

Editorial Standards Findings

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

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Remit of the Editorial Standards Committee

The Editorial Standards Committee (ESC) is responsible for assisting the Trust in securing editorial standards. It has a number of responsibilities, set out in its Terms of Reference at http://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2011/esc_tor.pdf.

The Committee comprises five Trustees: Alison Hastings (Chairman), Mehmuda Mian, David Liddiment, Richard Ayre and Lord Williams. It is advised and supported by the Trust Unit.

In line with the ESC's responsibility for monitoring the effectiveness of handling editorial complaints by BBC management, the Committee considers appeals against the decisions and actions of the BBC's Editorial Complaints Unit (ECU) or of a BBC Director with responsibility for the BBC's output (if the editorial complaint falls outside the remit of the ECU).

The Committee may consider appeals concerning complaints which allege that:

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

However, not all requests for appeal qualify for consideration by the ESC. The Editorial Complaints and Appeals procedure¹ explains that:

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

¹

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

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

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

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

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

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

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

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

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

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

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

It is published at bbc.co.uk/bbctrust and is available from:

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

Summary of findings

The World Today, BBC World Service, 11 December 2011

The complainant said that the presenter's statement that Gaza had been "under a tightened Israeli blockade ever since the Islamist movement, Hamas, came to power" was inaccurate and was the result of bias.

The Committee concluded:

- that, taking into account the available evidence, including that from the United Nations and the British Foreign Office, the Israeli blockade was indeed "tightened" when Hamas came to power.
- that, whilst the blockade did not remain at a constant level over time, it has remained in place since Hamas came to power and there continues to be a relationship between the blockade and the poor state of the Gaza economy.
- that the statement was not inaccurate or misleading and there was no basis upon which to conclude that its inclusion lacked due impartiality.

The complaint was not upheld.

For the finding in full see pages 8 to 11.

Excess Baggage, BBC Radio 4, 18 February 2012

The complainant said that the programme was biased and misleading. The complainant alleged that the programme ignored the entire Palestinian Arab population of the Israeli state. The complainant also said that the choice of participants lacked an Arab perspective and that the programme was billed as covering the "diverse culture" of Israel, which she said it had not done. The complainant alleged that the programme had amounted to racism and therefore should be judged against the guidelines on Harm and Offence.

The Committee concluded:

- that the range of contributors was consistent with the stated remit of the programme to include people, mainly from the UK, who have travelled widely in the featured country.
- that it was unfortunate that the short version of the billing implied an exploration of the "diverse culture" of Israel; nevertheless, Israel's diverse culture was, to an extent, touched on in the programme and the introduction to the programme clearly established the agenda, to "look beyond the political debates to see what the ordinary traveller can find in the country".
- that the programme billing did not amount to a breach of the Accuracy Guideline.
- that towns with Arab Israeli populations were not excluded from the discussion and that these references were consistent with the stated approach to consider politics only as it might impinge on the tourist experience.
- that, given the clarity of the introduction and the well-established format of the programme, there was no obligation arising from the Impartiality Guideline for the

programme to have included references to Palestinian Arab culture in Israel.

- that the level of impartiality applied by the programme makers was appropriate to the output and the likely audience expectation.
- that it was for the programme makers to decide what to include, and while the particular subjects mentioned by the complainant might have been interesting for the audience, they were not needed in order to meet the requirements for due impartiality.
- that the subjects chosen for inclusion in this travel programme were not evidence of the racism which the complainant had alleged. As such, the Guidelines on Offence were not engaged.

The complaint was not upheld.

For the finding in full see pages 12 to 16.

Free Speech, BBC Three, 7 March 2012

The complainant raised several issues regarding the impartiality of the programme. The complainant said that there was an imbalance of views in the audience and in the selection of panel members for the discussion on the Government's work experience scheme. He also said that the opening credits had singled out David Cameron for embarrassment. The complainant criticised what he described as a biased film on the work experience scheme, and said that a presenter read out tweets which she openly stated were the ones she agreed with rather than being a balance of opinions.

The Committee concluded:

- that, with regard to the composition of the panel, the pertinent question was whether the programme as broadcast was duly impartial (regardless of what the programme makers expected panel members to say in advance of the programme) and that, in this case, largely due to the substantial contribution from Esther McVey, the discussion on the topic of work experience was impartial.
- that the programme had not breached the Editorial Guidelines in its use of a news clip of the Prime Minister in the opening credits and that this did not require "balancing" with clips of other politicians in order to maintain due impartiality.
- that individual items within a programme may express a particular point of view which is balanced during the course of the programme and the video segment of the work experience discussion alone did not mean that the programme as a whole breached the Impartiality Guideline. In this respect the Committee considered that both Esther McVey's extensive contribution and the views expressed by the two audience members after the video provided sufficient balance to the video.
- that, overall, the programme had met the requirement for due impartiality by including a sufficient range of opinions using contributions from panellists, audience members, the presenter and pre-recorded videos.
- that there had been no breach in the actual and appropriate selection of the messages read out, but that the presenter's introduction and comments meant

that it was unclear that there was any difference between what she thought and what she was reading out.

- that the programme had left the impression that the presenter might be expressing her personal opinions and this was a breach of the Impartiality Guidelines.

The complaint was upheld in part.

For the finding in full see pages 17 to 38.

"So You Think You Can Dance", BBC Online

The complainant originally complained that the final episode of series two had been misleading in suggesting that the order in which the contestants who came third and fourth left the competition reflected the order in which they were ranked. The BBC's Editorial Complaints Unit upheld the complaint in relation to the programme but considered that the website element was resolved as the BBC had already removed an incorrect reference to the dancers' positions. The complainant appealed to the Trust because she believed that the incorrect information should not just be removed from the website but that it should carry a correction. The complainant also raised the matter of the time it had taken the BBC to remove the incorrect information from the website. The Trust did not consider the complaint against the Fairness guidelines as it was not a first party complaint.

The Committee:

- agreed with the ECU's conclusion that the Guidelines concerning accuracy and interacting with audiences had been breached as the audience had been misled on the results of the vote within the programme.
- concluded that the BBC had not acted in a timely fashion to change the inaccurate information on the website.
- concluded that the change of wording on the website to state that Kirsty Swain and Katie Love had reached the live final, but not to give their actual positions in the public vote, did not accurately reflect the outcome of the audience vote.
- concluded that insufficient account had been taken of the significance in the dance world of a national competition broadcast by the BBC.
- concluded that the website was in breach of the Guidelines on Accuracy. Although the BBC had, in correcting the inaccurate information on the website, acknowledged its error, this had not been done quickly, clearly or appropriately.
- required the BBC Executive to ensure that the BBC programme website was corrected to reflect the final positions of Kirsty Swain in 3rd place and Katie Love in 4th place, and a link to the corrected BBC website page to be placed on the BBC's official Facebook page for So You Think You Can Dance.

The complaint was upheld.

For the finding in full see pages 39 to 44.

The Big Questions, BBC One, 4 March 2012

The complainant said that a discussion about the concept of Britishness, including the use of the word "sunshine" by a studio audience member, was derogatory and racially offensive. The complainant also said that an apology given by the presenter during the programme was inadequate.

The Committee:

- concluded that, given the format of the programme which is designed to provoke debate on contentious topical issues, the subject and tone of the debate about what it means to be British was editorially justified.
- concluded that, although an audience member directed his comments at a guest in response to the guest's comments about the Queen, they were not unduly derogatory given the format of the programme and the adversarial nature of the debate.
- concluded that the comments made by the audience member did not appear to be predicated on race, but rather on an individual's views on the connection between Britishness and supporting the monarchy.
- concluded that, in the context of this debate, the use of the term "sunshine" was not meant in a racially abusive manner. Although the word "sunshine" could be used in a patronising manner, the Committee did not believe it would be considered to be racially abusive as it did not appear to have racist connotations in the UK.
- concluded that the exchange between the audience member and the guest did not amount to racist abuse and the language used was not unduly derogatory or racially offensive. On this basis, the programme was not in breach of the Editorial Guidelines.
- noted that the audience member had apologised when the guest complained about being called "sunshine" but the guest clearly continued to be upset about being addressed as "sunshine".
- noted that after the programme the production team had gone to some lengths to establish that the guest accepted the apology and did not consider the tone of the debate or the language used to be racially abusive.
- concluded that, given the context of a live programme in which a presenter is trying to keep the momentum of a debate going, the apology was handled in a reasonable manner and there was no breach of the Editorial Guidelines in this regard.

The complaint was not upheld.

For the full finding see pages 45 to 50.

“David Cameron attack on Welsh NHS”, BBC Online and Twitter

The complainant said that the version of a BBC Online headline which had been sent out from the BBC News Twitter account was inaccurate and differed from the full headline on the story to which the tweet linked.

The Committee concluded:

- that considerable skill was needed to ensure that headlines subject to space restrictions remained duly accurate.
- that the short headline which was the subject of the complaint was not sufficiently precise and did not reflect with due accuracy the story to which it was linked.

The complaint was upheld.

For the finding in full see pages 51 to 53.

“London’s public land sell off sparks concern”, BBC London News and BBC Online, 7 March 2012

The complainant said that a BBC London News report was biased and inaccurate. The Committee decided at its meeting on 18 July 2012 that the complainant’s appeal to the Trust should be restricted to points of accuracy. The first is the allegation that the building project which was reported on as part of this item is not a “public land sell-off”, contrary to the headline/introduction. The second is the allegation that the item itself did not make clear that the land had not been sold to developers and there would not even be any loss of open space.

The Committee concluded:

- that there had been two elements to the filmed report: Freedom of Information research into the sale of public land (from which the headline was derived) and a case study of Dundonald Rec.
- that there was, at best, an oblique connection between the two elements which were reasonable issues to have reported on but, assembled together, as they had been here, would have materially misled the audience.
- that in relation to the headline, introduction, and film itself, as broadcast and as on the website, the BBC had not achieved due accuracy.
- that a broadcast correction at this stage would not be proportionate but the BBC should remove the item in its current form from its archive and website, or otherwise correct it.

The complaint was upheld.

For the finding in full see pages 54 to 58.

Appeal Findings

The World Today, BBC World Service, 11 December 2011

1. Background

The World Today was a daily international radio programme broadcast on the BBC World Service until 23 July 2012 when it was replaced by a new programme: *Newsday*.

It was described on the BBC's website as "live news and current affairs, business and sport from around the world".

On 11 December 2011 *The World Today* broadcast an item about the growing popularity of "parkour", the sport of free-running (that is, moving through an environment by vaulting, rolling, running, climbing, and leaping over obstacles), in Gaza.

The presenter, Julian Worricker, introduced the item as follows:

"Now if you are young in Gaza, your horizons can seem pretty limited. The United Nations estimates youth unemployment to be well over fifty per cent. The tiny Palestinian territory has been under a tightened Israeli blockade ever since the Islamist movement, Hamas, came to power. But a group of young men have found some sort of release in a relatively new sport. It's called parkour or free-running."

2. The complaint

The complainant said that the item's description of the Israeli blockade was inaccurate.

The complainant raised the following points in relation to the accuracy of the script:

Point (A) Saying that Gaza had been "under a **tightened** Israeli blockade **ever since**" Hamas came to power implied that the blockade was "tighter than it was when Hamas came to power". The complainant stated that the restrictions were "far tighter just before Hamas came to power than they are now or were in Dec 11". The blockade "had been considerably loosened since Hamas came to power".

Point (B) The inaccuracy of the statement "unnecessarily misled the audience" by making it "appear that Israel is doing nothing to ease the economic woes of the people of Gaza, when in fact they have taken considerable measures to do just that".

3. Applicable Editorial Guidelines

The Editorial Guidelines on Accuracy and Impartiality are applicable to this case. The full guidelines are at: www.bbc.co.uk/editorialguidelines. The following Guidelines are relevant to this case:

Section 3: Accuracy

3.1 The BBC is committed to achieving due accuracy ... 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...

3.2.2 All BBC output, as appropriate to its subject and nature, must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language...

3.2.3 The BBC must not knowingly and materially mislead its audiences

Section 4: Impartiality

Introduction

4.1 The term "due" means that 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.

Due Weight

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

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

4. The Committee's decision

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's Editorial Guidelines. The Guidelines are a statement of the BBC's values and standards. In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's report and a subsequent submission from the complainant.

The Committee considered the complainant's allegation that Israel's blockade was "far tighter just before Hamas came to power than they are now or were in Dec 11" (when the item was broadcast).

The Committee noted that Hamas achieved success in the Palestinian Legislative Council elections in January 2006 and went on to form a government. After factional fighting between Hamas and Fatah through 2006 and 2007, Hamas seized control of Gaza in June 2007.

The Committee noted many references from both current and contemporaneous sources that describe the impact of border restrictions introduced after the "disengagement" of Israeli settlers from Gaza, and further border restrictions introduced after Hamas took control of Gaza in June 2007. These include the following:

The United Nations:

June 2012: "UN agencies join in shared call for end to Israeli blockade of Gaza"
<http://www.un.org/apps/news/story.asp?NewsID=42227&Cr=palestin&Cr1>

October 2007: "UN relief chief warns on deteriorating conditions facing Palestinians"
<http://www.un.org/apps/news/story.asp?NewsID=24415&Cr=palestin&Cr1=&Kw1=Gaza&Kw2=blockade&Kw3>

The World Bank:

October 2011: "Coping with Conflict: Poverty and Inclusion in the West Bank and Gaza"
<http://go.worldbank.org/OP5JEWXH70>

December 2005: "The Palestinian Economy and Prospects for its Recovery"
<http://domino.un.org/unispal.nsf/0/5b6ef4b9fa7df950852570d5006a684c?OpenDocument>

September 2007: "Two Years After London: Restarting Palestinian Economic Recovery"
<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCMainReportfinalSept18&cover.pdf>

The Committee noted that the blockade had changed over time since its introduction: borders were closed in December 2008 during Operation Cast Lead, and restrictions were eased slightly in June 2010 when the Government of Israel announced it would allow the import of larger household items and some construction materials, though "dual use" items remained on the list of banned goods.

The Committee noted evidence that, notwithstanding this slight easing of the blockade, Gaza remains subject to severe restrictions on exports and the movement of people, by land, air and sea.

The Committee noted many further reports that demonstrate the continuing impact of the blockade on the Gaza economy. These include:

The World Bank:

June 2009: "Palestinian Economic Prospects: Gaza Recovery and West Bank Revival"
<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCJune09Reportfinal.pdf>

April 2011: "Building the Palestinian State: Sustaining Growth, Institutions and Service Delivery"
<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/AHLCReportApril2011.pdf>

March 2012: "Stagnation or Revival? Palestinian Economic Prospects"
<http://siteresources.worldbank.org/INTWESTBANKGAZA/Resources/WorldBankAHLCreportMarch2012.pdf>

The United Nations:

June 2012: "UN agencies join in shared call for end to Israeli blockade of Gaza"
<http://www.un.org/apps/news/story.asp?NewsID=42227&Cr=palestin&Cr1=>

The British Foreign Office:

"Restrictions on Gaza"
<http://www.fco.gov.uk/en/global-issues/mena/middle-east-peace-process1/gaza/>

Taking into account the available evidence, including that from the United Nations and the British Foreign Office, the Committee concluded that the Israeli blockade was indeed "tightened" when Hamas came to power. Whilst the blockade did not remain at a constant level over time, it has remained in place since Hamas came to power and there

continues to be a relationship between the blockade and the poor state of the Gaza economy.

The Committee concluded that the statement “tightened Israeli blockade ever since” was consistent with the underlying economic impact of the blockade and was therefore duly accurate and was not misleading as the complainant alleged.

The Committee noted that the complainant also argued that including this point was the consequence of a lack of impartiality. The Committee did not accept that the statement was inaccurate or misleading and it agreed that there was no basis upon which to conclude that its inclusion lacked due impartiality.

Finally, the Committee noted that the sentence was an introduction to a report about the growing number of young people taking up the sport of free-running, and it concurred with the BBC’s conclusion that listeners would not have looked to this introduction for detailed information on the changing nature of the Israeli blockade.

The Committee concluded that the language used in this report had been duly accurate and impartial, and the evidence did not support the complainant’s case that the BBC’s Editorial Guidelines had been breached.

Finding: Not upheld

Excess Baggage, BBC Radio 4, 18 February 2012

1. Background

Excess Baggage was a well-established thirty-minute programme broadcast weekly on BBC Radio 4 each Saturday morning at 10.00am. On 28 April 2012 the series ended and thereafter became a ten-minute insert into *Saturday Live*, broadcast weekly 9.00 to 10.30am.

The series was presented by John McCarthy and Sandi Toksvig. It is described on the BBC Radio 4 website as "Travellers' tales from home and around the world: their destinations, experiences and issues arising from their journeys..."

Each programme featured a theme or a destination. On 18 February 2012 *Excess Baggage* focused on Israel as a travel destination. The programme was presented by John McCarthy and featured three guests in a live studio discussion: the editor of the Bradt guidebook to Israel, a youth worker from North London who has hiked the length of Israel and a London chef who, since childhood, has visited her relatives in Israel.

A previous edition of the programme on 21 January 2012 had focused on travel to East Jerusalem and the Occupied Territories.

2. The complaint

The complainant said that the programme broadcast on 18 February 2012 was "biased and misleading" in its "exclusion of Palestinian Arabs from the programme on travel in Israel".

The complainant made the following allegations in relation to the impartiality of this programme:

- "The programme wrote out the entire Palestinian Arab population of the Israeli state, 'disappearing' 20% of the state's citizens and portraying an extremist Zionist dream of a state without Palestinians."
- The choice of participants lacked a Palestinian Arab perspective.
- The programme should have featured Nazareth, a city with a predominantly Arab population.
- The programme mentioned "two culinary dishes, felafel and humus bthina and yet fails to point out they are Middle Eastern Arab dishes."
- The programme was billed as covering the "diverse culture" of Israel. This billing was misleading.
- In its response at Stages 1 and 2, the BBC referred to an earlier programme in the series that dealt with travel to the West Bank and East Jerusalem. The complainant believed that the BBC "failed totally to demonstrate any understanding of why it should be offensive to ignore the Palestinian Arabs inside Israel so long as they were 'covered' in the separate programme on the West Bank".

The BBC's Stage 1 response to the complaint included the following statement:

“Firstly, you may like to know that on 28 January 2012 we concentrated on travel to East Jerusalem and the Occupied Territories. This programme is still available on iPlayer, can be downloaded as a podcast, or heard via www.bbc.co.uk/radio4/excessbaggage. With hindsight it would have been wise to mention this during the introduction to our programme about Israel. We apologise for the omission.”

The BBC also made the following additional points in its responses at Stages 1 and 2:

- John McCarthy stated that the programme would be looking beyond the political situation.
- Coverage of the political situation in the area was widespread on BBC output but was not the subject of *Excess Baggage*.
- Israel is a mass tourism destination and the guests were chosen for their knowledge and experience of diverse locations. The guests were of a similar calibre to those who generally appeared each week: that is people, mainly from the UK, who have travelled widely in the featured country.
- The programme team apologised for not clarifying the situation regarding East Jerusalem and for not correcting a mistake about Hebron. This was a live programme but the production team regretted these mistakes.
- The remit of *Excess Baggage* was to cover travel in the widest sense and the programme often discussed sensitive or tense parts of the world.
- The complainant’s concerns had been registered on the audience log, which is a daily report of audience feedback that’s made available to BBC staff and senior management.

3. Applicable Editorial Guidelines

The following Editorial Guidelines are applicable to this case.

Section 3: Accuracy

3.1 The BBC is committed to achieving due accuracy...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...

3.2.2 All BBC output, as appropriate to its subject and nature, must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language...

3.2.3 The BBC must not knowingly and materially mislead its audiences...

Section 4: Impartiality

Introduction

4.1 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.

Due Weight

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

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

4. The Committee's decision

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's Editorial Guidelines. The Guidelines are a statement of the BBC's values and standards. In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's report and a subsequent submission from the complainant.

The Committee began by considering the programme broadcast on 18 February 2012, about travel to Israel, as a standalone programme, without reference to the earlier programme covering East Jerusalem and the West Bank. The Committee noted that the complaint against this programme related to whether important perspectives had been omitted and whether the decision to omit any perspective had been reasonable and carefully reached.

The Committee noted that *Excess Baggage* was a well-established travel programme. Its brief was to feature "travellers' tales" and the guests were usually travellers to the featured country rather than residents of the country itself. The Committee noted the BBC's description of *Excess Baggage* as a series which often featured countries with a sensitive political situation and only discussed politics when the situation was likely to affect visitors to the country. The Committee noted that Israel was a mass tourism destination.

In considering the complainant's criticism of the programme for lacking a Palestinian Arab perspective, the Committee first noted the BBC's description of the programme's remit, above, and the presenter's introduction to the item:

John McCarthy: Israel occupies only a very small part of the earth's surface but this area has been the birthplace of world religions and seen empires vying for its control. In ancient times and again in the modern era Israel has become synonymous with conflict and religious tension. But this morning we want to look beyond the political debates to see what the ordinary traveller can find in the country. It offers a diverse landscape: snow-capped mountains, wide beaches and barren deserts. And of course there is much history to explore but also modern culture to discover.

The Committee noted that the format of this programme was consistent with previous episodes. The guests were UK residents who had travelled widely in Israel. They had very different experiences of the country and had undertaken different forms of travel within Israel, from living on a kibbutz to walking the length of the Green Line.

The Committee agreed that the range of contributors was consistent with the stated remit of the programme to include people, mainly from the UK, who have travelled widely in the featured country.

The Committee then considered the complainant's allegation that "the programme wrote out the entire Palestinian Arab population of the Israeli state, 'disappearing' 20% of the state's citizens and portraying an extremist Zionist dream of a state without Palestinians".

The Committee considered the likely expectations of the audience, and noted how the programme was billed:

"John McCarthy discusses the diverse culture of Israel as a destination." [short version]

"John McCarthy explores the diverse attractions that exist away from the conflicts which often define Israel. He talks to a keen hiker, a chef and a travel writer." [medium version]

The Committee noted that the complainant had said that the short billing was inaccurate as the programme had not explored the diversity of Israel's culture. The Committee agreed it was unfortunate that the short version of the billing implied an exploration of the "diverse culture" of Israel. Nevertheless, the Committee considered that Israel's diverse culture was, to an extent, touched on in the programme. The Committee also considered that the introduction to the programme clearly established the agenda, to "look beyond the political debates to see what the ordinary traveller can find in the country", and that this did not amount to a breach of the Accuracy Guideline.

The Committee noted that towns with Arab Israeli populations were not excluded from the discussion. The Committee noted the statement made about Haifa by one of the guests, who praised its efforts to create cultural integration:

Samantha Wilson: I think Haifa's making very big and very successful efforts in their integration of the different cultures rather than keeping them separately which you might find in Jerusalem obviously.

The Committee noted that the presenter also referred to Haifa and mentioned Acre as a similarly beautiful place but with "underlying tensions which occasionally bubble up":

John McCarthy: I mean it's very interesting because there is that issue, which is the elephant in the room of course, not only the difference between religions and cultures but between the Arab and Israeli population, Jewish Israeli population, and Haifa does seem to ... I've spent quite a bit of time there myself and it does seem to be mainly very relaxed. I mean another beautiful city is Acre just across the bay to the north where again you can walk around this fantastic old city, it's a beautiful, beautiful place but one is aware that there are underlying tensions which occasionally bubble up...

The Committee noted that Haifa and Acre have significant Arab minority populations.

The Committee also noted that the presenter had asked all three guests whether they had visited the Occupied Territories:

John McCarthy: A lot of, particularly, pilgrims will want to go into the Occupied Territories to visit towns like Bethlehem in particular. How easy ... is it to travel, to make those journeys?

The Committee considered that these references were consistent with the stated approach to consider politics only as it might impinge on the tourist experience.

The Committee noted the complainant's comments about what was and was not featured in the programme, including the references to two culinary dishes and the lack of any discussion of Nazareth, a city with a predominantly Arab population.

The Committee was mindful that this programme, in keeping with the format of others in the series, featured individuals talking about their experiences of travel in Israel. The programme was not about Israel or its culture per se. The Committee agreed that, given the clarity of the introduction and the well-established format of the programme, there was no obligation arising from the Impartiality Guideline for the programme to have included references to Palestinian Arab culture in Israel.

The Committee was satisfied that the level of impartiality applied by the producers was appropriate to the output and the likely audience expectation.

The Committee agreed that the Guideline requirements for due impartiality had been met and that the content of the programme was an editorial and creative matter. It was for the programme-makers to decide what to include, and while the particular subjects mentioned by the complainant might have been interesting for the audience, they were not required in order to meet the requirements for due impartiality.

Having concluded that the programme reflected a satisfactory range of opinions, bearing in mind the nature of the output, the Committee did not deem it necessary to consider the programme further in the light of the earlier edition about East Jerusalem and the West Bank.

Lastly, the Committee noted that the complainant had expressed her concerns in terms of the personal offence to her as a person of Arab descent with relatives living in the Nazareth area. The Committee understood the complainant's strong feelings about the subject of cultural and ethnic diversity in Israel; however, it did not agree that the subjects chosen for inclusion in this travel programme were evidence of the racism which the complainant had alleged. As such, the Committee did not agree that the Guidelines on Offence were engaged.

Finding: Not upheld.

Free Speech, BBC Three, 7 March 2012

1. Background

This was the first broadcast of *Free Speech*, which is a monthly, hour-long programme on BBC Three. It is effectively a *Question Time* for the channel's audience of 18–24 year olds and is targeted at this demographic. The programme is made by Mentorn who also produce *Question Time* for the BBC. The programme is peripatetic – this edition was broadcast live from Queen Mary University, London. The programme involves a panel, a studio audience of young people, interaction with the TV audience and use of a Twitter-based polling system, and other interactivity. The programme is presented by Jake Humphrey with the TV audience responses presented by Michelle de Swarte.

2. The complaint

This complainant raised several issues with regard to the impartiality of the programme.

Stage 1

The complainant wrote to the Director-General. He specifically objected to:

- the opening credits which he said: "appeared to single out David Cameron for embarrassment rather than any other politician"⁴
- "a clearly biased audience"
- three anti-Government panellists⁵
- "a terribly biased film on the work experience scheme"
- "someone employed to read out tweets which she openly stated were the ones she agreed with rather than being a balance of opinions".

He said that the Conservative MP, Esther McVey, who was on the panel, had performed strongly but that "inviting her on for a kicking" was not his idea of balance and she should not have been in the position of "everyone vs her".

The response from the Director-General included quotes from the programme makers who said that the opening sequence had been a montage of recent events. They agreed that no other politician featured in the titles but said that as this was a short sequence featuring the leading stories of the week, it wasn't surprising this was of the country's most prominent politician:

"No criticism was broadcast of the Prime Minister so we would dispute that he was singled out for embarrassment."

The programme makers said the audience had been sourced according to the Editorial Guidelines and weighted according to the voting complexion of the local constituency. They said that in spite of Bethnal Green being a strong Labour seat, Labour supporters were in a minority in the audience. The response said comments from the audience had been balanced:

⁴ The complainant was referring to the fact that a clip had been included in the opening credits of the Prime Minister's statement that he had ridden the horse Raisa which had been loaned to Rebecca and Charlie Brooks by the Metropolitan Police.

⁵ There were four panellists in total

“Of 13 comments by audience members on political issues, five were pro-Government policy, five were anti and three were neutral.”

The programme makers said there was only one MP, a Conservative, on the panel. It described another panellist, Dominic McVey, as “a 26 year old entrepreneur who supported the government’s stance on Workfare”. The response added that, of the other two panellists, Adam Deacon (an actor) was critical both of the Government on workfare but also of the previous Labour Government especially on military interventions, and Gemma Cairney (a radio broadcaster) was critical of big business on workfare rather than of the Government.

The programme makers said the video insert, to which the complainant objected, was about benefits rather than workfare and was critical of the current system but that this was balanced by two studio contributors who encouraged young people to make their own opportunities.

The programme makers disagreed that the social media presenter had said she would read out only messages with which she agreed but that she would be “picking out my favourite messages”. The response said all messages had been screened by a senior programme executive. It said the presenter had ad-libbed one comment about getting troops out of Afghanistan but that this should be seen in the context of the recent death of six soldiers in Helmand Province which had been announced on the same day.

The programme makers agreed with the complainant that Esther McVey MP had made a strong contribution to the programme and said that she had had ample airtime and had herself voiced no criticisms about her role or the programme.

Stage 2

The complainant replied to the Director-General who passed the letter on to the Editorial Complaints Unit (ECU) for a Stage 2 response. The complainant said:

- It was disingenuous for the producers to suggest the clip of the Prime Minister had not been selected to embarrass him.
- That the BBC was bound to be impartial – wherever it broadcast from – and that to choose to broadcast from a strongly Labour-supporting area and use that to justify an unbalanced audience was a new idea to him. Furthermore it was not true that the audience comments had been balanced.
- The entrepreneur did not support the Government on workfare.
- The pre-recorded piece was wholly lacking in impartiality.
- There was no attempt at balance from the social media presenter.
- He thought that Esther McVey MP was given the most time as she was singled out for criticism and that, being a courteous MP, she would not complain of her treatment – but that this was irrelevant.

The Head of Editorial Complaints clarified that Dominic McVey had been invited onto the panel as an entrepreneur in favour of the workfare scheme, but had actually on air voiced criticisms of what he took to be the focus of the scheme on large companies offering work of little developmental value, rather than on smaller companies and organisations such as charities.

The Head of Editorial Complaints then went on to say that he was not upholding any part of the complaint and explained why:

- He considered it unremarkable that the Prime Minister rather than any other politician should feature in a montage of topical clips and was not in a position to state if the Prime Minister was embarrassed by the acknowledgement that he had ridden a horse kept by Rebekah Brooks.
- The test of impartiality in a particular edition of such a programme is not whether there is an even balance of views among the audience, resulting in similarly balanced audience contributions ... but whether there is due opportunity for an appropriate range of views to be expressed and for criticisms to be addressed.
- Similar considerations apply to the composition of the panel, where it is not a requirement of impartiality that there should be an even division of opinion on every controversial issue.
- The pre-recorded item was about the experience of young people living on benefits and seeking work in East London, rather than the issue of workfare. The final two sentences of the piece had a mildly political slant:

“David Cameron has said if you can work then you should work, and the Government will help you find work. But as you’ve just seen, it isn’t always as simple as that, is it?”

– which was immediately taken up by contributions from two young members of the audience who had pursued initiatives of their own, and who spoke in favour not only of taking such opportunities as might be on offer but of generating one’s own opportunities.

- The fact that Michelle de Swarte, said:

“I’ll be picking out my favourite messages”

was not tantamount to saying that she would select only messages she agreed with and, although she did express approval of the only message read out in connection with the discussion of workfare, the approval was on the basis that it seemed to her an apt summation:

“...Do you know what a nice way to sort of round up this chat is, erm, is Tim’s and he says about the workfare campaign, it shows that when people, us lot, get engaged, erm, we are, we can make things happen, you know what I mean, a lot better than the MPs and their peers can, so I think a round of applause

Nicely summed up.”

The comment was an advocacy of engagement and initiative; of a kind which supporters as much as opponents of the Government’s actions in this area might endorse.

- Esther McVey MP had due opportunity to put the Government's position and respond to criticisms of it and made effective use of it.

Stage 3 – Appeal to the BBC Trust

The complainant responded to the ECU finding and asked for his complaint to be escalated to the next level (i.e. the BBC Trust).

The complainant raised the following points in relation to the impartiality of this programme:

- **Point (A):** There was no balance on workfare in respect of the panellists and there should have been two panellists supporting workfare.
- **Point (B):** The clip of David Cameron was clearly intended to be embarrassing and this clearly should have been balanced with an equally satirical focus on Ed Miliband and Nick Clegg...
- **Point (C):** The audience was politically balanced to favour the left.
- **Point (D):** The pre-recorded film in advance of the discussion on work experience was "violently" anti-Government.
- **Point (E):** "Michelle de Swarte was not impartial in the selection of the messages."

The complainant also said, "this was the first programme and if you had said that, on reflection, it was not good enough in places and the BBC would strive to ensure these mistakes were looked at, I would have been inclined to accept that."

3. Applicable Editorial Standards

The Editorial Guidelines on Impartiality are applicable to this case. The full Guidelines are at: www.bbc.co.uk/editorialguidelines. The following Guidelines are relevant to this case:

Section 4: Impartiality

Introduction

We must be inclusive, considering the broad perspective and ensuring the existence of a range of views is appropriately reflected.

The Agreement accompanying the BBC Charter requires us to do all we can to ensure controversial subjects are treated with due impartiality in our news and other output dealing with matters of public policy or political or industrial controversy. But we go further than that, applying due impartiality to all subjects. However, its requirements will vary.

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.

Principles

4.2.1 We must do all we can to ensure that 'controversial subjects' are treated with due impartiality in all our output.

Practices

4.4.2 Impartiality does not necessarily require the range of perspectives or opinions to be covered in equal proportions either across our output as a whole, or within a single programme, web page or item. Instead, we should seek to achieve 'due weight'.

4.4.4 Listening to and engaging with audiences is central to the BBC's output, from radio phone-ins to user generated content online. But responses should not be given a wider significance than they merit and we should take care not to misrepresent the relative weight of opinions expressed.

4.4.7 When dealing with 'controversial subjects', we must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active. Opinion should be clearly distinguished from fact.

4. The Committee's decision

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

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

The Committee noted that each reply under the heading "BBC response" below came from the production company, Mentorn, but had been seen and approved by the relevant people in the BBC commissioning process.

The Committee noted the description of this programme by the Executive Producer for Mentorn, as follows:

"Free Speech is a new current affairs discussion programme, an attempt by the BBC to bring news and politics to a younger audience via the platform of BBC Three which has been hugely successful in reaching younger viewers with other programme genres. Using the channel's special remit, it is a positive attempt by the BBC to engage and involve younger viewers in the democratic process. As well as the TV programme, there is dedicated social media: a fully-manned website, Twitter account and Facebook page.

"At every stage of development and production, Mentorn has liaised with BBC Editorial Policy and Online Compliance about interactivity and audience participation via the 'Powerbar', which charts whether online followers agree or disagree with comments by the panellists. This is a feature that has instantly communicated with the audience and helped Free Speech achieve significant online presence.

“The number of hits and followers are well in advance of the BBC’s own expectations, engaging the target audience in daily current affairs and having their say on the programme’s editorial agenda...”

“BBC Learning is funding the series and attempting to involve those people who are normally outside the national debate. As might be anticipated, much of the demographic sub-group of 18-24 year olds has a healthy scepticism for Government and authority in general. When anger or criticism is expressed, it is often at those ‘in power’, whatever the political hue. In the edition in question, criticisms were made of the previous Government and the current one. In our last edition, in July, John Hayes MP, Minister of State for Further Education, described criticism in such programmes as ‘the price of power’.

“This was the first episode in a year-long series and our undertaking to both the BBC and the main political parties was that we would achieve political balance across the series. As with any programme, the production process is on-going and we are refining all the time.”

The Committee noted that the “workfare” debate was a major story on the domestic news agenda from mid-February until March 2012 when this programme aired.

The controversy focused on whether it was reasonable or exploitative to expect young people who had been on Jobseeker’s Allowance for three months or more to gain work experience by working for eight weeks while being paid their existing benefits and some expenses but no pay.

The debate centred on the compulsory element for, while the scheme was voluntary, if a young person dropped out after a week or more, their benefits could be cut for two weeks. A campaign, largely through social media, put pressure on the major companies taking part in the scheme and several, including Burger King, Waterstone’s, Sainsbury’s, TK Maxx, Argos, Superdrug and the Arcadia group pulled out as did some larger charities.

There was a meeting between ministers and large employers at the end of February 2012 after which the Government dropped the removal of the benefits incentive part of the scheme. Ministers argued that sanctions had been rare anyhow: just 220 were issued out of 34,000 work experience placements for 16 to 24-year-olds between January and November 2011.

Before considering the specific aspects of the complainant's appeal, the Committee considered whether the complaint concerned a controversial subject.

The Committee noted that paragraph 4.4.6 of the Editorial Guidelines states that:

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

- the level of public and political contention and debate
- how topical the subjects are
- sensitivity in terms of relevant audiences’ beliefs and culture
- whether the subjects are matters of intense debate or importance in a particular nation, region or discrete area likely to comprise at least a significant part of the audience

- a reasonable view on whether the subjects are serious
- the distinction between matters grounded in fact and those which are a matter of opinion.

The Committee particularly considered the degree of public and political debate about the work experience scheme at the time when the programme was broadcast and how topical the subject was.

The Committee decided that this was a controversial subject, and so the Editorial Guidelines on Impartiality required that:

“When dealing with ‘controversial subjects’, we must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active.”

The Committee noted that, depending on the circumstances of a particular case, this wide range of significant views could be delivered in the context of one programme or over a range of output over the period when the controversy was active.

Because the Committee agreed that this was a “controversial subject” in the terms of the Guidelines, when considering the specific aspects of the complainant’s appeal the Committee focused on whether the range of views and perspectives included in the programme was adequate and appropriate to the output, taking account of the controversial nature of the topic of work experience as well as of the fact that this was the first in a series of debate shows aimed at a young audience, the limited audience expectation for such a new show and any signposting before or within the programme that might influence that expectation.

Complaint Point A

Regarding the complainant’s allegation that the discussion on work experience was unbalanced because there was only one person on the panel, Esther McVey MP, who supported the Government’s policy, the Committee considered whether the Impartiality Guideline had been breached.

Allegation

The Committee noted that the complainant had said that *Free Speech* failed to ensure balance:

“There are plenty of people out there who support the Government on this issue and your inability to produce a second person on the panel to do this is inexcusable.”

BBC response

The Committee noted that the BBC had expected Dominic McVey to support the Government’s policy on work experience but in fact he had taken a different perspective:

“In the days leading up to transmission, allegations of large companies taking advantage of young people on work experience were making front page news. Perhaps influenced by this, Dominic McVey said he thought the Government clearly had not thought through the process; young people were being ‘railroaded’ into working for companies they had no interest in. However, he then did go on to say

he thought it was 'a lot better' for people to provide voluntary experience for charities and smaller local shops – 'the big societies' – not 'large corporations'

"In our experience it is not uncommon in a live and unscripted studio programme for a guest to deviate from the expected path... It's often best to move on, as happened in this case, because Esther McVey MP asked if she could come back on Dominic McVey's comment. However, I would contend that in the second part of his comments, Dominic McVey did offer some explanation of the sort of work experience he does support.

"I believe that [the complainant] overlooks the fact that Esther McVey MP's contribution dominated this discussion: Adam Deacon spoke for 50 seconds, Dominic McVey 43 seconds and Gemma Cairney 26 seconds, in which she didn't make a political point one way or another. In total, these three panellists spoke for 1 minute 59 seconds, while Esther McVey MP's contribution was 3 minutes 36 seconds. She articulated powerfully why she thought the Government initiative on work experience was 'about opportunity, about empowerment'. She criticised the old scheme brought in by the last Government, telling the audience how it could have cost them their benefits, and how it was 'very much a piecemeal, sporadic way. Ms McVey MP explained how the Government was working with employers to provide young people with more opportunities; how the scheme would help people retain their benefits and cover transport and childcare costs. She spoke about opportunities in Information Technology, and with '200 smaller companies who had now come on board'. She also spoke about her own time on work experience and the opportunities it had given her.

"Added to this the voices in the audience who also said it was the responsibility of young people not Government to seek opportunities, I believe that this item did achieve balance."

The Committee also noted that the BBC had stated as follows:

"The experience of our first four programmes is that our audience wants to hear from more panellists with strong backgrounds in current affairs, so going forward we will have more people on the panel with declared political viewpoints."

Decision

The Committee considered whether the composition of the panel breached the Editorial Guidelines on Impartiality. The Committee noted that the complainant considered that another panellist who supported the Government's position on the work experience scheme should have been included in the programme to achieve due impartiality. The Committee noted that, in his letter of 10 April 2012 to the complainant, the Director-General set out the programme makers' response that Esther McVey MP was given "ample time to make the case for the Government on the various policy issues that were discussed live in the studio".

The Committee noted that the ECU, in a letter to the complainant dated 4 July 2012, said that "it is not a requirement of impartiality that there should be an even division of opinion on every controversial issue ... the question is whether Esther McVey MP had due opportunity to put the Government's position and respond to criticisms of it". The Committee noted that the ECU also said that Esther McVey MP made "effective use" of her opportunity to put the Government's position.

The Committee noted that, in response to a question from an audience member who asked whether the work experience schemes were being used as free labour by employers, Ms McVey said:

“No it’s not. Not in any way shape or form. It’s about opportunity it’s about empowerment, and sometimes it’s really important to know how the scheme came about because prior to this, which is an over-arching scheme, should you have done work experience for two weeks, you would have lost your benefit altogether. And there was very much a piecemeal sporadic way to which you could do work experience so we said okay, how are we going to do it so we can give more opportunities to more people and also work with employers? Because a lot of employers would say that, you know, the youth of today aren’t work ready and we said no, that’s not the case, help them do work experience, see if you like them and then employ them. And I’ll tell you one thing, erm me personally, if I hadn’t have been able to have done work experience, if I hadn’t have had the opportunity I would never have got into the very first job and my future career so I fully endorse it. I believe we need to support it, you keep your benefit, you get transport costs, we give childcare costs, and it’s a way to say, look at me, please give me a go.”

The Committee considered that this was a robust answer to the question which amply set out the background to the Government’s scheme.

The Committee also noted Ms McVey’s response to a later question which raised the issue of the size of the companies that have signed up to take part in the scheme:

“Well, I think there’s quite a few companies that got the publicity so if you’re talking about the big retail, if you’re talking about the various things like that, but added to that, there’s I.T. there’s manufacturing, there’s two hundred small companies, or smaller companies, now that have come on board. There is an opportunity in absolutely every single way. Now, I am also a business person who has given work experience to somebody and I think what you also need to take into account, if you are doing work experience properly you have to support that person you have to have opportunities in place, you have got to have other members of staff, paying for that, and so, sometimes you need a much bigger organisation that has got the infrastructure to do that. And can I also say, any free person I know who has totally succeeded in the job they have ever done, they started on the shop floor. I don’t care if that was Terry Leehy at Tesco, I don’t care if it was Stuart Rose at Marks and Spencer’s I don’t care who it is ... they go to the very top.”

The Committee agreed that these, and other, contributions from Esther McVey were effective in presenting the Government’s position on work experience.

The Committee agreed that due impartiality did not depend on the number of panellists who expressed support for the Government’s policy, but rather whether due impartiality was achieved given the comments made during the programme.

The Committee noted the BBC’s response above, which explained that the programme makers had expected Dominic McVey to express support for the work experience scheme, and that his comments during the live programme deviated from the viewpoint they had expected him to express. The Committee also noted that the complainant considered that this was irrelevant.

The Committee noted that the programme makers had included Dominic McVey on the basis that his comments would support the Government’s position on the work experience

issue. The Committee agreed that the pertinent question was whether the programme as broadcast was duly impartial (regardless of what the programme makers expected panel members to say in advance of the programme) and that, in this case, largely due to the substantial contribution from Esther McVey MP, it was impartial.

The Committee did not uphold this element of the complaint.

Complaint Point B

Regarding the complaint that the opening titles were unbalanced because the only piece of speech was of the Prime Minister saying that he had ridden the horse owned by Rebekah Brooks (this while the phone-tapping scandal and its fall-out were high on the news agenda), the Committee considered whether the Impartiality Guideline had been breached.

Allegation

The Committee noted what the complainant said:

“The clip of David Cameron was clearly intended to be embarrassing and this clearly should have been balanced with an equally satirical focus on Ed Miliband and Nick Clegg.”

BBC response

The Committee noted the response from Mentorn which said they had nothing to add to the response they prepared for the Director-General to give to the complainant earlier in the process:

“The opening credits were a montage of recent events leading up to the programme and among many images, featured David Cameron’s statement, made to journalists in Brussels, that he had ridden the horse, Raisa, loaned to Rebekah and Charlie Brooks by the Metropolitan Police. This was a statement freely volunteered by the Prime Minister after the issue was raised in connection with the Leveson Inquiry. No other politician featured in the titles, but this was a short sequence highlighting the major events of the moment; from war in Syria to the Luis Suarez non-handshake. As the most senior politician in the UK, using the Prime Minister’s statement on a major current matter was, in our view, justified. No criticism was broadcast of the Prime Minister so we would dispute that he was singled out for embarrassment.”

Decision

The Committee noted that the programme opened with the following live introduction from the presenter, Jake Humphrey:

Jake: This is Free Speech live from East London, your chance to have your say about what matters to you.

And this was followed by the opening titles which featured a montage of topical pictures, including video footage of David Cameron saying:

“One of them was this former police horse Raisa which I did, erm, ride...”

The Committee noted that there were no other politicians featured in the opening titles for this episode, and it considered whether the Impartiality Guidelines require that there should have been. The Committee considered that the Prime Minister’s very status meant

that he is, by virtue of that, likely to have reference made to his actions somewhat more frequently than other politicians. The Committee noted that the Editorial Guidelines state that:

“...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 Committee agreed that the Prime Minister’s remarks had been one of the seminal moments of the week and that it was not inappropriate for the opening titles to incorporate this without including references to other politicians. The Committee noted that the complainant had taken issue with the ECU’s comment that, had the intention been to embarrass, more effective clips could have been chosen. The Committee agreed that this observation was not relevant to its consideration of whether the Impartiality Guidelines had been breached. In the Committee’s view, it was within the editorial discretion of the programme to choose clips that reflected topical news issues. The Committee concluded that the programme had not breached the Editorial Guidelines in its use of a contemporaneous news clip of the Prime Minister in the opening credits of a topical programme. The Committee did not agree that this required “balancing” with clips of other politicians in order to maintain due impartiality.

The Committee did not uphold this element of the complaint.

Complaint Point C

The Committee considered whether the Impartiality Guideline had been breached in the composition of the audience for this edition of *Free Speech*.

The Committee noted that *Free Speech* is a peripatetic, live programme on the *Question Time* model, that the first programme was broadcast from Queen Mary University in Mile End, London, and the next two were from Doncaster and Bristol. The fourth, an Olympic Special, came from London again and the next two were from Edinburgh (August) and Manchester (September).

Allegation

The Committee noted that the complainant said that he did not accept the BBC’s response regarding the political balance of the audience:

“You accept that the audience has a left wing bias but justify this on the location being Bethnal Green – a solid Labour constituency. Please can you tell me the political balance of the audience you sought? Can you tell me the planned future locations for this programme and the planned political balance in each location? Whereas you claim the location was Bethnal Green most would say the location was London, a place where the Conservative candidate recently won the Mayoral Elections, so why was that not the basis for the political balance of the audience?”

BBC response

The Committee noted the BBC’s response:

“Free Speech is a programme that is travelling the UK for the BBC, visiting different locations for each of its 12 editions.

“As with Question Time, we cast the audience with BBC guidelines on editorial fairness and impartiality firmly in mind. Also, as with Question Time, we take into account the particular political complexion of the locality.

“In voting in the Borough of Tower Hamlets election 2012, which includes the Bethnal Green & Bow Parliamentary constituency, 41 seats went to Labour, 8 to the Conservatives, 1 LibDem and 1 Respect.

“However, we did take into account the wider demographic of London and the particular demographic of the target audience, producing a studio audience that we contend was fair and impartial. Its composition reflected the local political reality with some weighting towards how the target demographic of 18-24 year olds intended to vote. As the Director General wrote to [the complainant] on April 10, Labour supporters were in a minority in the totality of the audience, with Conservative, Liberal Democrat, UKIP, Green Party and others forming the overall majority.

“The main reason for drawing the audience largely from Bethnal Green & Bow is the size of the constituency. Of 73 Parliamentary constituencies in London, Bethnal Green & Bow is 13th largest. An electorate of 79,581 would make it No 4 out of 46 constituencies in the East Midlands; no. 6 out of 58 constituencies in East of England; and 11 out of 85 in SE England. On a par with Watford, Chichester and Gloucester – all places where we take Question Time and where the audience is predominantly local – we believe it was right to mainly feature people from Bethnal Green & Bow, though there were some others from neighbouring areas.

“As is evident, this programme was broadcast on March 7, 2012, two months before voting in the London Mayoral Elections. It was impossible at that stage – as it would have been even on polling day – to predict that London would return a Conservative Mayor, so difficult to accept that this should have been the basis for the political balance of the audience.”

The Committee noted that the BBC also said:

“We have learned lessons about how we put together our audience and where we seat them in the studio. For this age group, opposing Government and the powerful is cooler than voicing support. Instead of scattering people randomly through the studio, we now group Conservative or Coalition supporters together so they feel more comfortable voicing their opinions. Government supporters did speak up in this programme – as detailed in the Director General’s letter of April 10 to [the complainant] – but we felt after the show that changes were needed to find these people more easily and to give them greater confidence in the intense environment of a live, studio show.”

Decision

The Committee considered whether the programme breached the Editorial Guidelines on Impartiality due to the composition of the audience.

The Committee noted that this aspect of the complainant's appeal was based on his view that the programme was filmed in a strong Labour area and the audience was “clearly biased”.

However, the Committee also noted that, in its response set out above, the BBC said that “Labour supporters were in a minority in the totality of the audience, with Conservative,

Liberal Democrat, UKIP, Green Party and others forming the overall majority". The Committee also noted that the Director-General set out in his letter of 10 April 2012 that "of 13 comments by audience members on political issues, five were pro-Government policy, five were anti and three were neutral".

The Committee noted, however, that the complainant considered this analysis of audience responses to be "nonsense".

The Committee noted that, in its letter dated 4 July 2012, the ECU said that:

"The test of impartiality in a particular edition of such a programme is not whether there is an even balance of views among the audience, resulting in similarly balanced audience contributions ... but whether there is due opportunity for an appropriate range of views to be expressed and for criticisms to be addressed."

The Committee agreed that the way the programme could achieve impartiality was more than simply having a balance of views among the audience. Comments from the panel members, comments from the audience and interventions by the presenters or scripted inserts should also be taken into account in assessing whether the programme achieved due impartiality.

The Committee noted the topics covered during the programme:

- The Government's work experience scheme
- Cycle safety
- Minimum alcohol pricing
- Body image
- The war in Afghanistan

The Committee noted that of these subjects, three engaged Government policy directly: work experience, alcohol pricing and Afghanistan, while the subject of cycling touched briefly on the question of a compulsory cycling test and the introduction of "Boris bikes".

The Committee considered whether the programme had achieved political impartiality in each of these subject areas.

Work experience

The Committee noted that this discussion topic started with the following question from an audience member:

"Are work experience schemes being used as free labour for employers?"

The Committee noted that Esther McVey was given the first opportunity to respond to this question and she set out the background to the Government's policy on work experience:

"No it's not. Not in any way shape or form. It's about opportunity, it's about empowerment, and sometimes it's really important to know how the scheme came about because prior to this, which is an over-arching scheme, should you have done work experience for two weeks, you would have lost your benefit altogether. And there was very much a piecemeal sporadic way to which you could do work experience so we said okay, how are we going to do it so we can give more opportunities to more people and also work with employers? Because a lot of

employers would say that, you know, the youth of today aren't work ready and we said no, that's not the case, help them do work experience, see if you like them and then employ them. And I'll tell you one thing, erm me personally, if I hadn't have been able to have done work experience, if I hadn't have had the opportunity I would never have got into the very first job and my future career so I fully endorse it. I believe we need to support it, you keep your benefit, you get transport costs, we give childcare costs, and it's a way to say, look at me, please give me a go."

The Committee noted that following this answer from Esther McVey the audience gave a round of applause and the presenter commented:

"The audience seem to agree."

The Committee agreed that subsequent contributions from the audience and panel members were largely critical of the Government's scheme. The Committee noted, however, that throughout the discussion Esther McVey spoke in favour of the work experience scheme and took the opportunity to address each criticism as it arose. The Committee noted that in each case the presenter had either directly invited Ms McVey to respond or had allowed her to respond fully. The Committee noted in particular the following comments from Ms McVey:

"...how are we going to do it so we can give more opportunities to more people and also work with employers? Because a lot of employers would say that, you know, the youth of today aren't work ready and we said no, that's not the case, help them do work experience, see if you like them and then employ them."

"...I fully endorse it. I believe we need to support it, you keep your benefit, you get transport costs, we give childcare costs, and it's a way to say, look at me, please give me a go."

"... you do get asked do you want to do it, also what sphere of work would you like to go into, it's also voluntary if you do or don't want to do it and like I said, you start somewhere, and you move forward with that you get work experience."

"...and I think what you also need to take into account, if you are doing work experience properly you have to support that person you have to have opportunities in place, you have got to have other members of staff, paying for that, and so, sometimes you need a much bigger organisation that has got the infrastructure to do that."

"That's wrong, they do not, it is a voluntary scheme, you keep your benefits you also get your transport cost and if anybody needs child care you will get that too. There is actually a lot of misinformation out there and you do not lose your benefits, that is incorrect."

"...society is somewhat meritocratic and we as young people should be on the internet looking for opportunities yourself, erm we shouldn't be deferring or defusing any responsibility on to the government because it is our responsibility."

"...the opportunities are available, it's for us to take it upon ourselves to go out there and look for those opportunities so..."

"...you have to take your own opportunity and a lot of young people look for opportunities when they could make their own because they have the business mind to do it."

The Committee also noted that, following the pre-recorded video (see Point D below) the presenter introduced two members of the audience with the following comment:

"So there you go. Four stories, four rather disillusioned people. But that doesn't tell you the whole story because we have got Franklin and Eliza here this evening and we're very keen to hear both of you..."

The Committee considered that this introduced a third perspective into the debate, that of those who feel that young people should not be dependent on the Government's actions but should be taking a more active role in the pursuit of employment.

The Committee was satisfied that, as it concluded under Point A above, largely due to the substantial contribution from Esther McVey MP, the programme achieved due impartiality in its treatment of this topic.

Cycling

The Committee noted that the discussion of this subject was centred on the suggestion from panellist Gemma that training "should definitely be obligatory". The Committee noted that the pre-recorded video which preceded the studio discussion featured a range of views, including those who were against compulsory training:

"I think there should be more training available, I don't necessarily think it should be like compulsory sort of thing."

"Well basically the more cyclists there are, the safer the city is for every single cyclist."

"If there was more regulation I definitely think less people would cycle it would be too much of a complex thing to get into."

The Committee noted that during the studio discussion which followed, panellist Adam Deacon was critical of the Government in regard to cycling; however, his criticisms were not specific but instead were issued in support of his generally expressed view that the Government was unsupportive of less well off and younger people. The Committee was satisfied that this part of the programme had been duly impartial.

Alcohol pricing

The Committee noted that this discussion was introduced by the presenter with the following comments:

"Cheap booze, right. That might not be something that we can talk about for very much longer if David Cameron has his way because, minimum prices for alcohol are being planned. Now, let's have a little look at this okay got a bottle here of supermarket own brand vodka, just shout me out a price what would you pay for this at the supermarket do you think? Fiver... fiver, eight pounds, four pounds okay at the moment, at the moment this costs £8.35 right. Under the Government's plans this will go from £8.35 to £11.85."

And, after explaining the effect on the price of other alcoholic drinks:

“Now this is because the Government want to introduce a minimum 45 pence per unit of alcohol. Is it the right thing to do? What do you think of it? Let’s go straight into the audience and hear from [audience member].”

The Committee noted that in the studio discussion which followed there were views expressed which were in favour of the introduction of a minimum alcohol price, as well as those who did not think that such a measure would be effective in reducing the problem of excessive consumption.

The Committee noted an allegation from panellist Dominic McVey that a minimum alcohol price was a stealth tax, to which Esther McVey responded with a reference to research which supported the view that it would reduce alcohol related deaths:

Dominic: This money you are going to raise this stealth tax you are putting on alcohol...

Esther: It’s not a stealth tax it...

Dominic: Are you going to invest that back into the community?

Esther: Hang on a sec, if it saves ten thousand lives a year like Professor Ian Gilmore said it has to be a good thing.

The Committee noted that one audience member had put forward the view that the current levels of alcohol abuse were related to the previous Labour Government:

Woman: I think that there was a lot of deregulation with alcohol during the Blair years, and I think that facilitating binge drinking is what has happened when you see the price of alcohol go down...

The Committee noted that panellist Gemma also spoke in favour of minimum alcohol pricing when she commented:

Gemma: I think it might make you think about what you buy as well if you are spending little bit more money you kind of have to you might not spend two quid on the most disgusting... cider that is going to...

Jake: Do you think this could work Gemma?

Gemma: Literally make you puke the whole night.

Jake: Could this work?

Gemma: I think it could. I actually think it could.

The Committee noted that after hearing several criticisms of minimum alcohol pricing, the presenter specifically asked to hear the view of those who thought it might work:

Jake: Okay let’s hear from someone who thinks this could work put your hand up if you think this is a scheme that could work for people okay over there yes young lady towards the front.

Woman: I think it could work I think if people go out and people haven't got the money then people aren't going to go out and spend the money...

The Committee agreed that, taking into account the comments of panellists and audience members, this section of the programme was duly impartial.

Afghanistan

The Committee noted that the final topic for discussion on the programme was introduced by the presenter with a reference to that day's news report of the death of six British soldiers in Afghanistan.

Jake: Alright well let's move on then to our final topic this evening and there is one story which I am sure you heard today erm which we simply can't ignore and that is that six British soldiers were killed in Afghanistan. Now they went out there heartbreakingly less than a month ago it's the biggest single loss of life, in six years...

The discussion then began with a question from a member of the studio audience who asked, "Is the outcome of Afghanistan worth the death toll?"

The Committee noted that the first panellist to respond to this question was Esther McVey, who said:

Esther: Well no life is actually ever worth it but the only thing I would say when people have given the ultimate sacrifice, when they have given their life, we have to now make it worth it. We have to make sure that we help and do the best we can in Afghanistan, and everybody who has lost their life we need to make sure that they and the family and everybody else knows they did it for a purpose but no, no life is worth losing.

The Committee noted that later in the discussion, a specific allegation regarding the Government's defence spending came from panellist Dominic McVey:

Dominic: Esther talks about seeing the job through but all we hear about in the papers is we are cutting the MOD budget constantly. How are you supposed to see a job through when you are not making the commitment to the people who are trying to get the job seen through?

The Committee noted Esther McVey's response to this allegation:

Esther: The Ministry of Defence budget yes, but actually the war comes from the Treasury budget, that hasn't been reduced in any way and its cost 4.8 billion pounds, this year, 18 billion in total and it's actually gone up so no there hasn't been any cuts there. And you are quite right, before we ever go into any war you have to say why, how we doing, what it's about and it has to be the very last thing you do because at the end of the day it is lives you are putting on the line both in our country and abroad so...

The Committee noted a subsequent exchange between the presenter and Esther McVey, followed by Michelle de Swarte reading out two audience tweets:

Jake: I do want to hear from the audience really quickly but how much of a difficult position is this for the Government because you are having to speak to the Taliban about the future governance of Afghanistan the same time things like this are happening.

Esther: We have always said now because obviously we came in afterwards it had actually started not under our government but what we've said is how do we move out safely? How do we put the infrastructure into the country both for the army both for the policing both for, you know a sustainable government about education and we say, how do we move out and then still offer support where it is needed? And that is vital.

Jake: Okay vital and very difficult, we've got to just get some comments from the people at home thanks...

Michelle: Erm, I like Rob's comment. He says just get our lads out of there. I think a lot of people feel like that. Erm, people also saying it's sad to see, sorry, it's sad to see all the people out there dying however this should be a wake up call for our Government.

The Committee noted that the presenter had then specifically sought studio audience views from those in favour of the Government's policy:

Jake: Is there anybody in the audience who think we should be in Afghanistan this is the right thing for our government and for our country to be doing? Yes...

Man: Yeah we are already in Afghanistan. Whether it's right or wrong we should be there is completely beside the point, strategic withdrawal is what it's about if we just withdraw and have that trial period then those people's lives have been lost for nothing.

The Committee agreed that, taking into account the comments of the panellists, studio audience members and presenter, as well as the tweets from viewers which had been read out, the programme had been duly impartial in covering this discussion topic.

The Committee was satisfied that, overall, the programme had met the requirement for due impartiality by including a sufficient range of opinions using contributions from panellists, audience members, the presenter and pre-recorded videos.

The Committee did not uphold this element of the complaint.

Point D

The Committee considered whether the Impartiality Guideline had been breached by the pre-recorded video concerning benefits in the part of the programme about the work experience scheme.

Allegation

The Committee noted that the complainant had said that the pre-recorded video in advance of the discussion on work experience was "violently anti-Government".

BBC response

The Committee noted the BBC's response:

"Free Speech is funded by BBC Learning, which has a specific aim of providing a voice to people who feel at the edges of society. The VT inserts are often the result of a delicate and patient process in which access has been achieved to people rarely represented on national television. Instead of making an 'Open Space' type programme, with an argument left hanging in the air unanswered, their points of view are taken directly to politicians or supporters representing the Government point of view and are given the dignity of a reply.

"The purpose of the VT in this programme was to present a provocative viewpoint from local young people who are N.E.E.Ts (Not in Employment, Education or Training). They spoke of first-hand experiences of the difficulties of finding work and their views on the ineffectiveness of job centres; one complained that as a single mother she felt trapped by benefits. This VT was aimed at prompting a studio discussion with people from all sides of the issue; it did finish with one political statement from a contributor which was specially scripted to fairly reflect the Government position and the experiences of the people who featured in the VT: 'David Cameron has said if you can work, then you should work, and the government will help you find work. But as you have just seen, it's not always as simple as that. Is it?'

"The presenter told the audience that the VT 'doesn't tell you the whole story' and moved immediately to hear from two local people, the first of whom said that he didn't think responsibility for looking for opportunities should be deferred to the Government 'because it is our responsibility'. The person, Franklin Addo, said that opportunities are available and 'it's for us to take it upon ourselves to go out there and look for opportunities'. As the studio audience applause subsided, the presenter brought in a second person, Eliza Roberro, who runs a campaign called Lives Not Knives, who also said that young people had to take their own opportunities.

"The VT did only contain negative stories about job prospects and being trapped by benefits, but I do not accept [the complainant's] claim that it was 'violently anti-Government'; other than the final, neutral phrase about David Cameron's statement, the Government did not get a mention. The contributions that followed in the studio did strongly suggest that young people have to accept responsibility and take their own opportunities. Taken together, I believe this item was compliant with the impartiality guideline."

The Committee noted the BBC also said that:

"this edition of Free Speech was fair and impartial. Having said that, this was the first programme of a live, brand new series and it would be foolish to pretend that there was no room for improvement. Even before [the complainant] complained, we had taken steps to ensure that future VT inserts were more internally balanced, to ease the pressure on the studio discussion to achieve balance immediately afterwards. This was not so much a 'mistake' or 'not good enough', but a reality that came to light during the production process and that we sought to rectify as best we could."

Considerations

The Committee considered whether the video itself meant that the programme lacked due impartiality.

The Committee noted that the complainant considered that the pre-recorded video was "anti-Government". It also noted the programme makers' contention that the programme was not anti-Government and their explanation that "The purpose of the VT in this programme was to present a provocative viewpoint from local young people who are N.E.E.Ts (Not in Employment, Education or Training)" to prompt discussion in the studio.

The Committee noted the pre-recorded video was immediately followed by contributions from two audience members who expressed a different point of view to that set out in the video.

The Committee considered that, while the pre-recorded video, when considered on its own, was not balanced, this did not necessarily mean that the programme considered as a whole breached the Editorial Guidelines. Again it took note of the substantial contribution from Esther McVey.

The Committee concluded that the requirement in the Editorial Guidelines for a programme to be impartial relates to the programme as a whole and that individual items may express a particular point of view which is balanced during the course of the programme. The Committee noted that the Editorial Guidelines state that "Impartiality does not necessarily require the range of perspectives or opinions to be covered in equal proportions either across our output as a whole, or within a single programme, web page or item. Instead, we should seek to achieve 'due weight'." The Committee concluded that the video segment of the programme alone did not mean that the programme as a whole breached the Impartiality Guideline. In this respect the Committee considered that both Esther McVey's extensive contribution and the views expressed by the two audience members after the video provided sufficient balance to the video. The Committee considered that the programme as a whole was duly impartial.

The Committee did not uphold this element of the complaint.

Point E

The Committee considered whether the Impartiality Guideline had been breached in relation to the role of the presenter who was reading out tweets from the viewers.

Allegation

The Committee noted that the complainant said that the presenter was not impartial in the selection of the messages read on screen.

BBC response

The Committee noted the BBC's response which said:

"My view is that Michelle De Swarte did accurately reflect the balance of messages received by the programme. The infrastructure is that we have an online producer reading all of the incoming texts, tweets and messages. These are viewed and the best are selected, always reflecting political balance. The messages are signed off by the BBC Executive who sits in the gallery alongside the online producer."

Considerations

The Committee noted that this part of the complaint applied not only to the work experience segment of the programme (unlike points A and D above) but also to other parts of the programme where the presenter participated, particularly the discussion on the army in Afghanistan.

The Committee noted the relevant comments, taken from the transcript:

Jake: Yeah good to know that, erm, so the sort of aim for tonight is to get people at home as engaged and as involved as possible and you are going to bring their messages, their thoughts, into here.

Michelle: Exactly, I am going to be speaking on their behalf all the people that are on, erm, at home or online, erm, and yeah, be speaking for them, particularly at my favourite messages, and phone in the debate....

...Do you know what a nice way to sort of round up this chat is, erm, is Tim's and he says about the workfare campaign, it shows that when people, us lot, get engaged, erm, we are, we can make things happen, you know what I mean, a lot better than the MPs and their peers can, so I think a round of applause. Yeah, nicely summed up.

Jake: Good

Michelle: Yeah, nicely summed up

Jake: Is it as busy in the ... online as it is here in the studio?

Michelle: ...It's going off...

Erm, I like Rob's comment. He says just get our lads out of there. I think a lot of people feel like that. Erm, people also saying it's sad to see, sorry, it's sad to see all the people out there dying however this should be a wake up call for our Government.

The Committee considered the relevant extract from the Editorial Guidelines on Impartiality:

"Listening to and engaging with audiences is central to the BBC's output, from radio phone-ins to user generated content online. But responses should not be given a wider significance than they merit and we should take care not to misrepresent the relative weight of opinions expressed."

The Committee noted that an online producer read all of the incoming texts, tweets and messages and that the best were selected to reflect the political balance. The Committee also noted that the messages were signed off by the BBC executive who sat in the gallery alongside the online producer.

The Committee then considered the question of whether, in saying she would be reading out her "favourite" messages, the presenter implied that she would be reading out messages with which she agreed or whether that might have meant, for example, the most articulate, engaged or amusing messages. The Committee noted that the process for selecting the messages used was an editorial one in the gallery and that the presenter was not herself selecting the messages used, though that might have appeared to be the case to a viewer.

The Committee also considered the presenter's remark on Afghanistan ("Erm I like Rob's comment. He says just get our lads out of there. I think a lot of people feel like that"), which the executive producer said was an ad lib, understandable remark on a day when the deaths of six British soldiers had been announced.

The Committee considered the Editorial Guideline on Impartiality which says:

“Presenters, reporters and correspondents are the public face and voice of the BBC - they can have a significant impact on perceptions of whether due impartiality has been achieved. Our audiences should not be able to tell from BBC output the personal prejudices of our journalists or news and current affairs presenters on matters of public policy, political or industrial controversy, or on ‘controversial subjects’ in any other area. They may provide professional judgements, rooted in evidence, but may not express personal views in BBC output, including online, on such matters.”

The Committee considered that there had been no breach in the actual and appropriate selection of the messages read out, but that the presenter’s introduction and comments meant that it was unclear that there was any difference between what she thought and what she was reading out. The Committee agreed that the programme had left the impression that the presenter might be expressing her personal opinions.

The Committee concluded that this lack of clarity and the presenter’s expression of a personal view, “I like Rob’s comment ... I think a lot of people feel like that” meant that in this regard the programme was in breach of the Editorial Guidelines.

The Committee noted, however, that this was the first programme in a new series trialling innovative ways of communicating, within a *Question Time* style format, with a young audience (something that cannot, given the on-air audience interaction, be done as an un-transmitted pilot). The Committee also appreciated that the BBC and the production company had realised that changes needed to be made to the format and had done so before the next programme was transmitted.

Finding: Upheld in part.

"So You Think You Can Dance", BBC Online

1. Background

The second series of *So You Think You Can Dance* was broadcast on Saturdays in the early evening on BBC One from 26 March to 11 June 2011.

Four contestants appeared in the live final on 11 June 2011. All four dancers performed in the programme at 7.15pm and viewers voted for their favourite with the voting lines closing at 8.30pm. In the results show at 10pm, the host, Cat Deeley, announced "the first set of results" and said: "The first person leaving the competition tonight is Kirsty." After reviewing Kirsty Swain's progress through the competition, Cat Deeley then announced: "The second person leaving the competition tonight is Katie." The two male dancers were left in and Matt Flint won the competition as "Britain's Favourite Dancer".

Throughout the series the official BBC website was updated giving details of each individual dancer's progress in each round and recorded in which round they went out.

On the BBC website for the programme, it was stated that Kirsty Swain left the competition in fourth place and Katie Love in third place. At Stage 1 of the complaints process the final positions were removed from the website. Subsequently, at Stage 2 of the complaints process, it was established that Kirsty Swain had polled more votes than Katie Love and so came third in the audience vote.

2. The complaint

Stage 1

The complainant contacted BBC Audience Services enquiring if the voting figures for the show would be published. BBC Audience Services replied with a number of emails explaining that these figures were not available.

The complainant wrote to the BBC Trust Unit asking if the order in which the three finalists, other than the winner, had left the competition reflected the public vote. She felt that the impression was given that the finalists left in the order of the number of votes received as they left in a specific order and the words "in no particular order" were not used. She quoted the BBC's Editorial Guidelines which state:

- We will maintain an honest and open relationship with our audiences and we will not intentionally mislead them.
- The results must be accurately reported to the audience.
- We must be fair to anyone who is judged by an audience vote and must also fairly and accurately reflect the opinions of the voting audience.

The correspondence was passed to BBC Audience Services which replied stating that viewers were asked to vote for their favourite dancer; "the programme did not seek to find, nor was the audience asked to find 2nd, 3rd and 4th place, just the winner". Under the Freedom of Information Act the BBC is not required to provide this information.

The complainant again wrote asking for an apology for misleading the audience about the way in which the results were announced and asking for the actual order in terms of votes for the four finalists.

The Executive Producer of the programme had been contacted and wished to reiterate that the language used in the final reveal was:

“The first person leaving the competition tonight is...”

“The second person leaving the competition tonight is...”

In her view, the programme did not mislead the audience as viewers were asked explicitly to vote for Britain’s favourite dancer, not to vote for the placing of the finalists.

The complainant stated that she was not satisfied with the Executive Producer’s response as she “is clearly not impartial”. She outlined further reasons for her dissatisfaction, including the fact that the programme’s official website was updated after the programme to say that the audience voted the finalists into 2nd, 3rd and 4th places, as well as the winner.

BBC Audience Services (which are also BBC Complaints) stated that the order in which the two female finalists left the show was at “the production team’s discretion”. However, they apologised for the website and acknowledged that the profiles for the dancers were incorrect. These were amended “to accurately reflect their standing as finalists”. A further letter restated the Executive Producer’s position that the BBC was under no obligation to confirm the placing of the 3rd and 4th dancers in the public vote.

Stage 2

The complainant wrote to the Editorial Complaints Unit (ECU). She pointed out that it had taken three months to remove the placing of Kirsty Swain and Katie Love from the website. The final had been widely publicised and the incorrect placing had appeared on other websites and publications.

The ECU replied explaining that they had conducted their own research into the complaint and confirmed that Kirsty Swain had polled more votes than Katie Love and, therefore, was the third most popular dancer by public vote. This had not been accurately reflected on the programme’s website which read: “The audience voted Kirsty into fourth place” and “The audience voted Katie into third place”. This had misled the audience on the results of the vote and the website was in breach of the standards expressed by the BBC’s Editorial Guidelines on accuracy and on interacting with audiences.

Following the complaint, all references on the website to the contestants’ placings had been removed. The ECU felt that this effectively addressed the concerns over the accuracy of what was published and found this part of the complaint to be resolved. It was a breach of BBC editorial standards, but was appropriately addressed before being brought to the attention of the ECU.

The ECU did agree that the programme gave the impression that Kirsty Swain received fewer votes than Katie Love in terms of when they left the show. The ECU upheld this part of the complaint.

However, on the issue of fairness, the ECU felt that the focus of the series was entirely on the winner with no distinction within the programme about the placing of the runners-up. On this point, the ECU believed the element of unfairness was marginal and, on this basis, this part of the complaint was not upheld.

The complainant asked for an apology to be posted on the website with the correct results. She argued that “the programme did say it was revealing the results of the public vote, and the positions of the two female finalists were reversed”. She felt this was unfair

to the contestants and the people voting. The production team made it appear that Katie Love was the "top girl" and not Kirsty Swain. She asked what action would now be taken in explaining the programme team's mishandling of the public vote.

The ECU replied that "the changes to the website sufficed to remedy the element of inaccuracy irrespective of the programme's content". It was not necessary to provide accurate information about the contestants' relative positions in the public vote as the stress of the series was to find a single winner. There was no unfairness to the people voting as they were only voting for first place, not the ranking of the runners-up. The ECU did consider whether there was serious unfairness to Ms Swain as the final programme did seem to imply a particular ranking among the runners-up. However, in the ECU's view, this argument is premised "on attributing the kind of significance to the ranking among runners-up which the programme-makers never intended and which the series didn't warrant". The ECU, therefore, concluded "that any unfairness in this respect was, at most, marginal".

The ECU published its Finding on the BBC website on 5 April 2012.

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

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

The Senior Editorial Strategy Adviser, Trust Unit, replied on behalf of the Head of Editorial Standards stating that the Head of Editorial Standards was satisfied that issues arising from the complaint relating to the BBC's Editorial Guidelines had been addressed. She said:

- The ECU had upheld the complaint that the audience had been misled in the programme to the relative positions of the two dancers and acknowledged that there was a breach of the BBC's Editorial Guidelines. On this point, the Head of Editorial Standards believed that it was unlikely that the ESC would have anything further to add apart from endorsing the action taken by the BBC Executive.
- The BBC Executive changed the website in the light of the complaint. The ECU concluded that this matter was now resolved as action had been taken. This mistake had now been acknowledged in the published summary of the case on the BBC website.
- On the matter of unfairness, the Head of Editorial Standards agreed with the ECU that the focus of the programme was all about the winner. The audience were asked to vote for the winner, not the other positions.

The complainant challenged the Head of Editorial Standards' decision. She now wished to withdraw the part of the complaint referring to unfairness but wished to pursue her complaint that the BBC website was misleading.

She felt the public had been misled about the results of the audience vote during the programme and on the official BBC programme website. The complainant appreciated that the Head of the ECU upheld the first part of the complaint that the programme did give the wrong impression of the final positions of the dancers. However, in her view, it was not sufficient just to remove the positions on the BBC website as other media had continued to post the incorrect information on their websites. The positions of the finalists from Series 1 are posted on the programme's website and this is where people would expect to find the same information about Series 2. The complainant felt that correcting,

rather than simply removing, the finalists' positions on the website would require minimal resources.

The ESC decided that it wished to hear the appeal.

3. Applicable Editorial Guidelines

The following sections of the Editorial Guidelines are applicable:

Section 3: Accuracy

Principles

3.2.4 We should normally acknowledge serious factual errors and correct them quickly, clearly and appropriately.

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

4. The Committee's decision

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

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

The Committee noted that this appeal raised issues which required consideration of the Guidelines relating to Accuracy. When considering accuracy, it was noted that the Committee had to take into account whether known facts were distorted on the official BBC website and this could have undermined the audience's trust in the BBC's content. The Committee noted that it was asked to consider whether the BBC had demonstrated that it corrected mistakes quickly, clearly and appropriately.

The Committee noted that the official programme website (<http://www.bbc.co.uk/programmes/b00tqkyx>) carries individual pages for each dancer taking part in the competition. For those competitors who did not reach the live final, their profile page follows their progress up until their elimination round. On the website, it was originally stated in June 2011 that Kirsty Swain was voted "into fourth place" in the competition and Katie Love "into third place". When it was confirmed that the order in which they were announced was solely at the production team's discretion, the profile pages on the website were changed in September 2011 stating that both dancers were one of the four finalists.

The Committee noted that it had taken three months for the incorrect information on the BBC website to be changed. BBC Vision stated that they had only been "made aware of the inconsistencies between the presentation of the results in the programme and on the website in September 2011", when Audience Services provided them with a copy of the complainant's letter dated 24 August 2011. The Committee noted that in her comments on the appeal paperwork the complainant had questioned BBC Vision's statement about the date that the matter regarding the website was brought to its attention. The Committee noted that the Editorial Adviser had explained to the Trust Unit that she had

checked this point with BBC Vision in the course of investigating the complaint. BBC Vision said that it had not been passed the complainant's letter of 16 July in which she had raised the matter of the website. The Committee was satisfied that the letter of 24 August was the first time the matter was raised with BBC Vision⁶.

The Committee noted that for Series 1 the final placing was given for the top three dancers on their profile page on the series website. BBC Vision was asked why the final positions were not given for both Kirsty Swain and Katie Love on their profile pages. BBC Vision replied "The simple fact is that it is rare for any two series to be exactly the same and this also applies to their accompanying websites. For example, the final of Series 1 had only three finalists (as opposed to four in Series 2)."

The Committee noted that other media websites, such as Wikipedia, So You Think You Can Dance UK and Facebook, reported on their websites the original incorrect placing of the contestants as initially published on the BBC series website.

The Committee noted that for Series 1 the profile web page for the dancer who came third read "When the first of the final results were announced, Lizzie had come third overall". There were only three contestants in the final programme as the fourth dancer had dislocated his shoulder and had to withdraw from the final.

The Committee noted that in the Series 2 final live programme the presenter, Cat Deeley, had used the words:

"The first person leaving the competition tonight is..."

"The second person leaving the competition tonight is..."

Although the viewers had been asked to vote for their favourite dancer, a reasonable assumption could be made that competitors were being eliminated based on the number of votes they had received. The Committee felt this understanding was reinforced as a phrase such as "in no particular order" was not used, which would have clearly signalled to the audience that the amount of votes each competitor received at this juncture in the programme was not being taken into account. The Committee agreed with the ECU's conclusion that the Guidelines concerning accuracy and interacting with audiences had been breached as the audience had been misled on the results of the vote within the programme.

The Committee noted that the ECU had confirmed that Kirsty Swain had polled more votes than Katie Love and was concerned that this information had not been forthcoming from the BBC when requested by the complainant given the BBC had taken a public position on the voting on its website. The Committee noted that the inaccurate positions of these two dancers had been published on the official BBC website and were published in other media as, understandably, this had been the primary source used for information about the competition.

⁶ In October 2012, prior to publication of this finding, it was brought to the Trust's attention that, in fact, the complainant's letter of 16 July had been provided to the Executive Producer for the response which was sent on 22 August. The Chairman of the ESC was informed of the correct facts prior to publication of the finding and agreed that this new information was a helpful clarification but was not a matter of substance which would have a bearing on the Committee's finding. It did not alter the Committee's finding that the BBC website was not corrected appropriately in a timely manner. The correct information is provided in this footnote as a matter of record.

The Committee noted that the BBC had changed the wording on the website in September 2011, three months after the end of the competition, despite the content of the BBC's website being drawn to the BBC's attention in July 2011 by the complainant. The Committee considered that the BBC had not acted in a timely fashion to change the inaccurate information on the website.

The Committee noted that the ECU believed the change of wording to state that Kirsty Swain and Katie Love had reached the live final, but not their actual positions in the public vote, was sufficient to remedy the inaccuracy on the website. The Committee considered that this change of wording did not accurately reflect the outcome of the audience vote. The Committee felt that insufficient account had been taken of the significance in the dance world of a national competition broadcast by the BBC, and that it would receive widespread coverage in this specialist arena.

The Committee concluded that the official website was in breach of the Guidelines on Accuracy. Although the BBC had acknowledged its error in correcting the inaccurate information on the website, this had not been done quickly, clearly or appropriately.

The Committee agreed to direct the BBC Executive to ensure that the BBC programme website was corrected to reflect the final positions of Kirsty Swain in 3rd place and Katie Love in 4th place. The Committee noted that the programme website links to the official Facebook page for the programme. While the Committee accepted that the comments left by fans on the official Facebook page which repeat the incorrect placing of the finalists are outside the BBC's editorial control, the Committee agreed that it would be appropriate for a link to be placed on the Facebook page back to the corrected placings on the BBC website.

Finding: Upheld.

The Big Questions, BBC One, 4 March 2012

1. The programme

The Big Questions is now in its fifth series and is shown on Sunday mornings on BBC One. Nicky Campbell hosts the programme which features debates on moral, ethical and religious issues from different venues around the UK before a live studio audience. The programme in question started at 10am and came from York. The first debate was entitled "Should we champion a British identity?" followed by two other debates – "Is Iran a real threat?" and "Should we listen to angels?"

2. The complaint

Stage 1

The complainant contacted BBC Audience Services about what he considered to be the racist tone of the discussion involving Benjamin Zephaniah. BBC Audience Services replied on 12 March 2012 stating that the use of the word "sunshine" by an audience member who was addressing Mr Zephaniah was discussed with the production team. They stated that the audience member involved was not making a racist remark by referring to Mr Zephaniah as "sunshine". The audience member did have firm views on the monarchy and reacted to Mr Zephaniah's suggestion to "do away with the Queen". When the audience member realised that Mr Zephaniah had taken offence at the use of the word "sunshine", he said sorry. Nicky Campbell, the host, also apologised for any offence caused. After the programme the production team discussed whether "sunshine" was a racist term, or was meant as one on this occasion. It was felt that the word was used in a belittling manner, and Mr Zephaniah confirmed that this is how he interpreted its use. Mr Zephaniah was satisfied with how Nicky Campbell had handled the situation and accepted the production team's apologies.

The complainant wrote asking for further clarification from the producers of the programme on how the discussion complied with the BBC's Editorial Guidelines concerning the use of strong language. He also felt that Nicky Campbell's on-air apology was not sufficient as it was conditional using the phrase "if any offence was caused".

BBC Audience Services replied after further discussion with the production team. They did not consider that the word "sunshine" would be considered strong language by the majority of the audience and there was some dispute "over its potential to offend as a racist term". The apology was handled "as best we could in the live environment". The audience member clearly said "sorry" and Nicky Campbell apologised during the show. After the programme, Mr Zephaniah was "left happy with the way it was handled".

Stage 2

The complainant contacted the ECU. He was not satisfied with the response from the production team. The complainant felt that the discussion amounted to racist abuse. The complainant said that Mr Zephaniah was told he was less British as he wanted to get rid of the Queen and, during the discussion, he was called "sunshine". The complainant believed that the apology was not adequate both from the audience member and the host, Nicky Campbell.

The ECU replied with its finding. The ECU noted that during the discussion Benjamin Zephaniah asked the question "Does this make me less British?" when he said he wanted "to do away with the Queen". An audience member was heard to say "Definitely". The ECU felt that opposition to the monarchy is not an issue of colour, as both Mr Zephaniah

and Mr Campbell pointed out, and so there was some doubt as to whether the audience member's comment was necessarily racially motivated. Mr Zephaniah clearly took offence at being addressed as "sunshine" and he may have regarded this as a racial slur, but in the ECU's view it was not possible to conclude with any certainty that it was intended in that manner. The ECU did not consider that the word "sunshine" was widely regarded as having racist connotations in the UK.

The ECU felt that the context of the programme should be considered. It is a live current affairs programme and views are expressed "in a robust and forthright manner, and are likely to expect reasonably heated exchanges". In the Complaints Director's opinion, the comment did not go beyond the expectations of the audience.

The ECU believed that Nicky Campbell's apology was genuine and clearly acknowledged Mr Zephaniah's concern and concluded that it was appropriate in the context of a live programme.

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

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

The complainant's case for reconsideration of the complaint was based on the following assertions:

- It was a case of racist bullying as Mr Zephaniah was told by an audience member that "Britain is not his country and that he is not a subject of the Queen".
- The use of the word "sunshine", which the complainant said was from the word "shine", does have racial overtones and is a slur for African-Americans. It was used as "a put-down or derogatory epithet by someone wishing to assert their authority over another person". Various dictionaries give definitions referring to "shine's" racist origins. The term "sunshine" was also frequently used by Alf Garnett in the sitcom *Till Death Us Do Part* "to put down black characters".
- The apology from Nicky Campbell "was not immediate and unconditional".

3. Applicable Editorial Guidelines

The following sections of the Editorial Guidelines are applicable:

Section 5 – Harm and Offence

Live Output

5.4.19 If problems occur in live output, they should be dealt with promptly and sensitively.

Language

5.4.20 Different words cause different degrees of offence in different communities... A person's age, sex, education, employment, faith, nationality and where they live, may all have an impact on whether or not they might be offended.

Strong language is most likely to cause offence when it is used gratuitously and without editorial purpose, and when it includes:

- terms of racist or ethnic abuse...

Intimidation and Humiliation

5.4.32 BBC content must respect human dignity ... Some content can be cruel but unduly intimidating, humiliating, intrusive, aggressive or derogatory remarks aimed at real people ... must not be celebrated for the purposes of entertainment. Care should be taken that such comments and the tone in which they are delivered are proportionate to their target.

4. The Committee's decision

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

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

The Committee noted that this appeal raised issues which required consideration of the Guidelines relating to Harm and Offence. It was noted that the Guidelines on Language specifically require taking into account the editorial justification of any remarks and the likelihood of racist abuse. The Committee also noted that it was required to consider whether the programme had met the standards regarding Intimidation and Humiliation, taking into account whether the remarks were unduly derogatory.

The Committee noted that any apology in a live programme should be made promptly and be sensitively handled.

Complaint Point 1 – The discussion about the concept of Britishness, including the use of the word "sunshine", was derogatory and racially offensive.

The Committee noted that the first debate in this edition of *The Big Questions* was "Should we promote a united British identity?" Guest speakers included the poet Benjamin Zephaniah, Douglas Murray from the Henry Jackson Society and Afshin Rattansi from Press TV. The exchange between Benjamin Zephaniah and the audience member started about ten minutes into the programme. The host, Nicky Campbell, asked Mr Zephaniah whether the Queen acted as a unifying force for the nation and the following exchange took place:

Benjamin Zephaniah: I feel very British. If I go to Jamaica they look at me by the way I walk, by the way I talk. I don't even have to talk actually; they just see me and my body language and they know that I am British. But I would like to do away with the Queen. Does that make me less British?

Voice from audience: Definitely.

BZ: No it does not, of course it does not. There's been a tradition of republicanism in this country for years.

Audience Member: This is a monarchy and a constitutional monarchy and people have died getting that.

Nicky Campbell: Does that make him less British?

AM: Yes it does...

- BZ: It makes me less British? How dare you ... how dare you (talking over each other)
- AM: It's absolutely outrageous, it's absolutely outrageous that on national television he should come on and say he wants to get rid of the Queen. Our Queen, in this country, you're talking about sunshine.
- BZ: Don't call me sunshine.
- AM: Sorry.
- BZ: How dare you?
- AM: Well anywhere else... (talking over each other)
- BZ: How can you have people like this on your programme calling me sunshine?
- AM: Anywhere else if you were to insult the head of state you would be in trouble. You can't go to Iran and insult the head of state.
- BZ: This isn't anywhere else, we are here.
- AM: Well don't insult our head of state.
- NC: Isn't that, wait, gentlemen. Isn't that the beauty of this country, you're allowed not to like the Queen. What about the Levellers, what about the Chartists? (applause) You're allowed to have Union Jack t-shirts and go to you know...

The Committee noted that there was evidence the word "shine" does have a racist meaning in American slang:

- The racial sense may have originated among blacks, may refer to the glossiness of a very black skin, and hence may reflect the caste system based upon colour; among white speakers, the sense was surely influenced by the fact that most shoeshine persons were black... [*Dictionary of American Slang, Third Edition 1965*]
- A 'shine' is always a negro, so called, possibly, from the high lights of his countenance. [*Dictionary of American Slang 1960*]

The Committee noted that the production team were asked if they saw any potential racist overtones in the use of the word "sunshine". They considered that the comment was directed at Mr Zephaniah because of the views he expressed about the Queen:

"'Sunshine' is a common northern expression and no-one on the team understood it to have any racial connotations. They did not believe that the audience member used the expression because of the colour of Mr Zephaniah's skin."

The Committee noted that in the UK, dictionaries categorise some of the definitions of "sunshine" as slang. These include:

- used sometimes as a "threatening form of address" [*Oxford Dictionaries – British and World English*].

- it can be spoken informally “when speaking to someone you are annoyed with” [*Longman Dictionary of Contemporary English*].
- “An informal term of address, often used as part of a greeting or in a mockingly condescending or scolding tone” [*Chambers Dictionary*].

The Committee also noted that meanings can change but that it was not aware of a definition which includes a racial connection to the word “sunshine” in the UK.

The Committee noted the format of the programme which is designed to provoke debate on contentious topical issues. In this context, the Committee believed that the subject and tone of the debate about what it means to be British was editorially justified. Although the audience member directed his comments at Benjamin Zephaniah in response to his comments about the Queen, the Committee considered that they were not unduly derogatory given the format of the programme and the adversarial nature of the debate.

The Committee did not believe that the majority of viewers would consider the remarks made by the audience member were racially abusive as he was reacting to Benjamin Zephaniah’s wish to abolish the monarchy. The comments made did not appear to be predicated on race, but rather on an individual’s views on the connection between Britishness and supporting the monarchy. The Committee considered that, in the context of this debate, the use of the term “sunshine” was not meant in a racially abusive manner. Although the word “sunshine” could be used in a patronising manner, the Committee did not believe it would be considered as racially abusive as it did not appear to have racist connotations in the UK.

The Committee considered that the exchange between the audience member and Benjamin Zephaniah did not amount to racist abuse and the language used was not unduly derogatory or racially offensive. On this basis, the Committee concluded that the programme was not in breach of the Editorial Guidelines.

Complaint Point 2 - The apology by the presenter was not appropriately handled.

The Committee noted the following extract from the transcript of the programme:

- | | |
|---------------------|---|
| Nicky Campbell: | And also Benjamin, our friend there has highlighted something interesting... |
| Benjamin Zephaniah: | He’s not my friend, he called me sunshine. |
| Nicky Campbell: | I know and you didn’t like that and I’m sure that ... I apologise if you were offended by that. But freedom of speech is absolutely vital isn’t it? |
| Benjamin Zephaniah: | He just didn’t give me any. |
| Audience Member: | I just gave you... |
| Nicky Campbell: | Well you have it now, you have it now. You have the freedom to think whatever you... |

The Committee noted that BBC Vision was asked whether the production team felt that Nicky Campbell’s qualified apology was sufficient. They replied that the Editor felt that the apology heard from the audience member off-camera was required to be supplemented by an apology from Nicky Campbell. He was directed through his earpiece to make such an apology. Within the confines of the broadcast, the Editor felt this was an appropriate

course of action. Immediately after the programme, the team made full apologies to Mr Zephaniah, which he accepted.

The Committee noted that the audience member apologised when Mr Zephaniah complained about being called "sunshine". However, Mr Zephaniah was clearly offended at being told he was less British for wanting to do away with the monarchy and on this point the audience member was unapologetic. The Committee noted that in the earlier exchange Mr Campbell had said that it was a great tradition in the UK that people could hold these views about the monarch. Mr Zephaniah appeared to accept this point, but was still concerned about being addressed as "sunshine". The Committee noted that the presenter then apologised when Mr Zephaniah continued to be upset and appeared not to have registered the audience member's apology earlier in the exchange. The Committee considered that, given the context of a live programme in which a presenter is trying to keep the momentum of a debate going, that the apology was handled in a reasonable manner. The Committee noted that after the programme the production team had gone to some lengths to establish that Mr Zephaniah accepted the apology and did not consider the tone of the debate or the language used to be racially abusive.

The Committee concluded that the apology had been appropriately handled and, therefore, the programme was not in breach of the Editorial Guidelines.

Finding: Not upheld.

“David Cameron attack on Welsh NHS”, BBC Online and Twitter

1. Background

On 8 February 2012 the BBC reported on exchanges that day at question time in the House of Commons concerning the Government’s Health and Social Care Bill (‘the Bill’). The Bill contained proposals for reforming the National Health Service in England.

The Labour MP for Cardiff South and Penarth, Alun Michael, said the UK government should abandon the Bill. David Cameron, Prime Minister, replied: “I tell you what needs to be abandoned, that’s Labour’s approach to the NHS in Wales.”

Mr Cameron went on to cite Welsh NHS performance statistics, contrasting them negatively with English NHS performance. The NHS in Wales is the responsibility of the devolved Welsh Assembly Government, which is Labour-led.

BBC News reported this exchange in a story on its website, and through its various news feeds. The complainant received a headline and web link to the story via his Twitter feed. The headline read: “David Cameron attack on Welsh NHS”, which he said was inaccurate.

Meanwhile, the headline on the website, to which he was directed by the tweet, read “David Cameron attacks Labour’s handling of NHS Wales”. This headline was duly accurate, said the complainant.

2. Complaint

Stage 1

In February 2012 the complainant contacted the BBC to say the Twitter feed he had received, “David Cameron attack on Welsh NHS”, was inaccurate. When he had clicked on the link provided it had taken him to the full BBC News online story which began “Prime Minister David Cameron has launched an attack on Labour’s handling of the health service in Wales”. This, the complainant maintained, was a completely different story.

Several exchanges with the BBC News website followed, during which the complainant contrasted the headline on the website story, which he considered to be accurate, and the tweet he was complaining about.

The BBC said the tweet “was automatically generated from the headline of the story”, so there was no discrepancy between the tweet and the headline [the BBC had misunderstood which headline the complainant was referring to].

The BBC said the issue was whether the headline on Twitter matched the story and, in its view, it did: Mr Cameron had attacked the running of the Welsh NHS, which was administered by Labour.

Stage 2

The complainant contacted the Editorial Complaints Unit (ECU) on 1 March 2012, reiterating his concerns.

The ECU’s Complaints Director explained on 26 March 2012 why he would not be upholding the complaint. He accepted that the report linked to the Twitter headline was about Mr Cameron criticising Labour’s running of the NHS in Wales rather than the NHS

itself. However, he believed that readers of the headline would have correctly understood that Mr Cameron was criticising an aspect (or aspects) of the Welsh NHS, even if they did not know what it was he was criticising without clicking on the link. He did not accept that those who only read the headline would have been left with a materially misleading impression. It was generally understood that headlines provided a brief summary and readers who wanted more detail could reasonably be expected to click on the link to the full report.

Appeal to the Trust

The complainant contacted the BBC Trust to appeal on 3 April 2012, supplementing his arguments with three further emails in the following days. The Trust's Head of Editorial Standards proposed that the appeal should not proceed on the grounds that it did not have a reasonable prospect of success. However, following a challenge from the complainant, the Editorial Standards Committee (ESC) decided on 14 June 2012 that it would like to hear the appeal.

The complainant had raised the following point in relation to the accuracy of the headline "David Cameron attack on Welsh NHS": that the headline was inaccurate because it suggested an attack on the NHS in Wales, whereas the object of the attack, as described in the full story, was the Labour Party's handling of the NHS in Wales.

3. Applicable Editorial Guidelines

The Editorial Guidelines on Accuracy are applicable to this case. The full guidelines are at: www.bbc.co.uk/editorialguidelines. The following Guidelines are relevant to this case:

Section 3: Accuracy

Introduction

The BBC is committed to achieving due accuracy. This commitment is fundamental to our reputation and the trust of audiences, which is the foundation of the BBC...

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.

Principles

3.2.2 All BBC output, as appropriate to its subject and nature, must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language...

3.2.3 The BBC must not knowingly and materially mislead its audiences. We should not distort known facts...

4. The Committee's decision

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

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

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

The Committee noted the information provided by the BBC on how headlines for the various platforms, including Twitter, were generated. The BBC said a sub-editor wrote two versions of a headline, a longer one for the website (up to 55 characters) and a short one (maximum 33 characters) for the index on the website home page, which then fed through to Ceefax (being phased out), Twitter and elsewhere, and was designed to fit all of these other platforms.

The Committee looked at the complainant's argument that the short version of the headline, "David Cameron attack on Welsh NHS", lacked what he considered was vital context, suggesting a direct attack on the NHS. The longer version, meanwhile, ("David Cameron attacks Labour's handling of NHS Wales") was accurate, said the complainant, because it clarified that the object of the attack was not the NHS but Labour's handling of it in Wales.

The Committee then considered the BBC's view that the short headline was an accurate summary of the report to which it had linked. This story, said the BBC, had quoted performance statistics for the NHS in Wales and contrasted them adversely with the NHS in England. The BBC said that because the NHS in Wales was administered by Labour it was fair to say that Mr Cameron had attacked the Welsh NHS.

The BBC's view was not accepted by the Committee, and it agreed with the complainant that to say the Prime Minister had attacked the NHS was a very different matter from saying he had attacked Labour's performance in relation to the NHS, particularly given the fact that protection of the NHS was a politically sensitive issue.

The Committee considered the further arguments from the BBC that the longer headline on the website story was bound to be more accurate because there was more space to tell the story, that it was always challenging to write headlines when space was restricted, and that an element of shorthand would inevitably be involved, as was the case here.

The Committee was mindful that the Editorial Guidelines on accuracy apply to all content wherever and however it is received. It was particularly important for this to be borne in mind by the BBC as it continued in the development of new platforms for delivering its content.

The Committee agreed with the BBC that considerable skill was needed to ensure that headlines subject to space restrictions remained duly accurate. On this occasion, the Committee decided, the short headline that was the subject of the complaint was not sufficiently precise. It agreed with the complainant that this meant the headline did not reflect with due accuracy the story to which it was linked.

In view of this, the Committee required that the headline be removed or adjusted in the archive, on the website and on other platforms as necessary.

Finding: Upheld

“London’s public land sell off sparks concern”, BBC London News and BBC Online, 7 March 2012

1. Background

On 7 March 2012 BBC One (London) carried a report on London News (6.30pm) about the future of open spaces in London. The film was also placed on the BBC News website, with a written headline and introduction.

The film featured an example of plans for a recreation ground. In this case, the local council planned to expand a school onto the site of an existing sports pavilion on the recreation ground.

The complainant said that it was implied incorrectly in the headline/introduction and the report itself that public land featured in the example was being sold to developers and that open space was being lost.

The website headline was: “London’s public land sell-off sparks concern”. The introduction said:

“Twenty London boroughs have sold almost 120 acres (50 hectares) of open public space in just over two years.

“The sale of playgrounds, sports fields and allotments has raised £70m and sometimes overrules longstanding agreements to protect land, according to some campaign groups.”

It then went on to list the four people who had been interviewed in the film: three of them related to the case study in question (Dundonald Rec); the fourth was from a separate campaign, not featured in the film, who made some general points about the state of the economy and activity by developers.

The TV introduction to the film said:

News presenter: BBC London has discovered that land equivalent to the size of Green Park and St James’s Park combined has been taken out of public use in the last two years. The land, including playgrounds, sports fields and allotments, has been sold by twenty London boroughs to raise tens of millions of pounds but often long-standing rules to protect it have been over-ruled and for some the loss of public open space is causing alarm. Our special correspondent Kurt Barling reports.

2. Complaint

Stage 1

The complainant contacted the BBC on 12 March 2012 alleging that the report in question was inaccurate and unbalanced. In his view, it had: overstated local opposition to the expansion of the school onto the site and not covered the issue of the shortage of school places; not raised the possibility that some objectors might be influenced by the effect on their own property prices; and falsely implied the park was being sold off to property developers. There was further correspondence concerning this during April, in which the complainant sought a response to his complaint.

On 8 May 2012, the Editor, BBC London TV News, apologised for the delay (he said the complaint had only recently been passed to him and he had been heavily involved in the BBC's Mayoral election coverage) and said he disagreed that viewers had been misled. He said the recreation ground was used as a case study about the loss of open spaces in London; it had been stressed that only part of it would be lost; it was stated that the proposal had caused bitter local dispute; interviews with objectors had been balanced by an interview with a councillor who had explained the need for school places; and the issue of the shortage of school places in London had been covered many times in the past and would be again in the future.

Stage 2

The complainant set out for the BBC's Editorial Complaints Unit (ECU) why he disagreed with the Stage 1 decision. The ECU responded on 14 May 2012, and on 31 May 2012 wrote to explain why it would not be upholding the complaint.

The ECU said the introduction and the report had both referred to the sale of open spaces by London boroughs. In theory, some viewers might have assumed this was the case in the proposed development of Dundonald Rec, the playing field in question. However, the report itself had not suggested a sale to developers. The ECU said it would have been better if the report had explicitly separated the plans for Dundonald Rec from the sale of other open spaces but it did not believe the audience would have been materially misled.

Other issues covered by the ECU decision included the following: the report had given sufficient explanation on the issue of school places; the disagreement about the amount of public space that would be lost had been reflected; both sides of the argument, for and against development, had been represented; and it was not necessary to refer in a brief news report to the possible motives of objectors to the plan.

Appeal to the BBC Trust

On 1 June 2012 the complainant appealed to the Editorial Standards Committee (ESC) of the BBC Trust to review the ECU's findings. His complaint at this stage was summarised by the Trust under six points. On 27 June 2012 the Trust's Head of Editorial Standards agreed that two points concerning accuracy should proceed to appeal. The Head of Editorial Standards decided that the remaining four points did not have a reasonable prospect of success and her letter also explained why she did not propose to put these to the ESC. The complainant challenged the decision not to proceed with the four other points but the ESC at its meeting on 18 July 2012 subsequently confirmed that the appeal should be restricted to the two accuracy points.

The Committee's decision regarding the admissibility of the other points has been published and is available at:

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2012/jul.pdf

In this appeal, the complainant raised the following points in relation to the accuracy of the programme and online content:

- Point (A) The building project which was reported on as part of this item is not a "public land sell-off", contrary to the headline/introduction.
- Point (B) The item itself did not make clear that the land had not been sold to developers and there would not even be any loss of open space.

3. Applicable Editorial Guidelines

The Editorial Guidelines on Accuracy are applicable to this case. The full Guidelines are at <http://www.bbc.co.uk/editorialguidelines>.

The following Guidelines are relevant to this case:

Section 3: Accuracy

Introduction

The BBC is committed to achieving due accuracy. This commitment is fundamental to our reputation and the trust of audiences, which is the foundation of the BBC...

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.

Principles

3.2.2 All BBC output, as appropriate to its subject and nature, must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language...

3.2.3 The BBC must not knowingly and materially mislead its audiences. We should not distort known facts...

4. The Committee's decision

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

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

This appeal raised issues requiring consideration of the Guidelines relating to Accuracy. The Committee considered the complainant's two points, as follows, together:

Point (A) That the accuracy Guidelines had been breached because the building project which was reported on as part of this item was not a "public land sell-off", contrary to the headline/introduction.

Point (B) That the film itself did not make clear that the land had not been sold to developers and there would not even be any loss of open space.

The Committee noted that the reporter, Kurt Barling, had explained there were two elements to the film. The first element concerned a general critique of loss of public land, using Freedom of Information request research from all London boroughs. The result of this research, he said, had supported the headline and introductions for the film as broadcast and on the website.

The second element, said the reporter, was a specific case study of the recreation ground that was the subject of this complaint (Dundonald Rec). This part of the film had looked at what the reporter said was a growing disposition by public authorities to challenge or overlook covenants placed on public land to keep it in open public use in perpetuity.

The Committee noted that Dundonald Rec was subject to such a covenant, that the film had set out protesters' concerns about the council's plans, and that a councillor had been given the opportunity to explain why the school expansion was needed.

The ECU's explanation of its decision not to uphold the complaint at Stage 2 was considered by the Committee. The ECU had said that the introduction and the report both referred to the sale of open spaces by London boroughs. In theory, some viewers might have assumed this was the case in the proposed development of Dundonald Rec. However, the report itself had not suggested a sale to developers, and the ECU cited examples of where it believed the circumstances had been made clear. The ECU said it would have been better if the report had explicitly separated the plans for Dundonald Rec from the sale of other open spaces but it did not believe the audience would have been materially misled.

The Committee noted that the complainant argued that there would not even be a loss of public open space under the council's plans. The Committee understood that this was disputed by protesters locally and was subject to complex legal and planning arguments. Therefore, the Committee agreed that this was not an issue for it to consider in detail and pronounce on.

What was beyond dispute, it noted, was that there was no sale of public land involved in the Dundonald case: the local council plan was for the expansion of a state primary school. The Committee also noted that the Dundonald case study was the only one to have been featured in the film, and that it took up a substantial proportion of the report.

The Committee considered the complainant's argument that, in view of the headline, introduction and general context of the film, this fact made the use of the Dundonald case study fundamentally misleading. It also considered the counter argument by the BBC that the film had not said that the land was being sold off but that, according to campaigners, it would be lost to public use.

The Committee agreed with the reporter that there had been two elements to the film: the research in connection with the Freedom of Information requests, and the Dundonald case study. However, it decided that there was, at best, an oblique connection between the two. Both elements of the film were reasonable issues to have reported on but, assembled together, as they had been here, would have led to the audience, in the Committee's view, having been materially misled.

The headline, introduction and thesis, as set out at the start of the film and on the website, was that cash-strapped London councils were raising funds by selling off publicly owned land, and it was in that context that viewers would have watched the rest of the film, the Committee decided.

It was not sufficient, in the Committee's view, to say that the case study had not specified that land was being sold off: viewers would have had a legitimate expectation that there would have been a relationship between the start of the item – which was about land being sold off – and the remainder of the film.

The Committee agreed with the complainant, therefore, that in relation to the headline, introduction, and film itself, as broadcast and as on the website, the BBC had not achieved due accuracy.

The Committee did not consider a broadcast correction at this stage would be proportionate but it did request that the BBC remove the item in its current form from its archive and website or otherwise correct it.

The complainant had suggested, at an earlier stage, that if the Committee accepted that the report was inaccurate, then it would follow that the report must also have been biased in favour of campaigners against the redevelopment scheme.

The Committee did not agree with the complainant that this was the case here. It confirmed that there was no reason for it to reconsider a previous decision not to progress this point as part of the appeal on the grounds that it did not have a reasonable prospect of success.

Finding: Upheld.