

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

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 bbc.co.uk/bbctrust/about/meetings_and_minutes/bbc_trust_committees.html.

The Committee comprises six Trustees: Richard Tait (Chairman), Chitra Bharucha, Mehmuda Mian, David Liddiment, Alison Hastings and Anthony Fry. 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 will consider appeals concerning complaints which allege that:

- the complainant has suffered unfair treatment either in a transmitted programme or item, or in the process of making the programme or item
- 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
- there has otherwise been a failure to observe required editorial standards

The Committee will aim to reach a final decision on an appeal within 16 weeks of receiving the request.

The findings for all appeals accepted by the Committee are reported in this bulletin, *Editorial Complaints: Appeals to the Trust*.

As set out in its Terms of Reference, the Committee can decline to consider an appeal which in its opinion:

- is vexatious or trivial;
- does not raise a matter of substance;
- relates to the content of a programme or item which has not yet been broadcast;
- concerns issues of bias by omission in BBC news programmes unless the Chairman believes that it is plausible that the omission of an item could have led to a breach of the guidelines on impartiality;
- has not been made within four weeks of the final correspondence with the ECU or BBC Director on the original complaint; and
- relates to matters which are the subject of or likely to be the subject of, or relevant to, legal proceedings.

The Committee will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.

Any appeals that the Committee has declined to consider under the above criteria are reported in the bulletin.

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 or is available from:

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Contents

	Page
Remit of the Editorial Standards Committee	1
Contents	3
Summary of findings	4
Findings	10
BBC News at Ten, BBC One, 25 January 2008	10
The Curse of Steptoe, BBC Four, 19 March, 28 and 29 December 2008	21
Document, BBC Radio 4, 30 July 2007	34
Global Temperatures 'to decrease', BBC News online, 4 April 2008	47
Non-reporting of the International Conference on Climate Change, March 2008	56
Today, BBC Radio 4, 7 October 2008	60

Summary of findings

BBC News at Ten, BBC One, 25 January 2008

The complainant felt the studio introduction as well as the report on the closure of the Tower Colliery was inaccurate and biased against Mrs Thatcher. The complaint was upheld in part by the Editorial Complaints Unit (ECU) at stage 2 of the BBC's complaints process on issues of accuracy. However, the ECU did not uphold the complaint of bias. The complainant appealed to the ESC to review the ECU's decision on impartiality. The Committee was also asked to consider how the complaint was handled.

The Committee concluded that:

Accuracy

- the National Union of Mineworkers (NUM) strike and the fate of the Tower Colliery were controversial issues which still had impact in Wales and as such should be treated with due accuracy and due impartiality in news bulletins.
- it agreed with the ECU ruling that the statement in the introduction that "They took on Mrs Thatcher and won" was a factual error and that a later reference to the workers' buyout under a Thatcher government had helped create a misleading impression.
- it agreed that this was a regrettable error but there was no evidence before the Committee to suggest that it was anything other than a mistake.
- the conclusion of the ECU, the action required by the ECU and the action taken by BBC management had been appropriate and no further action was required.

Impartiality

- while the motivation of those who had prepared the report and introduction was not relevant, there was no evidence in front of the Committee to suggest bias.
- the focus of the item had been on the success of the mine following the workers' buyout and not on the government of Margaret Thatcher, and this had been presented with due impartiality.
- a failure in accuracy can sometimes lead to a failure of impartiality but that is not necessarily always the case.
- in this case the item had contained another, more direct reference to the relationship between the government of Mrs Thatcher and the NUM, and this had been accurate and duly impartial.
- in this context there had been no breach of the guideline on Impartiality.

Accountability

- the delay of three months at stage 1 of the complaints process had been unacceptable.
- given the high volume of complaints being handled at stage 1, delays would sometimes occur, nevertheless it was important to note that the process had failed on this occasion.
- the Committee would include in its finding letter an apology for the delays suffered at stage 1 of the process.
- the summary of the complainant's complaint in the ECU's published finding had been addressed in the ruling section of the ECU's decision.
- the ECU summary had quoted the essential phrase "a workers buyout under a Thatcher government" and had acknowledged that it was misleading. A serious factual error had been acknowledged and the guideline on Accountability had been complied with in this respect.
- the focus of the ECU's investigation was on whether the BBC had complied with its own guidelines, and the identification of the contributor in the ECU summary was not necessary or relevant.
- it was the responsibility of the programme team who broadcast the item to ensure compliance with the guidelines, and therefore the ECU was correct in not attaching fault to BBC Wales in its finding.

The complaint was not upheld with regard to Impartiality and Accountability. The ECU's finding with regard to Accuracy was endorsed. The delay at stage 1 of the complaints process was found to have been unacceptable.

For the finding in full see pages 10 to 20

The Curse of Steptoe, BBC Four, 19 March, 28 and 29 December 2008

The complaint is a first party complaint brought by the brother of Maureen Corbett, the second wife of Harry H. Corbett. The complainant stated that the drama as broadcast in March and December 2008 was unfair to his deceased sister. He was also concerned about fairness to Harry H. Corbett. The complainant also raised concerns about the accuracy of the drama and that the revised repeat had not been sufficiently edited or signposted to satisfy the changes that had been required following the ECU's finding at stage 2 of the complaints process.

The Committee concluded:

Fairness

- that, while the editorial guidelines had not been written with this type of biographical drama in mind, the principle behind the Fairness guidelines was that individuals and organisations should not be treated unjustly or unfairly, and that this principle could be applied in the consideration of this case.
- that, as the complainant was the brother of Maureen Corbett, the

complaint could be considered as a first party fairness complaint with regard to Maureen.

- that the complainant's relationship to Harry H. Corbett (brother-in-law) did not constitute a "surviving near relative" and that the Committee was not able to examine the complaint of fairness regarding the portrayal of Harry H. Corbett.
- that Maureen Corbett had not been a significant character in the drama and under the guidelines there was no onus on the programme team to obtain the consent of her surviving near relatives. However, the programme team's ignorance of the existence of the complainant suggested a deficiency in the research.
- that the timeline of the drama with regard to the relationship between Maureen and Harry, and Harry's separation from his first wife, did not correlate with the facts.
- that, while it was the right of dramatists to change events for dramatic purposes, the basic facts should remain as a framework on which to build the drama.
- that the implication in the drama that the child of Maureen and Harry had been conceived as a result of a casual relationship between the two was inaccurate and unfair.

Accuracy

- that viewers would have been aware that the programme was a drama and would not have been misled into considering it as a representation of the exact facts.
- that the programme's portrayal of the relationship between Harry H. Corbett and Wilfrid Brambell was not as negative as the complainant suggested and that the drama was duly accurate in this area.

The revised repeat

- that the wording of the caption put up before the screening of the revised version could have been clearer, particularly in relation to the use of the word 'conflated'.
- that the use of captions such as this should not be regarded as a 'blank cheque' for the indiscriminate and excessive use of dramatic licence.
- that, despite concerns about its clarity, the caption did address the issue on which the Editorial Complaints Unit had originally upheld the complaint. (The time between the arrival of Harry and Maureen's first child and Harry's decision to leave the series.)
- that the essential elements of unfairness to Maureen Corbett were still present in the revised version of the programme and that this constituted a breach of the Fairness and Accuracy guidelines.

The complaint was partially upheld with regard to fairness and accuracy.

For the finding in full see pages 7 to 33

Document, BBC Radio 4, 30 July 2007

The appeal was being made on behalf of the Overseas Service Pensioners' Association which represents the interests of people who served the governments of former British colonial territories of the British Empire. The original complaint suggested that the programme had been inaccurate and had relied on inadequate research when investigating the claims that British colonial officers helped rig Nigeria's pre-independence elections to ensure a pro-British party won. The complaint was upheld by the Editorial Complaints Unit (ECU) at stage 2 of the BBC's complaints process and a summary of its finding was published on the BBC's Complaints website. However, the ECU turned down a request for an on-air apology. The appeal to the Trust concerned whether or not there should also be an on-air finding and also asked the Trust to consider the ECU's published summary and whether it had sufficiently explained the decision to uphold the complaint.

The Committee concluded:

Accuracy (correcting mistakes) and accountability

- that it endorsed the ECU's finding that the programme had breached the guidelines on accuracy in three separate areas.
- that it shared the complainant's dismay at the failures of the programme but that it appeared to represent an isolated example of poor programme-making skills.
- that a broadcast of a correction in the same series [July 2007] would have been an appropriate and timely remedy as the matter would have been fresh in the minds of the audience and it was also likely to have found the same or similar audience but that these considerations no longer applied.
- that there was an upheld finding already in the public domain which recognised the flaws in the original programme.
- that the ECU's decision in refusing an on-air apology had been correct and proportionate.
- that, with regard to the summary of the ECU's finding published on the BBC website, it was felt that, in general, summaries should set out which guidelines had been breached, and the Committee will be discussing this with BBC management.
- that it would be appropriate for the ECU to revise its published summary to refer to the guidelines which were breached.
- with reference to the complainant's concern that those who had heard the programme but were not linked to the appeal would not be aware of the ECU's adjudication, that, given an on-air apology was not appropriate, publication on the BBC website was in line with the BBC's guidelines on accountability.

The Committee did not uphold the request for an on-air apology or for providing an alternative method of sharing the ECU finding beyond the presently published procedures. The Committee did agree to the request for a revision of the ECU's published summary of the complaint.

For the finding in full see pages 34 to 46

Global Temperatures 'to decrease', BBC News online, 4 April 2008

The complaint relates to an article on the BBC website which reported a reduction in global temperatures in 2008. The complainant alleges that changes were made to the published article as a result of pressure from a "climate activist", and that these changes should have been flagged.

The Committee concluded:

- that it was satisfied the changes had been made as the result of a request for greater clarity from the World Meteorological Organization (the article was based on an interview that had been conducted with the WMO's Secretary-General).
- that the decision not to flag the changes that had been made was an error, as accepted in hindsight by the BBC.
- that action taken to flag the changes would resolve this part of the complaint.
- that it was satisfied that the BBC Environment Analyst helps to run 'Real World' seminars as part of his BBC duties, that this is done with the approval of the BBC's Director of Editorial Policy, and that there is no conflict of interest.
- that excessive delays to the hearing of this complaint had been caused by several factors, including the number of complaints submitted by the complainant via different routes, and that this had been exacerbated by staff shortages within the BBC Trust.
- that it would apologise to the complainant for the delay in dealing with this matter.

The complaint was not upheld.

For the findings in full see pages 47 to 55

Non-reporting of the International Conference on Climate Change, March 2008

The complainant alleges that the BBC's decision not to broadcast any news coverage of the first International Conference on Climate Change, despite having a reporter there, was caused by bias against the views of climate change sceptics.

The Committee concluded:

- that it was satisfied by the BBC's explanation that it had not sent any of its reporters to cover the conference, and that the crew that had been there was making a documentary series for the BBC.
- that it was for the News output editor to assess what was newsworthy on the day.
- that there was no indication that this conference was of such significance that to omit it amounted to a breach of impartiality.

The complaint was not upheld.

For the findings in full see pages 56 to 59

Today, BBC Radio 4, 7 October 2008

The complaint relates to an interview on BBC Radio 4's Today programme in which Professor Steve Jones was questioned by the presenter on the subject of human evolution. The complainant alleges that the presenter's questions implied that inter-racial mixing was historically a bad thing, and that this was racist and offensive. The Committee also considered the complainant's claim that the Editorial Complaints Unit's response to his complaint contained comments suggesting that inter-racial mixing is a bad thing.

The Committee concluded:

- that, while it acknowledged that the complainant found the description of inter-racial mixing as a "bad thing" offensive, the presenter's questions were legitimate and the tone of questioning was in keeping with the Today programme.
- that it accepted the programme's explanation that what had been meant by the use of the word "history" was the whole period of evolution, and that the full exchange bore this out.
- that the exchange had not been racist or offensive to the audience.
- that there was a clear editorial purpose in the presenter questioning the interviewee as she did, and that the interview did not perpetuate the prejudice and disadvantage in society.
- that the ECU's comments were an acceptable interpretation of what had been said by the presenter, and that these were in line with the Committee's own decision.
- that the handling of the complaint by the ECU had not breached its processes.

The complaint was not upheld.

For the findings in full see pages 60 to 66

Findings

BBC News at Ten, BBC One, 25 January 2008

1. The programme

This edition of News at Ten included a report on the closure of Tower Colliery. The newsreader introduced the report with the words: “They took on Margaret Thatcher and won. But today miners of the last deep coal mine in South Wales brought 140 years of production to an emotional end.”

The report also included a contribution from the miners’ leader, who said:

“A workers’ buyout under a Thatcher government? Buying your own coal mine which the government, you know, has sold off and given up on?”

2. The complaint

The complainant wrote to BBC Wales on 26 January 2008 asking for an explanation as to how the Tower Colliery miners “took on Margaret Thatcher” and what was it the newsreader thought that they had won. The complainant also asked if a contributor’s comments were an accurate account of the sale of the mine.

On 28 April 2008, following handling delays in the BBC, BBC Information replied, apologising for the delay, with an explanation from the Deputy Editor of the programme explaining what was meant by the newsreader when she said “They [the miners] took on Margaret Thatcher and won”. The reply stated that at the time of the miners’ takeover of the colliery the Conservative government had wanted to close it. The miners had banded together to purchase it and had maintained employment in it for a number of years and “in this sense the miners defied a government policy”.

The complainant replied on 9 May 2008 stating that the reply had failed to address any of the questions he had raised. He was concerned about the newsreader’s introductory statement. The complainant also noted the circumstances surrounding the miners’ acquisition of the colliery. He said that the Tower Colliery was not affected by the pit closures during Mrs Thatcher’s time as Prime Minister; the colliery was closed for purely economic reasons – after Mrs Thatcher had left office – and the Tower consortium bid for the colliery and won ownership of it with the aid of their redundancy money. The complainant also pointed out that it was clear that the colliery did not change hands as the result of a workers’ buyout under a Thatcher government and that the subsequent Conservative government (under John Major) did not give up on the colliery, as the contributor to the piece had claimed. The complainant also complained regarding the length of time (three months) stage 1 had taken to provide its reply.

BBC Information replied on 19 May 2008 with a further explanation from the Deputy Editor of the programme. He acknowledged that the Tower Colliery was not closed when Mrs Thatcher was in office, but that the closure by the Major government had simply continued a policy of closing uneconomical pits.

On 4 June 2008 the complainant wrote to the Editorial Complaints Unit (ECU) escalating his complaint. He pointed out that the reply from the programme's Deputy Editor had suggested that the buyout of the pit had been done in defiance of Mrs Thatcher's pit closure policy. The complainant believed there was a connection but felt that "the BBC deliberately misinterpreted the connecting facts to fit the message they wished to convey to the public". The complainant pointed out that the Tower Colliery was closed in 1994 prior to privatisation and sold to the miners in 1995 once privatisation came into effect. The complainant argued that it was Mrs Thatcher's policy of privatising the nationalised industries that John Major continued and it was this that allowed the miners to buy out the colliery. The complainant noted that by doing so the miners "instead of...defying a government policy they [the miners] eagerly embraced one and became capitalist coal owners". The complainant went on to say that the item clearly showed "the BBC's strong and committed alignment with the miners and the demonisation of Mrs Thatcher". He also noted that the inclusion of the contributor's remarks alongside those of the newsreader showed malicious intent to insult Mrs Thatcher.

The ECU replied on 2 July 2008. It stated that it had "no hesitation in upholding the complaint about accuracy". The ECU considered the opening line of the newsreader's introduction had conveyed an impression of direct confrontation with Mrs Thatcher which was "simply inaccurate". The ECU also noted that the inaccuracy was reinforced by the inclusion of the contributor's comments. In reply to the complainant's view that this was an example of the BBC's general tendency to portray Mrs Thatcher in a negative light, the ECU noted that it was only authorised to investigate complaints as they related to particular broadcast or published items. However, it noted that in the context of the report in question, saying that "the miners took on Mrs Thatcher and won" did not imply that any fault or blame lay at Mrs Thatcher's door. The ECU did not, therefore, accept that the piece cast her in a negative light.

The complainant replied on 23 July stating that he was disappointed that the ECU did not support his view that the BBC deliberately intended to attack Mrs Thatcher's reputation. He reiterated his point that the inclusion of the two remarks by the newsreader and contributor had shown malice. The complainant also requested that the ECU give a considered view as to what the BBC's intention was when conveying the comment to viewers. He also requested the ECU ask the BBC a number of questions as to the thinking behind the report and its presentation in the programme. The complainant also asked what effect the finding had had on BBC News and whether anybody had informed the contributor of his mistake.

The ECU replied on 31 July reiterating its finding as well as stating that the finding had been referred to the Head of Editorial Compliance, BBC News, and discussed by senior management. The ECU noted that BBC management accepted it was a

serious breach of the BBC's Editorial Guidelines. With regard to whether the two comments proved malice against Mrs Thatcher, the Head of the ECU stated:

“I don't believe it follows that those who do not win are automatically perceived in a negative light and so I cannot agree that the programme's statement, even reinforced by [the contributor's] comment, would have given the impression that Mrs Thatcher was at fault.”

The complainant replied on 11 August reiterating his concerns that the questions he had asked of the BBC had not been answered and that he had not been informed as to whether the contributor had been made aware of his mistake. He also reiterated that the broadcast was intended as an attack on Mrs Thatcher's reputation.

On 14 August 2008 the ECU replied that it did not think it was material to the case to ask who had written the particular words in question in order to establish whether or not they breached the BBC's guidelines. The ECU noted that it had already concluded that the words broadcast were unsatisfactory.

The complainant appealed to the ESC on 27 October 2008 following an exchange of correspondence relating to the ESC's new processes of setting out an appeal. The appeal reiterated the complaint.

The complainant explained that the news programme should have reported the closure of the colliery without favour to or against any party or politician; and the programme had taken a partisan view on behalf of the miners believing Mrs Thatcher responsible for attempting to close the mine. The complainant also questioned the ECU summary of the complaint in its published finding. He questioned whether the summary accurately represented the full extent of his complaint. He also asked whether the contributor had been informed of his inaccurate statement.

3. Applicable editorial standards

Section 3 - Accuracy

Introduction

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.

- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

Misleading audiences

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

Correcting mistakes

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

Section 4 – Impartiality and Diversity of Opinion

Introduction

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion...

In practice, our commitment to impartiality means:

- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.
- our journalists and presenters, including those in news and current affairs, may provide professional judgments but may not express personal opinions on matters of public policy or political or industrial controversy. Our audiences should not be able to tell from BBC programmes or other BBC output the personal views of our journalists and presenters on such matters.
- we must rigorously test contributors expressing contentious views during an interview whilst giving them a fair chance to set out their full response to our questions.

Achieving impartiality

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement accompanying the BBC's Charter as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

Section 17 - Accountability

Feedback & complaints

Audiences are at the heart of everything the BBC does. Audience feedback is invaluable to us and helps improve programme quality.

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

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 and the ECU.

This appeal raised issues requiring consideration of the editorial guidelines relating to accuracy, impartiality and accountability.

The Committee noted that the editorial guidelines on accuracy say that BBC output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. The BBC should be honest about what it does not know and avoid unfounded speculation.

The guidelines also provide that the BBC should not distort known facts, present invented material as fact, or knowingly do anything to mislead audiences. It also requires the BBC to check and cross check the facts.

With regard to correcting mistakes the Committee noted that the BBC should normally acknowledge serious factual errors and correct mistakes quickly and clearly.

The guidelines on impartiality say that it must be adequate and appropriate to the BBC's output. The approach to achieving it will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to audiences. It also requires that news programmes, in whatever form, must be presented with due impartiality.

As to accountability the Committee noted that it was a requirement for the BBC to ensure that complaints are handled quickly, courteously and with respect.

Before the Committee considered the complaint it noted what had been said in the news programme:

Newsreader:

They took on Margaret Thatcher and won. But today the miners of the last deep coal mine in South Wales brought more than 140 years of production to an emotional end. Miners and their families took part in a procession to celebrate the Tower Colliery which was once thought too expensive to run. Thirteen years ago, miners pooled their redundancy payments and bought the mine from British Coal. [The reporter] reports:

Reporter:

Marching out of Tower Colliery for the last time, the working men and their families proud to have succeeded against all the odds and sad that a mine that has dominated their lives is finally closing.

Miner:

I've been here since a boy of fifteen. It's the end of an era for me like, I've done my whole life underground.

Miner:

We've had good times and bad times. Quite a lot of bad times but we've got through it.

Miner:

Yes, it's a sad day.

Reporter:

For more than two hundred years miners have descended deep underground to dig coal here. The colliery has provided work for many generations of men from the same family; your dad was a miner and his father before him.

The bitter dispute between the NUM and the Thatcher government resulted in the eventual closure of dozens of mines including Tower, which became the scene of one of the last great industrial struggles of the twentieth century. As coal mines were being closed across the Wales valleys, 250 workers here put eight thousand pounds of their redundancy each into buying Tower back. Soon they were digging coal again.

Contributor:

A workers' buyout under a Thatcher government? Buying your own coal mine which the government, you know, has sold off and given up on? No, it's a great story, it's a David and Goliath isn't it?

Reporter:

The men knew that there were still millions of tonnes of profitable coal here to be dug out. They were right. But thirteen years on it has finally run out. For better or for worse, the closure of Tower means that no-one from a future generation is likely to dig coal in a deep pit in South Wales again.

The Committee noted that the strike by the National Union of Mineworkers and the fate of the Tower Colliery were controversial issues which still had impact in Wales. As such, these subjects must be treated with due impartiality and due accuracy in news bulletins.

The Committee when coming to its decision looked first at the issue of accuracy and in particular the ruling by the ECU to uphold part of the original complaint on the grounds that it did not meet the required accuracy guideline relating to the checking and cross checking of facts and the misleading of the audience by the distortion of those facts. The Committee noted what had been said by the ECU with regard to the studio introduction to the piece.

The Committee agreed with the ECU's ruling. The Committee noted that the statement in the introduction: "They took on Mrs Thatcher and won" was a factual error that should not have been made. It also agreed that the inclusion of the contributor's reference in the accompanying report to a workers' buyout under a Thatcher government had helped to create a misleading impression.

The Committee noted BBC management had acknowledged the error and had taken steps to ensure that those involved had been informed of the seriousness of the mistake.

The Committee agreed this was a regrettable error but that there was no evidence before the Committee to suggest that it was anything other than a mistake.

The Committee also concluded that it was not incumbent upon the ECU to provide answers to the further questions set out by the complainant. The Committee agreed that the ECU was required to investigate whether the content broadcast had breached the BBC's Editorial Guidelines, reach and (in the case of an 'uphold') publish a conclusion and decide upon remedial actions. For the ECU to continue to explore the issue on behalf of the appellant was not a proportionate use of resources in the light of the conclusion by the ECU, the action required by the ECU, and the actions taken by BBC management. This applied equally to the Committee who considered content against the Editorial Guidelines and took appropriate action in the event of upholding a breach.

The Committee also agreed that it was not appropriate for the BBC to contact the contributor to comment upon what he had said. The issue for the BBC as broadcaster was how the comment had been presented within the report. On this point the Committee noted that BBC News had acknowledged that the comment could have led to a misleading impression as to who was in government at the time of the miners' buyout. It was satisfied that no further action was required.

The Committee then turned to the question of whether the item had breached any of the impartiality guidelines. It considered the view of the complainant that this had been a news programme and thus was required to report the item fairly and objectively without favour to or against any particular party or politician. It also noted the complainant's view that the BBC had broadcast these two statements for no other reason than to discredit Mrs Thatcher and that she had been deliberately and maliciously cast in a negative light.

The Committee also considered the ECU's ruling that the words in question implied neither approval nor disapproval of Mrs Thatcher and her government; they were not indicative of bias. The Committee noted what was said by the ECU in its replies to the complainant on this point:

First reply from the Head of the ECU 2 July 2008:

“However, in the context of this report, it seems to me that saying the miners took on Mrs Thatcher and won (whether accurate or not) does not imply that any fault or blame lay at Mrs Thatcher's door, so I wouldn't accept that it cast her in a negative light.”

Second reply from the Head of the ECU 31 July 2008:

“I don't believe it follows that those who do not win are automatically perceived in a negative light and so I cannot agree that the programme's statement, even reinforced by [the contributor's] comments, would have given the impression that Mrs Thatcher was at fault.”

It also noted the comments of the Editor of the BBC News at Ten, who said that the inaccuracies had occurred simply because of a factual error about which government had been in power at the time of closure and that there had been no bias in the item.

The Committee agreed that whilst the motivation of those who prepared the report and introduction was not relevant (the test was whether the content had been duly impartial) there was no evidence in front of the Committee to suggest that anyone had been motivated by bias or that the presenter was expressing a personal opinion.

The Committee agreed that the focus of the item was not on the government of Margaret Thatcher. The factual error in the introduction and the comment by the interviewee did not alter the fact that the mine had kept going successfully following a workers buyout. This had been presented with due impartiality. The Committee agreed that a failure in accuracy can sometimes lead to a failure of impartiality but that was not necessarily always the case. In this case the item had also contained a more direct reference to the relationship between the government of Mrs Thatcher and the National Union of Mineworkers:

“The bitter dispute between the NUM and the Thatcher government resulted in the eventual closure of dozens of mines including Tower, which became the scene of one of the last great industrial struggles of the twentieth century.”

This was accurate and was duly impartial. In context there had been no breach of impartiality.

Finally, the Committee looked at how the complaint had been handled. It noted that the initial response from stage I of the complaints process had taken three months. The Committee considered this unacceptable. The Committee recognises that the BBC promises to deal with complaints in a timely fashion and this had not been the case on this occasion. However, the Committee was aware that given the volume of complaints – around 124,000 complaints per year¹ – delays would occur on occasion and that general response levels are hitting the agreed target of 93% of replies to be sent out within ten working days of receipt of the complaint. Nevertheless, it was important to note that the process had failed on this occasion. The Committee would include in its finding letter an apology to the complainant for the delays suffered at stage I of the process.

With regard to the quality of the ECU’s summary of its finding which is published on the BBC’s Complaints website, the Committee noted that the complainant was concerned that:

- I. his appeal had not been set out more fully.
- II. the full sentence spoken by the miners’ leader had not been included.
- III. the contributor had not been identified.
- IV. the summary attached no fault to BBC Wales who had interviewed the contributor and submitted the interview to BBC News.

The Committee noted the summary:

Complaint

The complaint arose out of an item on the closure of Tower Colliery, which had previously been the subject of a buyout by the miners working there. The introduction to the report said of the miners that *"They took on Mrs Thatcher and won"*. A viewer complained that this was both inaccurate and indicative of bias against Mrs Thatcher.

Ruling

As Mrs Thatcher had been out of office for five years by the time the Tower Colliery miners launched their buyout bid, the impression of direct confrontation with her was misleading (as was the reference by a speaker in

¹ The figure is based on the number of complaints received at stage I of the BBC’s complaints process as published in the last Annual Report and Accounts

the report to "a workers' buy-out under a Thatcher government"). However, as the words in question implied neither approval nor disapproval of Mrs Thatcher and her government, they were not indicative of bias. The complaint was partly upheld.

Further action

The Editor of the 10pm **News** has taken his production team through the issues arising from the finding, and reminded staff of the importance of checking their facts carefully and using accurate language when scripting introductions to items.

I. The appeal had not been set out more fully

The Committee agreed that the complaint regarding the contributor's comments had not been identified in the ECU finding, which was a summary, as part of the complainant's case. Notwithstanding, the matter had been addressed in the ruling section of the summary.

II. The full sentence spoken by the miners' leader had not been included

The Committee noted that the relevant guideline required that:

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right.

In the report the contributor had said:

"A workers' buyout under a Thatcher government? Buying your own coal mine which the government, you know, has sold off and given up on? No, it's a great story, it's a David and Goliath isn't it?"

The Committee agreed that the summary had quoted the essential phrase "a workers' buyout under a Thatcher government" and had acknowledged that it was misleading. Therefore a serious factual error had been acknowledged. The guideline had been complied with.

III. The contributor had not been identified

The Committee agreed that naming the contributor in the summary was not necessary to comply with the guidelines. The name of the contributor was not essential in this case to understand why the comment could have misled the audience. The focus of the ECU's investigation and the ESC's subsequent investigation and determination was on whether the BBC had complied with its own guidelines – the identification of the contributor was not relevant.

IV. The summary attached no fault to BBC Wales

The Committee noted the point regarding BBC Wales. In compliance terms the Committee considered that the programme team who broadcast the item was the team who had to ensure that the item complied with the accuracy and impartiality guidelines and therefore that the ECU was correct in the further action that it had required.

Finding: The Committee endorsed the ECU's finding to uphold the complaint on the issue of accuracy. The Committee did not uphold the impartiality complaint. In addition the Committee agreed to write to the complainant to apologise for the delays the complaint suffered at stage 1 of the process.

The Curse of Steptoe, BBC Four, 19 March, 28 and 29 December 2008

1. The programme

The Curse of Steptoe was the first of a series of four one-off dramas exploring the lives of Hughie Green, Tony Hancock, Frankie Howerd and the two actors who played Steptoe and Son: Harry H. Corbett and Wilfrid Brambell.

The press release for The Curse of Steptoe stated:

“[...] The sitcom told the story of two rag-and-bone men trapped together for all eternity. But behind the scenes, out of the public eye, an even stranger story was playing out. The Curse of Steptoe uncovers an unexpected and incredible tale of life imitating art.

“Starring Phil Davis (Five Days) as Wilfrid Brambell and Jason Isaacs (The State Within) as Harry H. Corbett, The Curse of Steptoe is both a hilarious romp through the land of Sixties sitcom and a poignant story of two men, yoked together, unable to escape their inner complexities and desires, or for that matter, each other.

“How their personal problems and antipathy helped the show achieve success is one of the most revealing stories from the annals of BBC light entertainment history.

“Writer **Brian Fillis** (Fear of Fanny) delivers a sharp, witty and moving script based on interviews with colleagues, friends and family of Harry and Wilfrid, and Steptoe writers, Ray Galton and Alan Simpson.”

The presentation announcement before the broadcast of the drama on 19 March 2008 stated:

“Beginning a new run of original drama now on BBC Four, with the lives of some of the greatest comic icons of our time. On screen chemistry from off-screen conflict and strong language in The Curse of Steptoe.”

2. The complaint

This is a first party complaint made by the brother of Maureen Corbett (deceased), the second wife of Harry H. Corbett. The complainant believed that the drama was inaccurate and did not live up to the pre-broadcast publicity in which the drama was not advertised as fictional.

The complainant wrote to BBC Information on 24 March 2008 stating that the programme was not described as fictional but sought to tell the true story behind the scenes. The complainant also pointed out a series of specific factual inaccuracies e.g. that the birth of Harry H. Corbett's first child had caused him to cease working on Steptoe and Son. In fact, the complainant noted that Harry and Maureen's first

child was born in 1966, eight years before the series ended in 1974 during which time four television series, six radio series, two feature films and tours of Australia had taken place.

The complainant also pointed out inaccuracies regarding Harry H. Corbett's relationship with his sister Maureen which he considered led to unfairness.

The complainant noted that the drama had suggested that Maureen and Harry had met on the set of the film *Ladies Who Do* (1963). The drama had Harry's first wife refer to Maureen as "...that brunette you've been F.....g". But in fact Harry H. Corbett had met Maureen on the set of *Joey Boy* (1965) by which time Harry was already separated from his first wife, Sheila Steafel.

The complainant also said Maureen had become pregnant with her first child whilst she was living in an established relationship with Harry H. Corbett after the divorce from his first wife. However, the drama suggested that Harry H. Corbett was unaware of Maureen's pregnancy until she unexpectedly arrived on his doorstep already perceptibly pregnant in 1965, and that Harry only stayed with Maureen for the sake of his child. This, the complainant said, was "wholly and utterly incorrect".

The complainant also stated that the plotline which portrayed Harry H. Corbett and Wilfrid Brambell as hating each other was untrue. The complainant noted that both Ray Galton and Alan Simpson as well as Maureen had all stated publicly that this was not the case. The complainant also noted that he had had after show drinks with Harry and Wilfrid, and far from Wilfrid being jealous of Harry's acting ability was himself an accomplished actor as stated by Alan Simpson in a BBC book on *Steptoe and Son*².

The complainant also noted that the drama portrayed Harry H. Corbett as being miserable at being typecast and that he found it very difficult to find work elsewhere. He pointed out that in fact his brother-in-law appeared in 17 films during and after *Steptoe and Son* and numerous stage productions and other television programmes.

In conclusion, the complainant noted that the pre-publicity and references to the truth of the drama by the lead actors Phil Davis (Wilfrid Brambell) and Jason Isaacs (Harry H. Corbett) on *Breakfast News* (BBC One, 19 March 2008) and *The One Show* (11 March 2008) had given the impression to the viewer that the drama was authentic in its portrayal of the personal lives of the main characters.

The Executive Producer of *The Curse of Steptoe* replied on 28 March 2008 stating that it was regrettable that the complainant and family did not enjoy the drama and disappointing that, in the complainant's view, the portrayal of some of the characters was misrepresentative. The reply stated that the production took care to create balanced and fair portrayals of the real people involved and that these were based on a number of sources including witness accounts. The Executive Producer also stated that the drama included an element of interpretation, and that it was regrettable that

² *Steptoe and Son*, by Ray Galton, Alan Simpson and Robert Ross, BBC Books, 2002

the interpretation was at odds with that of the complainant. But there was no intention to sully anyone's reputation. The reply went on to say that it was a tradition of this genre that dramatic licence was sometimes necessary to create a meaningful narrative and that audiences understood the difference between a dramatic version of events and documentary.

On 14 April 2008 the complainant wrote to the Editorial Complaints Unit (ECU) escalating his complaint about the drama to the second stage of the BBC complaints process as well as raising issue with the comments made by the leading actors Phil Davis and Jason Isaacs on *Breakfast* and *The One Show*. The complainant reiterated his concerns about the drama and his disappointment with the responses he had received. He suggested that the BBC's arguments were flawed. He noted that the use of dramatic licence is a matter of degree, stating that it was completely unacceptable when it was taken to an extreme and when it materially impacted upon the facts and truth of the matter. He also stated that the sources and witness accounts were incorrect and the research undertaken was inaccurate or incomplete in many instances. The complainant was also concerned that the script was based on an interview with Sheila Steafel, which he stated would be appropriate up to when Harry and Sheila Steafel separated in 1964, but after that period information regarding Maureen was either mistaken or misleading.

In a further letter to the ECU dated 7 May 2008, the complainant noted that a BBC news correspondent had written about the drama as if it was fact in a recent edition of the *Radio Times*. The complainant also provided two supporting letters to his complaint. The first letter dated 14 April 2008 was written by Susannah Corbett, the daughter and second child of Harry and Maureen. In her letter she referred to several inaccuracies already mentioned by the complainant. She also stated that after long conversations with the writer in which she was "led to believe that an accurate and interesting portrayal of her father's life would be forthcoming", she was disappointed to see that due to pressure to "spice things up", the detailed and personal information she had provided "was disregarded with an entirely fictitious history" being served as fact. She also noted, as had the complainant, that the drama had taken great pains to recreate scenes from *Steptoe and Son*, which gave the impression to the audience that the drama was taking equal pains to be fair and honest in dealing with the private lives of her father and Wilfrid Brambell.

The second letter of support dated 28 April 2008 was written by Ray Galton and Alan Simpson, the writers of *Steptoe and Son*, who stated that during their pre-production meeting with the writer of the drama they did not discuss the private lives of Harry H. Corbett or Wilfrid Brambell. They also reiterated to the writer that they were not aware of any great conflict between the two actors during the eight series of the show that were produced.

On 9 May 2008 the Executive Producer responded to the complainant's letter of 14 April 2008. (The appellant informed the Trust in February 2009 that he had not received this letter nor had an opportunity to comment on it before the ECU made its decision.) He stated that all the advertising and promotion made it explicit that the programme was a drama, "and as such is afforded the licence of the genre". He

suggested that the audience would have been able to discriminate between events as portrayed in a drama against events in news reportage or a documentary. With regard to Maureen Corbett, the Executive Producer stated that he believed, from the basis of the testimony of Sheila, there was “compelling evidence that there was some ‘cross-over’ between her and Maureen”. He noted the differing views of Harry’s personality in one of which his daughter had stated that her father was “a good and dutiful father, and was ultimately fulfilled as a family man” whilst in the other Sheila had said that he was “frustrated professionally and personally”. He said that the resultant scenes within the drama were “the synergy of these two ideas”. In response to the complainant’s list of inaccuracies the Executive Producer noted that these were all minor inaccuracies which came under “dramatic licence”. In response to specific complaints he stated that with regard to Harry and Maureen’s relationship there was a first-hand account that adultery took place; in respect of the scene of Maureen turning up on the doorstep, the dates were altered for dramatic reasons; and the date of the birth of Harry’s first child was also altered for dramatic reasons. The Executive Producer also refuted the suggestion that he gave or relayed a message to the writer or producer to “spice it up”.

(On 9 September the ECU responded to complaints raised by the complainant against comments made by the actor Phil Davis (Wilfrid Brambell) on Breakfast, BBC One, 19 March 2008. The ECU upheld the complaint in part. The ECU noted that whilst the item did not give an unambiguous impression that The Curse of Steptoe was entirely factual, the suggestion that Wilfrid Brambell and Harry H. Corbett loathed each other as established fact was not supported by first-hand evidence nor was it the impression given by the drama itself.)

On 30 September 2008, following an exchange of correspondence with the complainant about the dates of the relationship between Harry and Maureen, the ECU noted that in considering the inaccuracies complained about two tests applied:

“If something was presented inaccurately, did the inaccuracy result in a material unfairness to the person being portrayed?

“In the absence of a warning that fact and fiction were being combined in this account, if something was presented inaccurately, was the inaccuracy such that it misled the audience in important respects about the people and events being portrayed?”

The ECU found that the majority of complaints on inaccuracy did not result in unfairness nor were they such that the audience was significantly misled. With regard to the elements of the complaint that concerned the complainant’s sister Maureen, and the suggestion that Harry and Maureen’s first child had been born out of a casual relationship to which Harry H. Corbett was not particularly committed to until after the birth, the ECU found that Sheila Steafel (following discussion) accepted that her memory may have been at fault with regard to the dates when she was still living with Harry and the beginning of the relationship with Maureen and the pregnancy and birth of the first child. The ECU stated that, as they understood it, the divorce was in August 1964, the decree nisi was made in March 1965 and the child was born

in 1966. However, the ECU noted that the drama had suggested a passage of time had taken place between Sheila walking out and the announcement of Maureen's pregnancy. The ECU therefore found that on balance the portrayal, whilst inaccurate, did not reflect unfairly upon either Harry or Maureen. Nor did the ECU feel that the inaccuracy left the viewer with a misleading impression of events that it represented a serious breach of the editorial guidelines.

The ECU found that whilst the drama narrative suggested that Maureen involved herself in an affair with Harry H. Corbett well before his marriage had broken down, it appeared that when Maureen embarked on the relationship, she had no reason to think the marriage still existed except in the technical sense that the decree nisi had yet to be granted. The ECU therefore found that there was an element of unfairness in portraying her as a factor in the breakdown of Corbett's marriage. The ECU considered that in this respect the audience was given an inaccurate account of these events which were central to the story. The complaint was upheld in part.

In relation to Harry H. Corbett giving up the show following the birth of his son the ECU noted the compression of time was a departure from factual accuracy. It showed Harry moving from his preoccupation with acting and his career to a commitment to family life "in one dramatic swoop". The ECU found that, given that this was a central point, the audience would have expected the facts to have been accurate. Any departure from the facts should have been made clear to viewers that they were watching a "creative interpretation" of events rather than an accurate representation of them. The complaint was upheld.

In relation to the comments of Jason Isaacs on *The One Show*, BBC One, 11 March 2008 the ECU did not uphold the complaints. The ECU noted that whilst some of the language used by Mr Isaacs may have been "highly coloured" it did not consider it to have been seriously misleading or unfair. The ECU finding also noted that the studio discussion did not touch on the elements of the drama that the ECU found inaccurate to an unacceptable degree or in a way which involved unfairness. It noted that while the audience may have been given a "somewhat inappropriate" expectation of the drama, they would not have been so significantly misled as to lead to a breach of editorial standards.

The complainant replied to the finding on 13 October 2008 regarding some of the complaints not upheld by the ECU including the unit's decision not to uphold the complaint against the circumstances concerning Maureen and Harry's relationship and the birth of the first child. The complainant considered that dramatic licence had been taken too far in this instance and the programme's suggestion that Harry was not aware of Maureen's advanced state of pregnancy "besmirched" the child's reputation.

The ECU replied on 28 October 2008. The ECU was satisfied that its finding had not misrepresented the relationship between Harry and Wilfrid. The ECU was also satisfied that its decision not to uphold the complaint against the presentation of Maureen's pregnancy was correct. It believed the programme's suggestion that the

pregnancy may have begun before Harry and Maureen were actually living together was neither unfair nor seriously inaccurate.

The complainant appealed to the third and final stage of the BBC Complaints procedure, the Editorial Standards Committee of the BBC Trust (ESC) on 11 November 2008 and asked the Committee to concentrate on two issues:

- The portrayal that the first child of Harry H. Corbett was born out of a casual relationship
- The presentation of fiction as fact

On 28 and 29 December 2008 The Curse of Steptoe was repeated on BBC Four. The repeat contained a number of edits and an on-screen caption ahead of the drama which stated:

“The following drama is inspired by the lives of real people. For the purpose of the narrative, some events have been invented or conflated.”

On 30 December 2008 the complainant wrote to the ECU noting that some editing had been carried out. However, he also noted that the final scenes concerning the birth of the first child had not been changed. He believed the programme makers had ignored the ECU’s ruling that the programme must be edited before re-broadcast. The complainant also felt the inclusion of the on-screen caption following the presentation announcement was confusing for the audience, significantly misleading the audience on a central part of the narrative.

The ECU replied on 2 January 2009 pointing out that following their finding the further action agreed with the programme makers had been:

“The BBC will not re-broadcast the programme without appropriate editing and content information.” (ECU emphasis)

The ECU considered the text added to the start of the programme served to make clearer to viewers that they were watching a creative interpretation of events rather than an accurate representation.

The complainant wrote to the ESC that he was unhappy with the degree of editing and the ECU view as to the revised repeat.

3. Applicable editorial standards

Section 3 – Accuracy

Introduction

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly

tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

Misleading audiences

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

Section 5 – Fairness, Contributors and Consent

Introduction

The BBC strives to be fair to all – fair to those we're making programmes about, fair to contributors, and fair to our audiences.

Fairness editorial principles

- We will be open, honest and straightforward in our dealings with contributors and audiences, unless there is a clear public interest in doing otherwise, or we need to consider important legal issues or issues of confidentiality.

Portrayal of real people in drama

Whenever appropriate, and where their role is significant, living people portrayed in a drama or their surviving near relatives should be notified in advance and, where possible, their co-operation secured. Any proposal to go ahead without the consent of the individual portrayed or their surviving near relatives must be referred to Controller Editorial Policy for approval before a commitment is made to the production.

Approval will only be given when it can be shown that the following three criteria are met:

- there is a clear public interest.
- the portrayal is fair.
- the portrayal is based on a substantial and verifiable body of evidence whenever practicable.

Fair portrayal in drama

When our drama realistically portrays living people in contemporary situations, particularly a controversial or sensitive event, the same standards of fairness which apply to factual programmes should generally be observed. It is inevitable that the creative realisation of some dramatic elements such as characterisation, dialogue and atmosphere, will introduce a fictional dimension, but we have an obligation to be accurate and to ensure the drama does not unduly distort the known facts and thus become unfair. It is important to explain the nature of the content to our audiences by clearly signposting the output.

4. The Committee's decision

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

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

This appeal raised issues requiring consideration of the editorial guidelines relating to accuracy and fairness.

The Committee began by confirming that as the complainant was the brother of Maureen Corbett, Harry H. Corbett's second wife, and thus a close surviving relative, this was being considered as a first party complaint. It therefore considered the programme in the context of issues of fairness to Maureen. But it agreed that it was not able to examine the complaint of fairness regarding the portrayal of Harry H. Corbett because the Committee felt that, whilst the complainant was Harry H. Corbett's brother-in-law, such a relationship did not constitute a "surviving near relative" as set out in the BBC's editorial guidelines.

Fairness

The Committee noted that with regard to fairness the BBC strives to be fair to all, that is fair to those the BBC is making programmes about, fair to contributors and fair to the audience.

The Committee noted the relevant guidelines:

Portrayal of real people in drama

Whenever appropriate, and where their role is significant, living people portrayed in a drama or their surviving near relatives should be notified in advance and, where possible, their co-operation secured. Any proposal to go ahead without the consent of the individual portrayed or their surviving near relatives must be referred to Controller Editorial Policy for approval before a commitment is made to the production. (ESC emphasis)

Approval will only be given when it can be shown that the following three criteria are met:

- there is a clear public interest.
- the portrayal is fair.
- the portrayal is based on a substantial and verifiable body of evidence whenever practicable.

It further took into account that:

"It is inevitable that the creative realisation of some dramatic elements such as characterisation, dialogue and atmosphere, will introduce a fictional

dimension, but we have an obligation to be accurate and to ensure the drama does not unduly distort the known facts and thus become unfair. It is important to explain the nature of the content to our audiences by clearly signposting the output.”

The Committee agreed that the BBC editorial guidelines had not been written in such a way as to lay down specifics for this kind of biographic drama. However, the Committee felt that there was sufficient guidance in the guidelines as a whole which allowed them to assess the extent of dramatic licence afforded to programme makers.

In addition, the Committee considered the overriding requirement which lay behind the fairness guidelines was that individuals and organisations should not be treated unjustly or unfairly and that this principle, which was set out in the Broadcasting Act of 1996, could be applied in considering this case.

The Committee considered whether Maureen’s role in the drama was significant and therefore whether her brother (the appellant) as a surviving near relative should have been notified of the drama and his consent obtained, or in the absence of consent, whether the relevant BBC referral process should have been initiated.

The Committee noted that the two significant characters in the drama were Wilfrid Brambell and Harry H. Corbett, and that Maureen Corbett was not in that sense a significant character although her existence had a significant effect on the outcome. It noted that the daughter of Harry H. Corbett was consulted and was sent a DVD of the drama a fortnight before broadcast but had not responded to the DVD.

The Committee accepted that there was no onus upon the team under the guidelines to have gained consent from Maureen Corbett’s brother. However, it noted that the production team had confirmed it was unaware of the existence of the complainant, which the Committee thought was a failing given the nature of the complainant’s relationship with Maureen and her children. Harry H. Corbett’s daughter had no direct first-hand knowledge of the relationship between Harry H. Corbett and Maureen Corbett before her birth and the Committee was concerned that the research by the programme team into the relationship between Harry H. Corbett and Maureen Corbett had not been as full as it might have been.

The Committee then compared the drama against the known facts. It noted the scene which portrayed Maureen arriving at Harry H. Corbett’s house already noticeably pregnant.

MAUREEN
Hello

HARRY
Hello. Where the hell have you been?

HARRY
Ah.

MAUREEN

I wasn't sure if I should come...

HARRY

The comeuppance scene, eh?

HARRY (VO)

How long till the birth?

MAUREEN

Four months

HARRY

And you're sure it's...

MAUREEN

It's definitely yours.

HARRY

Hmm. (pause)

I've got to learn these lines.

Steptoe.

HARRY (VO)

I'm quite famous you know.

MAUREEN

You're doing another one?

HARRY

Yeah

MAUREEN (VO)

Why?

HARRY (at a loss)

The money. Alright?

MAUREEN

I'll put the kettle on shall I?

HARRY

Yeah. Good.

The Committee noted that the timeline of the drama did not correlate with the facts. (Harry H. Corbett and Sheila Steafel were separated in 1964 with the decree nisi made in March 1965. Maureen met Harry in 1965 when Harry had already separated from his wife. Their first child was born in 1966.) The implication in the scene where she arrived at Harry H. Corbett's house and announced that she was pregnant was that the child was the consequence of a casual affair – something which the complainant who had first-hand knowledge of Maureen and Harry's relationship

disputed, and whose view was further supported by the facts, as far as they are known. The Committee believed that had Maureen been alive the implication that the child was born as a result of a casual affair would have been damaging and unfair to her. It was evidently distressing to her surviving family,

The Committee concluded that the implication in the drama that the child had been conceived as a result of a casual relationship between the two was unfair and inaccurate.

The Committee believed that in this area of drama it was important to have a framework of accuracy onto which the dramatist could add the fictional elements required for such productions. The Committee noted that once a decision had been taken to venture into such territory i.e. dramatised biopics, the BBC had a responsibility to fairness and accuracy to those concerned. However, this was not to deny writers and producers dramatic licence, this would always be their right. The Committee was clear that it was the right of dramatists to change things knowingly for good dramatic purposes – including dialogue, character and timelines. Nevertheless, the Committee was of the view that basic facts remain just that, and the “essential truth” being portrayed by the dramatist needs to be interpreted with those facts in mind.

The Committee believed that a greater element of journalistic rigour was required in framing the narrative in such dramas.

The Committee therefore upheld this part of the appeal on the grounds of inaccuracy and unfairness.

Accuracy

The Committee also noted that the complainant had stated that the drama was presented as fact when it was not fact and that it was (unfair) inaccurate in its portrayal of Harry H. Corbett. In particular, he believed that its portrayal of him as a man who felt his career had been ruined by the television series, and also its portrayal of his relationship with Wilfrid Brambell, were inaccurate.

The Committee discussed these issues and considered the dramatists’ arguments that they were portraying an essential truth, as well as considering the appellant’s points.

The Committee was satisfied that viewers would have been aware it was a drama and would not have been misled into considering it was a representation of the exact facts. In addition the Committee did not consider that the portrayal of the relationship between Harry H. Corbett and Wilfrid Brambell was as negative as the appellant argued and considered the drama in this area was duly accurate.

The revised repeat

The complainant believed that when the programme was re-transmitted in December 2008 insufficient notice had been taken of the ruling by the Editorial Complaints Unit with regard to the timeline of the drama. The complainant's concern was that the time between the arrival of Maureen and Harry's first child, and Harry's decision to walk away from the character and series, had been compressed to suggest that this happened at the same time when in fact the events were separated by eight years.

The Committee noted that the revised repeat had been preceded by a presentation announcement:

“Original drama now on BBC Four based on the lives of one of the greatest comic icons of our time. On-screen chemistry from off-screen conflict and strong language in *The Curse of Steptoe*.”

The programme had then begun with a caption added for this repeat:

The following drama is inspired by the lives of real people. For the purpose of the narrative, some events have been invented or conflated.

The complainant believed that the two announcements were contradictory and that this new caption failed to address the fact that when considered by the ECU, the conflation of the birth of the child and the end of the Steptoe series had been ruled as going beyond the boundaries of dramatic licence.

The Committee noted that the ECU, in response to the complainant's concern that the revised repeat had not complied with its decision, had stated:

“The further action agreed with the programme makers was *“The BBC will not re-broadcast the programme without appropriate editing and content information.”* In my view, the text which was added to the start of the programme served to make clearer to viewers that they were watching a creative interpretation of events rather than an accurate representation of them, and sufficed to correct the original breach of editorial standards in that respect.”

The Committee noted that the ECU believed that the caption did address the issue and was sufficient to ameliorate its effect.

The Committee felt that the wording of the caption was less than clear. In particular the Committee considered that the word “conflated” may not have been understood by many viewers. The Committee also noted that such captions should not be regarded as a blank cheque for indiscriminate and excessive use of dramatic licence in a storyline.

Nevertheless, the Committee concluded, despite these concerns that the caption did technically address the issue on which the ECU had upheld the complaint. It agreed that conflating timelines and inverting events was part of the armoury deployed by

dramatists and that the caption did signify that this had been done. The Committee would have preferred a more straightforward explanation in advance of the drama – but recognised that the signposting had covered the issue.

However, the essential elements of the unfairness to Maureen Corbett as laid out in the decision above were still there in the programme and therefore there had been a breach in the fairness and accuracy guidelines with regard to her.

The Committee recognised that this area of dramatic biopics was growing in popularity and that was reflected in the number of commissions from broadcasters. It noted that the BBC editorial guidelines were now the subject of review and stressed that this genre needed to be included – and in straightforward terms – as part of this process. The Committee also believed that the issues involved were complex and that the Committee should address them jointly with BBC management at a future meeting.

Finding: The complaint was upheld in part.

Action: The Committee will write to the BBC Executive requesting that the revised BBC editorial guidelines address dramatised biopics with regard to the presentation of fact and the use of dramatic licence. The Committee will also write to the Executive to invite the Executive to discuss these issues at a future meeting.

Document, BBC Radio 4, 30 July 2007

1. The programme

Document is described on the Radio 4 website as an investigative series which “takes a document as a starting-point to shed new light on past events”. In the edition broadcast on 30 July 2007, called Rigging Nigeria, “Mike Thomson investigates claims that British colonial officials helped rig Nigeria’s pre-independence elections to ensure that a pro-British party won”. These claims were made by Harold Smith, an official in Nigeria at the time of the elections.

Source: http://www.bbc.co.uk/radio4/history/document/index_summer2007.shtml

2. The complaint

A member of the association wrote to the Director-General on 30 July 2007 stating that he believed the programme was misleading as it appeared to be based on a number of “tendentious generalisations” which did not reflect the experience of British officers in the field who were charged with conducting free and fair elections. He also stated that references to Northerners in Nigeria as peasants was “ignorant and stupid”; and the reference to the Governor General, Sir James Robertson as a “thug” would outrage those who worked closely with such an honourable and distinguished administrator.

Another member of the association (complainant two) also wrote to the Director-General on 16 August 2007 having read the transcript of the programme. He noted that from his understanding as an officer working in the Eastern Region of Nigeria during the 1950s “the picture painted in the broadcast seemed wholly alien” to his experience. The second complainant also said he did not believe the Ministry of Labour could have effectively manipulated and influenced elections. (Mr Smith, who was one of the programme’s principal sources for its investigation, worked for the Ministry of Labour.)

A third complainant wrote to the Controller Radio 4 on 4 September 2007 stating that from his experience, having been involved in the administration of every election in Nigeria between 1951 and 1959, it was “nonsense to suggest that [the British] went in for deliberate rigging of elections”. He also found it surprising that the programme had paid so little attention to the available evidence, eg the national archive and academic analysis of it.

The second complainant wrote again on 24 September 2007 to one of the BBC’s Trustees and reiterated his comments. He also noted that he had not received a “measured response” to his complaint in the seven weeks since he had sent his letter to the Director-General. However, he did note that he had seen a reply from the programme’s Executive Producer to another complaint about the programme.

The attached reply from the Executive Producer noted the programme’s achievements: that Document “prided itself on its depth and quality of research”;

that it was a series “known to unearth awkward aspects of recent history”; and whose investigations often met with resistance from those who did not wish for the issues to be raised. The Executive Producer’s reply also noted the level of research carried out by the programme and defended the particular programme in question by stating that Mr Smith’s contribution had been challenged in the programme by one of the leading historians in the field, the Professor of African Studies at Oxford University. The Executive Producer closed by stating he was satisfied that the programme was made to the highest editorial standards and that he hoped it would lead to a debate and the release of “additional primary source evidence” on this period in Britain and Africa’s past.

The complainant in commenting on this response noted that the programme’s response “fails to address the traducing of Sir James Robertson, [the Governor General]”. He objected to the flimsy basis of the programme noting that the response from the programme also referred to “the difficulty in categorically verifying the events, particularly due to the British’s continued reluctance to open files that may have been pertinent to this investigation”.

The Trustee responded on 26 September 2007 outlining the role of the Trust’s Editorial Standards Committee (ESC) as well as stating her concern at the delay in the response from the BBC. She also stated that she would forward the correspondence to the Chairman of the ESC to “draw on” when considering how well the complaints process was managed.

The second complainant replied to the Trustee on 30 September 2007 stating that even if the ESC found in his favour “[he] would gain little comfort”, since the damage was done. He also did not think that the ESC would be the best forum to arbitrate on the substance of the complaint as it would not have the necessary intimate knowledge of Nigerian history to reach an informed opinion.

The Complaints Manager, BBC Trust, replied to the second complainant on 11 October 2007 on behalf of the chair of the ESC. He explained that a reply from stage 1 of the BBC’s complaints process (BBC Information) had been prepared but not sent out due to an administrative error. He also explained the process of escalation to stage 2 and of appealing to the ESC.

BBC Information wrote to the second complainant on 9 October 2007 on the Director-General’s behalf apologising for the delay. The response included the remarks of the Executive Producer on which the complainant had previously commented.

The second complainant responded to the BBC Trust on 28 October 2007 stating that he did not wish to use the appeal procedure. He considered that “the damage has already been done”. He also wrote a reply to BBC Information on the same day in which he repeated the points raised in his letter to the BBC Trustee of 30 September 2007. He also added that the half dozen or so former colonial officials from Nigeria who were involved in overseeing the elections, were never pressurised in any way to manipulate them; and the Federal Electoral Commission in Nigeria was

chaired by a respected academic from the London School of Economics who was “not the sort of man to condone manipulations of the kind suggested in the programme”. The second complainant also felt that following the damage done to Sir James Robertson’s reputation an apology should be made to Sir James’ family.

The secretary of the Overseas Service Pensioners’ Association (OSPA) then wrote on 11 October 2007 to Professor Anderson, Professor of African History, Oxford University, who had contributed to the programme. He stated that he and another 18 signatories to his letter who were involved directly or indirectly with the arrangements for the elections before independence in the respective colonial territories in which they worked, neither saw nor heard evidence of manipulation of election results. In the letter the secretary also asked the Professor what evidence he had to say in the programme “that in almost every single colony the British attempted to manipulate the result...” The Secretary of the OSPA also copied in the Director-General, Controller of Radio 4 and the presenter of Document for their comments.

The Secretary of the OSPA wrote again on 13 November 2007 to the Director-General pointing out that he had not received a reply to his letter of 11 October 2007 and stating that replies to colleagues from the Executive Producer had not convinced them that the programme was fair, balanced and made to the highest editorial standards.

In a letter of the same date to the Controller of Radio 4 he asked who the other leading historians were who supported Mr Smith’s claims.

In another letter of the same date he asked the presenter of Document as to how much of Mr Smith’s claims had been known to Professor Anderson.

The Director-General replied to the Secretary of the OSPA on 23 November 2007. He said that his reply was also made on behalf of the Controller Radio 4 and stated that the BBC took editorial standards and the handling of complaints very seriously. He explained that the secretary and members of the association could then choose to escalate their complaint to the Editorial Complaints Unit (ECU) who investigate complaints “independently of BBC editorial management”.

The secretary of the OSPA wrote to the ECU on 22 January 2008 enclosing a summary of the complaints. He set out the complaints in three parts:

- Allegations by Mr Smith about Nigeria
- Statements by Professor Anderson
- BBC responses to the complaint

The Secretary said that with regard to Mr Smith: the programme did not allow for objective judgements or provide a fair balance of views on controversial and unsubstantiated statements by one person; the research was inadequate; and the allegations of dishonesty and criminality were publicised in a manner that suggested they were true without sufficient opportunity for rebuttal. As to Professor

Anderson, the secretary believed the programme had allowed the Professor to “extend [Mr Smith’s] allegations against British officials in Nigeria to British officials ‘in almost every single colony’”. He also believed the programme had relied too heavily on the Professor’s authority to support the allegations that British officials falsified the result of the 1952 Nigerian census. The Secretary said that many of those who had complained had been dissatisfied with the replies they had received.

The Head of the ECU replied on 17 March 2008. He summarised the complaint in three parts:

The programme carried unsubstantiated allegations that members of the British colonial service in Nigeria had been involved in rigging the elections of 1959 in a manner that suggested that these allegations were true.

The allegations were made on the basis of insufficient research and without a fair balance of views to allow for rebuttal.

Professor Anderson’s further claims that such conduct was to have been found “in almost every single colony” should have been challenged and an opportunity provided for rebuttal.

He also noted the comments as to how the complaint had been handled but said that was outside of the ECU’s remit.

On the first part of the complaint, the Head of the ECU felt that overall the programme presented Mr Smith’s allegations in a way which suggested that they had some claim to credence. He also felt that the evidential basis of the programme – Mr Smith’s recollections supported by the circumstantial evidence of Professor Anderson and others – “fell far short of the sort of corroborative evidence that would be required to justify inviting serious consideration of the allegations”. He therefore upheld this part of the complaint. On the second part, he agreed that the programme did not meet the standards set out in the guidelines in terms of the research required for achieving accuracy. The ECU had spoken to Professor Post, who had written a definitive study of the 1959 Nigerian election, who had said in unequivocal terms that he found no evidence of electoral malpractice and that, from his experience, there was absolutely nothing in Mr Smith’s allegations. This part of the complaint was therefore, also upheld. On the third part, the Head of the ECU agreed that Professor Anderson’s “very serious allegation, of election manipulation” was extended to ‘almost every single colony’ and given that there were plainly people who would contest it vigorously, it must merit some sort of response or qualification, otherwise there was a danger that a misleading impression would be given that the claim was not in dispute. This part of the complaint was also upheld.

The Head of Editorial Complaints explained that a summary of the ECU’s finding, together with a note of the action taken as a result of the decision, would be published in due course on the BBC website.

The secretary of the OSPA replied on 10 April 2008 stating that the ECU's decision would give his members some satisfaction. However, he pointed out that the programme had been heard by an immensely greater number of people than would ever look at the complaints report on the BBC website. He felt that the publication on the website was not a satisfactory outcome for the many thousands of people who felt that their professional conduct, personal integrity and general reputation had been sullied. He believed the BBC should give much more prominent publicity to the decision and the action being taken, comparable with the statements which had been broadcast by the BBC following Ofcom rulings in the past.

The Head of the ECU replied on 23 April 2008 noting that whilst he appreciated the Association's sense of grievance felt by members of the OSPA, the absence of any suggestion in the programme of culpability on the part of identifiable living individuals detracted from the case for a broadcast statement. This decision was consistent with previous cases where a statement had been broadcast and also consistent with Ofcom's practice. Ofcom only entertained complaints about fairness and privacy where there was a suggestion of detriment to identifiable individuals or organisations. It also applied a test of proportionality as a result of which most of its findings were only published in its own bulletin. He explained that the secretary to the OSPA could appeal to the Trust's Editorial Standards Committee.

The Head of the ECU also wrote to the secretary of the OSPA on 28 April 2008 informing him that a summary of the finding had been published on the BBC's Complaints website.

The Secretary of the OSPA appealed to the ESC on 12 June 2008 against the ECU's decision not to broadcast their finding. In his appeal letter the Secretary of the OSPA stated that every member of the Colonial Service felt the allegations "as a general slur". He also stated that his members would be easily identified as members of the Service and would thus be associated in the minds of BBC listeners with the defamatory allegations broadcast. He also pointed out that the allegations had "damage[d] the reputation of the Association by causing listeners to believe that OSPA represent[ed] people who in their official duties engaged in fraud, deceit and criminality". He also argued the programme had received widespread publicity in Britain and Nigeria, and that coupled with the BBC's reputation for accuracy and truthfulness, fully merited having the ECU's ruling broadcast. A refusal to broadcast it would be "grossly disproportionate in terms of the balance of publicity". The secretary of the OSPA also appealed at the great difference between the detailed finding and the summary published on the website. He felt that the summary gave a much weaker version of the finding and requested the ESC to agree that substantial parts of the ruling should be broadcast on the same services as the original programme was broadcast.

3. Applicable Editorial Standards

Section 3 - Accuracy

Correcting mistakes

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

Section 17 - Accountability

Introduction

The BBC is accountable to its audiences. Their continuing trust in the BBC is a crucial part of our contract with them. We will act in good faith by dealing fairly and openly with them.

We are open in admitting mistakes when they are made and encourage a culture of willingness to learn from them.

We will use the BBC's online presence to provide proper reporting to the public on complaints we have received, and actions we have taken.

(www.bbc.co.uk/complaints/)

Editorial Complaints Unit

The Editorial Complaints Unit deals with serious complaints about breaches of the BBC's editorial standards. It deals with complaints about any BBC service or product where the BBC has editorial responsibility. This includes international public and commercial services and BBC branded magazines.

If complainants are not satisfied by the Editorial Complaints Unit finding, they can appeal to the Governors' Programme Complaints Committee³.

For the most serious upheld complaints, an apology or correction from the BBC may be published online or on air.

Details of upheld complaints are published at www.bbc.co.uk/complaints/.

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 submissions from the complainant, the programme team and the ECU.

The Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy (correcting mistakes) and accountability.

³ Now the BBC Trust's Editorial Standards Committee

Accuracy (correcting mistakes) and Accountability

The Committee noted that the editorial guidelines on correcting mistakes say that the BBC should normally acknowledge serious factual errors and correct mistakes quickly and clearly.

The Committee also noted that with regard to accountability the BBC should be open in admitting mistakes and should use the BBC's online presence to provide proper reporting to the public on complaints received, and actions taken. The Committee also noted that for the most serious upheld complaints, an apology or correction from the BBC may be published online or on-air.

The Committee looked first at the appellant's request for a broadcast apology. In doing so, it noted that the ECU had found the programme to have been in breach of the guidelines on accuracy in three separate areas. It endorsed this decision. It noted that the Committee's role on this occasion was to look at whether the BBC's own procedures for broadcast apologies had been fairly applied.

The Committee noted that the Head of the ECU had set out his reasons for not agreeing to broadcast a finding in his letter to the appellant dated 23 April 2008. In it he said that:

“Though I well appreciate your members' sense of grievance at what they understandably take to be a general slur, in my view the absence of any suggestion of culpability on the part of identifiable living individuals detracts from the case for a broadcast statement reflecting my finding.”

The Committee noted that the Head of the ECU said this decision was consistent with previous cases where a statement had been broadcast and was in line with Ofcom's practice in terms of its fairness and privacy remit where there was a suggestion of detriment to identifiable individuals or organisations. The Committee also noted that the Head of the ECU applied a test of proportionality, as a result of which most of its findings were published in its own bulletin, with a minority of cases also receiving an on-air broadcast.

The Committee was also provided with a copy of the ECU's own guidelines and procedures for sanctioning an on-air apology. The Committee noted what was said:

In the world of TV and Radio the broadcast apology is the ultimate redress method. As well as a sanction, which is applied by the regulator, the BBC also uses the broadcast apology as a form of redress for complainants. Currently, the ECU takes the following matters into consideration when deciding whether to recommend the use of a broadcast apology:

- Whether real harm has been caused either to an individual or an organisation, or is there more dispersed harm to informed discussion which would result from a serious error on a matter of public

controversy? The case for a broadcast apology/correction is stronger where there is an issue of redress to an identifiable victim.

- Whether the broadcast apology/correction is likely to be an effective remedy. For specific mistakes or misleading statements about individuals and organisations, it usually will be (though there will be some cases where the interest concerned is so specialised that another form of redress – say, publication of a letter in an appropriate trade journal – will be more effective). With errors in matters of public debate, the issue is one of public interest rather than redress. In some cases, accurate treatment of the topic on future occasions will serve the public interest better than a correction which entails a rehearsal of the circumstances of the original mistake – especially in news programmes, where the mistake may relate to a past stage of a developing story which is of no further interest to listeners.
- Whether a broadcast apology is a proportionate response. A grievance that is important to an individual may, when viewed objectively, be less important to the wider public.
- The context in which the error was made. Any broadcast apology or correction should be fair to the programme makers and reflect any mitigating points as well as correcting the error itself.
- The constraints of broadcasting as compared with print. Broadcasting is not the best medium for apologies or corrections – there is room for more words in a few pages of a newspaper than in the whole of the Today programme. Other content must be displaced or abridged in order to allow for an apology to be accommodated. Also, because broadcasting occupies time, the interruption of continuity is an issue.

The Committee considered whether it was appropriate to direct the Executive to publish an on-air finding which would also act as a correction.

The Committee noted that its terms of reference state that:

To ensure that where a complaint is upheld, the BBC apologises for the breach in programme standards and takes remedial action to guard against the breach occurring again and/or, where appropriate, to initiate disciplinary process in respect of the individual(s) responsible. The Committee may also require an on-air apology or correction.

The Committee agreed that the publication of a finding was a sanction. The use of an on-air finding underlined the seriousness of a breach and was particularly appropriate where there were gross breaches of the guidelines with aggravating features eg deception or repetition.

The Committee accepted that deciding whether to direct an on-air finding was a judgement which must be applied by taking into account both the aggravating and mitigating factors of the case and whether an on-air finding was necessary to provide an effective remedy.

The Committee concluded that it shared the complainant's dismay at the failures of the programme. The Committee agreed that the failures were serious. However the Committee agreed that this case, whilst deeply concerning to those who were directly involved in elections in Nigeria at the time and in other elections in colonial territories in Africa at the period, had not displayed other aggravating features. It appeared to represent an isolated example of poor programme-making skills and the action taken by BBC management was appropriate.

The Committee noted that this programme was broadcast in July 2007. A broadcast of a correction in the same series would have been an appropriate and timely remedy. It was likely that the matter would have been fresh in the minds of the audience and it was also likely to have found the same or similar audience. The Committee agreed that those considerations no longer applied.

The Committee noted that there was an upheld finding already in the public domain which recognised the flaws in the programme. This in itself the Committee agreed was a remedy for the flaws in the original programme. The wording of the summary of the finding which was separately raised by the complainant is addressed below.

The Committee then considered whether an apology was required. The Committee agreed that the purpose of an on-air apology was to offer redress to individuals or an organisation directly affected by the programme.

The Committee considered whether an on-air apology was required to provide redress to an individual or organisation who or which had had been unfairly treated in the programme.

The Committee noted that its terms of reference enable it to consider appeals concerning complaints which allege that:

the complainant has suffered unfair treatment either in a transmitted programme or item, or in the process of making the programme or item.

The Committee accepted that the distinction between the requirement for redress to an identifiable individual or organisation who or which had been unfairly treated in a programme and that for unidentifiable individuals was a real one.

The ESC first considered whether or not the OSPA itself had a direct interest in the programme. It noted that its purposes included spreading "a better understanding of what the Colonial Service/HMOCS was, who its members were, what they did, why and how they did it, and to what effect". Its functions included "guarding the good name and reputation of the service".

The Committee noted that the OSPA's membership covered former colonial officers serving the British Empire across the world and not just those that had served in Nigeria. The Committee agreed that some of the 18 signatories of the original letter sent by the Secretary to the OSPA to the Director-General had responsibilities for elections within Nigeria and other colonial territories in Africa. It noted they were not directly associated with the present appeal. It also noted none of them had been named within the programme. However, the Committee agreed that it could be said that the OSPA were complaining on their behalf.

The Committee agreed that it was arguable that the OSPA did have sufficient direct interest in the programme to request an on-air apology/finding as a form of redress.

The Committee agreed, however, that the OSPA itself had not been the subject of the programme - it had not been mentioned in the programme and the programme was not directly about the OSPA or about the British Colonial Service (Her Majesty's Overseas Civil Service). It concluded that it was not appropriate to publish an on-air apology to the OSPA. It was not itself directly affected by the programme.

The Committee noted what was said by Professor Anderson in the programme:

“In the 1950s virtually all the British colonies were moving towards independence in Africa and there were elections taking place everywhere. It would not be unfair to say that in almost every single colony the British attempted to manipulate the result to their advantage. Indeed it would be surprising if as the colonial power they'd not done so.”

The Committee concluded that the comment was sufficiently general and unspecific and did not attach to any individual or indeed a particular colonial territory and thus to an identifiable individual.

The allegations made regarding the elections in Nigeria were more detailed but were similarly unspecific with the exception of the comments about the Governor-General (deceased).

The Committee concluded that an on-air apology to some individuals who belonged to the OSPA was also not appropriate in this case. Appropriate redress had been provided by the published summary by the ECU.

The Committee sympathised with the strong feelings of those who had written to the BBC to complain but concluded that the ECU's decision in refusing an on-air apology had been correct and proportionate. The Committee did not uphold this element of the complaint.

The Committee then looked at the complainant's assertion that the website summary of the adjudication had been very much weaker than the finding the ECU had shared with the OSPA. The Committee compared the summary to extracts from the full finding.

Extract from ECU finding

I would accept that the impression left by the programme is that, while there is no concrete corroborative evidence to support these claims, there is at least a strong possibility that they are true. This, in my view, also carries the clear suggestion that, notwithstanding a lack of evidence, there is a strong possibility that the allegations may be true. I believe that, overall, it presented Mr Smith's claims in a way which suggested they had some claim to credence. This is a heavily qualified claim and, it seems to me, falls far short of the sort of corroborative evidence that would be required to justify inviting serious consideration for the allegations made in the programme. I also agree with you that the programme, containing as it did such serious allegations, did not meet the standards set out in the Guidelines in terms of the research required for "achieving accuracy".

Extracts from BBC website summary

There is no direct corroboration for the allegations concerning the Nigerian elections.

Extract from ECU finding

There is no suggestion in his book (by Professor Ken Post) that he encountered any evidence of electoral malpractice and he has told us in unequivocal terms that he found none, and that, from his experience, there is absolutely nothing to Mr Smith's allegations.

Extract from ECU finding

...the ECU established that the author of the leading contemporary study of the elections (whom the programme-makers had not succeeded in contacting) maintained unequivocally that he had found no evidence of the kind of electoral malpractice alleged.

Extract from ECU finding

...the allegations were answered by Mr Gerald Summerhays, who served in the Colonial Service in Nigeria from 1952 to 1981 and who categorically, and at some length, denied any malpractice. I do not feel, however, that this disposes of the problem. Mr Summerhays is, in reality, either one of those at whom the allegations are directed, or closely associated with those accused, and this would necessarily be a factor in the way listeners evaluated his evidence. Professor Post's evidence is of a different order: academic, independent, ranging over a wide area of the country, and thus a much more potent reply to Mr Smith's allegations and the supportive claims made by, in particular, the two academics interviewed in the programme. The point that the programme made clear the absence of direct corroboration for Mr Smith's allegations is valid as far as it goes, but it does not seem to me entirely to cover a situation where there was strong rebuttal evidence which was not included or referred to...

Extracts from BBC website summary

Although the programme included a rebuttal from a former official this was not enough to offset an overall impression that the allegations were more credible than the evidence in fact suggests.

Extract from ECU finding

However, it does seem to me that it (allegation by Professor Anderson) represents a significant elaboration of the claim already being made, in that it extends the very serious allegation of election manipulation to “almost every single” British colony, and, by implication to the colonial services of those countries. As such, and given that there are plainly people who would contest it vigorously, it seems to me that it must merit some sort of response or qualification, or the danger is that a misleading impression will be given that the claim is not in dispute. This is clearly not so...

Extracts from BBC website summary

It was legitimate to include a claim by a reputable historian about other British colonies but the claim is vigorously contested by some, and the programme should have reflected this.

The ESC agreed that the full finding given to the complainant which explained how the finding had been reached was appropriately detailed and carefully considered.

The Committee noted how the Head of the ECU explained the purpose of the unit’s summaries during the ESC’s investigation of the appeal:

“[...] it should be borne in mind that the primary function of such summaries is to place on the public record the BBC’s acknowledgement of the editorial lapses identified by the complaints process, in terms which will be readily intelligible to visitors to the website who may have no previous knowledge of the material complained of or the issues of complaint. The result will not always accord with the complainant’s own sense of the relative gravity of the points on which the complaint has been upheld.”

The Committee then noted what the Head of the ECU said with regard to this particular complaint and summary:

“[...] I would agree that elements of it could have been more strongly expressed (or, for that matter, less strongly expressed) while remaining consistent with the terms of my full finding. I would not agree, however, that it is such as to mislead visitors to the website, or to fail in the function outlined above. It should also be borne in mind that, at the end of the day, it is the ECU’s summary of the ECU’s finding, and the ECU must be accorded some scope for judgement about how the finding should be represented.”

The Committee, whilst it acknowledged that the summary of the ECU finding should be a summary and not the full adjudication, felt that, in general, summaries should set out which guidelines had been breached, and will be discussing this with BBC management. As such, the Committee agreed that in relation to this appeal it would be appropriate for the ECU to revise its published summary to refer to the guidelines which were breached. The Committee therefore upheld this element of

the complaint. In all other respects it commended the investigation and finding by the ECU.

The Committee also noted the complainant's concern that those who had heard the programme but who were not linked to the appeal would not have been aware of the adjudication from the ECU and would not have known to look at the BBC website for its outcome. The Committee was satisfied that as it had already considered that it was inappropriate for the apology to be broadcast, the use of the BBC's website to publish the finding was in line with the BBC's procedures and guidelines on accountability which state:

“[The BBC] will use the BBC's online presence to provide proper reporting to the public on complaints we have received, and actions we have taken.”

The Committee also noted what the guidelines said in relation to the findings of the ECU:

“For the most serious upheld complaints, an apology or correction from the BBC may be published online or on air.”

The Committee also noted that the universality of the website enabled anybody to access the finding at anytime which allowed the complainant to draw the finding to the attention of the members of the OSPA, or any other party, at a time appropriate to him and the association he represented. The Committee also noted that the finding would not be taken down from the website. The Committee did not uphold this element of the complaint.

Finding: The Committee did not uphold the request for an on-air apology or for providing an alternative method of sharing the ECU finding beyond the presently published procedures. The Committee did, however, agree to the request for a revision of the ECU's published summary of the complaint.

Action: The Committee would contact the BBC Executive to request the ECU to refer in its summaries as to which guideline/s had been breached.

Global Temperatures ‘to decrease’, BBC News online, 4 April 2008

1. The article

The article, based on an interview with Michel Jarraud, Secretary-General of the World Meteorological Organization (WMO), reported on a reduction in global temperatures in 2008, caused by the cooling effect of the La Nina current. The article was posted by Roger Harrabin, BBC Environment Analyst.

2. The complaint

The complainant initially wrote to the BBC Trust on 15 April 2008 to complain that an online article had been changed following pressure from a “climate activist”. The complainant noted that there was no evidence that the “climate activist” had a scientific qualification or had offered any evidence to support her assertions sent to the BBC Environment Analyst who authored the piece.

The complainant noted that the most conspicuous change related to the sentence “This would mean global temperatures have not risen since 1998, prompting some to question climate change theory” which was revised to read “But this year’s temperatures would still be way above the average – and we would soon exceed the record year of 1998 because of global warming induced by greenhouse gases”.

The complainant said that the changes were not minor stylistic refinements but represented “significant alterations in meaning and thrust”. To support his claim that the correspondent had given in to pressure, the complainant enclosed an email exchange between the correspondent and the “climate activist” (which was posted on the internet by the climate activist) showing that the “climate activist” had objected to parts of the original article and that the correspondent, after initially defending the article, had made changes which he felt she would welcome.

The BBC Trust replied to the complainant on 23 April 2008 saying that it had forwarded the letter of complaint to BBC Information for a stage 1 response as set out in the BBC’s complaints process.

BBC Information replied on 21 May 2008 pointing out that the correspondent had, in a blog on the BBC’s website, explained why the article had changed. The blog had said that after the article was published the correspondent had received suggestions that it should offer more background. In particular the WMO wanted to emphasise Mr Jarraud’s view that a slight temperature decrease in 2008 compared with 2007 should not be misinterpreted as evidence of general cooling. The reply pointed out that the article had not been changed because of pressure from an environmental campaigner but instead because the BBC wanted to improve it. The reply also noted that the blog had referred to the BBC’s guidelines on tracking changes to online articles. When a major change was made, the article was republished with a new timestamp but this was not done for lesser changes. It was also noted that in the case of the article posted on 4 April the correspondent stated that the original copy was accurate. However, while the correspondent did not think that any material

change was made to the article, he acknowledged that, with hindsight, it might have been a good idea to flag that it had been altered.

The complainant replied to BBC Information on 27 May 2008 to confirm this was the BBC's stage 1 response. He also contacted the BBC Trust on 2 June to suggest his disappointment with the stage 1 reply.

The BBC Trust replied on 15 September 2008 apologising for the delay. The complaint was escalated to BBC News, stage 2 of the BBC's complaints procedure, following confirmation from the complainant that he wished this to happen.

On 12 November 2008 the Head of Editorial Compliance, BBC News, replied noting there was little she could add to the BBC Information reply of 21 May. She also noted that the correspondent's blog explaining the change to the article had been approved by the Editor of the BBC News website and that the Director of News had also been consulted on the matter.

The Head of Editorial Compliance, BBC News, explained that the BBC took extremely seriously any accusation that its editorial processes had been interfered with. She noted that the Director of News was satisfied that:

“[...] the minor changes to the article were made by the journalist in order to improve it and were indeed made in response to the WMO's request for more background.... It is normal journalistic practice for improvements to be made if we agree with the feedback that we are given.”

The complainant replied on 20 November 2008 that the reply from BBC News had not addressed his primary evidence about the correspondence between the correspondent and the “climate activist” which he believed showed that the report had been altered after pressure from an “environmental extremist”. The complainant noted that there had been no attempt by WMO to change the article. The complainant also raised concerns about the correspondent's directorship of the Cambridge Media and Environment Programme (CMEP), whose mission, the complainant believed, was to ensure the BBC adhere to a green orthodoxy in all its output and whether this was compatible with the correspondent's role as an objective and impartial journalist. The complainant also asked if the CMEP was financially supported by the BBC.

The complainant appealed to the Editorial Standards Committee (ESC) of the BBC Trust, the third and final stage of the BBC's complaints process, clarifying his appeal on 16 January 2009. He reiterated his concern that the correspondent had “crumbled” following pressure from the “climate activist”. He also reiterated his concern that following his own investigation there had been no initiative from the WMO to seek changes to the article that were “merely stylistic”.

3. Applicable editorial standards

Section 3 – Accuracy

Introduction

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

Correcting mistakes

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

Section 4 – Impartiality and Diversity of Opinion

Introduction

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.
- our journalists and presenters, including those in news and current affairs, may provide professional judgments but may not express personal opinions on matters of public policy or political or industrial controversy. Our

audiences should not be able to tell from BBC programmes or other BBC output the personal views of our journalists and presenters on such matters.

Section 13 – Editorial Integrity and Independence

Introduction

The BBC's global reputation is based on its editorial integrity and independence. Our audiences need to be confident that our decisions are influenced neither by political or commercial pressures, nor by any personal interests. We must not undermine these values by any actions which could bring the BBC into disrepute.

Editorial integrity and independence editorial principles

- We must be independent of both state and partisan interests.
- We must not endorse or appear to endorse any other organisation, its products, activities or services.
- We should not give undue prominence to commercial products or services.
- There must be no product placement in programmes.
- We should ensure that on air and online credits are clearly editorially justified.
- We must not unduly promote BBC or BBC related commercial products and services on our public service outlets.
- The outside activities of people working for the BBC, including presenters, must not improperly influence BBC programmes or corporate decision making.

Conflicts of interest

Conflicts of interest can arise for anyone who appears on air or has responsibility for the content of a programme or service. There must never be any suggestion that personal, commercial, business, financial or other interests have influenced the BBC's editorial or financial decisions.

Presenters, reporters, producers, editors, researchers and managers are all affected. The higher someone's level of editorial responsibility, the greater the need to avoid any possible conflicts of interest. There may be particular sensitivities concerning the activities of on air talent.

Conflicts of Interest guidelines are available on the editorial guidelines website. For most people there is a BBC contractual requirement to comply with these guidelines which include advice on:

- non-BBC writing commitments
- public speaking/public appearances
- media training
- connections to charities and campaigning organisations
- political activities
- hospitality and personal benefits
- financial and business interests

- on air talent and commercial advertising
- independent production companies owned by talent or their agents.

Production and editorial staff are required to declare any personal interest or relationships which may affect their work. They should discuss any possible conflicts of interest with their line manager.

Freelance presenters, reporters, producers and researchers are normally contractually required to declare any personal interests or relationships which may affect their work with the BBC.

Section 17 – Accountability

Introduction

The BBC is accountable to its audiences. Their continuing trust in the BBC is a crucial part of our contract with them. We will act in good faith by dealing fairly and openly with them.

We are open in admitting mistakes when they are made and encourage a culture of willingness to learn from them.

We will use the BBC's online presence to provide proper reporting to the public on complaints we have received, and actions we have taken. (www.bbc.co.uk/complaints/).

Feedback & complaints

Audiences are at the heart of everything the BBC does. Audience feedback is invaluable to us and helps improve programme quality.

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

4. The Committee's decision

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

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

This appeal raised issues requiring consideration of the editorial guidelines relating to editorial integrity, independence and impartiality for the main part of the complaint; accountability for the question of the re-publishing of the article with changes but without pointing these out; and then conflict of interest for the subsidiary matter of the Cambridge Media and Environment Programme.

The Committee considered the complaint in three parts:

1. Was there undue influence exerted on the reporter by an environmental lobbyist which led him to change the story unjustifiably?
2. Should the changes, when made, have been flagged by the website?
3. Is there a conflict of interest between Roger Harrabin's role as the BBC Environment Analyst and his work with the Cambridge Media and Environment Programme?

I. Changing the story

The Committee noted that the Editorial Adviser had contacted Paul Garwood who had at the time been Press Officer at the World Meteorological Organization when Roger Harrabin interviewed the organisation's Secretary-General, Michel Jarraud. The TV news item and the online piece had been created as a result of the interview. Mr Garwood confirmed that he had been happy with the TV item but had been concerned about part of the online piece. He said that he had contacted Roger Harrabin, of his own volition, and had asked him to adjust some of the exposition near the top of the piece. There had been several telephone conversations and an email contact in the run-up to the piece being changed. At the same time the WMO had put out a press statement clarifying what Mr Jarraud had been talking about – though this did not mention the BBC.

The Committee noted that Roger Harrabin had been happy to expand the piece somewhat, insert some information and thought that this had improved the item.

The Committee also noted that at much the same time, an environmental lobbyist had emailed Roger Harrabin criticizing the online piece. Twice Mr Harrabin had brushed off her comments but, when he had anyhow decided to change the wording near the top, had replied to her finally saying:

“Have a look in 10 minutes and tell me you are happier. We have changed headline and more.”

His explanation for this was that he had changed the story after discussion with the WMO people and had then responded to the latest email very quickly as a courtesy.

He added:

“With hindsight I regret that, having altered the copy to address the WMO's valid complaints, and trying to get away on holiday, I [wrote] a hastily-worded note which was wrongly interpreted as vindication of her assault on the BBC. She then posted it on her website.

“These facts remain: my revised Online piece is correct. It is better than before. The improvement was not attained by undue influence. So we were right to change it.”

The Committee concluded that the accounts of Roger Harrabin and Paul Garwood, then the WMO Press Officer, relating to how this change to the story came about did tally. It accepted the reasons given by Roger Harrabin and did not consider that undue influence had been exerted.

The Committee did not uphold this complaint on the grounds of editorial integrity, independence and impartiality.

2. Flagging up the changes

The Committee then considered the complainant's concern that, as the article had been substantially changed, this should have been pointed out on the page.

The Committee noted that the explanation from Steve Herrmann, the Editor of BBC News Online, explained why there had been no update:

“We made a mistake. The sub-editor published the update without doing it with a date stamp. It was a breach of our operating procedure and she apologised to me next morning ... She had added substantive extra information and our rules are that we re-publish it – which updates the date and time – so the reader can see there is a new version.”

The Committee noted that there had been an “Editor’s Blog” on 12 April in which he had introduced Roger Harrabin’s thoughts on the article and its changes. Steve Herrmann pointed out that the blog had said:

“Should we therefore have flagged that the story had been altered? We didn’t think that was necessary, but with hindsight it might have been a good idea.”

The Committee also noted that Steve Herrmann added that he thought BBC Online could have been more explicit about updating the story in a more transparent way:

“we could have been more clear”.

Mr Herrmann said that a formal correction had not been made later as the change was not seen as so critical as to warrant a formal correction.

The Committee agreed that it would have been a good idea to have flagged the changes. It acknowledged that the BBC accepted that this was a mistake and agreed with the BBC management that the BBC had been in error.

The Committee expected the BBC to flag the changes made on the relevant page, if it had not already done so, and considered that this action would resolve this part of the complaint.

The Committee considered this complaint resolved in light of the acceptance by the Editor of BBC News online that they could have been more clear.

3. Is there a conflict of interest between Roger Harrabin's role as the BBC Environment Analyst and his work with the Cambridge Media and Environment Programme?

The Committee noted that Roger Harrabin said this seminar programme was set up after he went on a sabbatical to Cambridge over a decade ago and his research there showed that news programmes found it hard to track long-term trends in environmental change because, although significant, they were slow and did not (at that time) offer many news pegs. The then Head of News asked him to do a seminar for BBC News' senior managers and editors to brainstorm on global trends. The Cambridge Media and Environment Programme is the name of the partnership set up to deliver that seminar - and subsequent seminars requested by the BBC. The partnership with a former Cambridge academic Dr Joe Smith was set up under the (then) Cambridge University Committee on Inter-Disciplinary Environmental Studies, CIES.

The Committee noted that he said :

“At the time I was working for the Today Programme but since I have become Environment Analyst I advise on the seminars as part and parcel of my BBC job. The seminars, which are very highly regarded, now encompass global trends from finance to business, population to the arts. They are known as the Real World seminars and are designed to help the BBC achieve its charter objectives of bringing the world to the UK.

I have never received any extra remuneration for my work on the seminars – sadly.”

The Committee noted how the Complaints Lead for BBC News described the “Real World” seminars (which is what they are now called):

“Diverse discussion topics under the broad heading of ‘making sense of an interconnected world’ have included: ageing, food, risk, future superpowers, technology, climate change, business investment, biodiversity, entrepreneurialism, public health, population, migration, investment flows and innovation.

“Participation is diverse in terms of opinions and background. In order to facilitate frank discussions the meetings are run according to the Chatham House Rule so that individuals' comments cannot be reproduced in such a way as to allow attribution. The idea is to create the setting for interesting and wide ranging conversations.

“Recent seminars have included experts from multi-national business and SMEs; think-tanks such as the Institute for Economic Affairs and Overseas Development Institute; academics and researchers from many universities

and specialisms (science, technology, economic and social sciences, and history); and policy experts on and field workers from the developing world.”

The Committee was satisfied that this response confirmed that Roger Harrabin helps run the seminars as part of his BBC employment and receives no extra payment for doing so, that the other organiser, Dr Joe Smith, a geographer, is funded independently and that the BBC pays for expenses such as the hire of a venue.

The Committee noted that the seminar partnership has been approved by the BBC’s current Director of Editorial Policy.

The Committee discussed the CMEP and Roger Harrabin’s role in it and concluded that, as he had been asked to set up the programme by BBC News management, as he did the work involved as part of his usual occupation and as he received no extra payment for the seminars either from the BBC or anyone else, the available evidence would suggest that there is no conflict of interest.

The Committee did not uphold this complaint on the grounds of conflict of interest.

Complaint handling

The Committee noted that the complainant had been critical of how his complaint had been handled in that he thought it had taken an excessive amount of time and had been unduly complicated. The Committee heard that the complainant had several matters currently going through the BBC processes and this had caused some tangling and delay which had been exacerbated by staff shortages at the BBC Trust at the time when several complaints had arrived from the complainant by various different routes.

The Committee apologised to the complainant for any delay in dealing with this matter.

Finding: Not upheld, resolved in part.

Non-reporting of the International Conference on Climate Change, March 2008

I. The complaint

The complainant wrote to the BBC Trust on 6 March 2008 stating that he had complained previously about “systemic bias of BBC reportage”, with regard to the issue of global warming from a sceptic’s point of view, and that “an even more egregious example of BBC prejudice” had occurred, which was a lack of coverage by the BBC of “a huge conference of scientific practitioners from many disciplines (Heartland conference)...all sceptical of current climate orthodoxy”. The complainant considered that the failure to cover this conference showed that “the BBC is no longer independent” and that the omission of coverage of the conference was a “dereliction of journalistic integrity”.

The Trust wrote to the complainant stating that his complaint had been shared with BBC News who would respond.

The Head of Editorial Compliance, BBC News, responded on 31 March 2008 pointing out that there were many conferences which BBC News did not cover. She stated:

“What is important is that we cover important developments and strands of opinion and I am confident that we do give voice to climate change sceptics.”

The complainant replied on 14 April disappointed with the reply he had received and pointing out that there was a BBC reporter at the Heartland conference. He also stated that the conference was “far from being just another conference, this was an assemblage of dissenting voices of the highest calibre”. The complainant questioned whether the BBC covered views of climate change sceptics and asked for further examples.

Following an exchange of correspondence with the BBC Trust between early May and September 2008 the complainant reiterated in his appeal to the Editorial Standards Committee (ESC) of the BBC Trust that the Heartland conference was an event of major importance. He stated:

“The failure of the BBC to cover this major event can be interpreted in one way only, to wit as wilful and deliberate censorship of responsible and, above all, authoritative dissent.”

2. Applicable editorial standards

Section 4 – Impartiality and Diversity of Opinion

Introduction

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.
- our journalists and presenters, including those in news and current affairs, may provide professional judgments but may not express personal opinions on matters of public policy or political or industrial controversy. Our audiences should not be able to tell from BBC programmes or other BBC output the personal views of our journalists and presenters on such matters.

Achieving impartiality

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement accompanying the BBC's Charter as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

3. The Committee's decision

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

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

This appeal raised issues requiring consideration of the editorial guidelines relating to impartiality.

The Committee considered that the key guidelines here would be

“a commitment to reflecting a diversity of opinion”

and

“we strive to reflect a wide range of opinion and explore a range and conflict of views so that no significant strand of thought is knowingly unreflected or under represented.”

The Committee had to decide whether not covering the first Heartland Conference amounted to a breach of those guidelines.

The Committee noted that the 2008 International Conference on Climate Change, or Heartland Conference, was described on its own website as “the first international conference devoted to answering questions overlooked by the Intergovernmental Panel on Climate Change”. As this was the first of these conferences there was no track record as to its news value and it had no keynote speaker of considerable fame on the world stage actually attending in person.

The Committee noted that the crux of the complainant’s case is that there was a BBC TV representative at the conference but that no coverage had been broadcast as far as he was aware.

The Committee noted that following investigation BBC News could find no evidence that it had sent anyone to cover the conference, or that a decision had been made to do so or even that anyone in New York or London had been aware of the conference happening. This lack of coverage seems to have been widespread; there were no news crews from any network – British, American or other. There were only two newspaper reports in the British press that mentioned the conference at all: a brief one in The Independent was a short piece focused on the financing of the conference by Exxon and Phillip Morris. Later on, in May, there was a blog in the Daily Telegraph online that referred back to the conference.

The Committee noted that there was a BBC representative at the conference. He was working for a BBC documentary series, “Earth: The Climate Wars”. According to a programme executive, the multi-skilled producer was there because the team was making three programmes on the history of climate change and wanted to interview a number of climate change sceptics. The producer interviewed about a dozen people at the conference and about three of those were used in the programme. The producer was not there to produce a news report – he was there to record a number of interviews with climate change sceptics as quickly, conveniently and economically as possible for a longer term project.

The Committee noted that the producer of the three-part series, who has a background in News and Current Affairs, said his team-member had not come across a news-line that would have justified alerting the BBC Newsroom to his presence at the conference. He added that Heartland was covered extensively in the film. He had used several clips and said there must have been about four minutes or so from the conference.

The Committee discussed whether there had been bias by omission in that the BBC had not covered something that it should have done to achieve due impartiality. It concluded that it was for an output editor to assess what was newsworthy in this context. No other public service broadcaster had chosen to cover it

The Committee agreed there was no indication that this conference was of such significance that to omit it amounted to a breach of due impartiality.

Finding: Not upheld

Today, BBC Radio 4, 7 October 2008

1. The context

The item was an interview on the Today programme with the geneticist Professor Steve Jones, of University College, London.

The item began with an introduction:

Sarah Montague: We are as good as it gets. We have come as far as humanly possible, in that we are as fit, strong, intelligent and healthy as we are going to be. The end of human evolution. Or at least that is what the geneticist Professor Steve Jones will argue in a lecture he's giving tonight at University College, London.

2. The transcript of relevant section

Sarah Montague: You've talked about this whole process as a sort of grand averaging, but surely, even if you could say that evolution is slowing, it's hard to argue that it's stopped, and I'm thinking of, you know, if you paint a scenario, the world heats up, millions of people, half the planet perhaps, is wiped out, those that survive are surely the fittest?

Steve Jones: Oh for sure, in biology it's very difficult to make predictions, particularly about the future and I'm certainly not the first person to say that. If you look back at an instant in evolutionary time, ten thousand years, which is nothing, that's when farming began, you see big genetic changes in humans to adapt to that environmental change. Some people can digest milk because we started, when they're adults, because we started breeding cows. Other people can't, and that's evolution. And if you look forward, there may well be something nasty around the corner, I'm not denying that. I don't actually think that global warming will do the job in evolutionary terms because we take our climate with us. We all live in the tropics even in the dire weather of today because we've got clothes, we've got central heating. I am much more concerned about global epidemics that's for sure, and they have caused mayhem, and to a degree they are still causing mayhem with HIV and the like. But we are doing pretty well at controlling them. But of course evolution's a bit like a bicycle, you can slow down but if you stop you fall off, so I don't think it will stop altogether.

SM: So your argument is that it's slowed down. But if things don't change, in the unlikely event things don't change, a million years time, what is homo sapiens, what are humans going to look like?

SJ: Well they'll probably be listening to the Today programme as they seem to have been doing for the past million years.

SM: Of course they will!

SJ: A million years is a long time, they'll look pretty much like they are today. But I think, you know, the future is brown. Because of movement, global movement, and inter-racial, if you want to use that word, mixing, it's inevitable there'll be a grand averaging, so everybody will look like Mr or Miss Average.

SM: But isn't that bad as far as the species is concerned? That is surely a bad thing, certainly history would suggest that.

SJ: Well I mean, that's erm, that's one of those erm, loaded questions. When you say as far as the species are concerned...

SM: I mean ... don't species ... they are more likely to survive if they have, sort of, a wider gene pool, if there isn't an average.

SJ: That's not necessarily so. Species don't survive, individuals survive and this grand mixing is actually going to move genes across the world and if anything, makes us as individuals slightly more diverse than we were before. So in fact I'll even be optimistic about the future.

3. The complaint

In his initial letter to BBC Information on 7 October 2008 the complainant stated that following Professor Jones's comment that "the future is brown" the presenter had said:

"But is that not bad as far as the species are concerned, that is surely a bad thing, certainly history would suggest that"

The complainant said that he found the presenter's comment "racist in the extreme and very offensive". The complainant also requested an assurance from the BBC that the presenter was expressing her own views "by saying that history suggests inter-racial mixing is a bad thing".

BBC Information responded on 19 October 2008 stating that the presenter was not being racist but was approaching the subject to ask questions that "would clarify various points the listener may have been pondering upon". The reply also said that the questions she asked were coming from a point of assumption that evolution might be hindered if there was a small gene pool to choose from – inter-racial mixing or not.

The complainant wrote a letter to the BBC Trust on 23 October 2008 in which he stated that the presenter's comment referring to history shows inter-racial mixing is a "bad thing" was "by definition racist". He continued that the statement seemed "almost eugenic".

The BBC Trust responded on 29 October 2008 with advice on the proper complaints procedure.

Following a further exchange between the complainant and BBC Information, BBC Information wrote to the complainant on 6 November 2008 quoting the relevant exchange (see 11.2 above). BBC Information went on to say:

“As you can see from the transcript it is not clear in the first question what she is referring to – mixing of races or averaging of the gene pool. However she clarified this in her second question to make it clear that she is referring to the averaging of genes, not the fact there is inter-racial mixing.”

The complainant then contacted the Editorial Complaints Unit (ECU), stage 2 of the BBC’s complaints process, on 15 November 2008 making the following points:

“It seems irrelevant to me whether she was referring to inter-racial mixing or averaging of the gene pool because they both have the same meaning.”

“Nobody has stated which ‘*history*’ Ms Montague believes shows that inter-racial mixing (or averaging of gene pool) is a bad thing. Please remember the word history suggests a relatively short time scale and the remarks seem almost eugenic.”

“Professor Jones ... was almost dumbstruck at first by Ms Montague’s question and then gave her an opportunity to qualify her remarks by asking ‘... that’s one of those loaded questions ... When you say ‘as far as the species is concerned’ ... She could have withdrawn her remarks about inter-racial mixing being bad but chose instead to reaffirm that she meant that species are more likely to survive if there is not an averaging.”

The ECU wrote to the complainant on 19 November 2008 setting out a summary of the complaint and the relevant editorial guidelines. The ECU summarised the complaint stating that it understood the complaint to be:

“[...]that comments made by presenter Sarah Montague during an interview on human evolution were racist and offensive.”

The complainant replied to the ECU on 24 November 2008 stating that:

“The offence was caused by introducing history into a discussion about evolution ... They were talking about a timescale of 1 million years. History is concerned with [a] train of events connected with nations and people over a much shorter timescale. I am not aware of any history showing inter-racial mixing is a bad thing, only claims made by people such as Hitler that races should be kept pure.”

“My complaint is about Ms Montague stating that history (rather than evolution) certainly proves that inter-racial mixing is a bad thing.” [the complainant’s emphasis]

The ECU replied in full to the complaint on 10 December 2008 noting that Professor Jones was putting forward his theory that human beings have effectively stopped evolving as a species and that because of global movement and inter-racial mixing the most likely outcome will be that “everyone will look like Mr or Miss Average”.

The ECU stated that in its view the presenter’s comments had referred to the “widely held scientific view that breeding from a small gene pool is known to lead to an increase in the frequency of genetic disease”.

The ECU’s reply went on to say that if there was any doubt about the presenter’s meaning it had been clarified by her next question when she suggested that humans “... are more likely to survive if they have, sort of, a wider gene pool, if there isn’t an average”. As such, the ECU did not consider that the presenter was saying that inter-racial mixing was bad, merely asking whether it might be a cause for concern if, in a million years or so, Professor Jones’s grand averaging were to lead to a significantly smaller human gene pool. The ECU believed it was a legitimate question to ask a geneticist.

The ECU also did not see any evidence to support the complainant’s view that the presenter was referring to comparatively recent historical events rather than events over a million years or more when she said: “But isn’t that bad as far as the species is concerned? That is surely a bad thing, certainly history would suggest that.” The ECU did not uphold the complaint.

The complainant wrote to the BBC Trust on 16 December 2008 stating that he formally rejected the ECU’s finding reiterating his point that the BBC had not provided him with an example as to when history had shown that inter-racial mixing was a bad thing.

4. Applicable editorial standards

Section 8 – Harm and Offence

Introduction

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

When we broadcast or publish challenging material which risks offending some of our audience we must always be able to demonstrate a clear editorial purpose. Such material may include, but is not limited to, offensive language, humiliation, sexual violence and discriminatory treatment. We must be sensitive to audience

expectations, particularly in relation to the protection of children, as well as clearly signposting the material.

Audience expectations

We should judge the suitability of content for our audiences, including children, in relation to the expectations of the likely audience at a particular time on a particular day and in relation to the nature of the service as well as the nature of the content.

Portrayal

We aim to reflect fully and fairly all of the United Kingdom's people and cultures in our services. Content may reflect the prejudice and disadvantage which exist in our society but we should not perpetuate it. We should avoid offensive or stereotypical assumptions and people should only be described in terms of their disability, age, sexual orientation and so on when clearly editorially justified.

5. 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 complainant's letter of 28 March 2009.

The appeal raised issues relating to the editorial guidelines on harm and offence. The Committee considered evidence from the Today programme about exactly what the presenter had meant when she made the comments in question, and definitions of the word "history" from two dictionaries.

The Today programme said:

"Sarah says by history she meant right since the start of life on earth. The point she was trying to make was that the mixing of genes is a good thing but that if – as Professor Jones argued – over a very long period of time we all became 'Mr and Mrs Average' then eventually there will be uniformity and that uniformity would be a bad thing. The complainant is mistaken in his belief that she meant something less long term than evolution."

The complainant's contention was that this was not the normal usage of the word "history" and that the material was racist and offensive.

The Committee noted that in applying the relevant editorial standards it was required to take into account the "expectations of the likely audience ... in relation to the nature of the service", and the BBC's "right to broadcast ... innovative and challenging content appropriate to each of our services" whilst also bearing in mind the BBC's responsibility to protect the vulnerable.

On the question of portrayal, the Committee noted that the BBC may reflect, but should not perpetuate, the prejudice and disadvantage which exist in society.

The Committee agreed with the complainant that there is no substantial distinction between “inter-racial mixing” and “grand averaging”, since the latter necessarily implies the former.

The Committee noted that to describe this colloquially as “a bad thing” was a turn of phrase which had offended the complainant. However the Committee considered that Sarah Montague’s questions were legitimate, and the tone of questioning was in keeping with the style of the Today programme.

Whilst noting that the word “history” is defined slightly differently in different dictionaries, the Committee accepted the programme’s explanation of what had been meant by the use of the word. It considered that the full exchange bore out the Today programme’s explanation that the presenter was asking if, over time, having the same narrow gene pool spread out across humanity could create risks to the human race.

The Committee did not consider this exchange had been racist, or offensive to the audience.

The Committee noted that Professor Jones disagreed explicitly with Sarah Montague’s question.

Professor Jones said:

“That’s not necessarily so. Species don’t survive, individuals survive and this grand mixing is actually going to move genes across the world and if anything, makes us as individuals slightly more diverse than we were before. So in fact I’ll even be optimistic about the future.”

The Committee found that there was a clear editorial purpose in Sarah Montague questioning the interviewee as she did and that this interview did not perpetuate the prejudice and disadvantage in society.

Complaint handling

The complainant objected to comments by the ECU which he took to suggest that inter-racial mixing is a bad thing and that this is supported by science.

The Committee noted that the ECU had said that it took the presenter’s comments “to refer to the widely held scientific view that breeding from a small gene pool is known to lead to an increase in the frequency of genetic disease”.

The Committee considered this comment to be an acceptable interpretation of the comments made by the presenter and in line with its own decision.

The Committee did not find that the ECU's complaint handling breached its processes.

The Committee found that there had not been a breach of BBC's editorial guidelines on harm and offence, and did not uphold the complaint.

Finding: Not upheld