

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), David Liddiment, Richard Ayre, Sonita Alleyne and Bill Matthews. It is advised and supported by the Trust Unit.

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

The Committee may consider appeals concerning complaints which allege that:

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

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

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

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

Summaries of findings

Bang Goes The Theory, BBC One, 16 April 2012

The complainant said that a line of commentary in a programme about the science behind wireless technology was not consistent with the World Health Organisation's classification of electromagnetic fields as possibly carcinogenic. He said that the line implied that a study which was in progress at the time would eventually show that wireless is safe.

The Committee concluded:

- that the phrase used in the programme, "waiting for proof", could suggest that the outcome of current studies is a foregone conclusion, but the contribution from a representative of the Health Protection Agency (HPA), which immediately preceded the phrase, guarded against the audience forming this impression.
- that the comments from the representative of the HPA were consistent with the view of the major health bodies and reflected the prevailing scientific consensus.
- that the programme accorded due weight to the current body of peer-reviewed science and that in a six-minute section of a thirty minute programme it was neither possible nor appropriate to go into detail about individual studies.
- that the decision on the inclusion of specific information, such as the WHO classification or precautionary measures that have been put in place around the world, was properly a matter for editorial judgement and that the omission of such information did not mislead the audience.
- that the programme left the audience with the accurate impression that there might be a link between the use of mobile phones and the risk of cancer, but a definitive answer required more time and therefore research is ongoing.
- that the programme suggested the likelihood is that no causal link will be established between the use of mobile phones and the risk of cancer, and this was consistent with publicly available peer-reviewed evidence.
- that the programme was duly accurate and duly impartial.

The complaint was not upheld.

For the finding in full see pages 7 to 16.

The World at One, BBC Radio 4, 28 August 2012

This was a consolidated appeal from eleven complainants who alleged that an interview with Israeli spokesman Mark Regev on the subject of the death of Rachel Corrie was inaccurate and materially misleading when the interviewer referred to the deaths of Israeli soldiers. Some complainants believed that an apology given by the BBC was insufficient, and they requested an on-air apology. Some complainants said that the interview had been unfair to Ms Corrie's family. Some complainants said that alternative or additional contributions were necessary to achieve impartiality.

The Committee concluded:

- that it was not appropriate to take the fairness aspect of the complaints on appeal given that the complainants were not “first party complainants” and nor were they authorised to represent a first party complainant.
- that it was not overtly stated in the programme that on that day peace activists such as Rachel Corrie or those connected with the International Solidarity Movement or with the house demolition protests took action in a way that resulted in the deaths of Israeli soldiers, and the context of the item as a whole guarded against anyone reaching that mistaken impression.
- that the presenter’s reference to the death of Israeli soldiers had not been duly accurate; the BBC should have apologised and this had been done at Stage One.
- that there was no evidence to support the assertion that the audience were knowingly misled.
- that the apology at Stage One had resolved the matter.
- that there was no requirement for the programme to include information about the deaths of Palestinians at around the same time in the report; the deaths were not connected to the topic under discussion.
- that the BBC was entitled to broadcast a comment by Mr Regev about a hand grenade attack (which was referred to in the court record). There was no breach of the guidelines on accuracy in this respect.
- that the BBC’s apology had made it clear that there were no Israeli deaths on the same day as Rachel Corrie died and this was the essential point of the apology.
- that the BBC’s apology had not said that the soldiers died the previous week in Gaza and there was no breach of the BBC’s guideline on accuracy in relation to this aspect of the appeal.
- that the apology acknowledged that “the question was poorly phrased and therefore gave a false impression”, and this was a clear and appropriate acknowledgement of the error.
- that , while it was open to *The World at One* to have made a brief on-air correction/apology in the days immediately after 28 August 2012, it was not necessary for the World at One to have apologised on air and, on balance, an online apology had been sufficient in this case.
- that the requirements for due impartiality were met in the programme and there was no need for any further ‘balancing’ interviewee in this case.
- that Mr Regev was challenged appropriately and the requirements for due impartiality had been met.
- that it was not necessary to refer to Palestinian deaths around that time to achieve due impartiality given the subject matter of the item.
- that the presenter’s reference to the death of Israeli soldiers was an inadvertent conflation in the course of an interview and the Committee had found no evidence

to indicate that there was bias involved.

- that, taking into account the findings of the Committee over a number of years in response to claims of either pro- or anti-Israeli bias, there was no evidence of a pattern of either in BBC journalism.
- that the broadcast had not caused any reputational damage to Ms Corrie, her family, those who supported them or the reputation of the International Solidarity Movement.

The complaint was in part not upheld and in part found to be resolved.

For the finding in full see pages 17 to 32.

Today, BBC Radio 4, 19 April and 9 May 2012

The complainant said that in reports broadcasts on the *Today* programme on 19 April and 9 May 2012 the use of the word "Asian" was inaccurate, misleading and unfairly smeared Sikh, Hindu and other communities. The complaint about the 19 April programme concerned a report about marriages between cousins. The complaint about the 9 May programme concerned two reports linked to the conviction the previous day of nine men from Rochdale and Oldham on child sexual exploitation charges. The complainant also raised more general issues in relation to the adequacy of the BBC's Editorial Guidelines.

The Committee concluded:

- that the overall report on the Today programme of 19 April 2012 was duly accurate. The references to race had been editorially justified and careless or offensive stereotypical assumptions had been avoided.
- that, while the introduction to the first report broadcast on 9 May 2012 should have been clearer, there was sufficient additional context for the piece to have been duly accurate.
- that, with regard to the second report broadcast on 9 May 2012, in the context of the item as a whole the word 'Asian' was used with due accuracy and listeners would not have been misled.
- that, given it had not upheld the complaint with regard to accuracy, no apology was required.
- that, while it had not upheld this complaint, the complainant had raised important issues regarding the language used to describe people born in the UK but whose ethnic origins lay outside the UK which it intended to explore with the Executive in preparation for the next revision of the Editorial Guidelines.

The complaint was not upheld.

For the finding in full see pages 33 to 41.

Attempt to conduct a “doorstep” interview

This is a first party complaint brought on behalf of the Right Reverend Wallace Benn, who was Bishop of Lewes at the time of the incident complained about. The complainant said that the BBC South East Home Affairs Correspondent’s attempt to conduct a “doorstep” interview with him on 18 December 2011 had not been in the public interest and had infringed the complainant’s privacy and that of his family. The complainant also said that the Home Affairs Correspondent’s behaviour was “unpleasant” and “intimidating”, amounting to “harassment”.

The Committee concluded:

- that there were significant questions being raised about the Bishop's performance of his duties whilst in a public office and that the proposal for doorstepping was entirely proportionate given the allegations. There was no breach of the BBC's guidelines on doorstepping without prior approach.
- that the Bishop's expectation of privacy was qualified by the location and by being a person in the public eye.
- that any infringement of the Bishop's right to privacy was justified by being in the public interest and being proportionate to the nature of the allegations.
- that the Bishop's family, who were with him at the time of the doorstep, may have had a higher expectation of privacy. However, they were accompanying the Bishop, who was a figure in the public eye on a public engagement, and the Bishop's family's expectation of privacy was diminished by these factors.
- that, whilst it regretted the family members had found the incident upsetting, the infringement of their expectation of privacy was justified when weighed against the public interest in doing so.
- that there were substantial differences in the accounts of the incident and the footage had not been recorded, and there was insufficient evidence to conclude that the attempt to conduct a “doorstep” interview had resulted in unnecessary anxiety or distress, or was unduly intrusive or aggressive for the purposes of the Guidelines.

The complaint was not upheld.

For the finding in full see pages 42 to 53.

Appeal Findings

Bang Goes The Theory, BBC One, 16 April 2012

1. Background

Bang Goes the Theory is an early evening 30 minute science magazine programme, which takes a populist approach to testing scientific theory and showing how science shapes the world. This episode set out to examine the science behind wireless technology. In the "health" section, which comprised six minutes of the 27 minute programme, the reporter noted that 26 years after he'd first investigated the subject for *Tomorrow's World*, there is still no conclusive answer as to whether electro-magnetic frequencies (EMFs) are harmful to health.

The segment concluded with the presenter stating:

"While we'll have to wait a while for proof that wireless is completely safe, the technology is marching onwards."

The complainant originally raised a number of issues in relation to the programme which he said was

"...seriously flawed from a medical and scientific point of view."

The complainant said the programme failed to reflect that EMFs have been shown to be capable of damaging DNA and that studies going back to the early 1970s have shown ill health from low-level exposure.

The complainant alleged that contributors to the programme were limited to those scientists and medical professionals who deny any serious adverse effects from EMFs and electromagnetic radiation (EMR).

The complainant asserted the programme went against majority scientific opinion by failing to reflect the view of "independent scientists" who are involved in treating those who suffer adverse health effects.

The complainant said the programme ought to have included examples of people sensitised to EMFs.

With the exception of the issue which was considered for this appeal, the Head of Editorial Standards decided that none of the remaining points would have a reasonable prospect of success were they to proceed to appeal.

A challenge was made by the complainant. Both the Head of Editorial Standards' decision and the challenge were considered by the Editorial Standards Committee on 6 December 2012.

At this meeting the Committee decided it agreed with the Head of Editorial Standards' decision. The points which the Trust confirmed it would not hear on appeal were:

- the assertion that the programme failed to reflect that EMF's have been shown to be capable of damaging DNA

- the assertion that the programme failed to reflect that studies going back to the 1970s have demonstrated ill health from low-level EMF exposure
- that the programme reflected a one-sided view by not interviewing those involved in treating those who claim to be suffering adverse health effects from exposure to EMFs nor the patients themselves and instead interviewing only those who “deny” a causal link between their symptoms and EMFs

The Committee’s decision regarding which elements of the appeal to accept has been published on the BBC Trust website here:

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

The summary of the complaint below, where it is possible to separate them out, reflects only those elements which relate to the issue which was the subject of this appeal and not to those issues which it had already been decided did not qualify to proceed to appeal.

2. The Complaint

Stage 1

The complainant wrote to BBC Complaints on 19 April 2012 amplifying by letter a complaint he had already lodged through the online response system. Following two substantive responses from the Series Producer he was offered escalation to the Editorial Complaints Unit (ECU) on 10 July 2012.

Stage 2

The complainant wrote to the Editorial Complaints Unit (ECU) on 26 July 2012.

The ECU issued its provisional finding on 23 August 2012. It did not uphold the complaint.

On 17 September 2012 the ECU ratified its provisional finding and offered escalation to the Trust. The ECU concluded that the programme gave due weight to the range of views about the effects of EMFs on health by reflecting the prevailing view of scientists in this area. It quoted a study by the UK’s Health Protection Agency, published in April 2012 which concluded:

“Although a substantial amount of research has been conducted in this area, there is no convincing evidence that RF field exposure below guideline levels causes health effects in adults or children.”⁴

The ECU also quoted the Department of Health website which says:

“Most current research suggests it is unlikely mobile phones or base stations increase the risk of any type of cancer.”⁵

“A number of studies, both in the UK and internationally, have not identified any health risks associated with these devices. However, the widespread use of these devices only

⁴ http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_C/1317133827077

⁵ <http://www.nhs.uk/conditions/Mobile-phone-safety/Pages/Introduction.aspx>

began at the end of the 1990s, so there may be long-term risks that have not yet come to light.”⁶

Appeal to the Trust

The complainant appealed to the BBC Trust on 25 September 2012.

The aspect of his appeal that the Committee have agreed to consider relates to the following statement:

“We’ll have to wait a while for proof that wireless is completely safe.”

Specifically, the Committee agreed to consider whether the above statement misled the audience by implying the outcome of the long-term Cosmos study into cancer risk is a foregone conclusion.

The complainant says the commentary contradicts the facts by implying the Cosmos study (referred to in the programme) will eventually show wireless technology is safe; this is not consistent with the current WHO classification that EMFs are possibly carcinogenic to humans.

The complainant stated:

“It was established in 1995 and has been confirmed in subsequent studies that EMR can cause single and double-strand DNA breaks, precursors of cancer. It has also long been established that EMFs and EMR can reduce the production of melatonin, a powerful anti-cancer agent, while there are many other mechanisms such as free radical and the NO cycle which are implicated.”

3. Applicable Editorial Guidelines

The Committee consider that the 2010 Editorial Guidelines relating to accuracy and impartiality were relevant to this appeal. They can be found at <http://www.bbc.co.uk/editorialguidelines/guidelines> .

4. The Committee’s decision

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

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

The Committee considered the complainant’s allegation that the sentence of commentary, “We must wait for a while for proof that wireless is completely safe”, knowingly and materially misled the audience by failing to give due weight to the evidence relating to cancer risk in humans.

The Committee noted the programme content most relevant to the issue:

⁶ <http://www.nhs.uk/Conditions/Radiation/Pages/Risks.aspx>

Reporter: Even after 26 years of research, there is still no medical way to explain how microwaves could cause cancer. But just a few studies have reported links, so there are people who won't rule out the possibility of new medical explanations. And despite a complete lack of proven cancer cases, the debate continues. Now, I looked at similar issues to these in 1986, and then, I pretty much would have guaranteed that by now, 26 years later, we would have definitive answers. Why haven't we?

Simon Mann, Health Protection Agency:

For a very long-term disease, one that maybe takes ten years or more to develop, obviously you can't know till that period has elapsed. We have data at the moment up to 10 to 15 years, but beyond that we can't know because people haven't been using phones for long enough. There's a very important study called Cosmos that the UK's taking part in, which is trying to do a much better assessment than was done in previous studies. It's doing that by following people forward in time, but we can't know the answer until the study's run its course.

Presenter: While we'll have to wait a while for proof that wireless is completely safe, the technology is marching onwards, turning up in some very unexpected places.

The Committee noted the complainant's allegation that the sentence in the programme that "we'll have to wait a while for proof that wireless is completely safe" was not consistent with the World Health Organisation's classification of EMFs as possibly carcinogenic, and implied that the Cosmos Study (referred to by Simon Mann in his contribution) will eventually show that wireless is safe.

The Committee noted the complainant's contention that the programme ought to have reflected the WHO classification and it noted too the complainant's assertion that the WHO's labelling of EMFs as possibly carcinogenic took into account evidence of carcinogenicity in experimental animals.

The Committee noted the ECU's acknowledgement that it would have given the audience a fuller picture if the programme had included the WHO 2B classification. It noted too the ECU's overall finding that despite this omission, the possibility of a link between cell phones and cancer risk was adequately reflected in the programme, and that the ECU had noted in that context the contribution from Simon Mann of the UK Health Protection Agency, who said that there was insufficient data available and that more research was needed before any definitive conclusions could be reached.

The Committee noted the complainant's concern that the ECU in its finding had failed to address the programme's omission to mention the number of countries and institutions which have banned or cautioned against the use of wi-fi in schools.

The Committee noted the responses at Stages 1 and 2 from the programme, and also the responses from the Series Producer who was invited to address the issues raised in this appeal. It noted in particular the following points made by the Series Producer:

- the programme, accurately represent the prevailing scientific consensus

- due weight was given to those minority concerns and anomalous studies which prompted the WHO 2B classification
- the weight of scientific evidence, provided by very many separate, large and well conducted studies suggests no causative relationship between wireless and cancer
- although a small number of studies have produced results contrary to the great majority, the methods used in these analyses have been criticised by some, and the possible causes of inaccuracy in all such studies widely reported.
- a recent study in the US (<http://www.bmj.com/content/344/bmj.e1147>) compared rates of glioma (a type of tumour that starts in the brain (or spine)) with those identified in one of those studies (the Swedish study). To be consistent with the Swedish study, the US study was predicted to find glioma rates 40% higher than those actually observed. In fact, glioma rates were observed to have remained largely unchanged during a period of massive growth of mobile phone use. The results of this study were deemed inconsistent with the Swedish study.
- the inclusion of the full details of these studies and of the IARC classification were not essential to aid the viewers' understanding in a short VT, but instead it was important to make clear that while the weight of scientific research finds no reason to link radiofrequency energy to cancer, a few anomalous studies have given sufficient reason to continue research with the intent of gathering conclusive data.
- while the presenter's comment at the end of the section reflects the current majority opinion, it does not, or at least was not intended to, prejudge the outcome of the study: quite to the contrary, it was intended to underline the uncertainty of the situation.

The Committee noted how some health bodies have assessed the current risk in relation to EMFs and cancer.

It noted the factsheet produced in July 2011 by the WHO following their classification of radio frequency (RF) EMFs as possibly carcinogenic. It noted the WHO's contention that studies on animals show no increased cancer risk from long term exposure to RF fields.

The Committee noted the WHO's view that while there were some indications of an increased risk of glioma for those who reported the highest 10% of cumulative hours of cell phone use, there was no consistent trend of increasing risk with greater duration of use.

The Committee noted the WHO's contention that while the risk of brain tumours has not been established, the increasing use of such devices and the absence of long-term data warrants further research.

The Committee noted the information on the NHS website in the UK, which states it is unlikely that mobile phones increase the risk of cancer, but that pending further information, children whose skulls and cells are still growing are advised to only use mobile phones if absolutely necessary.

The Committed noted the 350 page review published by the Health Protection Agency⁷ in the UK in April 2012, around the same time as the programme was broadcast. The NHS described this report as finding that, in relation to published research on cancer risk and mobile phone use, there is:

“...no clear evidence that radio waves from mobile phones caused brain tumours or any other types of cancer.”

The Committee noted the factsheet published on the website of the US National Cancer Institute which states:

“...there is no evidence from studies of cells, animals, or humans that radiofrequency energy can cause cancer.

It is generally accepted that damage to DNA is necessary for cancer to develop. However, radiofrequency energy, unlike ionizing radiation, does not cause DNA damage in cells, and it has not been found to cause cancer in animals or to enhance the cancer-causing effects of known chemical carcinogens in animals

Researchers have carried out several types of epidemiologic studies to investigate the possibility of a relationship between cell phone use and the risk of malignant (cancerous) brain tumors, such as gliomas, as well as benign (noncancerous) tumors, such as acoustic neuromas (tumors in the cells of the nerve responsible for hearing), most meningiomas ...The results of these studies have generally not provided clear evidence of a relationship between cell phone use and cancer, but there have been some statistically significant findings in certain subgroups of people.”

The Committee noted the reference on the Institute’s website to a nationwide programme (SEER) which tracks cancer incidence in the United States over time and which found no increase in the incidence of brain or other central nervous system cancers between 1987 and 2007

“...despite the dramatic increase in cell phone use in this country during that time.”

The Committee noted the explanations suggested on the Institute’s website for the inconsistency in results between different studies:

- The possibility of recall bias and inaccurate reporting where participants in a study who have brain tumours may remember their cell phone use differently than individuals without brain tumours; many studies lack verifiable data about the total cellphone use over time
- The high death rate and short survival time of glioma sufferers means that patients who survive initial treatment are often mentally impaired in some way and if the next-of-kin became the survey respondents they may not have the same knowledge as the deceased regarding their mobile phone use.
- Participation bias, where people who are diagnosed with brain tumours are more likely than healthy people (known as controls) to enrol in a research study

⁷ http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_C/1317133827077

- Changing technology and usage has led to lower emissions from digital mobile phones than the earlier analogue models. In addition there is increasing use of handsfree devices and texting which further reduces exposure levels.

The Committee noted that both in the UK and across Europe as well as in parts of Canada and the US a number of schools, councils and in some cases states have either banned Wi-Fi or cautioned against its use, specifically in educational environments, because of the perceived higher risk to children (as noted on the Department of Health website). The Committee noted this extract from a position paper presented to the Israeli parliament in May 2010:

“Summary of the studies published to date (including the international ‘Interphone Study’ that examined the impact of cell phones use on the development of malignant and benign brain tumors, tumors of the auditory nerve and the salivary gland) indicates, that there is reason to suspect an increased risk of developing these tumors as a result of cell phones use. It should be noted that the study populations did not include children and youth who are considered to be more susceptible to the adverse health effects of electromagnetic radiation. As a result, many international organizations have recommended adopting the ‘precautionary principle’.⁸”

The Committee noted that the International Agency for Research on Cancer is a research body funded by WHO member states and that one of its roles is to evaluate carcinogenic risks to humans using scientific reviews to identify factors that can increase the risk of cancer.

The Committee noted how the IARC classifications are broken down into groups, and the IARC definition of Group B (the classification for RF EMFs):

The agent is *possibly carcinogenic to humans*.

This category is used for agents for which there is *limited evidence of carcinogenicity* in humans and less than *sufficient evidence of carcinogenicity* in experimental animals.

It may also be used when there is *inadequate evidence of carcinogenicity* in humans but there is *sufficient evidence of carcinogenicity* in experimental animals. In some instances, an agent for which there is *inadequate evidence of carcinogenicity* in humans and less than *sufficient evidence of carcinogenicity* in experimental animals together with supporting evidence from mechanistic and other relevant data may be placed in this group. An agent may be classified in this category solely on the basis of strong evidence from mechanistic and other relevant data.

The Committee noted that the Group 2B classification was the result of a review of the carcinogenic potential of RF EMFs undertaken by an IARC Working Group who met over eight days in May 2011 at IARC headquarters in Lyon. The Committee noted that the Working Group comprised 31 scientists from 14 countries.

⁸ <http://www.disconnectbook.com/2011/03/07/position-paper-on-electromagnetic-radiation-in-a-school-environment/>

The Committee noted the WHO press release announcing the new 2B classification for RF EMFs which stated it was

.. based on an increased risk for glioma, a malignant type of brain cancer, associated with wireless phone use.

The Committee noted the studies which were considered by the IARC Working Group in reaching their evaluation as laid out in an article in the *Lancet Oncology Review* in July 2011.

The Committee noted that in deciding to classify RF EMFs as 2B, the IARC Working Group has relied heavily on the Interphone Study, which analysed 5000 results from 13 countries and is the largest every study of brain tumours in mobile phones users.

The Committee noted the Working Group's analysis that, while there may have been some bias and errors in the sample used in the Interphone study "due to recall error and selection for participation":

"...the Working Group concluded that the findings could not be dismissed as reflecting bias alone, and that a causal interpretation between mobile phone RF-EMF exposure and glioma is possible."

The Committee noted comments made by the director of IARC at the time of publication of the Interphone Study results in May 2010:

"An increased risk of brain cancer is not established from the data from Interphone. However, observations at the highest level of cumulative call time and the changing patterns of mobile phone use since the period studied by Interphone, particularly in young people, mean that further investigation of mobile phone use and brain cancer risk is merited."

The Committee recalled the complainant's contention that a link had been established between exposure to RF EMFs and cancer in experimental animals and the Series Producer's claims that this was not the case. The Committee noted the following reference to the issue in the *Lancet* report written by the IARC working group which had reviewed more than 40 studies assessing the carcinogenicity of EMFs in rodents:

"An increased total number of malignant tumours was found in RF-EMF-exposed animals in one of the seven chronic bioassays. Increased cancer incidence in exposed animals was noted in two of 12 studies with tumour-prone animals and in one of 18 studies using initiation promotion protocols. Four of six co-carcinogenesis studies showed increased cancer incidence after exposure to RF-EMF in combination with a known carcinogen; however, the predictive value of this type of study for human cancer is unknown.

Overall, the Working Group concluded that there is "limited evidence" in experimental animals for the carcinogenicity of RF-EMF."

The Committee noted the Working Group's conclusion:

"In view of the limited evidence in humans and in experimental animals, the Working Group classified RF-EMF as "possibly carcinogenic to humans" (Group 2B). This evaluation was supported by a large majority of Working Group members."

The Committee noted the Working Group's conclusions were not unanimous and that the complainant maintained that some in the Working Group felt the evidence was strong enough for a 2A (probably carcinogenic to humans) classification.

In relation to studies on experimental animals, the Committee noted too the conclusions in the HPA review⁹

"Studies of animals have employed a wide range of biological models, exposure levels and signal modulations. Taken together, these studies provide no evidence of health effects of RF field exposures below internationally accepted guideline levels. In particular, well-performed large-scale studies have found no evidence that RF fields affect the initiation and development of cancer..." (p3)

"While some early studies suggested that exposure may cause DNA strand breaks and cytogenetic changes, later, well-conducted studies have generally not confirmed these results.... The balance of evidence strongly favours RF fields not being genotoxic." (p192)

In reaching its decision the Committee considered that the phrase used in the programme, "waiting for proof", could suggest that the outcome of current studies is a foregone conclusion. But it felt that the contribution from Simon Mann of the Health Protection Agency which immediately preceded the phrase, guarded against the audience forming this impression.

The Committee noted how Simon Mann explained that a disease like cancer can take ten years or more to develop and that data was currently only available for 10 to 15 years. It noted in particular Simon Mann's final sentence in reference to the Cosmos Study:

"...we can't know the answer until the study's run its course."

The Committee considered this was consistent with the view of the major health bodies and reflected the prevailing scientific consensus.

The Committee noted too while the programme chose not to go into any detail about studies which have suggested links between cancer risk and EMFs, the programme reflected that such studies did exist:

"Even after 26 years of research, there is still no medical way to explain how microwaves could cause cancer. But just a few studies have reported links, so there are people who won't rule out the possibility of new medical explanations."

The Committee decided that the programme accorded due weight to the current body of peer-reviewed science and that in a six-minute section of a thirty minute programme it was neither possible nor appropriate to go into detail about individual studies.

The Committee noted that the decision on the inclusion of specific information, such as the WHO classification or precautionary measures that have been put in place around the world, was properly a matter for editorial judgement and that the omission of such information did not mislead the audience.

The Committee noted that it was not required to reach a determination on cancer risk relating to EMF exposure but only to consider whether in the context of the health segment in the programme, due accuracy and due impartiality was achieved.

⁹ http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_C/1317133827077

The Committee decided that the programme left the audience with the accurate impression that there might be a link between the use of mobile phones and the risk of cancer, but a definitive answer required more time and therefore research is ongoing. The Committee acknowledged the complainant's assertion that the programme wasn't entirely neutral about the outcome, rather it suggested that the likelihood is that no causal link will be established. The Committee took the view that this was consistent with publicly available peer-reviewed evidence.

Accordingly the Committee decide the content was duly accurate. That, taking into account the subject and nature of the content, it was well-sourced, based on sound evidence, thoroughly-tested and presented in clear, precise language.

The Committee also decided the programme was duly impartial. Taking into account the subject and nature of the content, it had been fair and open-minded when examining the evidence and weighing material facts and had appropriately reflected the many and diverse areas of the argument in relation to cancer risk and EMF exposure.

Finding: Not Upheld

The World at One, BBC Radio 4, 28 August 2012

1. Background

BBC Radio 4's *The World at One* is a 45-minute weekday lunchtime programme of news, analysis and comment presented by Martha Kearney.

On 28 August 2012 *The World at One* reported on an Israeli court ruling that the State of Israel was not at fault for the death of Rachel Corrie in the Gaza Strip in 2003. Ms Corrie was an American activist who was crushed while trying to stop an Israeli Army bulldozer from carrying out demolition work.

The programme included a two-way with BBC correspondent Jon Donnison on the background to the case, and an interview with Rachel Corrie's father who expressed his disappointment at the finding and his intention to appeal.

The programme also featured an interview with Mark Regev, spokesman for the Israeli Prime Minister. Presenter Martha Kearney questioned whether this had been a fair trial, and put to Mr Regev the comments of a fellow activist who said that Ms Corrie was "in clear view" of the bulldozer driver. Mr Regev expressed his sympathy for the Corrie family but claimed that Israel's judiciary was known internationally for its independence and professionalism.

During the interview, Martha Kearney said:

"Clearly Rachel Corrie was one of the casualties of what happened that day – and I know Israeli soldiers died too – but has this meant there's a re-think of the policy of what was happening at that time – bulldozing Palestinian houses?"

2. The complaint

This is a consolidated appeal representing 11 individual appeals to the Trust.

All 11 of the complainants alleged that Martha Kearney's question was inaccurate, as no Israeli soldiers had died on the same day as Rachel Corrie.

Seven of the complainants who went on to complain to the Trust referred to the deaths of (variously) eight or nine Palestinians whom they claim had died on the same day and whose deaths had gone unreported by the programme.

All of the complainants claimed Martha Kearney's comment was materially misleading; some raised concerns about the motivation behind the reference to the Israeli soldiers and made allegations of bias (including institutional bias), some alleged that it created the impression of partiality.

Stage 1

Complaints were received by the BBC after broadcast.

The BBC published an online apology dated 10 September 2012:

"We are sorry that in an item on *The World at One* on August 28th about the claim for damages brought by the family of Rachel Corrie we inadvertently gave a misleading impression.

"The item included interviews with the father of Rachel Corrie and with Mark Regev, the spokesman for the Israeli Prime Minister.

"Martha Kearney's questioning was fair – she put to Mr Regev the view of a fellow activist that Rachel Corrie was 'in clear view' of the bulldozer driver and the opinion of Rachel Corrie's mother that the trial had not been fair.

"Martha Kearney also said:

'Clearly Rachel Corrie was one of the casualties of what happened that day – and I know Israeli soldiers died too – but has this meant there's a re-think of the policy of what was happening at that time – bulldozing Palestinian houses?'

"By referring in her question to the deaths of Israeli soldiers, Martha Kearney was trying to keep the interview focussed on the central point of her question – the destruction of Palestinian homes rather than allow the interview to move on to the issue of wider violence. She did not intend to imply that Israeli soldiers were killed on the same day as Rachel Corrie. Two Israeli soldiers were killed in the previous week. But we are sorry that the question was poorly phrased and therefore gave a false impression."

Stage 2

Complaints were escalated to the Editorial Complaints Unit of the BBC. The ECU did not uphold the complaint.

At Stage 2 the Editorial Complaints Unit concluded:

"Although Ms Kearney did not say in terms that Israeli soldiers had been killed on the same day as Ms Corrie ... I would accept that what she said tended to give that impression, and that the impression was inaccurate. However I feel that the scope for listeners to be misled was limited. They might well have been led to think that the incident which resulted in Ms Corrie's death was directly linked to events where the Israeli soldiers had been killed, and I believe it was right for BBC News to take action to set the record straight.

"However, while no Israeli soldiers were killed on that particular day, there had been Israeli fatalities in the Rafah Strip prior to that day, which provided the context for the incident where Ms Corrie was killed and, according to Mr Regev, there had been a grenade attack on Israeli soldiers earlier that day. I therefore do not see that listeners would have been misled as to the overall situation, and I think it is also important to bear in mind that the misleading impression was no more than tangential to the issue under discussion at that stage in the report (which was whether Israel would continue with its policy of demolishing Palestinian homes) and was in any case partially offset by Mr Regev's clarification of what he was actually claiming had happened."

The ECU considered the online apology "reasonably prompt (after dissatisfaction had been expressed with replies to individual complaints) and sufficiently clear." As to whether it was appropriate:

"I would expect a broadcast correction to be considered in cases where the error concerned posed a serious risk to informed discussion, or caused harm to an

individual or organisation, and I have to say that I do not believe either consideration applies in this case. There was no damage to the reputation of Ms Corrie or any of those demonstrating with her and, although the misleading impression conveyed by Ms Kearney's words was not insignificant, it did not involve anything which might seriously distort public understanding of the issue under discussion. For these reasons, I believe the online correction was appropriate to the circumstances, and therefore my ... finding is that the issues raised by your complaint have been resolved."

In considering the complaints about bias, the ECU set out the circumstances which gave rise to the presenter's choice of words:

"Immediately prior to interviewing Mr Regev, Ms Kearney had watched him being interviewed on BBC World. Responding to a final question about whether the Israeli government might offer to pay the legal expenses of Rachel Corrie's family, Mr Regev had gone on to talk at some length about the violent situation in the Rafah Strip, of Israeli soldiers having been killed there and of a grenade attack on Israeli soldiers there shortly before Ms Corrie's death. I understand that Martha Kearney's intention was to prevent this happening at the end of her own interview with Mr Regev, when she wanted to address the broader question of the demolition of Palestinian homes. In order to do this, she attempted to forestall Mr Regev's claims by conceding them in parenthesis. It was unfortunate that, in doing so, she conflated the two claims and gave the mistaken impression that Israeli soldiers had died on the same day as Ms Corrie, but this explanation seems to me to remove any grounds for imputing pro-Israeli bias to her."

Appeals to the Trust

The Trust Unit received 11 complaints relating to this item. All 11 complainants claimed that the reference to the deaths of Israeli soldiers was a breach of the BBC's guidelines on accuracy and was materially misleading.

The complainants raised the following points in relation to the accuracy of the item:

Point (A) Ms Kearney's question did not "tend[..] to give an impression" that Israeli soldiers had died on the same day [this was a reference to the ECU finding] but "explicitly made that assertion".

Point (B) Having cited the deaths of Israeli soldiers, Ms Kearney should also have mentioned the deaths of eight/nine Palestinians on the same day.

Point (C) They disagreed with the ECU's assessment of the "overall situation": there had been no Israeli fatalities in Gaza during the previous month, and they could find no evidence of the grenade-throwing incident described by Mr Regev in his interview.

Point (D) They claimed that Rachel Corrie and the organisation she represented believed in non-violent protests. Linking them to the deaths of Israeli soldiers misled listeners about the motives of the protestors, and distorted public understanding of the issue of home demolitions.

Point (E) They did not accept that the misleading impression was "partially offset by Mr Regev's clarification of what he was actually claiming had happened" as they could find no evidence of the grenade-throwing incident to which he referred.

Nine of the complainants disagreed with the ECU's assessment that the online apology was clear and appropriate, and requested an on-air apology. They raised the following points in support of their claim:

Point (F) The apology was in itself inaccurate as it referred to the deaths of two Israeli soldiers in the previous week. However, these deaths did not happen in Gaza and the complainants believed they were therefore unrelated to the death of Rachel Corrie.

Point (G) They claimed the apology did not acknowledge that the audience was significantly misled.

Point (H) It was inappropriate to publish the apology online as the vast majority of listeners who heard the item would not have seen the correction on the BBC Complaints website.

Point (I) The complainants took issue with the ECU's conclusion that no harm was done to the reputation of Ms Corrie and her supporters. They stated that "the misleading impression remains that her death and the actions of her fellow campaigners are linked with the death in the Israeli occupation force".

The complainants raised the following points in relation to the impartiality of the item:

Point (J) At Stages 1 and 2 of the complaints process, four complainants stated that alternative or additional contributions were necessary to achieve impartiality. Their suggestions included Palestinian representatives and the Israeli Committee against House Demolitions.

Point (K) Three complainants stated that Mr Regev was not challenged sufficiently and that the tone of the interview was too polite and respectful. They believed he should have been challenged on his claims regarding the independence and professionalism of the Israeli justice system, his conflation of the deaths of Israeli soldiers with the death of a peaceful activist, and on the reasons underlying Israel's policy of house demolitions which one complainant described as "ethnic cleansing".

Point (L) Three complainants claimed the omission of detail about the deaths of eight/nine Palestinians, when the programme mentioned the deaths of Israeli soldiers, breached BBC rules on impartiality.

Point (M) Some complainants raised concerns about the motivation behind the reference to the Israeli soldiers. Six complainants assigned motives of bias to the decision to refer to the deaths of Israeli soldiers. Two believed the BBC went out of its way to provide justification for Israel's behaviour. One suggested it was included in pursuit of a mythical "balanced" viewpoint. Three complainants believed that the presenter was unable to approach Mark Regev without in some way placating or appeasing him. One said there is overall bias by the BBC and pointed to the work of the Glasgow University Media Group.

Three complainants also raised the following points in relation to the fairness of the item:

Point (N) They claimed that the inaccuracy had the potential to cause offence to Ms Corrie's family, or that it may cause damage to their reputation; with two also feeling that it could cause damage to those who have supported the Corrie family's campaign. One said that this implied that those who demonstrated with Ms Corrie were part of a violent situation and this damaged their reputation and that of the International Solidarity Movement. Two claimed that these issues created consequential unfairness.

3. Applicable Editorial Guidelines

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

The sections on accuracy and impartiality are relevant to this case.

4. The Committee's decision

As a preliminary point, the Committee noted that some complainants had wished to complain about fairness to Ms Corrie's family and about the impact on them. The Committee noted that the Editorial Complaints and Appeals Procedure states that:

This Procedure is applicable to all editorial complaints including "first party complaints". This is a complaint alleging that someone ("the first party") has personally been treated unfairly, or suffered an unwarranted invasion of their privacy, in BBC content, or in the making of BBC content. Such complaints can be brought only by the first party or by someone who has the authority to represent them.

In light of the above, the Committee agreed that it was not appropriate to take the fairness aspect of the complaints on appeal given that the complainants were not "first party complainants" and nor were they authorised to represent a first party complainant.

Point (A) (C) (D) and (I): accuracy

The Committee noted the line which concerned all the complainants:

"Clearly Rachel Corrie was one of the casualties of what happened that day – and I know Israeli soldiers died too – but has this meant there's a re-think of the policy of what was happening at that time – bulldozing Palestinian houses?"

The Committee noted that the complainants considered that Ms Kearney had explicitly made an assertion that Israeli soldiers had died on the same day as Rachel Corrie, possibly in the same incident. The Committee noted how it was expressed by one complainant:

"In saying 'one of the casualties' Ms Kearney is unambiguously claiming that there was more than one death 'that day'; the listener is keyed to hear who else died. In immediately claiming to know that 'Israeli soldiers died too' Ms Kearney is answering the question that might have arisen in many listeners' minds, namely who else died... The word 'too' must refer back to something previously stated; in this case that can only be deaths that day."

The Committee also noted the ECU's statement that Ms Kearney did not say "that Israeli soldiers had been killed on the same day as Ms Corrie" but "I would accept that what she said tended to give that impression, and that the impression was inaccurate".

The Committee considered the complainants' challenge to the ECU's statement that the scope for listeners to be misled by the line was limited because of the "overall situation".

The Committee noted what the ECU had said:

"However, while no Israeli soldiers were killed on that particular day, there had been Israeli fatalities in the Rafah Strip prior to that day, which provided the context for the incident where Ms Corrie was killed and, according to Mr Regev, there had been a grenade attack on Israeli soldiers earlier that day. I therefore do not see that listeners would have been misled as to the overall situation, and I think it is also important to bear in mind that the misleading impression was no more than tangential to the issue under discussion at that stage in the report (which was whether Israel would continue with its policy of demolishing Palestinian homes) and was in any case partially offset by Mr Regev's clarification of what he was actually claiming had happened."

The Committee noted points made by complainants whereby they stated that there had been no Israeli fatalities in Gaza during the previous month and they could find no evidence of the grenade-throwing incident described by Mr Regev (the grenade throwing incident is dealt with in detail at point E below). The Committee noted that some of the comments were as follows:

"This seems to mean that Israeli soldiers being killed is the most important element in 'the overall situation prevailing' and that that in turn is a foremost consideration when deciding how to frame the story of the death of Rachel Corrie."

And that:

"[the ECU saw the overall situation] as being one where armed Israeli soldiers are under attack from non-violent protestors, and have to deal with this threat accordingly. If this is the case, then it would be true that listeners wouldn't be misled... However ... no Israeli soldiers were killed on the day Ms Corrie died, and any previous deaths of Israelis were unrelated to her."

And that:

"Rachel was a single unarmed and untrained civilian. There is simply no comparison between her and any number of highly armed and highly trained soldiers."

And that:

"Ms Kearney's statement linked together the deaths of Ms Corrie and the deaths of Israeli soldiers. This also implicated those who were demonstrating with Ms Corrie and implied that they were part of the violence surrounding the deaths of Israeli soldiers. As those demonstrating with Ms Corrie were members of an organisation dedicated to non-violence, Ms Kearney's statement, and the statement it allowed Mr Regev to go on and make, clearly did damage their reputation and the reputation of their organisation, ISM, and an on-air apology is the only kind of apology that will sufficiently correct this damage."

And that:

"if the issue under discussion was house demolitions, then bringing in the completely unnecessary distraction of Israeli military fatalities would distort public understanding of house demolitions by linking these with military deaths when, in fact, they are completely unconnected. In this context, the 'misleading impression' was both inaccurate and biased."

The Committee noted that the ECU had said that its finding "simply referred to the fact that, in the context of ongoing hostilities in the area, a number of Israeli soldiers had been killed. Six had died, according to the B'Tselem figures, in the previous two years or so."

The Committee noted reports by B'Tselem (the Israeli Human Rights organisation), which detailed the deaths of security force personnel killed by Palestinians in Gaza during the year leading up to Rachel Corrie's death on 16 March 2003. B'Tselem recorded eleven deaths to February 2003, with an additional five deaths of Israeli security force personnel in Gaza the month before Ms Corrie's death: four when a tank went over an explosive device in Northern Gaza and one by sniper fire near Khan Yunis in Southern Gaza. The Committee noted that no deaths of Israeli soldiers were recorded on the day that Rachel Corrie died.

http://old.btselem.org/statistics/english/Casualties_Data.asp?Category=7®ion=TER&D=29&sM=09&sY=2000&eD=26&eM=12&eY=2008&filterby=event&oferet_stat=before

The Committee also noted that the UN issued a number of press releases during 2002-3 in which it "strongly deplored Israel's continuing raids in the Strip", saying it appeared the country was "ignoring international requirements that it protect civilians during military operations". These operations included one on 5 March 2003 in the Jabalya refugee camp (Northern Gaza), during which the UN reported the deaths of 11 Palestinians; another in Gaza City on 25 January 2003 during which "approximately a dozen people were killed"; a third in the Bureij refugee camp on 6 December 2002 in which ten people died (including two UN aid workers); a fourth on the Rafah refugee camp in October 2002 during which six Palestinians had died, and a fifth in Khan Yunis the same month, when the UN reported that 14 Palestinians died. The UN Secretary-General also expressed concern about rocket attacks launched from Gaza against Israel and called on both sides to end the cycle of violence.

The Committee noted, however, that some did consider that the events of that day did have a link to the protection of the Israeli military, as evidenced by the below extract from the court ruling:

The mission of the IDF force on the day of the incident was solely to clear the ground. This clearing and levelling included levelling the ground and clearing it of brush in order to expose hiding places used by terrorists, who would sneak out from these areas and place explosive devices with the intent of harming IDF soldiers. There was an urgency to carrying out this mission so that IDF look-outs could observe the area and locate terrorists thereby preventing explosive devices from being buried. The mission did not include, in any way, the demolition of homes.

However, the Committee also noted that the Court ruling had been heavily disputed by Rachel Corrie's family and others.

The Committee noted that Rachel Corrie was a member of the International Solidarity Movement (ISM) which describes itself as "a Palestinian-led movement committed to resisting the Israeli apartheid in Palestine by using nonviolent, direct-action methods and principles. Founded by a small group of primarily Palestinian and Israeli activists in August 2001, ISM aims to support and strengthen the Palestinian popular resistance by providing the Palestinian people with two resources, international solidarity and an international voice with which to nonviolently resist an overwhelming military occupation force."

<http://palsolidarity.org/>

The Committee concluded that, based on the question asked by the presenter, it was possible listeners could have assumed that Israeli soldiers died on the same day as Ms Corrie. The Committee was clear that there were no Israeli deaths in Rafah itself nor the Gaza strip on that day. Neither the death of an Israeli soldier by sniper fire in Khan Yunis (some five miles from Rafah) three weeks earlier, nor the deaths of other Israeli soldiers prior to Rachel Corrie's death, mitigated the potential for listeners to be misled into thinking Israeli soldiers died on the same day as Ms Corrie.

The Committee noted that the BBC Executive had accepted at Stage 1 that the item had inadvertently given a misleading impression by a "poorly phrased" question:

"We are sorry that in an item on The World at One on August 28th about the claim for damages brought by the family of Rachel Corrie we inadvertently gave a misleading impression."

The Committee agreed that it was not overtly stated that on that day peace activists such as Rachel Corrie or those connected with the ISM or with the house demolition protests took action in a way that resulted in the deaths of Israeli soldiers. The Committee considered that the context of the item as a whole guarded against anyone reaching that mistaken impression. The Committee noted in particular the words of the BBC correspondent:

Jon Donnison: Well Rachel Corrie was part of a group of activists from an organisation called the International Solidarity Movement – very much supporters of the Palestinian cause and they were in Gaza, in southern Gaza, around Rafah, trying to stop in their view the demolition of Palestinian homes and property by the Israeli Army and they were in effect acting as human shields, positioning themselves between the bulldozers and the Palestinian homes. At some point on that day in March 2003 Rachel Corrie fell or stumbled or somehow was crushed by either the bulldozer or rubble that the bulldozer was shunting forward.

The Committee then moved on to consider the apology that was given at Stage 1. The Committee accepted that the presenter's reference to the death of Israeli soldiers had not been a scripted line and was an inadvertent conflation in the course of an interview. Nonetheless, the line had not been duly accurate. No Israeli soldier had been killed on that day and this was not disputed. The Committee agreed that the BBC should have apologised and it noted that this had been done at Stage 1. The Committee found no evidence to support the assertion that the audience were knowingly misled.

The Committee considered the apology at Stage 1 had resolved the matter.

This point of appeal was resolved.

Point (B): accuracy

The Committee considered the complainants' statement that the BBC had failed to inform listeners that several Palestinians (variously cited as eight or nine plus Ms Corrie) were killed on the same day.

The Committee noted how this was expressed by one complainant:

"I pointed out in my email letter ... that nine Palestinian civilians, including a ninety-year-old and a four-year-old, had died on the same day, and suggested that that was relevant background but had not been mentioned. Mentioning 'deaths of Israeli soldiers' in a way that very clearly implied they had been killed that day when none had and not mentioning the actual deaths of Palestinians gave the most misleading impression imaginable... Listeners were misled."

The Committee noted that Rachel Corrie died in Rafah, southern Gaza, on Sunday 16 March 2003.

The Committee noted that in its weekly report dated 19 March 2003, the Palestinian Centre for Human Rights noted two Palestinian deaths and five wounded in incidents separate from Rachel Corrie's death in southern Gaza on the Sunday, the same day that Rachel Corrie died.

http://www.pchrgaza.org/portal/en/index.php?option=com_content&view=article&id=6452:weekly-report-on-israeli-human-rights-violations-in-the-occupied-palestinian-territories-19-march-2003&catid=76:weekly-2001&Itemid=301

The Committee noted the ECU's response to one complainant on 6 November 2012 about the issue of Palestinian deaths:

"In considering this point, I think it's important to keep in mind that the report was primarily about the outcome of the legal action brought by Rachel Corrie's parents to determine liability for her death. The fact that other deaths occurred on the same day as hers is incidental to that topic, and I therefore don't agree that the omission of that information rendered the report inaccurate or misleading."

The Committee concluded that there was no requirement for the programme to include information about the deaths of Palestinians at around the same time in the report: the deaths were not connected to the topic under discussion which was the outcome of the court case and any impact of the case upon house demolitions in Gaza.

This point of appeal was not upheld.

Point (E): accuracy

The Committee noted that two of the complainants took issue with the suggestion that there was evidence of a grenade attack on Israeli soldiers on the day of Rachel Corrie's death. They disputed the accuracy of this statement and took issue with the response by the ECU that the misleading impression created by the comment about Israeli deaths was "partially offset by Mr Regev's clarification of what he was claiming had actually happened". The Committee observed that the ECU had noted Judge Gershon, whose ruling in the Corrie case was being reported by Martha Kearney, drew upon IDF military records to describe the circumstances of that day:

"...The action conducted by the IDF forces was done at real risk to the lives of the soldiers. Less than one hour before the incident that is the focus of this lawsuit, a live hand-grenade was thrown at the IDF forces."

The Committee also noted that the complainants had strongly objected to the above and had raised concerns about the accuracy and source of the statement.

The Committee considered that the BBC was not required to challenge each and every point made by an interviewee in order to achieve due accuracy or due impartiality.

Neither was the BBC expected to know every detail of what was alleged had happened on that day or be in a position to cross check every claim and counterclaim. In the Committee's view, the BBC was entitled to broadcast the comment by Mr Regev about the hand grenade (which was referred to in the court record). There was no breach of the guidelines on accuracy in this respect.

The Apology

Point (F): accuracy

The Committee considered allegations by four complainants that the online apology was itself inaccurate.

The online apology stated:

"She did not intend to imply that Israeli soldiers were killed on the same day as Rachel Corrie. Two Israeli soldiers were killed in the previous week. But we are sorry that the question was poorly phrased and gave a false impression."

At Stage 2, one complainant stated that "the last time Israeli soldiers died in Gaza was in the previous month".

In a submission to the independent editorial adviser, the Editor of *The World at One* stated:

"Rachel Corrie died on 16th March 2003. According to the Israeli Ministry of Foreign Affairs* two Israeli soldiers were killed in the preceding week:

Mar 10, 2003 – St.-Sgt. Tomer Ron, 20, of Moshav Moledet, was killed and four soldiers were wounded – one seriously – in Hebron, on the road between the Cave of the Patriarchs and Kiryat Arba, when Palestinian terrorists opened fire on a foot patrol. Two organizations – Hamas and Ahmed Jibril's Popular Front-General Command – claimed responsibility for the attack.

Mar 12, 2003 - St.-Sgt. Assaf Moshe Fuchs, 21, of Kibbutz Gvat was killed and another soldier wounded Wednesday morning in an exchange of fire with wanted terrorists from the Islamic Jihad in the West Bank village of Saida, near Tulkarm.

In our apology on the website we didn't say that their deaths were in Gaza."

*(<http://www.mfa.gov.il/mfa/terrorism-%20obstacle%20to%20peace/palestinian%20terror%20since%202000/>)

The Committee noted the information above about the deaths of Israeli soldiers, which indicates that no Israeli soldiers died on the same day as Rachel Corrie. The Committee agreed that the apology had made it clear that there were no Israeli deaths on the same day as Rachel Corrie died and this was the essential point of the apology. The Committee also noted that the apology had not said that the soldiers died the previous week in Gaza. The Committee therefore concluded there was no breach of the BBC's guideline on accuracy in relation to this aspect of the appeal.

This point of appeal was not upheld.

Point (G): accuracy

The Committee considered the complaint that the apology was insufficient as it did not acknowledge that the audience was significantly misled.

The Committee noted that the apology acknowledged that "the question was poorly phrased and therefore gave a false impression".

The Committee concluded that this was a clear and appropriate acknowledgement of the error and that there was no breach of the BBC's guideline on accuracy.

This point of appeal was not upheld.

Point (H): accuracy

The Committee considered the complaint by six complainants who felt that an apology published solely online was inadequate. One stated:

"A factual error broadcast on a radio programme should be corrected on the same radio programme as soon afterwards as possible, and not on another medium, ie website. Cross-media corrections are unacceptable. Many radio listeners are blind, many listen whilst driving or doing other things, and not all have access to the internet. Most radio listeners tune to the same programmes every day, and do not expect to have to use a computer and search the internet, to find out whether the information they heard is correct."

The Committee noted that the Guidelines required serious factual errors to be corrected quickly, clearly and appropriately.

The Committee noted the ECU's conclusion that the apology was both "reasonably prompt (after dissatisfaction had been expressed with replies to individual complaints) and sufficiently clear". The ECU said it would only consider a broadcast correction in cases where the error posed a serious risk to informed discussion, or caused harm to an individual or organisation, and it did not believe that either consideration applied in this case.

The Committee noted a submission to the independent editorial adviser in which the Editor of *The World at One* stated that the BBC Complaints website was "an appropriate medium in which to make an apology and that we made it reasonably promptly". He added:

"As it happens, I don't think many of the complainants heard the original programme – or knew about the context of the interview. Within 24 hours of the transmission of the programme, no listeners had contacted us to express their concerns. (Generally listeners write to us while the programme is on air or shortly afterwards). I believe that the vast majority of the complainants were prompted to write by an online campaign organised by the Palestinian Solidarity Campaign... which included a partial quote of one of Martha Kearney's questions."

The Committee noted that some of the complainants had objected to this point. Their objections included a mixture of comments to the effect that they had in fact heard the original programme; that they had contacted the programme shortly following transmission; and that the reasons as to why they complained were irrelevant. The Committee noted that the BBC published its online apology on 10 September 2012 after complainants expressed dissatisfaction with individual responses made to them. The Committee noted that the BBC received two of the initial complaints the day after transmission and sent responses to individual complainants on 4 September 2012.

The Committee agreed that it was irrelevant whether or not complaints were made following lobbying. It was the substance of the complaint that was important and whether the BBC's output was compliant with the BBC's Editorial Guidelines.

The Committee concluded that:

- News programmes which tackle the most serious and contentious issues of the moment should correct errors in an appropriate and proportionate way depending on the significance of the error.
- Any on-air correction/apology should be made as close to the original transmission as possible and while the original item may still be in the recent memory of listeners. Programmes will want to consider whether the most serious mistakes are best corrected and apologised for on air, and that option may also be appropriate even for less serious mistakes if a prominent correction is desirable.
- It was open to *The World at One* to have made a brief on-air correction/apology in the days immediately after 28 August 2012. However, the Committee did not consider that it was necessary for *The World at One* to have apologised on air.
- On balance, the Committee considered that an online apology had been sufficient in this case.

Points J, K & L: impartiality

Point (J)

The Committee considered the claim by four complainants at Stages 1 and 2 of the complaints process that alternative or additional contributions were necessary to achieve impartiality. Three asked, "Why didn't you interview a Palestinian representative too?"

One complainant stated:

"Rachel Corrie is not the only person to have died or been injured while trying to protect Palestinians' homes from demolition. If you wanted a reliable assessment as to the actual situation, why did you not arrange an interview with Jeff Halpert of the Israeli Committee Against House Demolitions who would have provided a much fairer and more nuanced assessment of the situation regarding home demolitions?"

The Committee noted the Editor of *The World at One's* statement that the news story was:

"...about the Israeli court decision into whether the state was to blame for the death of Rachel Corrie. In the light of that, it didn't seem necessary to speak to a Palestinian representative. Our correspondent, Jon Donnison, reported for us from the court in Haifa. He explained what the Judge had decided and spoke to Rachel Corrie's father."

The Committee noted that the interview with Rachel Corrie's father, Craig Corrie, ran for 2 minutes and 20 seconds as follows:

Craig Corrie: Well, I'm not really surprised. We knew that it was going to be uphill battle – or I used to say – the Israelis had an incredible home court advantage when we went into court here. But I think it's outrageous. I think we brought a lot of

material to court, a lot of evidence and of course we demanded that the Israeli government bring evidence to court. And some of that they simply did not bring. The finding seems outrageous to me – it's almost as if the judge has simply let the attorneys for the defence write, write his opinion, because he found with them on every simple clause and I think that people that have experience – and unfortunately we've now had almost ten years' experience following this cause – know that that's happened over and over and over again.

Jon Donnison: The judge agreed with the army that the bulldozer driver had not seen Rachel, do you accept that?

CC: Well, I, I really agree with my daughter, who said, my daughter, Sarah, who said that she thinks somebody saw Rachel. I think you come from the beginning and you see a changing story. So the Israeli government was telling our government first that a wall fell on Rachel and then a few days later they said, well we weren't doing any home demolitions. And I heard from a person that was at that briefing, he said so, "why did you say a wall fell if you weren't even doing that". And so their story changes over and over again and that, that makes me wonder why they had to change their story.

JD: How do you feel about the Israeli justice system?

CC: I don't feel very good about it right now, but of course, they have a chance, we're planning on appealing this, and so I think there's lots of, without really talking to our attorney, think there are lots of grounds for appeal on this. And let's remember, that the courts are the way that we've all agreed in civilised societies to redress grievances in a non-violent way. You have to make the courts work, that's incredibly important in a society. And that's fighting for one of the basic sort of rights that we in the United States get from Great Britain coming down from the Magna Carta. These are big issues that we work with here and you kind of laugh that off, but they are huge issues and I feel kind of good about being on the right side of this stuff.

The Committee concluded that the subject of the content was the court's decision in this case and that Mr Corrie's comments were challenging and ran at some length within the programme. The Committee therefore concluded that the BBC's requirements for due impartiality were met and that there was no need for any further "balancing" interviewee in this case.

This point of appeal was not upheld.

Point (K)

The Committee considered the complaint by two complainants to the Trust that Mark Regev was not sufficiently challenged on his claims about the professionalism and

independence of the Israeli justice system (one complainant said this is indicative of BBC bias towards Israel):

"The interview continued with Regev elaborating on the fairness of the Israeli justice system without any challenge from Martha Kearney, when there is plenty of evidence of the opposite."

"Unfortunately, the figures do not back this up. According to the Israeli human rights organisation, Yesh Din, Palestinians do not even get to the courts where this mythical justice is served – in fact, 91% of investigations by Israeli police in the West Bank into crimes committed by Israelis against Palestinians and their property are closed without indictments being served."

One complainant stated:

"...Israeli soldiers murdered young Rachel Corrie while demolishing the home of a Palestinian family, for which there is absolutely no justification, as it forms part of an ethnic cleansing programme, which the BBC correspondent failed to challenge."

The Committee noted the Editor's description of Mark Regev as "clearly an experienced interviewee". He stated:

"I think the questioning of Mark Regev was thorough – Martha put to him the view of a fellow activist that Rachel Corrie was 'in clear view' of the bulldozer driver and she also challenged him with the comments of Rachel Corrie's mother that the trial had not been fair."

The Committee noted that Martha Kearney had asked the following questions:

"Earlier I spoke to the Prime Minister's spokesperson Mark Regev and questioned how it was the case that the bulldozer driver hadn't seen Rachel Corrie."

"One of her fellow activists Tom Dale told the court, the bulldozer went towards her very slowly, she was fully in clear view, straight in front of them, wearing a bright orange high visibility jacket."

"It's the view of Rachel Corrie's mother that this wasn't a fair trial. She said the Israeli state has worked extremely hard so that 'the truth behind what happened to my daughter is not exposed'."

The Committee concluded that Mark Regev had been sufficiently challenged about allegations concerning the fairness of Israeli justice in this case and there was no requirement for the presenter to challenge him further about the fairness of the Israeli justice system more generally.

The Committee noted that the presenter asked whether there had been "a re-think of the policy of what was happening at that time – bulldozing Palestinian houses?" Mark Regev replied:

"There were no houses that were demolished that day. This is not about protecting someone's house. This, the operation on that day was dealing with clearing a territory, a part of land that was used for sniping, there were trees there, there were bushes there, there were places where people were shooting at

our people from and we had to clear the territories, to give a clear vision, this is not about housing demolitions, not at all.”

Ms Kearney went on to ask:

“But on other days isn’t it the case that houses were demolished by Israeli forces?”

The Committee concluded that Mr Regev was challenged appropriately and the BBC’s requirements for due impartiality had been met.

This point of appeal was not upheld.

Point (L)

The Committee considered allegations made by three complainants that the omission of detail about the deaths of eight/nine Palestinians when the programme mentioned the deaths of Israeli soldiers, breached BBC rules on impartiality:

“Eight Palestinians did die that same day in Gaza, but it was chosen to omit their deaths from the report. What is the explanation for the omission of this information from the report? Without an explanation to this second part it is not proven that there has not been bias in the report....”

And:

“The continued lack of explanation as to the selective and asymmetric approach to deciding what to include and what to exclude, may lead to the conclusion that there is an unwillingness to offer an open and full explanation as to the editorial decisions relating to this report and may be understood to indicate that such asymmetry may have been employed so as to create bias.”

The Committee noted again that the Editor of *The World at One* had said the item was:

“...about the Israeli court decision into whether the state was to blame for the death of Rachel Corrie”.

The Committee referred to its decision at point (B) above that it was the view of the Committee that it was not necessary to refer to Palestinian deaths around that time to achieve due impartiality given the subject matter of the item.

This point of appeal was not upheld.

Point (M)

The Committee considered the complainants’ allegation that the decision to refer to the deaths of Israeli soldiers demonstrated personal or institutional bias towards Israel.

The Committee noted that six complainants raised concerns about personal or corporate motives of bias and that one asked the Trust to consider overall BBC bias on this issue in light of the work by the Glasgow University Media Group. The Committee considered the points made by the complainants, which included:

“Ms Kearney went out of [her] way to justify Regev and the Israelis: I call this BBC bias.”

“Please explain the BBC’s bias towards Israel and its willingness to propagate its lies, even going to the extent of making up falsehoods on its behalf...”

“[The] comment ... suggests a desire to appease the Israeli government and the pursuit of a mythical ‘balanced’ viewpoint.”

The Committee noted the ECU’s description of Ms Kearney’s preparation for the interview:

“Immediately prior to interviewing Mr Regev, Ms Kearney had watched him being interviewed on BBC World. Responding to a final question about whether the Israeli government might offer to pay the legal expenses of Rachel Corrie’s family, Mr Regev had gone on to talk at some length about the violent situation in the Rafah Strip, of Israeli soldiers having been killed there and of a grenade attack on Israeli soldiers there shortly before Ms Corrie’s death. I understand that Martha Kearney’s intention was to prevent this happening at the end of her own interview with Mr Regev, when she wanted to address the broader question of the demolition of Palestinian homes. In order to do this, she attempted to forestall Mr Regev’s claims by conceding them in parenthesis. It was unfortunate that, in doing so, she conflated the two claims and gave the mistaken impression that Israeli soldiers had died on the same day as Ms Corrie, but this explanation seems to me to remove any grounds for imputing pro-Israeli bias to her.”

The Committee noted that it had reached the decision under A above that this was an inadvertent conflation in the course of an interview and had found no evidence to indicate that there was bias involved. The Committee concluded that the item was duly impartial.

The Committee noted the work of the Glasgow University Media Group. It also noted the findings of the Committee over a number of years in response to claims of either pro- or anti-Israeli bias. The Committee did not consider there was any evidence of a pattern of either in BBC journalism.

This point of appeal was not upheld.

Point (N)

The Committee noted that although they had not taken the fairness points on appeal given that this was not a first party complaint, some of the complainants had raised concerns about reputational damage to Ms Corrie, her family, those who supported them and the reputation of the International Solidarity Movement. The Committee agreed that it did not consider that the broadcast had caused any reputational damage to these individuals.

This point of appeal was not upheld.

Finding: Resolved/not upheld

Today, BBC Radio 4, 19 April and 9 May 2012

1. Background

On 19 April 2012, the *Today* programme on Radio 4 reported on marriages between cousins in Bradford. Data on such marriages had been collected as part of a long-term health study of 14,000 parents and children called "Born in Bradford". The data indicated that the tradition of marrying a cousin was more prevalent among British-born Pakistanis living in Bradford than it was for earlier generations. The *Today* piece looked at this trend and the attendant increased risk of congenital abnormalities.

The complainant objected to what he saw as "Asians" in general being associated during the piece with the tradition of cousin marriage. He stated that this was a custom "almost exclusively confined to members of the Muslim faith". He alleged that the use of the term "Asian" in this context unfairly smeared Sikhs, Hindus and others.

The complainant's objections to the second broadcast, on 9 May 2012, concerned two items linked to the conviction the previous day of nine men who had been part of a child sexual exploitation ring in Rochdale. Eight of the men were of Pakistani origin and the ninth was from Afghanistan.

Again, the complainant objected to what he saw as "Asians" in general being associated during the items with the crimes, when he said it was known the men came from Pakistan and Afghanistan and were Muslims. Once more, Sikhs, Hindus and others had been smeared, he said.

The complainant prefaced his appeal by saying that he was a "founder member" of the Inter Faith Network UK. He said he had been asked by members of the Hindu and Sikh communities to raise their concern about "the continuing use of the word 'Asian' by the BBC to describe crimes and questionable social practices in the Muslim, mainly Pakistani, community".

2. The complaint

Stage 1

On 6 May 2012 the complainant contacted Radio 4's *Today* programme to complain that a report on 19 April 2012 had been inaccurate. On 11 May 2012 the complainant again contacted the *Today* programme, following up his initial correspondence and also saying that his concerns had been further heightened by another report, also on *Today*, broadcast on 9 May 2012. On 17 May 2012, the complainant contacted the *Today* programme asking for his initial complaint, which he attached, to be forwarded to the BBC's complaints department.

BBC Audience Services provided a substantive response on 23 July 2012 (with an apology for the delay). The complainant wrote again on 6 August 2012. He received a second substantive response on 21 August 2012 and was offered escalation to the Editorial Complaints Unit (ECU).

Stage 2

The complainant wrote to the ECU on 13 September 2012. The ECU issued its provisional finding on 2 October 2012. It did not uphold the complaint. On 31 October 2012 the ECU confirmed its provisional finding and offered escalation to the Trust.

Appeal to the Trust

The complainant appealed to the BBC Trust 4 November 2012. His points included the following:

- As a founder member of the Inter Faith Network UK, he had been asked by members of the Hindu and Sikh communities to raise their concern about the continuing use of the word "Asian" by the BBC to "describe crimes and questionable social practices in the Muslim, mainly Pakistani, community".
- He had given examples from two *Today* programme broadcasts, although there had been many more, including one on the "Sunday" religious programme.
- He stated that the ECU had repeatedly agreed with the substance of his complaint.
- There had been no clear apology over the inappropriate use of the description "Asian".
- There had been no commitment to amend BBC guidelines to ensure that reporters were advised not to use "Asian" in a generic manner when other descriptions were more appropriate and accurate.
- Precision was particularly important on a breakfast programme, when people were rushing to get ready for work and sometimes only half heard things.
- He was seeking a clear apology for the "unnecessary, misleading and negative stereotyping of the British Asian community" and an undertaking that the existing guidelines will be strengthened "to reduce the possibility of future lapses".

In this appeal, the complainant raised the following in relation to accuracy and portrayal:

- That in the two *Today* programme broadcasts, the use of the word "Asian" was inaccurate and misleading, and unfairly smeared Sikh, Hindu and other communities.

3. Applicable Editorial Guidelines

The sections of the BBC Editorial Guidelines (2010) relating to Accuracy and Harm and Offence, are applicable to this appeal. The full guidelines are at <http://www.bbc.co.uk/editorialguidelines>.

4. The Committee's decision

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

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

The Committee noted that it had considered a similar complaint (from a different complainant) in 2011. A report of the Committee's decision in that case ("Use of the word 'Asian' to describe men of Pakistani heritage", July 2011 issued October 2011) can be found at

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2011/jul.pdf

The Committee noted that in the 2011 case, the Committee had agreed with the Head of Editorial Standards that the particular appeal should not proceed, on the grounds that it did not have a reasonable prospect of success. The Committee referred in that decision to the finding by the Editorial Complaints Unit at Stage 2 that, in the particular instances cited, the use of the word "Asian" would not have given a materially misleading impression because there had also been repeated use of the more specific term "Pakistani" during the relevant reports.

The Committee noted that the complainant in that case had asked the ECU why the word Asian had been used at all. In response, the ECU had agreed that it would have been better if it had not been used in the reports in question, and that the use of the word would be discussed by senior managers in BBC News at their next meeting.

The Committee noted that the 2011 finding had stated:

"While it did not agree that there was a case to answer with regard to alleged breaches of the Editorial Guidelines, the Committee understood the complainant's concerns and noted the action taken by BBC News to discuss the issue more generally at a senior level."

The Committee agreed that this previous complaint provided a useful context when considering the matters under consideration.

The Committee noted that the complainant had raised similar concerns about the two items and about other output. The Committee noted that the complainant stated that in both the report about marriages between cousins and the report about sex grooming "all involved were from the Muslim community," and asked "Why unfairly smear other communities to avoid using the word Muslim?" These smears, he suggested, strengthened the dangerous belief of "more ignorant listeners that we are all the same". The result, said the complainant, could be "fear and resentment of these communities in the wider British public". The complainant said the BBC should be "committed to using words to enhance meaning and understanding and not fog issues". He stated that precision was particularly important on a breakfast programme when listeners were rushing to get ready for work and might not be able to listen to the whole report and weigh up the pros and cons of an issue. He said he had previously raised the issue at a meeting where the BBC Executive had been represented and there had been agreement that the term "Asian" was generally used inappropriately and he had been assured this would be rectified.

The Committee noted the complainant's allegation that the practice of cousin marriage was referred to in the report as happening in the "Asian" community, and that he alleged that the reality was that it was "almost exclusively confined to members of the Muslim faith" and that the use of the term Asian in this context "unfairly smears Sikhs, Hindus and others".

The Committee noted that the ECU had said:

“...that it would have been better if the language used had consistently made it clear that the issue [cousin marriage] is principally one affecting those of Pakistani origin (bearing in mind the project referred to ethnicity not religion), but I do not believe the report was materially misleading or likely to stigmatise others of Asian origin in the way you suggest”.

The Committee noted that the baseline data in the literature specifies that approximately 39 per cent of “Born in Bradford” mothers are of White British origin, 45 per cent are of Pakistani origin and 15 per cent belong to other (multiple) ethnic groups. The Committee noted that, as far as the section of the research about cousin marriages is concerned, the comparison in the “Born in Bradford” study is specifically between Pakistani parents and White British parents. No reference is made to an “Asian” or a “South Asian” category. The Committee noted that elsewhere the data is broken down to refer to other categories. For example the Committee noted that baseline data on birth weight of babies in the study is reported by the following categories: White British, Pakistani, White Other, Mixed, Black, Bangladeshi, Asian Other, Other.

The Committee noted the presenter, James Naughtie’s introduction to the report:

“The tradition of marrying a cousin is becoming more entrenched among British-born Pakistanis living in Bradford than it was a generation ago. It has been a surprise finding of a ‘Born in Bradford’ research project. It’s a rather large, long-term study of 14,000 mothers and babies in that city, half of them Asian.”

The Committee noted that the first sentence specified that it was “British-born Pakistanis living in Bradford” who were being discussed and in the Committee’s view, this helpfully and clearly set the scene. The Committee noted that the wider reference in the introduction to Asian mothers in the study was a reference which included Pakistani, Bangladeshi and other mothers of unspecified Asian origin. The Committee considered the introduction was duly accurate.

The Committee noted that there were four occasions in total in the report when the word “Asian” was used: three by the reporter (Winifred Robinson) and one by an interviewee.

Winifred Robinson: Young Asian mothers at a children’s centre in Bradford explain why they’re keen to uphold the tradition of cousin marriage, a common practice in the rural villages of Mirpur in Pakistan, where most of their families originate. ..

WR: These mothers were among 14,000 across the city, who volunteered details of their family histories for the Born in Bradford project, the largest study of mothers and their babies ever undertaken in the UK. Detailed family trees, provided as part of the research, show 64 per cent of Asian mothers in the study group have married a relative, compared with 53 per cent of their parents.

WR: It’s a highly sensitive subject, so much so that community workers in children’s centres in Asian areas who are being trained to raise awareness of the potential problems are instructed to do so by reading from a carefully worded booklet.

Interviewee: Some Asian families might blame, saying that it’s your fault

because our children are like that. My husband has never said that to me, and never have I said that to my husband. We both know that this is from our God and is a test on us and we just have to pass our test in looking after them.

The Committee noted that immediately following her first reference to Asian mothers the reporter, in the same sentence, explained that she was talking about a tradition of cousin marriage from rural villages in Mirpur, Pakistan where most of the families originated. The Committee considered that the context, and in particular the introduction to the report, made it plain that it was people of Pakistani origin who were being discussed in relation to the tradition of cousin marriage. The Committee also noted that when the interviewee used the word "Asian", she was expressing her opinion in her own words and was entitled to do so.

The Committee noted that in talking about the "64 per cent of Asian mothers" in the study who had married a relative it would have been helpful to have explained that only a few were not of Pakistani origin. However, the Committee's view was that the piece, overall, provided sufficient context for listeners not to have been misled.

The Committee noted that the complainant said the report should have specified that the group being discussed would have been Muslim, given that the tradition of cousin marriage was "almost exclusively confined to members of the Muslim faith", and that non-Muslim Asians were no more likely to marry their cousins than, for example, Europeans.

On this point, the Committee noted that the report was based on a long-term academic study, called "Born in Bradford", in which the data on cousin marriages was analysed according to ethnicity, rather than religion. It was therefore accurate for the programme to have referred to ethnicity, rather than religion.

Considering the overall report on the *Today* programme of 19 April 2012, the Committee concluded that it was duly accurate. The references to race had been editorially justified, and careless or offensive stereotypical assumptions had been avoided.

The Committee then turned to the second broadcast under consideration, the *Today* programme of 9 May 2012. There had been two separate items, both linked to the conviction the previous day of nine men from Rochdale and Oldham on child sexual exploitation charges. Eight of the men were of Pakistani origin and the ninth was from Afghanistan. The Committee considered the detail of both these reports and, again, looked at the context of each use of the term "Asian".

The Committee noted the complainant's allegation that "they were all Muslims, yet the description 'Asian' was continually used" by both the presenter and reporter. The complainant alleged that this was a "continuing and unnecessary smear on Sikhs, Hindus and many others".

The Committee noted that an output editor for *Today* had said that there had been a mix of nationalities involved "so the term Asian was used as it was the most accurate available" and that "Asian" had not been used negatively but was "simply the most appropriate description".

The Committee noted that the ECU complaints director had said he agreed that it would have been better if the term Asian had not been used where Pakistani, Afghan or Muslim was more appropriate. However, he did not think that when the term Asian had been used, it had been materially misleading. He said that there were numerous occasions

when the origin of the convicted men had been stated explicitly and other occasions when it was made clear that the issue of child sexual exploitation was a significant concern within the Pakistani community and this

“...would, I think, have guarded against the possibility that listeners would have assumed those involved in this case, or others like it, were Hindus, Sikhs or of other religions”.

The Committee noted that he concluded:

“...it was unlikely listeners would have been misled by the use of the word Asian in the way you suggest. It was used throughout to refer to the ethnicity of those involved, rather than their religion. As I have said, I think the term Asian should be used with caution in cases like this and ideally it should be avoided when a specific term is more appropriate. However, I cannot conclude that the way it was used throughout this programme gave a misleading impression about the religion of those involved.”

The Committee noted that the first piece was an interview by John Humphrys with the Deputy Children’s Commissioner, Sue Berelowitz. “Asian” was used just once in the introduction:

“All nine of the men who were convicted yesterday of grooming young girls for sex and sexually assaulting or raping them were Asian, which allowed far Right extremists to make political capital out of it, of course. But the Children’s Commission, which has been running an enquiry into the sexual exploitation of children for the past nine months, says this kind of crime is going on in every community. I’m joined by the Deputy Children’s Commissioner, Sue Berelowitz. Good morning to you.”

The Committee noted this use of the term “Asian” had not been qualified and this was of some concern. However, the Committee noted that the presenter had begun by questioning whether there was a pattern of offending and this had led the interviewee to explain in her first reply:

Sue Berelowitz: ...there are victims and perpetrators across all ethnic and religious groups. The problem is that people have fixed in their minds, really, that there is this one particular pattern of Pakistani men and white girls and so that’s what they’re looking for...

John Humphrys: Mm. And yet the Ramadhan Foundation, one of Britain’s biggest Muslim organisations, itself says that it does happen in Pakistani communities and that the older men kind of bury their heads in the sand. They know it’s going on and think it’s sort of all right.

Overall, the Committee considered that, while the introduction to the piece should have been clearer, there was sufficient additional context for the piece to have been duly accurate.

The second of the *Today* pieces on 9 May 2012 was then examined by the Committee. The Committee noted that the term “Asian” in the introduction had been qualified immediately and then amplified in a clip:

John Humphrys: The case of the nine men who groomed young girls for sex – dozens of the girls were said to have been raped – was horrific. Impossible to argue with that. But there is another dimension to the case that’s worrying many people apart from the obvious. The fact that the men were all Asians, eight of them from Pakistan. The far Right has been making political capital out of that. What about the reaction from among Asian people themselves? Mohammed Shafiq speaks for the Ramadhan Foundation, which is one of Britain’s largest Muslim organisations.

Mohammed Shafiq: I think there’s a generational difference in the reaction from the community leaders and the elders and the young people that exist within our communities. Young British Pakistani students and young people I’ve been speaking to throughout today have found the crimes disgusting, abhorrent, evil and utterly condemn it without reservation. And then you have the reaction from the elders who don’t see this as abuse, they don’t see this as rape, they see it as “these girls were asking for it”.

The Committee noted that a discussion then followed, involving Martin Narey, formerly Chief Executive of Barnardo’s, Director General of the Prison Service, and currently Ministerial Adviser on Adoption; and Keith Vaz, MP for Leicester East and Chairman of the Home Affairs Select Committee.

The Committee noted the use of the varied mentions of the term Asian in the discussion:

Martin Narey: ... for this particular sort of crime, the street grooming and trafficking of girls in northern towns – Derby, Leeds, Blackpool, Blackburn, Oldham, Rochdale – there is very troubling evidence that Asians are overwhelmingly represented in prosecutions for such offences. That is not to condemn a whole community. Most Asians would absolutely abhor what we have seen in the last few days in the Rochdale trial ... undeniably, it seems to me, that in the North, there is a very significant overrepresentation of Asian men, frequently Pakistani men, in these terrible crimes.

Keith Vaz: ... I do not believe it’s a race issue ... it’s quite wrong to stigmatise a whole community. I’m not saying this is what Martin has done but this is where it all ends up. It’s already extended from Pakistani men into Asian men – that’s a very, very wide group, ... 20 per cent of the perpetrators of grooming were identified as people of Asian origin, 38 per cent were white, and 32 per cent the ethnicity was unknown.

John Humphrys: Indeed, but if you take those CEOP [Child Exploitation and Online Protection Centre] figures you’ve just quoted there, a quarter were Asian, 38 per cent were white, therefore ... it is disproportionate.

- KV: It is disproportionate and I'm not saying that one should ignore the facts that CEOP have brought out... But it's a big leap to suddenly go from that position to the position where you say it is Asian men and Pakistani men as if it represents a majority.
- JH: You must be slightly worried when you hear someone like Mohammed Shafiq on behalf of the Ramadhan Foundation, saying that elders in the Muslim community, see it as white girls "asking for it". That is a pretty appalling thing, isn't it? He is saying it. He a Muslim himself, representing the Ramadhan Foundation...
- KV: ... I represent a city, 51 per cent of the people of Leicester are of Asian origin, it's a majority Asian city in the whole of Europe, outside the sub-continent. Nobody has said this to me, and I have represented them for 25 years. So I accept that what he has said is his opinion but I don't believe that any community leaders in the Asian community would in any way condone what is being done.
- MN: ... I'm not saying this is just Asian or Pakistani men ... but street trafficking in the North does appear to be overwhelmingly about Pakistani and Afghan men and we've got to face up to that and see if we can do something about it.

In the Committee's view, taking all the comments and qualifications contained in the discussion into account, it would have been sufficiently clear to listeners that eight of the nine convicted men were of Pakistani origin, that one interviewee was concerned about the involvement of men of Pakistani and Afghan origin in street grooming and that the other was concerned about the risk of generally stigmatising all Asians. The Committee concluded that in the context of the item as a whole the word "Asian" was used with due accuracy and listeners would not have been misled. The Committee did not consider that the religion of the convicted men was of particular significance in the context of these items but noted that the views of Mohammed Shafiq of the Ramadhan Foundation were quoted.

The complainant had also asked for a clear apology from the BBC for the "inappropriate usage of the description 'Asian', which in the context of the above complaints, obfuscates meaning and causes upset on culturally sensitive issues".

Given the Committee had not upheld the complaint it did not consider an apology was required.

The Committee then gave consideration to the more general issues of the BBC's output raised by the complainant. It noted that the complainant wanted to see urgent amendments made to the guidelines:

"to ensure that reporters are advised not to use 'Asian' in a generic manner when other descriptions are more appropriate and accurate".

The Committee had sympathy for the complainant's concerns and recognised this was likely to be a recurring area of complaint.

It noted that in correspondence at Stage 2, the complaints director had said:

“I should make it clear from the outset that I share your concern about the use of the word ‘Asian’ to describe an individual or group of individuals when a more specific term would give a clearer or more accurate impression. I have raised this general point on a number of occasions with senior managers at BBC News and, following this particular investigation, I have been assured that editorial teams across BBC News have been reminded of the need for care because of the sensitivities involved.”

The Committee noted that the issue had been raised at the News Group Board on at least two occasions. The Head of the BBC Newsroom, who is in charge of all radio and TV bulletins, BBC Breakfast, BBC World News, The News Channel, and the News Website, said the following:

“BBC News is very aware of this and there is very good awareness within teams of the need to get this right. This is often a topic in a 3.15pm or 9am [editorial meetings] whenever there has been a grooming story this year [2012].”

The Committee noted that the general view among senior BBC News editors was that:

- There is awareness of the sensitivities on this issue and there are reminders to teams at editorial meetings when particular stories are being covered
- There is agreement that, in general, it is preferable to be specific about ethnicity, rather than using the general term “Asian”, but any reference at all to ethnicity should only be made when it is relevant to the story
- Religion would only be referred to if it were clearly known and was of relevance to the story
- The term “Asian” is not, in itself, offensive and still has its place, particularly in the following circumstances: in subsequent references when a report had already been specific (particularly when a group of individuals might come from more than one country); when, for example, another organisation or research findings had used the term and that was what was being reported.

The Committee noted that the BBC Executive had said it recognised that this was an area which required careful thought. The Committee agreed and wished to make clear its view that in this area precise language is important. While it had not upheld this complaint, the Committee agreed that the complainant had raised important issues regarding the language used to describe people born in the UK but whose ethnic origins lay outside the UK which it intended to explore with the Executive in preparation for the next revision of the Editorial Guidelines.

Finding: Not Upheld

Attempt to conduct a “doorstep” interview

1. Background

Since 2008 Colin Campbell, Home Affairs Correspondent for BBC South East, has broadcast a number of reports about child protection issues within the Diocese of Chichester. These have included coverage of criminal proceedings initiated against three Church of England priests and a report by Baroness Butler-Sloss commissioned by the Diocese of Chichester to look at the case of two priests serving in the diocese who were the subject of historic child abuse allegations.

On 10 November 2011 Mr Campbell reported that a formal complaint had been made against the Right Reverend Wallace Benn, Bishop of Lewes, by the Safeguarding Advisory Group of the Diocese of Chichester. The BBC believed that the complaint was linked to a number of issues including the supply of misleading information to the Butler-Sloss report. Between 7 March 2011 and 10 November 2011, the BBC had sought interviews with him in relation to the Butler-Sloss Report. On 21 November 2011 the BBC then formally wrote to the Bishop requesting an interview with him. The Diocesan Press Officer declined the request:

“Whilst the outcome of the formal complaint is pending neither the Diocese nor the Bishop of Lewes will be making any comment.”

Mr Campbell was provided with a list of the Bishop’s public engagements by the Diocesan Press Officer, which included a carol service at the parish church in Burwash Weald, East Sussex. On 18 December 2011, following the carol service, he carried out a doorstep interview. A doorstep interview is when a journalist confronts and attempts to record an interview with someone for broadcast, when that person is not expecting to be interviewed because no arrangement has been made with them to do so. The Bishop, who had been preaching at the service, was accompanied by his wife, daughter and baby grandson. Solicitors acting for the Bishop and his family have complained that the Bishop’s privacy was unjustifiably invaded, as was that of his family, and that Mr Campbell’s treatment of the Bishop and his family amounted to harassment. Footage of the doorstep interview was not recorded as the camera was too low on battery to record. The complaint therefore relates to the gathering of editorial material, as no footage was recorded or broadcast.

2. The complaint

Stage 1

At Stage 1, signed statements were provided by the Bishop, his wife, his daughter and the Churchwarden of St Philips Church, Burwash Weald, about the events of 18 December 2011. Bishop Wallace Benn described being accosted by Colin Campbell without warning. He said that Mr Campbell was accompanied by a cameraman, who produced a camera with bright lights from under his coat. The Bishop said that Mr Campbell asked two questions, which he repeated persistently:

“Why have you allowed known paedophiles to continue in ministry?”

“Why have you persistently given false information to Butler-Sloss?”

According to the Bishop’s statement, at that point the nine-month-old baby began to cry and Mr Campbell said he did not intend to cause that, but he continued to repeat his questions whilst the family attempted to pack the car. The Churchwarden intervened and

asked Mr Campbell to leave; he stated that the reporter's behaviour was inappropriate as he was on holy ground. The family was very disturbed by the encounter and complained that "the effect on the Bishop's daughter and small grandson was particularly upsetting".

"In our view it is inexcusable for a journalist to behave in such a manner on any occasion, but all the more so in circumstances where our client had made it quite clear to the journalist that he would not be making any comment pending the outcome of the formal legal process which was, and continues to be, in train. We therefore wish to complain about the unjustified invasion of the Bishop's privacy and about the harassment by this journalist of the Bishop and his family."

The Editor of South East Today responded to the complaint on 7 March 2012. He explained that the BBC has strict guidelines for what is known as "doorstepping with prior approach". He believed that the undertaking of the interview on 18 December 2011 satisfied the requirements of those guidelines because over an 18 month period the BBC had repeatedly sought an interview with Bishop Wallace Benn relating to child safeguarding issues in Sussex, but the Bishop had repeatedly declined to provide an explanation. The BBC then had discovered that a formal complaint had been made against Bishop Wallace Benn by the Diocese of Chichester's Safeguarding Advisory Group. The Editor's response stated that:

"Considering he had repeatedly declined offers to provide an explanation, we made enquiries to the Diocese of Chichester's press office by phone to find out about Bishop Wallace Benn's public engagements. We had previously explained to the Diocese's press officer ... that we had satisfied our editorial procedures to allow us to conduct a doorstep interview."

The Stage 1 response explained that on 12 December 2011 the press office sent an email detailing five public engagements and the BBC chose to attempt to interview the Bishop on 18 December 2011 whilst he was leaving Burwash Weald church. The response continued:

"It is unfortunate that on the 18th December Bishop Wallace Benn was accompanied by his family. We were given no information that this was to be a family visit as we understood it was one of his main public engagements. Had we been told by [the press office] that his family would be in attendance we would not have sought an interview."

The Editor stated that he and the Head of BBC South East had given Mr Campbell specific, repeated instructions to ensure the interview approach was low key and polite and that Mr Campbell disagreed with the suggestion that his manner was aggressive or intimidating.

He said that Mr Campbell and his camera operator said they were waiting in full public view in the car park of the church. The camera had a light on top of it, which was standard BBC equipment for filming in poor light conditions.

The Editor concluded that the BBC was very sorry if the Bishop's grandson was upset. He said that Mr Campbell told the camera crew to stop filming because he did not want to cause the baby any distress. In the view of the BBC employees present, the actions of the Churchwarden were aggressive and hostile and were more likely to be the cause of the child's upset.

Stage 2

At Stage 2 the solicitors acting for the complainant disputed the BBC's version of the conversation between Mr Campbell and the press officer. They said that it was not made clear to the press officer that Mr Campbell intended to interview the Bishop at any of the public engagements. She had provided his itinerary because she understood it to be in the public domain.

The complainant believed the BBC had not followed its guidelines on doorstepping. These state that approval will only be given when an interview has been refused "without good reason". The Diocesan press officer had provided such a reason: a formal complaint having been made, it would be entirely inappropriate and disrespectful of any due process for anyone involved to be conducting interviews with the press before those complaints had been investigated and resolved.

The BBC's previous response at Stage 1 had stated that Mr Campbell would not have sought an interview with the Bishop had he known his family would be present. If this were true, why did Mr Campbell proceed with the interview when it was clear that the family were in attendance?

The Head of Editorial Compliance and Accountability for BBC News replied at Stage 2. She was not able to make an adjudication as to whether Mr Campbell behaved in an aggressive manner towards Bishop Wallace Benn on 18 December 2011. The encounter was not recorded and both sides gave very different accounts. Mr Campbell and the camera operator had provided contemporaneous written accounts in which both were clear that Mr Campbell's conduct was "polite and calm". Mr Campbell's Editor had given specific instruction to the team to behave in a very courteous manner with the Bishop. The Head of Editorial Compliance and Accountability's letter stated that:

"There seems to be an irreconcilable difference between the views of both sides as to what happened and there is very little that I can fruitfully say other than to express regret that the Bishop and his family took offence."

She noted that the BBC South East team had made a number of requests for an interview with the Bishop, all of which had been turned down. They were seeking answers to a range of questions in the public interest and in her view the CDM (complaints) process could not be prejudiced by the Bishop talking to the BBC.

She stated that it was highly unusual to inform a press officer that a "doorstep" interview was being planned. Although the press officer said it was not made clear to her that Mr Campbell intended to doorstep the Bishop,

"...if a press officer is told by a reporter that he has been given permission to conduct a doorstep interview, it is tantamount to informing her that this will take place and all the more so in the context of asking for a list of the Bishop's public appearance."

The letter concluded:

"Although I am unable to resolve the complaint about the reporter's conduct on this occasion, I am satisfied that there was a strong editorial justification for his making the approach."

Appeal to the Trust

The complainant's legal representative appealed to the Trust on 3 August 2012 as follows:

"The essence of the complaint is that our client, having clearly informed Mr Campbell that he would not be making any public comment pending the outcome of a legal process which had been commenced against him, was entitled to have his privacy respected in this respect and certainly not infringed in the way described in the witness statements."

The complainant raised the following points in relation to the incident on 18 December 2011:

(A): Bishop Wallace Benn had provided a "good reason" under the BBC's guidelines for not making any public comment: the principal of "sub-judice" (i.e. that there is a substantial risk of serious prejudice as a result of a media report) applied as much to formal disciplinary proceedings within the Church of England as it does to more serious criminal proceedings in courts of law. It would be extremely prejudicial to the fair conduct of such proceedings if the participants were to give interviews to the media during the case.

(B): The complainant did not accept the BBC's attempts to justify Mr Campbell's conduct as being in the public interest. The public interest was best "served by ensuring that due process is allowed to take place and that the facts are investigated and established fairly".

(C): Having stated that the BBC would not have sought an interview had they known the Bishop's family were present, why did Mr Campbell proceed with the interview when it was quite obvious that his family was present?

(D): Mr Campbell's behaviour, as noted in the witness statements, was "unpleasant" and "intimidating", amounting to "harassment".

3. Applicable Editorial Guidelines

The following Editorial Guidelines are applicable to this appeal.

Privacy

7.1 Introduction

The BBC respects privacy and does not infringe it without good reason, wherever in the world it is operating. The Human Rights Act 1998 gives protection to the privacy of individuals, and private information about them, but balances that with a broadcaster's right to freedom of expression. In regulation, the Ofcom Broadcasting Code states "*Any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.*"

Meeting these ethical, regulatory and legal obligations in our output requires consideration of the balance between privacy and our right to broadcast information in the public interest. We must be able to demonstrate why an infringement of privacy is justified.

An infringement is considered in two stages, requiring justifications for both the *gathering* and the *broadcasting* of material where there is a legitimate expectation of privacy.

Legitimate Expectations of Privacy

An individual's legitimate expectation of privacy is qualified by location and the nature of the information and behaviour; and the extent to which the information is already in the

public domain. People in the public eye may, in some circumstances, have a lower legitimate expectation of privacy.

Location: People in public places or semi-public places cannot expect the same degree of privacy as in their own homes or other sensitive locations. (A semi-public place is somewhere which, though private property, gives the public general access, such as an airport, station or shopping mall.)

Behaviour: There is less entitlement to privacy where an individual's behaviour is criminal or seriously anti-social.

The Public Interest

There is no single definition of public interest. It includes but is not confined to:

- exposing or detecting crime
- exposing significantly anti-social behaviour
- exposing corruption or injustice
- disclosing significant incompetence or negligence
- protecting people's health and safety
- preventing people from being misled by some statement or action of an individual or organisation
- disclosing information that assists people to better comprehend or make decisions on matters of public importance.

There is also a public interest in freedom of expression itself.

When considering what is in the public interest we also need to take account of information already in the public domain or about to become available to the public.

When using the public interest to justify an intrusion, consideration should be given to proportionality; the greater the intrusion, the greater the public interest required to justify it.

7.2 Principles

7.2.1 The BBC must balance the public interest in freedom of expression with the legitimate expectation of privacy by individuals. Any infringement of a legitimate expectation of privacy in the gathering of material, including secret recording and doorstepping, must be justifiable as proportionate in the particular circumstances of the case.

7.2.3 We must justify intrusions into an individual's private life without consent by demonstrating that the intrusion is outweighed by the public interest.

7.4 Practices

Privacy and Consent

7.4.5 We normally obtain consent before recording on private property. However, recording without prior permission may be justified in places where the public has general access, for example a shopping mall, railway station or airport, or where we have reason to believe our recording will aid the exposure of illegal or anti-social behaviour. When recording without prior consent on private or semi-public property, if the owner, legal occupier or person acting with their authority asks us to stop, we should normally do so unless it is editorially justified to continue.

Doorstepping

7.4.30 Doorstepping is when we confront and record, or attempt to record, an interview with someone for broadcast ... when that person is not expecting to be interviewed for broadcast because we have not made an arrangement with them to do so. It often involves an infringement of privacy and should normally be a last resort.

Doorstepping for News and Factual Programmes With Prior Approach

7.4.31 Any proposal to doorstep, whether in person or on the phone, where we have tried to make an appointment for an interview with the individual or organisation concerned must be approved by a senior editorial figure or, for independents, by the commissioning editor.

Approval will normally only be given when there is evidence of crime or significant wrongdoing and for one, or more, or the following reasons:

- the subject of a doorstep has failed to respond to repeated requests for interview in connection with the wrongdoing alleged
- a request for an interview has been repeatedly refused without good reason and substantial allegations of wrongdoing have been avoided
- there is a history of failure to respond to interview requests or refusal to be interviewed.

Proposals for doorstepping should be proportionate to any wrongdoing. Consideration should be given to the safety of production staff and the risk of infringing the privacy of third parties who are insufficiently responsible for any wrongdoing, such as family members or junior employees.

Fairness, Contributors and Consent

6.4.24 Intimidation and Humiliation

We must treat our contributors and potential contributors with respect. We must not be unduly intimidatory, humiliating, intrusive or aggressive to contributors, either to obtain their consent or during their participation in our output.

Children and Young People as Contributors

9.2 Principles

9.2.1 We must ensure that the physical and emotional welfare and the dignity of children and young people is protected during the making and broadcast of our content, irrespective of any consent given by them or by a parent, guardian or other person acting in loco parentis. Their interests and safety must take priority over any editorial requirement.

9.2.2 We must ensure that children and young people are not caused unnecessary anxiety or distress by their involvement in our output. Their involvement must be clearly editorially justified, consents should be obtained as appropriate to the circumstances of the child/young person and the nature of the contribution and output, and support should be given to them where necessary.

9.4 Practices

9.4.1 We should apply the principles of the BBC Child Protection Policy in our dealings with children and young people under 18. Their welfare is our paramount consideration. This means their interests and safety must take priority over any editorial requirement.

4. The Committee's decision

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

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

Point (A) - Doorstepping

First, the Committee considered whether the Privacy Guidelines in relation to doorstepping (Guidelines 7.4.30 and 7.4.31) had been breached.

The Guidelines state that any proposal to carry out a doorstep with prior approach must be approved by a senior editorial figure. The Committee noted that Mr Campbell made a formal request to his Editor for approval of a doorstep interview with prior approach on 4 October 2011, which was granted.

The Guidelines also state that approval will normally only be given when there is evidence of crime or significant wrongdoing and for one, or more, of the following reasons: (a) the subject of a doorstep has failed to respond to repeated requests for interview in connection with the wrongdoing alleged; (b) a request for an interview has been repeatedly refused without good reason and substantial allegations of wrongdoing have been avoided; or (c) there is a history of failure to respond to interview requests or refusal to be interviewed.

The Committee therefore began by considering whether there was evidence of crime or significant wrongdoing for the purposes of the Guidelines. In that regard, the Committee noted that Mr Campbell was seeking to interview the Bishop in relation to the alleged provision of misleading information to Baroness Butler-Sloss, as part of her report into allegations of paedophilia within the Church. Mr Campbell had sent a "right of reply" letter to the Bishop on 21 November 2011, setting out a formal request for an interview "in response to the formal complaint which has now been lodged against you by the Diocese of Chichester's independent safeguarding group" and asking why he had provided allegedly inaccurate or incorrect information to the review conducted by Baroness Butler-Sloss. With this background in mind, and noting the conclusions of the Butler-Sloss report that there were significant questions about the Bishop's performance of his duties whilst in a public office, the Committee considered that the allegations of wrongdoing relating to the Bishop were sufficiently significant to meet the requirements of the doorstepping Guidelines.

The Committee then considered whether a request for an interview had been repeatedly refused without good reason and whether substantial allegations of wrongdoing had been avoided. The Trustees noted the log of requests (set out in the ESC paperwork) by Mr Campbell for interviews with the Bishop between 7 March and 21 November 2011, and that some of these requests had been met with no reply, while in other instances the Bishop had refused the request. The Committee therefore considered that there was a history of refusals to be interviewed.

The Committee went on to consider the complainant's allegation that he had provided a "good reason" for declining an interview. The Committee considered the reasons given by the Bishop at the time of his refusal of the interview (23 November 2011):

"Whilst the outcome of the formal complaint is pending neither the Diocese nor the Bishop of Lewes will be making any comment."

The Committee also noted the reasons given by the Bishop in his appeal. In a letter to the Trust of 31 October 2012, solicitors representing the Bishop explained that their client's reasons for declining all press interviews during the disciplinary process were:

- he wished to submit to the CDM process to answer the allegations at the appropriate time before the designated Tribunal and in accordance with its proper procedures and rules of evidence. "Speaking to the press in the meantime would have violated that principle, undermined the proceedings and, at the very least, been disrespectful to those before whom he was asked to give an account."
- "to have engaged in a process of conducting his defence in public, through the media, would have been prejudicial to the proper conduct of the proceedings and extremely unfair to him personally."
- the Bishop could have been placed at risk of being in contempt of Court.
- he could also have been in breach of the Measure's Code of Practice, which advises anyone involved in a complaint who is contacted by the media "to refer the enquirer straightaway to the appropriate communications officer, which will normally be the diocesan communications officer".

The Committee noted that it would not be unreasonable for the Bishop to wish to avoid putting himself at risk of contempt of court. However, it did not consider that an interview in and of itself would necessarily have resulted in contempt of court or a breach of the Measure's Code of Practice. In any event, the Committee considered that the reasons subsequently raised by the Bishop were not apparent on 23 November 2011, prior to the doorstep, and therefore could not have been taken into account at the time that approval was given. For these reasons, the Committee concluded that no "good reason" for refusing an interview had been given for the purposes of the Guidelines.

In conclusion, the Committee considered that there were significant questions being raised about the Bishop's performance of his duties whilst in a public office and that the proposal for doorstepping was entirely proportionate given the allegations. The Committee therefore concluded on Point (A) that there was no breach of the BBC's guidelines on doorstepping without prior approach.

This point of appeal was not upheld.

Points (B) & (C) Privacy

The Committee considered the complainant's claim that the privacy of the Bishop was unjustifiably invaded, as was that of his family. The Committee noted that the

complainant did not accept the BBC's attempts to justify Mr Campbell's conduct as being in the public interest. The complainant said that the public interest was best "served by ensuring that due process is allowed to take place and that the facts are investigated and established fairly".

The Committee was mindful that Guideline 7.1 requires a consideration of the balance between an individual's right to privacy and the BBC's right to gather information in the public interest, and that any infringement must be justified. The Committee also noted that Guideline 7.1 states that an individual's legitimate expectation of privacy is qualified by location, by the nature of the information and behaviour; and the extent to which the information is already in the public domain.

The Committee first considered whether the Bishop and his family had a legitimate expectation of privacy, and the extent to which that was qualified by the location. The Committee noted that the incident took place outside a church, where the Bishop had been preaching at a carol service. Specifically, Mr Campbell had approached the Bishop in the car park of the church, which is a place where the public has general access. The Committee noted that, under the Guidelines, people in public or semi-public places cannot expect the same degree of privacy as in their own homes or other sensitive locations. Furthermore, whilst attending a church service might usually be considered a personal experience, the Committee considered this location in conjunction with the activity being performed by the Bishop. The Committee noted that this was a public engagement, and was listed as such by the Diocesan press office, because the Bishop was preaching at the service. The location, in this context, was a work-related venue. The Committee therefore concluded that the Bishop's expectation of privacy was qualified by the location and by being a person in the public eye.

The Committee noted that the Bishop's family, who were with him at the time of the doorstep, may have had a higher expectation of privacy. However, it also noted that they were accompanying the Bishop, who is a figure in the public eye, on a public engagement. The Committee therefore considered that the Bishop's family's expectation of privacy was diminished by these factors.

Having concluded that both the Bishop and his family had a qualified expectation of privacy, the Committee then went on to consider whether the intrusion was justified by being in the public interest. The Committee noted the seriousness of the allegations made against the Bishop in the performance of his duties, as described above. The Committee also referred to Guideline 7.1, which highlights circumstances in which an intrusion may be in the public interest, such as "disclosing significant incompetence or negligence" and "preventing people from being misled by some statement or action of an individual or organisation". Taking these factors into account, the Committee considered that it was in the public interest for Mr Campbell to put these allegations to him. The Committee therefore concluded that any infringement of the Bishop's right to privacy was justified by being in the public interest and being proportionate to the nature of the allegations.

The Committee noted the BBC's statement that it was unaware the Bishop would be accompanied by his family because the service was listed as a public engagement and that it would not have sought an interview had it known the Bishop's family was present. The Committee also noted that the complainant considered that the doorstep should not have continued once Mr Campbell realised that the Bishop's family was present. Weighing these factors in the balance, the Committee considered that care had been exercised in relation to the doorstep to minimise the intrusion into the Bishop and his family's private life. The Committee concluded that, whilst it regretted the family members had found the incident upsetting, the infringement of their expectation of privacy was justified when weighed against the public interest in doing so.

These points of appeal were not upheld.

Point (D) Fairness, Contributors & Consent, Children and Young People as Contributors

The Committee considered the complainant's allegation that Mr Campbell's behaviour, as noted in the witness statements, was "unpleasant" and "intimidating", amounting to "harassment".

The Committee noted the accounts of the incident as detailed in witness statements from the Bishop, his wife, his daughter, the Churchwarden, Mr Campbell and his cameraman.

The Committee noted that Mr Campbell, together with his cameraman, had apparently been waiting in the dark for the Bishop to emerge from the service. He stepped out of the shadows and according to Bishop Wallace Benn:

"I was immediately and without warning accosted by Colin Campbell, who with a film crew and bright lights (hidden under a coat) sought to 'doorstep' me and get me to answer two questions which were repeated persistently:-

1. Why have you allowed known paedophiles to continue in ministry?
2. Why have you persistently given false information to Butler-Sloss?

I did not reply. [The Bishop's daughter and grandson of 9 months] were in the way as was my wife and with their help I put things away and got in the car (with some difficulty). [The Bishop's grandson] started to cry with Colin Campbell shouting and the bright lights, and insisting on an answer. When he started to cry Colin Campbell said he didn't intend to cause that, but persisted nonetheless with his questions. [...] the Churchwarden, intervened, my staff got knocked over, and he said to Colin Campbell that his attitude and the place he was doing it ('on holy ground') was inappropriate and asked him to stop, which he didn't."

The Bishop's wife stated:

"I was concerned to get Wallace in the car and to protect him from Mr Campbell's unpleasant manner and false accusations. I passed our grandson to our daughter and tried to help Wallace to get his things into the car so that I could get him safely into the driver's seat. Mr Campbell followed us round to the driver's door."

The Bishop's daughter stated:

"My son was still crying.... [Mr Campbell] said 'I don't want to make the baby cry'. I wondered why he didn't move away from us then and was still shining a light in my baby's face and trying to stop us getting in the car. He persisted with his questions to my dad 'I want to know why you have persistently given false information?' The two men were right by the passenger door blocking my dad's entry. Mr Campbell said again 'I don't mean to upset the baby'. My son was still crying (unsurprisingly as the situation was so threatening) and I replied saying, 'I don't think I believe you'."

The Churchwarden stated:

"The attitude of Mr Campbell could only be considered intimidating.... I asked him not to continue to hound and harass the bishop stating that if he (Mr Campbell) were a Christian he would have a different attitude. I stated that as a warden and

Chairman of the PCC that he should desist, that he was on hallowed and consecrated ground.”

The Committee noted that Mr Campbell disagreed with the suggestion that he was aggressive or intimidating in manner. He had been given specific, repeated instructions by his Editor and by the Head of BBC South East to ensure the interview approach was low key and polite.

The Committee noted that Mr Campbell and his camera operator said they were waiting in full public view in the car park of the church. It was correct that the camera operator’s camera had a light on top of it, which was standard BBC kit for filming in poor light conditions. It was a very cold evening so the camera operator held the camera under his coat in an attempt to keep it warm, and produced it when the Bishop emerged.

Mr Campbell and his camera operator also completed witness statements. Mr Campbell stated:

“I approached and introduced myself as Colin Campbell from BBC South East Today. I asked if it would be okay to ask some quick questions. I tried to explain that I had tried legitimate formal approaches to an interview but they had been rejected. At this point a woman holding a baby jumped in front of me to shield Bishop WB – she said to BWB not to say anything. Then I remember a man with grey hair and an angry fierce face start shouting at me. He told me I was the gutter press, he told me to leave Bishop Wallace Benn alone...”

Mr Campbell then attempted to put his two questions to the Bishop. He claims the warden raised a stick at the cameraman and became increasingly hostile and aggressive.

“The lady with the baby also tried to intervene at this point. I said, ‘Let’s stop filming. I don’t want to cause the baby any distress’. The lady said, ‘I’m sure that’s true’ – being ironic. The warden then told us we were on sacred ground – I asked if he wanted us to leave – he did not confirm – instead he kept calling us gutter press and scum. We then started to retreat.”

In his statement, the camera operator said:

“A churchwarden who was present put himself in between Bishop Benn and Colin [...]. A woman (believed to be Bishop Benn’s daughter) was also present and came towards Colin holding a baby. Colin noticed the presence of the baby and commented to the woman that he did not intend to cause any unnecessary distress. The churchwarden again put himself in front of the Bishop and gestured with a staff (walking stick) towards Colin and the camera [...]. Colin managed to put a few questions to Bishop Wallace Benn but he received no response. The churchwarden then asked that Colin and I leave the area at the front of the church and Colin said that we would and we walked down the lane.”

The Committee noted that there were substantial differences in the accounts of the incident and that the footage had not been recorded. It noted that the Operations Organiser at BBC South East had explained the technical reasons for the lack of footage of the incident:

“The equipment ... was quite old (all of it has since been de-commissioned). The battery on the camera was old (but serviceable). All batteries suffer power loss in cold temperatures, old ones even more so. Although the battery was indicating that it was full,

[the cameraman] had been out in very cold temperatures for some 1.5 hours prior to recording. In addition to this, the light on the camera was an old tungsten filament type rather than a newer LED type, and so drained more power from an already struggling battery. Finally, putting the camera into record took more power than the battery could now deliver, and the camera failed to go into record.”

Having concluded that the decision to conduct the doorstep was in accordance with the Editorial Guidelines, and a justified infringement of the Bishop and his family’s right to privacy, the Committee considered that Mr Campbell at least commenced the doorstep legitimately. The Committee also noted that all accounts of the incident recognised that Mr Campbell stated that he did not want to upset the baby. However, the Committee then noted that the Bishop and his family were clearly upset and distressed by the incident. The Committee also noted that the Editorial Guidelines require the BBC to ensure that children are not caused unnecessary anxiety or distress by their involvement in output.

On balance, the Committee considered that a doorstep interview is by its very nature a confrontational experience. Taking into account its conclusion that the decision to conduct the doorstep was justified and proportionate, the Committee decided that there was insufficient evidence to conclude that the doorstep had resulted in unnecessary anxiety or distress to the baby, or was unduly intrusive or aggressive for the purposes of the Guidelines.

This point of appeal was not upheld.

Finding: Not upheld