been challenged by Andrew Neil. She considered that viewers would have understood Mr Mann to be saying that anti-Semitism was not acceptable –either in general or particularly within the Labour Party. She noted that he said that "there's no space for... intolerant

anti-Semites in the Labour Party” and she did not consider this to be a contentious position.

She noted that in its response to the complainant the ECU had referred to a statement made by Jeremy Corbyn on the matter which suggested anti-Semitism was an issue he believed should be addressed:

“Anybody that thinks this party is not cracking down on anti-Semitism is simply wrong. We have suspended where appropriate, we’ve investigated all cases. We will not tolerate anti-Semitism in any form in our party.”

The Adviser also noted that the item itself had included different views as to why allegations of anti-Semitism in the Labour Party had been made, namely a short interview with the party activist Gerry Downing who said that the accusations were part of a “conspiracy” to attack Jeremy Corbyn and a clip of James Schneider from Momentum who said that criticism of Mr Corbyn on this issue had in part come from “his longstanding commitment to anti-war, anti-imperialism, peace in the Middle East”.

The Adviser considered therefore that given the aims and the context of the item Trustees would be likely to conclude that the interview with John Mann MP did not represent a breach of standards.

The Adviser then noted that the complainant had also complained that the report indicated an inquiry into anti-Semitism at Oxford University’s Labour Club had been extended to consider allegations of anti-Semitism at a different university. The complainant stated that this was not true and that the inquiry, when it had been published, had only referred to Oxford University.

The Adviser noted that the Labour Party’s National Executive Committee had asked Baroness Jan Royall to consider allegations of anti-Semitism at Oxford University’s Labour Club. The Adviser noted that, in addition to the comment made by Andrew Neil in the introduction, the filmed report included a description of how social media comments made by one LSE student had apparently been referred to the inquiry and quoted from the letter that had been sent to the inquiry about the comments.

The Adviser noted that Baroness Royall’s report had been published some months after the programme and agreed that it had not addressed complaints that related to other universities. However, she considered it would have been clear to audiences that the programme was reflecting its knowledge of the situation as it stood at the time and it appeared to be the case that a complaint related to another university had been sent to the inquiry for Baroness Royall’s consideration.

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 BBC responses had said that the programme was “an analysis of whether or not the Labour Party has problems with anti-Semitism”
- the programme at no stage asked whether or not anti-Semitism existed in the Labour Party but assumed it did and had allowed John Mann MP to give his opinion for six minutes
- John Mann should have been “forced to substantiate his claims through vigorous cross-examination” but Andrew Neil encouraged him to make further allegations including that Jeremy Corbyn was a terrorist sympathiser
- the “vast disparity” between the amount of time given to the contributors was evidence of bias. James Schneider of Momentum was given 25 seconds compared to Wes Streeting’s 45 seconds and over six minutes to John Mann
- referring to the Jewish vote was in itself anti-Semitic.

The Panel’s decision

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

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

- the introduction clearly set out the purpose of the item which was to consider if the Labour Party had a problem dealing with allegations of anti-Semitism
- the BBC was given editorial freedom through its Charter to decide on its editorial and creative direction and was entitled to choose the angle it wished to focus on
- John Mann MP had expressed the view that it was “a small problem” that needed to be “dealt with”; the focus of his contribution therefore was not that anti-Semitism was widespread but that it was a problem which needed to be addressed
- given this focus and the purpose of the item the interview did not demonstrate evidence of bias
- the item had included other opinions from Gerry Downing and from James Schneider from Momentum who had given their views as to why allegations of anti-Semitism in the Labour Party had been made. It was not necessary to give equal time to views to achieve due impartiality
- it was reasonable to ask: “The fact that [Jeremy Corbyn]’s talked about his friends in Hamas and Hezbollah and shared platforms with people who are very hostile to Israel and so on. Is that a disadvantage? Is that encouraging anti-Semitism or is it not relevant?” The question was carefully framed and the audience would generally be likely to understand the reference (as the complainant did)
- it was acceptable normal political practice to identify various sections of the population in terms of their vote, e.g. the women’s vote, the Muslim vote, etc. and it was not in itself offensive, when judged against generally accepted standards, to refer to a Jewish vote in this context.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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

Woman's Hour, BBC Radio 4, 4 April 2016

The complaint concerned an interview on *Woman's Hour* with the American journalist Joanna Connors about her book "I Will Find You". The book examined her search for information about David Francis, a young black man who twenty years earlier had raped her at knifepoint.

Ms Connors described how one of his sisters had been raped but had not reported the incident to police:

Joanna Connors: The most chilling moment of all the interviews I did was with Charlene, the oldest sister. We were on day two of our interviews. I had told her about my rape and at a certain point she said "I know what you went through because I have been raped too". And then she said "But I didn't report it because here I am, a prostitute, I am on drugs, who's going to listen to me?" And then she said to me "But you, you were a professional woman, you were doing your job, you didn't deserve to be raped" which implied that she thought she did deserve to be raped. And I just, my heart broke. It really did. And that says so much about the two Americas. In my research I saw the statistics. Our Justice Department has statistics where the incidence of inter-racial rape, the incidence reported of white men raping black women is zero.

Jane Garvey: And that's simply not logical is it?

Joanna Connors: And that's simply not logical. It's because black women will not report rapes, particularly by white men, because they know that they will be viewed as the criminal.

Jane Garvey: Well Joanna, I'm really interested in what you've had to say thank you very, very much. Really

The complainant made the following points:

- the BBC "colluded in encouraging racial divisions and anger" by promoting the idea that black women were likely to be treated as "the criminal" when reporting rape and that white men were therefore getting away "scot free"
- the BBC showed very poor journalistic standards in supporting, but not examining, the opinions of Joanna Connors
- by saying "that's simply not logical" the presenter Jane Garvey supported the assertion made by Ms Connors that the only explanation for there being no recorded cases of white men raping black women was that white on black rape victims felt they could not report the crime due to racism. She supported the "racist, unfounded, racially divisive point that white men must be getting away with raping black women"
- in fact the sister of the perpetrator stated to Ms Connors the reason for not reporting her rape was that she was a sex worker addicted to drugs and it was not connected to race
- the BBC misrepresented incredibly sensitive statistics in a way that was likely to incite racial divisions and resentment.

BBC Audience Services made the following points at Stage 1:

- Joanna Connors shared her experience of being raped, commenting on the racial profile of her attacker, and how the court referred to her as “the perfect victim” and David Francis as “the perfect defendant”. She said that the fact that she was white and her attacker was not, were significant factors in the case - “an explosive combination” - in the US
- Joanna explained that she did not want to be considered a white racist who was afraid of all black men - she felt her liberal outlook was the reason she decided to trust the stranger in the theatre the day she was attacked
- Joanna commented on how David Francis’ own sister had been raped. Charlene Francis gave a different reason for not reporting her own rape - whether she felt she would be believed and given a fair treatment in trial. Joanna’s account of the US having a history of “ideal” victims and defendants in an “explosive combination” had already touched on that
- Joanna’s comment on the statistics was not limited to Charlene’s specific reason for not coming forward, but to the other victims she expected to see there and the factors involved
- Jane’s interviewing sought to tease out the story based on Joanna’s experience and her shock at finding out more about her attacker and the wider picture of reported rape
- when Jane said “And that’s simply not logical is it?” she was responding to Joanna’s statement about Justice Department statistics for incidents of white men raping black women being zero, not to Joanna’s subsequent reasoning
- the wider context of the interview dealt with the impact of race on perceptions of victimhood, so although the victim did not mention her race, the author was exploring the role that race might play in the reporting of crime.

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

- Joanna Connors explained how she uncovered a history of extreme violence, sexual abuse and poverty in the family of David Francis which led her to an appreciation of the division in some parts of American society in terms of race and wealth
- it was apparent that her experience had led her to conclude black American women from poor or socially disadvantaged neighbourhoods were unlikely or unwilling to report rape, particularly by white men, because they felt they would not be believed and would be treated as if they were criminals
- she was expressing a personal view and assessment, and listeners would have judged her comments accordingly
- the statistics she cited to support her view came from the annual National Crime Victimization Survey. The survey estimated the total number of Americans who were victims of different types of crime, based on a sample of around 160,000 people. The annual statistics from 2008 showed the number of reported cases of the rape of black victims by white offenders to be statistically zero
- it would have given listeners more information if the programme had explained that the figures did not mean there were no victims of this type of crime but that the estimate was based on ten or fewer responses from the sample size, resulting in a statistical figure of zero
- the figures quoted by Ms Connors were not materially misleading when judged in the context in which they were used. She was making the broad point that, in her view, black women from deprived backgrounds did not report rape by white men because they thought they would not be believed

- the figures given by Ms Connors therefore were duly accurate and listeners would have been aware that the views she expressed were personal rather than incontrovertible or uncontested facts
- Jane Garvey suggested it was illogical to assume there were no rapes of black women by white men, despite the evidence from the national statistics. She was not endorsing Ms Connors' conclusions or inciting racial division; she was simply questioning what might reasonably be inferred from the apparent anomaly in the statistics. It did not presuppose a particular answer or endorse the explanation for that anomaly subsequently expressed by Ms Connors.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 12 August 2016 on the substance of his complaint. He made the following points:

- Ms Connors supported her opinion by citing statistics in a clear attempt to purport her views to listeners as fact and the truth. This was unchallenged by Ms Garvey. Even a cursory analysis of the statistics showed that both elements of what Ms Connors said were untrue
- if Ms Connors' views were drawing from her own experience then why did the BBC allow Ms Connors to make sweeping generalisations on the basis of her limited experience about the overall nature of society, racism and crime which were clearly false
- Ms Connors went unchallenged and she was allowed to air biased views.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the complainant's appeal did not have a reasonable prospect of success.

The Adviser noted that all BBC output was required to meet the standard of "due" accuracy and impartiality. This is defined in the Editorial Guidelines as follows:

"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."

The Adviser listened to the interview and noted that Joanna Connors spoke first of all about her own experience of rape and the American justice system. She described how the prosecutor in her case had referred to her as "the perfect victim" as a white, professional woman and had referred to the young black man David Francis as "the perfect defendant". She said these were significant factors in the case - still in the US forming "an explosive combination". She then went on to explain her decision to try to find out about what had happened to her attacker, discovering his abusive, violent and poverty-ridden childhood. Ms Connors then described how one of his sisters had been raped but had not reported the incident to police, and Ms Connors referred to the statistics which showed the incidence reported of white men raping black women is zero.

Jane Garvey: And that's simply not logical is it?

Joanna Connors: And that's simply not logical. It's because black women will not report rapes, particularly by white men, because they know that they will be viewed as the criminal.

The Adviser noted the complainant's view that Ms Connors had drawn "erroneous conclusions and assertions" from the statistics from the National Crime Victimization Survey. Given, however, the context of the interview, and Ms Connors' description of how Charlene Francis had not reported her attack because she thought no-one would believe her, the Adviser considered that rather than relying solely on the statistics, Ms Connors was expressing a personal opinion founded on her own experiences and research, particularly informed by the experiences of her attacker's sister. This had led her to the conclusion that black women in poorer and less privileged neighbourhoods in America were less likely to report rape, particularly by white men, because they were concerned that they would not be believed. The Adviser considered that it would have been clear to the listener that Ms Connors was expressing her own personal opinion and that this opinion was based on a variety of factors, including her own experience.

The Adviser noted the complainant's view that by saying "And that's simply not logical" the presenter Jane Garvey supported the assertion made by Ms Connors that the only explanation for there being no recorded cases of white men raping black women was that white on black rape victims felt they could not report the crime due to racism.

The Adviser considered the exchange and could not agree with the complainant's interpretation. The Adviser believed that by challenging the statement that "the incidence reported of white men raping black women is zero" she was questioning the statistical likelihood of no crimes having been reported. Ms Garvey was not endorsing the view subsequently put forward by Ms Connors, and the Adviser did not consider that the audience would have been led to believe that Ms Connors' view was anything other than her own opinion. The Adviser considered that the audience would have been aware that the interviewee was giving her account of her experience and that the output was duly accurate and was not in breach of the 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 taking into account all his points. He said that:

- this was "deceptive and racist misinformation"
- the statistics were misrepresented
- no blame attached to Ms Connors who was misinformed. The BBC had broadcast something utterly false and should have apologised for it, corrected it or retracted it
- it was particularly awful to suggest that a total absence of self-reporting by black women of being raped by white men was evidence of racism against black women, rather than simply evidence of an extremely low incidence of such a crime.

The Panel's decision

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

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

- the audience would have been clear that Ms Connors was giving her own opinion
- Ms Connors was entitled to express her view based on her own experience and the experience of Charlene Francis which was that black women like Ms Francis were less likely to report rape because they felt they would not be believed or would be viewed as "the criminal"
- when the presenter responded to the statement that "the incidence reported of white men raping black women [in America] is zero" she was questioning the statistical likelihood of the incidence being zero
- Trustees agreed with the ECU that, although the figure from the National Crime Victimization Survey had been repeated correctly by the interviewee, it would have given listeners more information if the programme had explained that the figures did not mean there were no victims of this type of crime but that the estimate of black victims of rape by white perpetrators was based on ten or fewer responses from the sample size of 160,000 resulting in a statistical figure of zero
- Trustees agreed with the ECU that the comments were not materially misleading when judged in the context in which they were used. The interviewee was making the broad point that, in her view, black women from deprived backgrounds in America did not report rape by white men because they thought they would not be believed
- the presenter did not endorse the interviewee's view but ended the interview by thanking her for coming on the programme and said that her views were interesting
- the BBC was not promoting or endorsing racist views or inciting racial division and anger by enabling a victim of rape to express her views on rape and what amounted to "the perfect victim" in America.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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

Ulster Rugby Live, BBC Two (Northern Ireland), 20 May 2016

The complainant made the following points:

- during the transmission of the Ulster v Leinster rugby match the BBC demonstrated bias in favour of Irish Nationalism by focusing on displays of the Irish provincial flag for Ulster
- at the 37.32 minute marker the image consisted of a sole focus on this Irish flag for a number of seconds
- the programme could have shown more of the Ulster rugby flags, but instead chose to focus on the Irish provincial Ulster flag
- the Irish provincial Ulster flag was used by Sinn Fein IRA to cause offence to the Unionist and Ulster Scot population and was viewed by elements within Unionism “as an emblem of Irish dominance, genocide and ethnic cleansing of the unionist population”
- the BBC was unable or unwilling to recognise the offence caused to elements of the Unionist population by broadcasting Sinn Fein IRA images.

BBC Northern Ireland made the following points at Stage 1:

- BBCNI referred to previous BBC replies about the same issue, including a response from the Editorial Complaints Unit (ECU) in May 2014
- Ulster Rugby supporters carried different flags and banners at its fixtures. BBCNI Sport’s coverage was mainly focused on the match being played, but would also include crowd reaction to what was happening on the pitch
- in this case the pictures used were provided by Sky (as the host broadcaster). These were accompanied by the BBC’s own commentary, presentation and analysis
- the BBC was not aware of anything to suggest that political considerations were a factor in the selection, framing or content of crowd images and the BBC had no editorial concerns about the crowd shots that were used on BBCNI television
- Ulster rugby supporters carried different banners and displays in support of their team and all of these should be reflected, as appropriate, within the coverage
- it was not part of the BBC’s role to differentiate between the Ulster provincial flag (which is also the crest of the Ulster Branch of the IRFU) or the Ulster Banner
- it was not clear whether those displaying different flags intended them to have the political meaning suggested by the complainant.

The ECU made the following points at Stage 2:

- the ECU referred to a previous response on this issue from May 2014
- the use of crowd shots was a long-established device in television; it reflected the atmosphere at a match and the reaction of fans to action on the pitch
- in this case, the coverage included a number of different shots of both Leinster and Ulster fans, usually after points had been scored, and their flags: blue Leinster club flags; white Ulster club flags; and the provincial Ulster flag
- no undue prominence was given to one flag in particular and it was reasonable to reflect the flags and banners which fans chose to display
- supporters were entitled to wave the provincial Ulster flag and any offence which might have been caused to some viewers did not go beyond what might be regarded as generally acceptable.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 22 August 2016 on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the complainant's appeal did not have a reasonable prospect of success. The Adviser noted the complainant's view that coverage of the Ulster v Leinster rugby match had been biased because undue prominence had been given in shots of the spectators to the Irish provincial Ulster flag, and that this bias had caused offence to some Unionists.

She noted that all BBC output had to meet the standards set out in the Editorial Guidelines, which included sections on both Impartiality and on Harm and Offence. She noted there was not a requirement not to cause offence (which would be impossible to achieve) but that decisions about potentially offensive output were made bearing in mind the nature and context of the output, audience expectations, editorial justification and an awareness of generally accepted standards.

The Adviser noted that the BBC had explained that the pictures of the match had been provided by another broadcaster. However, she also noted that the pictures concerned, which had inevitably included shots of the crowd and the stadium, had featured a variety of flags being waved by different supporters. She noted that these shots were clearly intended to convey some of the atmosphere of the game and the reaction of spectators to events on the pitch. The BBC had also assured the complainant that there was nothing to suggest that political considerations were a factor in the selection of pictures used.

The Adviser did not agree with the complainant that undue prominence had been given to the Irish provincial Ulster flag, nor did she consider that the output had shown bias. While she noted – and regretted - that the complainant said he had been offended by some of the shots of the crowd used during the match, she did not consider, given the context of a live rugby match, that the output went beyond what the guidelines referred to as “generally accepted standards”.

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 decision re his previous complaint was not relevant
- the BBC showed bias when it transmitted images of the Irish Ulster provincial flag during the match.

The Panel's decision

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

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

- the guidelines required that decisions about potentially offensive output were made bearing in mind the nature and context of the output, audience expectations, editorial justification and an awareness of generally accepted standards
- the BBC had explained to the complainant that the pictures used during the match had been provided by another broadcaster and there was no suggestion that there had been any political considerations in the choice of crowd images used
- the images had been used to convey the reaction of the crowd and the atmosphere of the game and a variety of different flags had been shown during the match
- this was a live rugby match and the use of pictures of spectators was a well-established device in the coverage of sporting events. The pictures broadcast did not go beyond what would be generally acceptable to the majority of the audience.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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

“Croatia Jews snub official Holocaust event over neo-Nazi sentiment”, BBC News online, 15 April 2016

The complaint concerned an online article about a number of Croatian Jews who held their own Holocaust commemoration at Jasenovac, a World War Two concentration camp in Croatia. The ceremony, held a week before the official commemoration, was in protest at what they considered to be government inaction in the face of rising neo-Nazi sentiment in the country. The complainant made the following points:

- the article was inaccurate to say that “tens of thousands died at the camp known as the ‘Croatian Auschwitz’”
- there were 83,747 named victims who were killed in the Jasenovac extermination camp and that could not be described as “tens of thousands”
- this was an insult to all victims of the Holocaust. Minimising the number of victims of one of the most sadistic death camps was “extremely cynical”
- there were 68,864 “named victims” of Auschwitz but it was widely accepted that 1.1 million people were actually killed there. As there were 83,747 “named victims” of Jasenovac it followed, using the number of named victims as a methodology to compare the real number of victims, that hundreds of thousands died at Jasenovac
- the complainant’s own research on how the expression “tens of thousands” was generally understood revealed that of the 33 participants in the research, 70% said that the expression would mean less than 50 thousand.

BBC Audience Services made the following points at Stage 1:

- although there were different estimates of the number of people who died at Jasenovac, most experts believed the number to be around 100,000
- on this basis referring to “tens of thousands” was not inaccurate
- there were widely differing estimates on the numbers of dead at the camp. It was the BBC’s understanding that the official approach in Croatia now was an estimate that 80,000-100,000 people were murdered at Jasenovac, which would tally with the 83,747 named victims cited in the complaint
- the US Holocaust Memorial Museum stated that 77,000-99,000 people (of all ethnicities) were murdered at Jasenovac.

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

- there had been a degree of controversy about the actual number of people who died at Jasenovac. Figures ranged from 20,000 to 1.4 million. The consensus, however, appeared to be that somewhere between 50,000 and 100,000 died there
- regarding the extrapolation the complainant made to compare figures for Auschwitz and Jasenovac – the consensus estimates from Jasenovac appeared to be based not just on the list of “named victims” but also on population and census data
- to say that the phrase “tens of thousands” referred to less than 50,000 did not make sense. Numbers from 50,000 to 100,000 were plainly multiples of ten thousand in exactly the same way as figures below 50,000. If they were not tens of thousands they could only be hundreds of thousands which was a nonsense. If they were neither hundreds of thousands nor tens of thousands, how were we supposed to summarise them?

- the article in question, basing its statement of the number of victims on the broadly accepted range of estimates, was duly accurate.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 5 September 2016 on the substance of his complaint. He also complained about what he saw as confusion in the complaints process and about the way his complaint had been handled. He said:

- the response from the ECU was “extremely disrespectful and cynical”
- the responses and the article itself, by minimising the number of victims, sought to justify the “murder of hundreds of thousands of Serbs, Jews and everyone else not found fit to live by the Croatian Government during WW2”

Decision of the Trust Adviser

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

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

“The term ‘due’ means that the 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 that the article had stated that “tens of thousands died at the camp known as the ‘Croatian Auschwitz’”. She noted the complainant’s view that firstly, the phrase “tens of thousands” would suggest a figure below 50,000, well below the 83,747 named victims that were known to have died at Jasenovac. Secondly, he believed that the actual figure was much higher and it was therefore “insulting” to refer to “tens of thousands”.

The Adviser considered that “tens of thousands” was a phrase that could be used to describe any figure from 20,000, and that the phrase “hundreds of thousands” was not likely to be used to refer to a figure below 200,000; therefore, she did not agree with the complainant’s assertion that readers generally would be likely to believe “tens of thousands” related to a figure below 50,000. In addition she noted that the BBC’s responses had provided evidence that suggested that, although the numbers varied somewhat, official figures relating to the number of people who died at Jasenovac appeared to be between 50,000 and 100,000. She therefore considered that the article was duly accurate.

The Adviser also noted that the complainant felt that his complaint had been handled in a way that was “extremely disrespectful and cynical”. She noted that the BBC’s Editorial Guidelines on Accountability stated that:

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

She noted the response from the ECU which had been sent to the complainant detailing its finding. She considered the response was thoughtful and well-reasoned, having carried out additional research to address the complaint. She also considered that the tone was

polite and respectful and therefore concluded that the complaint had been dealt with appropriately.

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 response from the Trust Adviser was “extremely offensive, cynical and disrespectful”
- the complainant included a link to a BBC Trust ruling in May 2008 relating to *Michael Palin's New Europe: War and Peace*, BBC One, 16 September 2007 which he considered relevant to his complaint. The BBC Trust partially upheld a complaint on accuracy and impartiality relating to the portrayal in the programme of the role of Serbia in the Balkan conflict in the 1990s.

The Panel's decision

A panel of the Committee considered the points made by the complainant, the BBC and the Adviser. Trustees agreed that if they took this matter on appeal they would not be likely to uphold a breach of the Editorial Guidelines given that:

- although the numbers generally quoted of people who died at Jasenovac varied, the BBC had explained that official figures appeared to be between 50,000 and 100,000
- the phrase “tens of thousands” could be used to refer to a figure below 100,000 and its use in this context would therefore be duly accurate
- the response from the Adviser had been thoughtful, appropriate and polite in tone
- the ruling by the BBC Trust in May 2008 concerned a different programme and different issues and was not relevant to this complaint.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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

Appeals against the decisions of BBC Audience Services 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 Procedure⁵ 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.

⁵ 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 concerning BBC News reporting about 9/11

The complaint concerned an allegation of inaccurate reporting in relation to the collapse of the “little known 3rd tower” on 9/11. The complainant made the following points:

- The BBC had claimed in its output that World Trade Center 7 (WTC 7) did not fall at free-fall speed on 9/11, 2001.
- In November 2008 the official US report into the tower’s collapse stated that the building did fall at free-fall speed, which meant that all structural support had failed at the same time and this could only be achieved by pre-planned demolition.
- The BBC had failed to correct their statements on this tower’s collapse and failed to follow up an issue of monumental importance.
- The BBC appeared happy to ignore scientific fact even when it pointed to criminal behaviour and cover-up at the BBC.
- Despite the BBC’s “30 day deadline” for submitting complaints, the scientific fact referred to in his original complaint did not arise until after the deadline, but still remained a fact of the highest importance.

BBC Audience Services made the following points:

- In view of the length of time that had passed since the BBC broadcast the reports in question, they judged the complaint to be outside the complaints process time frame.
- They said they had nothing further to add and 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 of his complaint. He made the following points:

- To this day, the BBC had failed to correct an error of huge importance regarding the collapse of WTC 7 which actually fell at free-fall speed necessitating a controlled demolition and thus foreknowledge of the whole event of 9/11.
- The BBC had denied this and broadcast fiction as fact. Yet due to the 30 day rule, the BBC was hiding behind a very inconvenient fact of physics.
- He provided links to various external websites in support of his views.

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 acknowledged the complainant’s belief that the BBC ought to correct a previously broadcast statement about the collapse of WTC 7, also known as the third tower, in 2001. She noted his view that he had supplied evidence proving that the tower collapsed as a result of a pre-planned demolition and that he considered this fact had been covered up since the publication of a US report about the collapse of the tower in 2008.

The Adviser noted that Audience Services had explained that complaints could only be investigated under the terms of the BBC Complaints Framework if they were made within 30 days of broadcast of the content which had given rise to the complaint. As the attacks of 9/11 occurred in 2001, and the US report to which the complainant referred was published in 2008, Audience Services had therefore deemed the complaint to be outside the time limit for consideration.

The Adviser noted that Audience Services had explained that the complaint was outside the scope of the BBC Complaints Procedure because it did not refer to a specific piece of BBC output from the last 30 days.

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 felt the BBC was hiding behind its self-given rules and regulations as a means of avoiding addressing the serious allegations he had made.

The Panel's decision

A panel of the Committee considered the points made by the complainant, the BBC and the Trust 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 complaint was submitted outside the time frame specified in the BBC Complaints Framework.

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 complainant did not refer to a specific piece of BBC output from the last 30 days.
- Third party complaints would only be investigated under the terms of the Editorial Complaints Procedure if they were made within 30 days of broadcast or publication of the content which had given rise to the complaint.
- Trustees had not seen evidence that would be likely to lead them to conclude that an exception should be made in terms of considering a complaint which was submitted outside the 30 day time limit.

Trustees also agreed that the complainant had received reasonable and reasoned replies from Audience Services.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 bias shown against Jeremy Corbyn in BBC News coverage

The complainant made the following points:

- BBC News coverage over the past ten months had shown bias against Jeremy Corbyn
- recent research by the Media Reform Coalition and Birkbeck, University of London had demonstrated this bias
- the research looked at stories around the Labour leadership crisis, the party's planned anti-Semitism report and Mr Corbyn's response to the Chilcot report
- the conclusions of the report should be specifically addressed in the BBC's response.

BBC Audience Services sent a consolidated response which made the following points:

- the events within the Parliamentary Labour Party, (PLP), since the Brexit vote, had been unprecedented, with the majority of Mr Corbyn's frontbench team resigning, and with him losing a no-confidence vote of Labour MPs by 172-40, but still remaining as leader
- there had been calls for him to resign from many senior figures within the Labour Party, including former leaders Lord Kinnock and Ed Miliband
- BBC coverage had, however, also featured supporters of Mr Corbyn from within the PLP, such as John McDonnell and Diane Abbott
- the BBC understood that the views of the PLP were not necessarily representative of all Labour members. It had also reported the pro-Corbyn demonstrations, covered Mr Corbyn's speeches to his supporters, and featured many Labour members who backed Mr Corbyn and believed he should remain as leader
- coverage had included analysis of why Mr Corbyn had been able to galvanise so much support amongst Labour members, and why so many new members had joined the party since his election as leader last year
- in terms of the current Labour leadership contest the BBC had reported arguments surrounding the rules of the contest, and featured a range of voices from across the debate. It had also given Mr Corbyn, and his challenger for the leadership, Owen Smith, ample time to explain their policy platforms and reasons for standing
- BBC News had not taken a position on whether or not Mr Corbyn should remain as Labour leader, but the coverage had reflected the significance of this story, as well as the divisions within the party
- BBC Audience Services would not comment on research carried out by outside organisations.

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 19 August 2016 on the substance of his complaint. He was unhappy to have received a "generic" response.

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 standard of "due impartiality" which, under the Editorial Guidelines, is 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 Editorial Guidelines also state:

"News in whatever form must be treated with due impartiality, giving due weight to events, opinion and main strands of argument."

The Adviser noted the complainant's view that BBC coverage of Jeremy Corbyn was biased. She noted the response from the BBC which had outlined in detail the stories that the BBC had covered across a range of its output. These included issues surrounding Mr Corbyn's leadership and voices critical of him but had also included demonstrations in his favour and voices supportive of him. The BBC had also outlined its approach to coverage of the Labour leadership contest and had explained its commitment to featuring a broad range of voices and opinions across the output.

The Adviser noted that the complainant had included a link to a recent report by Birkbeck, University of London and the Media Reform Coalition "Should he stay or should he go? Television and online news coverage of the Labour Party in crisis" from July 2016. The complainant had requested that the BBC respond to the individual criticisms within the report. However, she noted that the BBC had explained to the complainant that they were not able to comment on research carried out by other organisations.

The Adviser noted that the complainant had not included any specific examples of bias of his own but had been unhappy that the BBC had sent him a generic reply. She noted that it had explained in its response that

"we have received a wide range of feedback about our coverage of this story across our news programmes and bulletins. Keeping in mind pressures on licence fee resources, this response seeks to address the key points raised. That said, we apologise in advance if your complaint has not been specifically addressed here."

The Adviser noted that the BBC's Editorial Complaints and Appeals Procedures allowed that, in the interest of all licence fee payers, "If the BBC receives a number of complaints about the same issue, it may compile a summary of the range of issues raised; consider them together across the full range of issues identified; and send the same response to everyone".

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.

The Panel's decision

A panel of the Committee considered 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 noted the initial complaint:

- identified the research by the Media Reform Coalition and Birkbeck, University of London, which covered 40 television news bulletins on BBC One and ITV and 465 online news articles from 8 websites, between 27 June and 6 July
- said that it looked at stories around the Labour leadership crisis, the party's planned anti-Semitism report and Corbyn's response to the Chilcot report, and
- concluded Jeremy Corbyn was "systematically" attacked by British press in his first few weeks as Labour leader.

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

- The Editorial Complaints and Appeals procedure states that
 - Your complaint should include:
 - 2.5.1 the name / title of the broadcast or publication you are complaining about;
 - 2.5.2 the date and time of the broadcast or publication;
 - 2.5.3 the channel or service on which it was broadcast, or the web address on which it was published;
 - 2.5.4 the nature of the complaint (giving reasons why you are dissatisfied with the BBC) and (where possible) the particular parts of the programme or publication you are complaining about;...
 - The inclusion of these details (or as many of them as possible) is very important. A failure to provide them may mean that the BBC is not able to look into your complaint...
 - Your complaint should include all of the points about the item that you wish to be considered as the BBC may not consider new or different points after Stage 1a of the Procedure has concluded.
- there was no reference in his correspondence to specific instances of coverage within a particular programme or programme strand which he considered had not met the editorial requirement for due impartiality
- Trustees did not consider they would be likely to conclude that BBC News was obliged to comment on or act on the findings of a third party research study when interpreting the BBC's editorial guidelines in relation to BBC content
- the BBC had explained in detail to the complainant the wide range of coverage relating to Jeremy Corbyn and the issues surrounding his leadership of the Labour Party

- in the absence of any specific examples provided by the complainant the BBC had sent a consolidated response in line with the BBC's Editorial Complaints and Appeals Procedures
- the BBC had set out its reasons for sending a consolidated reply which explained this was in the interests of providing a cost-effective service to all licence fee payers
- the BBC had explained why it was not able to comment on research on its coverage of news stories carried out by other organisations.

Trustees agreed that the complainant had received a reasonable and reasoned reply from Audience Services.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 at Six, BBC One, 16 June 2016

The complaint concerned remarks made by Sports Editor Dan Roan during a live two way on the *BBC News at Six* about the England v Wales Euro 2016 match. The complainant made the following points:

- Dan Roan said that “at half time Roy Hodgson’s job hung by a thread” and he “took a gamble” on the substitutes he brought on to play
- these remarks were at best “speculative” and at worst “a lie” if made without knowledge
- the comments would have been subjective
- this reporting was neither objective nor impartial and was misleading.

BBC Audience Services made the following points:

- the report underlined the significance of the fixture for both teams before highlighting the goals that claimed England’s win
- Euro 2016 coverage often considered the expectations of leading managers. Later in the report Dan noted how England’s unsuccessful first half mounted pressure on Roy Hodgson and led to the manager’s revised strategy. Dan then underlined Roy Hodgson’s tactical nous, suggesting his improvements would be widely lauded
- Dan’s report offered a fair reflection of the fluctuating fortunes of high-level management
- they noted that the complainant considered the comments were “subjective” but they considered Dan Roan was giving his “informed professional opinion” – which was normal journalistic practice.

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 28 August 2016 on the substance of his complaint. He referred to the BBC’s Editorial Guidelines on Accuracy which stated that output should be “based on sound evidence”. He also said that the BBC’s approach to his complaint had been “dismissive”.

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 the BBC’s Editorial Guidelines allowed BBC presenters and reporters to: “provide professional judgements, rooted in evidence”, but stated that they should not: “express personal views in BBC output, including online, on such matters”. She noted that the complainant felt that the comments by Dan Roan were “speculative” and misleading.

The Adviser noted what had been said during the live two-way which followed a filmed report of the match:

“Well that was a major win for England - their first, would you believe, in a major championship for four years, their first having been behind at half time in a major tournament ever. At half time, make no mistake, Roy Hodgson’s job was hanging by a thread - now, no doubt, he’ll be hailed as something of a genius because those substitutions swung the game in England’s favour. He gambled on his team, he gambled on his future and it paid off in spectacular fashion.”

The Adviser considered that, in referring to Roy Hodgson’s job as “hanging by a thread” Dan Roan was providing a professional judgment. She noted that he cited England’s performance in previous championships and considered that the chequered fortunes of previous managers were likely to be known to viewers. She considered there was no indication he was expressing his own opinion as to whether or not Roy Hodgson should remain in his post. In terms of whether the report was duly accurate, she considered that it was within audience expectations for sports journalists to reflect how a manager’s security of tenure was closely related to their team’s performance – and noted that this was reflected in his other comments regarding the substitutions made by Roy Hodgson during the game. She noted that he had gone on to say that he would be “hailed as something of a genius” and that the “gamble” had “paid off in spectacular fashion”. The Adviser considered that the audience would have understood that he was providing a professional judgement and would not have been misled.

The Adviser also noted that the complainant felt the BBC had been “dismissive” in dealing with his complaint. She noted the correspondence that had passed between them and considered the BBC’s responses had been thorough in explaining the context of, and reasons behind, the comments. The responses had also been helpful and polite in tone.

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 use of the metaphor “hanging by a thread” and the word “gamble” were questionable as fact unless Dan Roan knew they were true. If they were not true then they remained contrary to the BBC’s Editorial Guidelines
- “hanging by a thread” implied “immediate” and that was not the case as England still had one more match to play in the group stage and Roy Hodgson would have remained in post for at least one more game
- to report that Hodgson “gambled” without knowing his thoughts and intentions was “speculative” and at worst “a lie”
- Hodgson had made substitutions as he was entitled to do and England was well placed in their group. When placed against simple facts and reality why did Roan take a tone of “emotional, melodramatic and speculative” reporting

- the Adviser's view that "the audience would have understood that he was providing a professional judgement and would not have been misled" was "dismissive"
- this was an early evening news programme not a sports programme. The Adviser made an unfair and prejudged assumption about the audience expectancy and that was used as a reason for not considering the complaint in a thorough and objective manner
- the phrase "appropriate, proportionate and cost-effective" appeared four times in the response which was intimidating especially when considered with "no reasonable prospect of success" which was cited three times. Such emphasis on these criteria was arbitrary, unsettling and intimidating.

The Panel's decision

A panel of the Committee considered 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 a breach of the Editorial Guidelines given that:

- the guidelines allowed for presenters and reporters to provide professional judgements, rooted in evidence, but not to express personal views in BBC output
- specialist journalists were employed by the BBC to give their professional judgement on a range of issues based on their knowledge and experience
- Dan Roan's comments regarding the future of Roy Hodgson had been made in the context of England's previous record in major championships and had been followed by the view that at the end of the game England's win meant he would be "hailed as something of a genius"
- regardless of the type of programme on which the comments were broadcast, the audience would have understood such comments from a Sports Editor to be a professional judgement rather than a personal view on Roy Hodgson's tenure as manager.

On the issue of complaints handling, Trustees agreed that if they took this element of the matter on appeal they would not be likely to uphold it given that:

- the responses from the BBC and then from the Adviser had explained thoroughly their reasoning within the context of the Editorial Guidelines
- the tone of the replies was polite and considerate and the complainant had been dealt with fairly and appropriately.

Trustees also agreed that the complainant had received a reasonable and reasoned reply from Audience Services.

It was regrettable that the complainant found the uses of the phrases "appropriate, proportionate and cost-effective" and "no reasonable prospect of success" to be "unsettling and intimidating". However, the BBC and the Trust were mindful of pressures on licence fee resources and were charged with providing a cost-effective service in the interests of all licence fee payers. It was important therefore to explain clearly to

complainants why the Trust was not obliged to consider every appeal brought to it. The language used was intended to be clear and informative.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 bias against Jeremy Corbyn

The complaint concerned an allegation of BBC News bias against Labour Party leader Jeremy Corbyn. The complainant made the following points:

- A study by the Media Reform Coalition and the University of London had shown scientifically that BBC News coverage of Jeremy Corbyn had been systematically biased.
- In light of the results of this study, the complainant said it was imperative that the BBC take steps to save its reputation as a trustworthy broadcaster, not to mention a publicly funded institution with a public service remit.
- Those responsible for the bias should be removed from their jobs.
- He said the response from Audience Services to his complaint did nothing to refute the study he had cited, but had instead cherry picked a few examples where the BBC had given pro-Corbyn voices a platform.
- He did not feel Audience Services understood how evidence worked, or perhaps hoped that he himself did not understand how evidence worked.
- He said the entire point of the study was that it had evaluated the BBC's coverage as a whole so the response to his complaint was derisory.
- He believed the BBC must either demonstrate that the study was wrong in some way or it must acknowledge that the study was correct and then take steps to fix the problem by firing those people who had brought the BBC into disrepute.
- He was disgusted at the attempts made to use the licence fee as an excuse not to give his complaint a better response. He said he was well aware of the licence fee because when he thought about how the BBC's anti-Corbyn platform was funded by his own money he was furious.

BBC Audience Services made the following points:

- The BBC had received a wide range of feedback about this issue. Keeping in mind pressures on licence fee resources, their response sought to address the key points raised by complainants. They apologised in advance if the complainant felt his specific concerns had not been specifically addressed.
- The tumultuous events within the Parliamentary Labour Party (PLP) since the Brexit vote were unprecedented, with the majority of Mr Corbyn's frontbench team resigning and a no-confidence vote of Labour MPs by 172-40. He had received calls to resign the leadership of the Labour Party from many senior figures within the Labour Party, including former leaders Lord Kinnock and Ed Miliband. BBC news coverage had, however, also featured supporters of Mr Corbyn from within the PLP, such as John McDonnell and Diane Abbott.
- The BBC appreciated that the views of the PLP were not necessarily representative of all Labour Party members. BBC News had reported on the pro-Corbyn demonstrations, covered Mr Corbyn's speeches to his supporters, and featured many Labour members who backed Mr Corbyn and believed he should remain as leader.
- BBC coverage had included analysis of why Mr Corbyn had been able to galvanise so much support amongst Labour members and why so many new members had joined the party since his election as leader last year.
- In terms of the current Labour leadership contest, the BBC had reported on arguments surrounding the rules of the contest and featured a range of voices

from across the debate. The BBC had also given Mr Corbyn, and his challenger for the leadership, Owen Smith, ample time to explain their policy platforms and reasons for standing.

- BBC News had not taken a position on whether or not Mr Corbyn should remain as Labour leader, but news coverage had reflected the significance of this story, as well as the divisions within the party.
- In response to the follow-up complaint, Audience Services said that if the complainant wished to raise a concern about a specific item of BBC content, they would be happy to assist but they were not able to comment on the views of third parties.
- They said they had nothing further to add and 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 of his complaint. He made the following points:

- The study published by the Media Reform Coalition (MRC) and the University of London had demonstrated, empirically, that during the PLP rebellion against Mr Corbyn after the Brexit vote, the BBC's flagship news programme failed to provide balanced coverage of Mr Corbyn, unlike ITV's rival show.
- He considered this bias had been clear in the BBC's coverage but considered that the evidenced nature of this study meant that it could not be dismissed.
- He considered the BBC had failed to reach the standards of impartiality required by Ofcom. He considered Audience Services had selected a small number of stories from the entirety of the BBC's coverage and did not consider this was a reasonable response to the published paper he had referred to.
- The responses to his complaint by Audience Services were derisory and dismissed his complaint on two grounds:
 - It was a third party complaint. Was the BBC suggesting that he could not draw on a scientific study to support his complaint? Was he only allowed to rely on his own perceptions, which of course would be dismissed out of hand for lacking evidential weight?
 - If evidence of systematic bias by the national public service broadcaster against the opposition party leader was not significant or of general importance, he would love to know what was.
- He considered this was a very important issue and that the BBC should demonstrate why it considered the study was wrong, using evidence, or it must acknowledge the study was correct, and then take steps to fix the problem.

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 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 also noted that the BBC sought to provide a broad range of subject matter and perspectives over an appropriate timeframe across its output as a whole.

She noted that the complainant had not referred to any specific item of news coverage but instead had complained that the BBC's news coverage as a whole was biased and that he considered this was empirically demonstrated by a recently published study by the MRC and the University of London. She noted that the Complaints Procedure explained that complaints should be about a specific piece of BBC output and made within 30 days of broadcast or online publication.

The Adviser agreed that the complainant was entitled to draw on supporting material. However, she noted that his complaint about bias was made in very general terms, and although at the appeal stage he had referred to the BBC's "flagship programme", there was no reference in his correspondence to specific instances of coverage which he considered had not met the editorial requirement for due impartiality.

In response to this general complaint, the Adviser considered it reasonable for Audience Services to explain that BBC News had not taken a position on whether or not Mr Corbyn should remain as Labour leader, but had reflected the significance of the story, as well as the divisions within the party. She had not seen evidence which she believed would be likely to lead Trustees to conclude that there had been a breach of the Editorial Guidelines.

The Adviser noted that the complainant felt that Audience Services had been dismissive of his concerns. Having reviewed the correspondence, she noted that Audience Services had explained that if the complainant wished to raise a concern about a specific item of BBC content, they would be happy to assist but they were not able to comment on the views of third parties. With regard to the study cited by the complainant, the Adviser noted that it was BBC policy not to respond to outside research.

She noted that Audience Services had issued a consolidated response to the complainant, having received a wide range of feedback on the issue, and had apologised in advance if the response did not address his key points of concern. She acknowledged that the complainant was unhappy that he had not received a more individualised response and that he felt it was not appropriate for the BBC to cite its responsibility towards licence fee payers as an "excuse" not to investigate his complaint further. However, she noted that the complaints process had to work in the interests of licence fee payers generally – and that the complaints process allowed for consolidated responses to be sent in response to complaints that raised similar issues in the interests of efficiency. She considered that Audience Services had reasonably explained why they had issued a consolidated response and she had not seen evidence that Audience Services had failed to apply the BBC's Complaints Procedure appropriately.

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 made the following points:

- He had cited an academic study which concluded that the *BBC News at Six* programme was markedly biased against Jeremy Corbyn during the Labour “coup” following the Brexit vote. Given the BBC’s charter, it should have either produced an analysis that refuted the original study, or it should have publicly accepted it, and taken serious remedial steps to ensure that in future the nation’s broadcaster did not fail to cover major political events in an even-handed manner.
- The original response he received from BBC Audience Services which stated that BBC News did include positive coverage of Jeremy Corbyn did not address his complaint. The study he had cited showed that on *BBC News at Six*, critics of Corbyn received almost twice as much coverage as supporters did (p.9 of report), and that stories were almost exclusively framed in terms negative to Corbyn (p.11).
- The response of Audience Services was irrelevant because a) his complaint was specifically with *News at Six*, the BBC’s flagship news programme, and b) selecting a few positive stories about Corbyn did nothing to challenge a study which considered coverage as a whole. To suggest otherwise was simply “cherry picking” evidence, and provided no basis on which to form an empirically supportable claim.
- The only other defence made by Audience Services was that they would not comment on “views of third parties” - i.e. the academic study the complainant had cited. He said that if he were to make a complaint of bias to the BBC based on nothing but his own opinion, it would be rejected, rightly, for being nothing more than that - opinion. But if he cited a scientific study, Audience Services appeared to be suggesting that it was invalid. As a scientist himself, he found it deeply unsatisfactory to attempt to disregard serious evidence in this manner.
- He was unclear about what line the BBC was attempting to take on this matter, given that the Trust Adviser’s subsequent response had been contradictory and little short of absurd in stating that, in respect of the study, he was “entitled to draw on supporting material”, but also stating that it was BBC policy not to respond to outside research.
- The Trust Adviser had made a claim similar to that made by Audience Services: “the BBC sought to provide a broad range of subject matter and perspectives over an appropriate timeframe across its output as a whole”. This was cherry picking and too vague, and seemed to assume that “output as a whole” was the only relevant metric. Surely if one programme, particularly the most watched, was systematically biased, the content of the BBC website was irrelevant.
- The Trust Adviser wrote: “the complainant had not referred to any specific item of news coverage but instead had complained that the BBC’s news coverage as a whole was biased”. The complainant said this was incorrect; in the first paragraph of his appeal he had specified the “BBC’s flagship news programme”. He said he acknowledged he had made a mistake in assuming that the report he referred to would be consulted, given he was citing it as grounds for complaint. As a result, he said he did not repeat the entire contents of the report. For clarity, he said his complaint concerned the findings of the MRC report, which was that *BBC News at Six* was, over the period in question, biased against Jeremy Corbyn.
- The Trust Adviser had noted that “complaints should be [...] made within 30 days of broadcast”. The complainant said it was not clear if it was being suggested that his complaint was being discounted on a technicality as a result of this. He asked for clarity on this point. He said that the evidential basis for his complaint was not

available within 30 days of it happening - though for formal scientific analysis it was available very quickly.

- He did not agree with the Adviser's statement that she "had not seen evidence which she believed would be likely to lead Trustees to conclude that there had been a breach of the Editorial Guidelines". He said the Adviser had not read the study he was citing which showed, prima facie, a breach of Editorial Guidelines.
- He found it disturbing that the BBC was apparently uninterested in dispassionately assessing the claims made in the cited MRC report. Serious work had been produced which suggested that *BBC News at Six* showed a political bias which must surely be in breach of Editorial Guidelines; yet from the responses he had received it seemed that no assessment of the report had been made. He believed that the MRC analysis raised serious questions about BBC content and he expected these questions to be properly addressed.

The Panel's decision

A panel of the Committee noted the points made by the complainant, the BBC and the Trust 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 noted that the complainant had cited the report and made a general allegation of bias based on it in these terms:

"Now that we have the study by The Media Reform Coalition and the University of London which shows scientifically that BBC News coverage of Corbyn has been systematically biased, it is imperative the BBC take steps to save its reputation as a trustworthy broadcaster, not to mention a publicly funded institution with a public service remit, and remove those responsible for this bias from their jobs. The current situation is indefensible for any TV newscaster held to TV impartiality rules, let alone the BBC."

Trustees noted that the time limit of 30 working days for submitting complaints referred to the length of time that elapsed between broadcast or publication of the specific piece of BBC content that was the subject of the complaint. The complaint was made on the 29 July. The research cited was about broadcasts and online content between 27 June and 6 July 2016. The complaint was theoretically in time.

However, 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 Editorial Complaints and Appeals procedure states that
 - Your complaint should include:
 - 2.5.1 the name / title of the broadcast or publication you are complaining about;
 - 2.5.2 the date and time of the broadcast or publication;
 - 2.5.3 the channel or service on which it was broadcast, or the web address on which it was published;
 - 2.5.4 the nature of the complaint (giving reasons why you are dissatisfied with the BBC) and (where possible) the particular parts of the programme or publication you are complaining about;...

- The inclusion of these details (or as many of them as possible) is very important. A failure to provide them may mean that the BBC is not able to look into your complaint...
 - Your complaint should include all of the points about the item that you wish to be considered as the BBC may not consider new or different points after Stage 1a of the Procedure has concluded.
- The complaint about bias was made in very general terms, and although at appeal stage the complainant had referred to the BBC's "flagship programme", there was no reference in his correspondence to specific instances of coverage within a particular programme, or programme strand, which he considered had not met the editorial requirement for due impartiality. Nor was it clear until he asked the Trust to review the Trust Adviser's decision that he considered the *News at Six* to be the flagship programme he was referring to (the research referred to both the *News at Six* and *News at Ten*).
- Trustees did not consider they would be likely to conclude that BBC News was obliged to comment on or act on the findings of a third party research study when interpreting the BBC's editorial guidelines in relation to BBC content.

Trustees agreed that the complainant had received reasonable and reasoned replies from Audience Services.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 reporting of Prime Minister David Cameron's resignation, 24 June 2016

The complaint concerned BBC News coverage of the Prime Minister's resignation which the complainant believed was neither accurate nor impartial. The complainant made the following points:

- Having previously assured the British public before the EU Referendum that he would remain in post in the event of a "Leave" vote, David Cameron announced the day after the vote that he was going to resign. His resignation speech made no mention of the fact that he had done an "about-face", nor did the BBC refer to this in any of its news programmes that day, although other non-UK media did.
- In his speech outside Downing Street on the 24th, the Prime Minister said he hoped a successor would be in place before the Conservative Party Conference in the autumn. This was factually misreported across the BBC as his having said that the conference should choose the next leader. The complainant said this was a "fantastically serious error".
- He considered his complaint had not been answered and said he would seek the dismissal of the member of Audience Services staff involved.
- He noted earlier campaigning work that he had been involved in and asked for his complaint to be forwarded to the Editorial Complaints Unit.
- He stated that, irrespective of the outcome of the complaint, he would draw the behaviour of the member of staff from Audience Services to the attention of the Department for Culture, Media & Sport select committee as he considered his complaint had not been handled in a transparent way.

BBC Audience Services made the following points:

- The level of detail the BBC provided and the areas on which it chose to focus when covering a story meant that difficult decisions had to be made by news teams, particularly when covering live breaking news of this nature.
- The BBC had to be selective in terms of which aspects it touched on and appreciated that viewers would at times be disappointed if a particular element of a story was not addressed.
- In relation to the complainant's point about some news reports claiming that the Conservative Party conference would "choose the next leader", he did not state when or in which programme this error occurred so it was difficult for Audience Services to address his concern directly.
- However, having reviewed coverage on the BBC News channel in the hours following the Prime Minister's announcement, it was made clear on a number of occasions that a new Prime Minister would be in place before the October conference got under way. For example, in his summary of the morning's events, BBC Assistant Political Editor Norman Smith stated that David Cameron would "remain until the party conference in October".

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 of his complaint. He said that regardless of the outcome of his appeal, he would take the matter up with his MP and the Secretary of State for Culture, Media and Sport. He felt the BBC's reporting of David Cameron's resignation represented "an outrageous cover-up".

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 standard of "due accuracy" and "due impartiality" which, under the Editorial Guidelines, meant that the accuracy and 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 acknowledged the complainant's views about how the BBC should have reported the Prime Minister's resignation in the context of the "Leave" vote. She noted that he felt the BBC should have commented on the Prime Minister's previously stated intention that he would remain as Prime Minister following a "Leave" vote, and he felt that other non-UK media had reported the subject more appropriately. She also noted that the complainant had not cited any specific output.

She noted that Audience Services had stated:

"...it was made clear on a number of occasions that a new Prime Minister would be in place before the October conference got under way. For example, in his summary of the morning's events, our political correspondent Norman Smith clearly stated that David Cameron would 'remain until the party conference in October'."

The Adviser noted the complainant's continued dissatisfaction and that he stated to Audience Services:

"You pretend to be unable to find the footage of the presenter's error (which in fact was repeated five times between 1100h and 1400h)"

The Adviser noted that David Cameron's resignation speech had been broadcast in full and it had included the following information about the timetable of his departure:

"There's no need for a precise timetable today, but in my view, we should aim to have a new Prime Minister in place by the start of the Conservative Party Conference in October... I will continue in post as Prime Minister with my cabinet for the next three months".

She noted that during the following news bulletin, the news reader included a headline at the start of the bulletin, which stated: "...the Prime Minister, David Cameron, has announced that he will step down by October" and in the body of the bulletin, said:

"David Cameron has announced that he is to step down as Prime Minister, Mr Cameron who argued strongly for the remain campaign said the will of the people

must be respected and fresh leadership was required, with a new Prime Minister by October.”

The Adviser noted that virtually the same formulation was used in the following hour’s bulletin, except that that also acknowledged David Cameron had by then travelled to Buckingham Palace to notify the Queen of his intention to resign. The Adviser noted that Audience Services had drawn attention to the two-way with the Assistant Political Editor, Norman Smith, as being one occasion that it was made clear that a new Prime Minister would be in place before the October party conference. She looked at the two-way and noted that Mr Smith said:

“Mr Cameron has announced he is standing down. He says he will remain until the party conference in October...”

She noted that he then set out the process for selecting the Conservative Party leader:

“The leadership contest will begin now – I understand some of the likely players are already considering their options. It has to begin now just because of the mechanics of the leadership contest, because the party membership have to choose, eventually, between two candidates – that’ll take about a month’s worth of ballot papers being sent out, so that brings you back to the end of August. The MPs will have to choose who those two are, well parliament goes into recess in July, so they have to decide now. So that leadership process will begin now, Boris Johnson very obviously in pole position...”

The Adviser noted that during the morning’s reporting, the output included reporting on the results and voting patterns across the UK; broadcasting David Cameron’s resignation speech and following the process of him going to Buckingham Palace; taking responses to the Leave decision from around the UK; following the divided reception that Boris Johnson had been given when he left the house and, later, broadcasting the statements of the Leave campaigners, Gisela Stuart, Boris Johnson and Michael Gove; broadcasting the response of the UKIP leader Nigel Farage; broadcasting reports from the city in terms of the value of sterling and the response on the stock exchange; discussing what the implications of the vote were for the Labour party, the renewed pressure on Jeremy Corbyn and the vote of no confidence in him; discussing the implications for Scotland and the likelihood of a second independence referendum; broadcasting responses from world leaders, including Angela Merkel.

While the Adviser noted the complainant would have preferred that the output had also addressed David Cameron’s previous commitment to remain in post in the event of a Leave vote, she did not consider there was any requirement to do this in terms of impartiality. She noted that decisions about what to include in its reports and what angles to pursue were matters of editorial judgement that rested with the BBC. The Trust only had a role if there was a possibility that the Editorial Guidelines had been breached, which she did not consider was the case here.

The Adviser noted that the complainant considered the BBC had broadcast inaccurate information and had repeatedly stated that the next Conservative Party leader would be chosen at the Party Conference. However, for the reasons set out above, the Adviser concluded there was no information that indicated the output had not been duly accurate.

The Adviser noted the complainant was also dissatisfied with the way his complaint had been handled. However, she considered the answers that had been given by Audience

Services were helpful and reasonable and drew the complainant's attention to relevant output. Therefore she did not consider this element of complaint had a reasonable prospect of success either.

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 made the following points:

- He had originally raised two issues:
 - i) The failure to mention the Prime Minister's "about-face" on the question of standing down. The complainant said this was a subjective matter and he remained convinced that it was so significant that any reasonable person would have expected it to be mentioned.
 - ii) Between the precise times he had stated, Norman Smith repeatedly made the false statement to which the complainant had referred. He felt that the Trust Adviser had created a "smoke and mirrors" effect by "spinning a web of detailed associated material". He said she had not mentioned or admitted that this false statement was actually made. He felt it was clear from all the BBC correspondence that the personnel involved in the complaints procedure were not tasked with seeking the truth but with providing post facto justifications.
- He thought this issue was all the more significant in the light of what he believed to be regular and grave errors in news reporting. He cited two recent examples.

The Panel's decision

A panel of the Committee considered the points made by the complainant, the BBC and the Trust 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 a breach of the Editorial Guidelines given that:

- The Royal Charter made it clear that the creative and editorial direction of the BBC was a matter for the BBC Executive (Royal Charter, Article 38 (1) (b)).
- Decisions about which stories to include in BBC news reports and what angles to pursue when reporting particular stories were matters of editorial judgement that rested with BBC News Editors.
- The BBC had explained at Stage 1 that the level of detail the BBC provided and the areas on which it chose to focus when covering a story meant that difficult decisions had to be made by news teams, particularly when covering live breaking news of this nature.

- There was no obligation upon the BBC in reporting the Prime Minister's resignation speech to provide contextual comment on David Cameron's previously stated commitment to remain as Prime Minister in the event of a Leave vote.
- Given the speech was carried by the BBC which set out the ambition that a new Conservative Party leader should be in place by the Party Conference and given the extracts of news coverage referred to by the Adviser there was nothing to suggest the BBC had mistakenly suggested that the conference would choose the new leader.

Trustees also agreed that the complainant had received a reasonable and reasoned reply from Audience Services.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 Procedure⁶ 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.

⁶ 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 BBC Radio 4/World Service 3am and 4am News Bulletins, 6 July 2016

The complainant asked the Editorial Standards Committee to review the decision of BBC Audience Services to close down the complaint at Stage 1b.

Complaint

The complainant said that Radio News' treatment of a story concerning Israeli settlements in the Occupied Territories indicated bias in favour of Israel.

The complainant noted that the 3am news bulletin reported an announcement by a US official that there had been "a further incursion of illegal settlement building into East Jerusalem". This was followed with the statement that "this follows months of attacks on settlers by the Palestinians".

The complainant made the following points:

- this was the "reverse of the truth"; the Israeli Defense Forces (IDF) protect the settlers from reprisals whilst the settlers harass the Palestinians and destroy their crops
- the 4am bulletin carried the story but did not include the sentence which he was complaining about probably because it had been pulled as being far from true as there was no record of attacks on settlers.

The complainant said:

"the incident, whilst of little significance in itself, is clear evidence of how BBC news staff are instructed to deal with reports which are hostile to Israel's good name"

"it shows that there is a current BBC policy to sanitise or suppress news from the Occupied Territories which is of an adverse nature to Israel. There is ample proof of this and our complaint is that you have such a policy and our demand is that you reveal that policy."

BBC Audience Services made a number of points including:

- the BBC has no "policy" in relation to Israel and takes no "instruction" on any aspects of its reporting on any matter from anyone
- across news bulletins and programmes the BBC had reported on the range of issues in the Israeli-Palestinian conflict; this had included reporting on the tensions around settlement building and on the daily realities faced by Palestinians living under occupation.

Audience Services' response concluded:

"BBC News tries to report on the Israeli-Palestinian conflict in an accurate and duly impartial manner. Sometimes this means we can't always reflect the full extent of the complexities of the conflict during one standalone report or bulletin. We try to tell the story of the conflict as experienced by both sides, across programmes and

bulletins over time. We believe this has been the case during our coverage of this recent spike in violence.

“On the matter of the two news bulletins in question... bulletins continually change as stories are added and others are dropped and timings change so nothing should be read into the fact that the sentence you mention wasn't included in the later bulletin. The sentence was correct and BBC News has reported upon the attacks in question in the preceding months, as well as all other aspects of the Middle East situation as set out above.”

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 appealed to the BBC Trust saying that the BBC had a policy to sanitise and suppress news which is hostile to Israel's interests and keeps the UK largely unaware of what is happening in the Occupied Territories. This was in breach of the Charter.

The Committee's decision

Trustees noted the points made by the complainant and the BBC.

Trustees noted that the issue in front of them was whether to accept an appeal about the decision by Audience Services to decline to enter into further correspondence.

In reaching their decision Trustees took account of the following factors:

Trustees noted the grounds on which the complainant had argued that the content was not impartial:

- the report included a sentence which was the reverse of the truth
- the fact it had been omitted when the story was again included in the news bulletin an hour later was evidence that the BBC had a policy which favoured Israel.

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

- there was no evidence of such a policy
- as noted in the response from Audience Services, the editorial ambition for a long-running story such as the Israeli-Palestinian conflict is that over time a wide range of perspectives is reflected across news and current affairs programming as a whole
- the BBC at Stage 1 had explained that “Across our news bulletins and programmes we have reported on the increasing number of Palestinian deaths and casualties following the actions of Israeli security forces. We have broadcast reports where our reporters have spoken to the families of Israelis and Palestinians killed in the recent violence and have heard their respective stories and own specific takes on the conflict. We have reported on criticism of Israel's response to the attacks, which have included the implementation of curfews in East Jerusalem and the West Bank and the destruction of homes of Palestinians Israel claims are connected to the attackers...”

- with regard to the specific item the audience had not been misled on a material fact because the sentence “this follows months of attacks on settlers by the Palestinians” was duly accurate
- at both 3am and 4am the story had included the relevant material facts of the story, that there had been “a further incursion of illegal settlement building into East Jerusalem” by Israel; there was no requirement on this occasion to include content reflecting the broader impact of the occupation on Palestinians
- there was nothing to support the complainant’s contention that the inclusion of the information about attacks on settlers in the 3am bulletin, or its exclusion at 4am, was evidence that it was “current BBC policy to sanitise or suppress news from the Occupied Territories which is of an adverse nature to Israel.”

Trustees agreed that if they took this matter on appeal they would be likely to conclude that Audience Services had given a reasoned and reasonable response to the complainant and had acted appropriately in declining to enter into further correspondence.

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

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