

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:

The Secretary, Editorial Standards Committee
BBC Trust Unit
Room 211, 35 Marylebone High Street
London W1U 4AA

Contents

	Page
Remit of the Editorial Standards Committee	1
Contents	3
Summary of findings	4
Finding	9
Andrew Marr, BBC One, 7 June and Sir Alan Sugar's roles as star of BBC One's The Apprentice and Government Enterprise Champion	9

Summary of finding

The complainant was concerned about the impact that Sir Alan Sugar's appointment as a Labour peer and the Government's Enterprise Champion will have on the BBC's political independence if he also continues to star in *The Apprentice*. [Please note the appeal was made and heard before Sir Alan became Lord Sugar and therefore the finding refers to him as Sir Alan Sugar throughout.] The complainant noted that the BBC's Editorial Guidelines set out what was acceptable in terms of the political activities of its employees and felt it was hard to see how a Government Adviser and Labour peer could not be considered as being actively involved in political activities. He added that it was even more significant that Sir Alan's role would be advising the Government on exactly the same set of public policy issues that *The Apprentice* was about. The complainant therefore sought urgent clarification on a number of issues concerning Sir Alan's appointment including what BBC management had done as a result of the appointment; had this conflicted with his contractual requirements to comply with the BBC's rules on political activity; and what assessments had been made of the potential impact of Sir Alan's appointment in terms of the BBC's impartiality?

The complainant also made a specific complaint about Sir Alan Sugar's appearance as a guest on *The Andrew Marr Show* on 7 June 2009, the same day as *The Apprentice* final. He noted that Sir Alan discussed the BBC programme as well as answering questions about the Government role and suggested that this was an example of the difficulties facing the BBC and Sir Alan Sugar in his position as a BBC presenter endorsing the Government. In particular the complainant asked for clarification of Sir Alan's contribution on the programme i.e. was Sir Alan asked on to the programme in lieu of a government representative and/or was he appearing in his role as the Government's Enterprise Champion or the star of *The Apprentice*, or was he mixing the two roles?

The complaint was dealt with in the first instance by the BBC Executive, which set out the safeguards it had in place to protect the impartiality and integrity of the BBC, and also set out its belief that the item on *The Andrew Marr Show* had complied with the BBC's Editorial Guidelines. The complainant appealed to the BBC Trust. Amongst the issues raised were Sir Alan's appearance at an event in Gateshead which the complainant described as designed to promote Government enterprise policies.

Ahead of its decision the Committee noted amongst other things that:

- *The Apprentice* was not a serious factual programme but was considered as a factual entertainment programme
- *The Apprentice* was not a news or current affairs programme or a programme that dealt with matters of public policy or of political or industrial controversy.
- Sir Alan's activities in relation to advising the Government on business matters had been ongoing before the announcement of his role as

Enterprise Champion.

The Committee also noted other facts and observations which it believed affected the context in which the complaint was considered. These included:

- a general election must be held no later than Thursday 3 June 2010
- politics has changed, with many more professional people being asked to perform roles as advisers to the Government
- television has changed, with leading business people and other people known for a specific professional expertise and prominence hired to front factual entertainment programmes.

The Committee, when coming to its decision, agreed there were six elements to the complaint. They were:

- The announcement
- Sir Alan Sugar's role as Government Enterprise Champion and (future) peer
- Sir Alan Sugar's appearance on *The Andrew Marr Show*
- Sir Alan Sugar's involvement with the National Apprenticeship Service and in particular his attendance at the Gateshead event
- Public confidence in the BBC
- Safeguarding public confidence in the BBC

The Committee concluded:

The announcement:

- that it was satisfied that, despite the tight time frame, Sir Alan Sugar had properly raised the issue of potential conflict of interest and had discussions with and received advice from the BBC Executive which dealt with the matter properly and with speed.
- that it was satisfied that Sir Alan Sugar's acceptance of the Government Adviser role on 5 June 2009 was conditional on him consulting with the BBC about the potential impact of this position on his role as star of *The Apprentice*.

Sir Alan Sugar's role as Government Enterprise Champion and (future) peer:

- that the prospective role of Enterprise Champion together with his future peerage constituted an "active political involvement and commitment".
- that talent on entertainment shows may sometimes express strong political views but when doing so are expected to avoid bringing the BBC into disrepute.
- that the combination of Sir Alan's roles as star of a BBC entertainment show, government adviser and peer and the proximity of the next general election poses a greater than normal risk to the impartiality, integrity and independence of the BBC in relation to the broadcasting of *The Apprentice*

and *Junior Apprentice* next year. However that Sir Alan Sugar's role as Enterprise Champion and his nomination for a peerage do not lead to an actual conflict of interest with his role as star of *The Apprentice* as long as the safeguards¹ put in place by the Executive are strictly observed.

- that, for the avoidance of any doubt, the Committee decided to set out its understanding of some of the Executive's safeguards relating to Sir Alan Sugar's public facing activities and the tests to be used in the future to judge whether any of his public facing activities as Enterprise Champion and Labour peer, when linked to his on air role as star of *The Apprentice*, compromised the BBC's impartiality, integrity or independence.
- that its understanding of the safeguards put in place by the Executive, in association with the guideline requiring that the BBC must not campaign, was that that in his public facing role as Enterprise Champion Sir Alan must not:
 - campaign or lobby on behalf of the Government (This would include encouraging people to vote for one party over another and endorsing Government policy on a public platform, such as attending a press briefing with Government Ministers on policy issues); and
 - to the extent that Sir Alan has control over the use of his own image, he should exercise that control to ensure that his image is not used for campaigning material;
- that the Committee agreed that in its view these safeguards should also include the additional understanding that Sir Alan would not criticise other political parties
- that the Executive could not be expected to police Sir Alan's meetings with Ministers and that clear advice had been provided about the circumstances in which it would be appropriate for him to attend Cabinet in this context.
- that, while Sir Alan might perform "a role" in formulating government policy, this would always be an indirect role i.e. his advice would be as an individual or on behalf of the business community.
- that as Enterprise Champion Sir Alan Sugar "*will raise awareness among entrepreneurs and businesses about the practical help that is available from Government and other sources*" and that this did not amount to promoting or endorsing Government policy but instead amounted to drawing attention to information already in the public domain, from all sources, including Government.

Sir Alan Sugar's appearance on *The Andrew Marr Show*:

- Sir Alan had not been asked to appear on the programme in lieu of a Government Minister and the Committee noted that Lord Mandelson had been interviewed in that capacity.

¹ These are detailed in the Director-General's letters to the complainant of 9 and 18 June 2009 and some of them were highlighted in a briefing on 18 June by the Head of Communications, BBC One and Drama

- the interview did not raise issues of impartiality, integrity or independence as it was editorially justified for Sir Alan, as a high profile personality in the news, to respond to his appointment as Enterprise Champion; his nomination as a Labour peer and to talk about the final of *The Apprentice* to be broadcast that evening.

Sir Alan Sugar's involvement with the National Apprenticeship Service (NAS) and in particular his attendance at the Gateshead event:

- the work for the NAS should have been regarded as a political activity which Sir Alan Sugar should have formally referred to the BBC Executive for consent.
- that once the Executive was aware of Sir Alan's role with the NAS it should have assessed the implications for the BBC's impartiality and for public perceptions of the BBC's impartiality.
- that the Executive should have taken appropriate advice from the Chief Adviser Politics and /or his department head, the Director of Editorial Policy.
- that any such referral should have been documented and a careful record kept of the Executive's deliberations and discussions with Sir Alan;
- while the literal interpretation of the Conflict of Interest guideline did not apply to this case, it was nevertheless desirable to apply the spirit of the guidelines.
- that on balance Sir Alan Sugar's work with the NAS had been acceptable political activity within the spirit of the guidelines because promoting apprenticeships had broad cross-political support, was not generally regarded as a controversial public policy issue, and that nothing Sir Alan had said or done in Gateshead had undermined the BBC's impartiality or damaged the integrity of a future series of *The Apprentice* or Sir Alan himself.
- that Sir Alan had not been campaigning on behalf of the Government.
- that although the precise guidelines did not apply to Sir Alan, had they done so a breach would have occurred as advice had not been sought or given and written permission had not been obtained.

Public confidence in the BBC:

- that there was a period immediately following the Government's announcement on Friday 5 June 2009 about Sir Alan's appointment as the Government's Enterprise Champion when public confidence in the BBC may well have been undermined.
- that any possibility of public confidence in the BBC being undermined by this issue had been resolved when the Executive announced safeguards it had agreed with Sir Alan Sugar to ensure the BBC's impartiality, integrity and independence.
- that the Committee did not believe the BBC was brought into disrepute at any stage or currently.

Safeguarding public confidence in the BBC (scheduling):

- that scheduling decisions rest with the Executive.
- that if scheduling issues call into question the impartiality of the BBC they become a matter for the Trust also.
- that there is a risk that broadcasting *The Apprentice* and/or *Junior Apprentice* when the next general election is imminent or during the Election Period for the next general election would be likely to compromise the BBC's impartiality and/or undermine public confidence in the BBC. This is because the role Sir Alan has chosen to take in relation to the present government could lead the public to view his presence on screen during an election campaign as undue or unfair publicity for the Labour Party.
- that the Executive when deciding when to schedule *The Apprentice* and *Junior Apprentice* it must give due consideration to the implications of showing the programmes during the Election Period or in the months immediately before the general election which must be held by 3 June 2010.

In addition to the six elements to the appeal, on the broader questions arising from the complaint, particularly in relation to the current revision of the BBC Editorial Guidelines the Committee concluded there needed to be:

- greater clarity in the guidelines about the circumstances in which it is appropriate or inappropriate for prominent on air talent appearing in entertainment or general factual programmes to be actively involved in politics.
- a section in the Politics and Public Policy section of the BBC Editorial Guidelines which specifically refers to the House of Lords.
- a clearer definition in the BBC Editorial Guidelines of terms relating to politics and political activities.

The complaint was not upheld

Finding

The Andrew Marr Show, BBC One, 7 June 2009 and Sir Alan Sugar's roles as star of BBC One's *The Apprentice* and as Government Enterprise Champion

1. The Roles

Sir Alan Sugar is the star of the BBC One factual entertainment series *The Apprentice*. It is a licensed format based on the American series of the same name which starred US entrepreneur Donald Trump. Often billed as the “job interview from hell” the programme features a group of aspiring young business people who compete for the chance to win a job as apprentice to British business entrepreneur Sir Alan Sugar. Over the series candidates are set an array of tasks designed to test different aspects of their creative and business skills. But only one can succeed. Those who fail to reach the mark are eliminated by Sir Alan with the catchphrase “You’re fired!”

In June the Government announced that Sir Alan had been appointed as the Government’s Enterprise Champion. He has also been nominated for a seat in the House of Lords. According to the Government statement posted on the No 10 website on 5 June 2009:

“Sir Alan will act as an adviser to small businesses and Government in the role, and will work closely with Small Business Minister Shriti Vadera and Trade and Investment Minister Mervyn Davis.

He is expected to give advice on how to ensure small firms and entrepreneurs make the most of the real help available from Government and other organisations. He will champion the causes of viable small companies with banks and help to ensure the voices of small firms and entrepreneurs are heard by Government, suppliers and other entities.

Areas Sir Alan may look at include access to finance, prompt payment, how to handle the downturn and how to start a new business. The post will be unpaid.”

2. The Complaint

The complainant is concerned about the impact Sir Alan Sugar’s appointment as the Government’s Enterprise Champion will have on the BBC’s political independence if he also continues to star in *The Apprentice*.

The final of the last series of *The Apprentice* aired on Sunday 7 June at 21.00 on BBC One. The sixth series of *The Apprentice* is due to air next year. Based on past scheduling this may mean it is broadcast for a twelve week run sometime between March and June 2010. This may also be the period in which the next general election is called.

The complainant wrote to the Chairman of the BBC Trust on 7 June 2009. In his letter he said that the BBC's Editorial Guidelines state "*active political involvement and commitments can give rise to conflicts of interest*" and "*questions about the impartiality of the individual, the impartiality of the area in which they work and the impartiality of the BBC.*"

He said it was hard to see how a Labour peer and Government adviser could not be considered as being actively involved in political activities and added that it was even more significant that Sir Alan would be advising the Government on exactly the same set of public policy issues which his programme, *The Apprentice*, is about.

The complainant asked for clarification on the following matters:

- BBC Editorial Guidelines state that individuals should inform their manager about any political involvement. Who at the BBC was informed about Sir Alan's potential appointment and subsequently advised him of any potential conflict of interest?
- These guidelines also state that for most people there are contractual requirements to comply with BBC rules on political activities. Is this the case for Sir Alan Sugar and if so, is he in breach of any contractual obligations?
- Was the Chief Adviser, Politics informed of the potential appointment as they should have been? If this did not happen, why not?
- What assessment has been made of the potential impact of Sir Alan's appointment in terms of the BBC's impartiality?

The complainant wrote to the Director-General on 8 June 2009 to ask for clarification about the BBC's Editorial Guidelines relating to BBC employees and political activities. In particular, he asked:

- In the absence of a specific mention in the BBC guidelines to the House of Lords would the guidelines relating to employees who are candidates for the House of Commons, European Parliament, Scottish Parliament, Welsh Assembly and local government apply if Sir Alan takes the Labour Whip in the House of Lords?
- If Sir Alan becomes a Labour peer, would the next series of *The Apprentice* be rescheduled to take into account the need for impartiality during a general election?

The Chairman, BBC Trust replied to the complainant on 9 June 2009. He said that the BBC's Director-General had primary responsibility for contractual matters and for ensuring compliance with the BBC's Editorial Guidelines and that he would be replying separately to the complainant. The Chairman stressed that he and the

Director-General were “alive” to the central importance of safeguarding the editorial independence of the BBC. He also said that the Director-General was still in the process of establishing the precise nature of Sir Alan Sugar’s role as Enterprise Champion before reaching a view on whether the role would be compatible or incompatible with Sir Alan’s continuing work for the BBC.

The Director-General replied to the complainant on 9 June 2009 and said that the BBC was in discussion with Sir Alan about the exact detail of the role he had been asked to undertake by the Prime Minister and the implications that role may have for *The Apprentice*. He added that until the BBC had clarity on the role it was premature to answer all of the complainant’s detailed questions. The Director-General also stressed that rigorous criteria would apply in judging whether Sir Alan’s role would be compatible with any ongoing BBC commitments. He said impartiality was central to the BBC’s reputation and contract with the public and it would not undertake any activity which threatened this. He said that Sir Alan had assured the BBC that he was determined not to do anything that would compromise his work at the BBC, which is something he greatly values. He added that Sir Alan also understood that any activity he undertook for the Government must not in any way damage the public’s confidence in the BBC’s impartiality and must comply with the BBC’s Conflict of Interest Guidelines. The Director-General said that in interpreting the Editorial Guidelines there were six principles which would govern any role Sir Alan might contemplate in relation to the Government. The first four stated that it would be incompatible with his BBC role to:

- serve as a minister in the Government or in any other paid Government role.
- play any direct role in formulating Government policy.
- accept a position in which it is his duty to promote or endorse Government policy.
- mix any role with elements of *The Apprentice* format.

The final two principles said that:

- If Sir Alan were to take up the offer of a peerage and sit on the Labour benches, care would have to be taken to ensure that, should he make any interventions, they were compatible with his BBC role.
- Sir Alan could offer advice on his views of business or on behalf of business to enterprise, to the Government, or to anyone else.

The Director-General wrote again to the complainant on 18 June 2009 and said that while the BBC did not believe the Enterprise Champion role was incompatible with Sir Alan’s responsibilities for the BBC, there were clear and well-defined limits on the nature of his contribution to the work of Government. Outlining these limits, the Director-General said Sir Alan could offer independent advice, as an individual or on behalf of the business community but he could not serve as a minister in the Government or take any other paid Government role. Similarly he would not attend any Cabinet or other official Government meetings except as a guest or invited attendee to give presentations or to inform debate. As a consequence Sir Alan

would not expect to be on the payroll of the Government nor claim expenses or other benefits associated with office. While he would be free to discuss his work, crucially he could not be put up for interview by any Government department in lieu of a minister or other Government representative. The Director-General gave a little more detail in relation to Sir Alan's work as an independent adviser saying he could prepare advisory material on areas of information and support for business and enterprise – for example chairing a working group. But that any such work should clearly be done on an independent basis, on behalf of business/enterprise. The Director-General reiterated that Sir Alan could not play any direct role in formulating Government policy or occupy a position which obliged him to promote or endorse Government policy.

In relation to the complainant's concern over the possibility of Sir Alan taking the Labour whip, the Director-General pointed out that many peers from either side of the House have presented or contributed to BBC programmes – including Lord Lloyd-Webber and Lord Bragg – while Boris Johnson and Ken Clarke have both presented BBC programmes. The Director-General also said that, if Sir Alan is offered a peerage and sits on the Labour benches, he would be expected to ensure that any interventions he makes are entirely compatible with his role at the BBC and do not compromise its editorial integrity and impartiality. The Director-General said that essentially this means Sir Alan could not speak on behalf of the Government in the House of Lords (although he could speak and give his opinion of Government policy and other matters) and would have to take care in choosing what topics to address during periods when his BBC programmes were transmitting or about to be transmitted.

The Director-General added that the BBC had asked Sir Alan to exercise particular care in ensuring a very clear separation between his on and off-air roles, saying Sir Alan would for example retain formal approval over any official press and publicity material about the role.

The Director-General concluded by saying that Sir Alan had agreed to the conditions wholeheartedly and that the BBC did not believe the Enterprise Champion role presented a serious risk to the BBC's impartiality or its reputation, and that the criteria agreed with Sir Alan would serve to ensure that both were effectively safeguarded.

The BBC also issued a statement on 18 June in which it said:

“Following detailed discussions with Sir Alan Sugar, the BBC is satisfied that his new role as an Enterprise Champion to the government will not compromise the BBC's impartiality or his ability to present The Apprentice. Sir Alan is not going to be making policy for the government nor does he have a duty to endorse government policy. Moreover, Sir Alan has agreed that he will suspend all public facing activity relating to this unpaid post in the lead up to and during any shows that he is presenting on the BBC. Should he be offered a peerage Sir Alan will also be free to join other peers who do work for the BBC including Lord Lloyd Webber, Lord Bragg and Lord Winston in the House of Lords.”

The complainant wrote to the Chairman, BBC Trust on 18 June 2009 to appeal the Director-General's decision and to make a number of official complaints to the BBC Trust about a breach of editorial guidelines:

- Firstly, it appeared that Sir Alan would be attending Cabinet from time to time and would therefore, in the complainant's view, be directly involved in formulating Government policy. The complainant said there was no more direct way of formulating Government policy than by attending Cabinet, presenting to Cabinet or helping inform Cabinet debates. This was simply unacceptable. Having a BBC employee informing Cabinet debates constitutes an "active political involvement and commitment" and will involve them having a "direct role in formulating Government policy". It would give rise to a conflict of interest and could have serious consequences for the BBC's political independence.
- Secondly, the complainant wished to make a specific complaint about *The Andrew Marr Show* on 7 June 2009, broadcast on the same day as *The Apprentice* final. Sir Alan appeared as a guest on the show and discussed the BBC programme and answered questions about the Government role. The complainant suggested this was a perfect example of the difficulties Sir Alan will face – by using his position as a BBC presenter of a licence fee payer funded programme to endorse the Government, he was breaking numerous rules about political independence.

Specifically the complainant raised two key questions:

- Was Sir Alan asked to go on in lieu of a Government Minister or other Government representative?
 - Was Sir Alan appearing in his role as Government Enterprise Champion or as the presenter of *The Apprentice*? Or was he mixing the two roles?
- Thirdly, on 9 June 2009 Sir Alan appeared at an Apprentice event in Gateshead designed to promote Government enterprise policies. He appeared in front of a giant poster featuring himself and the Children's Secretary, Ed Balls. The complainant believes this to be an example of Sir Alan mixing his Government role with that of *The Apprentice* format and asks whether the BBC Trust agrees.

The complainant said that Sir Alan's position was different to that of other political figures who had presented BBC programmes in the past. He referred to Boris Johnson, Ken Clarke, Lord Lloyd Webber and Lord Bragg (he pointed out that Lord Bragg was moved from his position on *Start the Week* when he received his peerage as the then Director-General saw the potential for a conflict of interest). The complainant said that Sir Alan Sugar is the first Government appointment who will

be attending Cabinet and formulating policy on the same set of issues which he presented a programme about.

The complainant then went on to raise a question about whether there had been correspondence between the Director-General's office and the Business Secretary Lord Mandelson about the Enterprise Champion role. He said he had received letters from the Director-General and Lord Mandelson on the same day, 18 June 2009, both highlighting the fact that the post of Enterprise Champion would be unpaid. He said it made no difference whether the role was paid or not as to whether Sir Alan would be an active member of the Government. He added that he had not seen a clear description of the Enterprise Champion role and suggested that to see such a description would make it easier to judge the issues he raised in his complaint. He therefore urged that the exact nature of the role be investigated.

Finally, the complainant repeated a series of questions he had posed in his letter to the Chairman, BBC Trust dated 7 June 2009.

The Secretary to the Editorial Standards Committee (ESC) replied to the complainant on 23 June 2009 advising that the matters raised by the complainant would be put to the ESC subject to the issue of *The Andrew Marr Show* first being considered by the BBC Executive. He outlined the process and timetable for handling the appeal.

The complainant wrote to Secretary, ESC on 24 June 2009 confirming that he agreed to the process set out for appealing the complaint.

On 25 June 2009 the complainant sent by email a word document entitled "Enterprise Champion role" and dated 22 June 2009, to the Secretary, ESC. He referred to it as a Government document outlining Sir Alan Sugar's job. He said "this Government note states that Sir Alan 'will raise awareness among entrepreneurs and businesses about the practical help that is available from Government'." The complainant said that this contradicted the rule set out in the Director-General's letter of 9 June which said that "He (Sir Alan) should not accept a position in which it is his duty to promote or endorse Government policy". He asked that this document be considered as part of his complaint.

The Chairman of the BBC Trust wrote to the complainant on 25 June 2009 confirming he was aware the ESC had been in touch with the complainant and that the BBC Trust's ESC would be entertaining the appeal.

On 26 June 2009 the Secretary, ESC provided the complainant with further information about the appeal process.

The Director-General wrote to the complainant in a letter dated 26 June and which was sent by email on 29 June 2009. He addressed the complainant's concerns about *The Andrew Marr Show*. The Director-General said that he understood:

- Sir Alan was not asked to appear in the programme in lieu of a Government minister or other Government figure.
- At the time he appeared on the programme Sir Alan had not formally accepted any role offering advice to the Government that went beyond his previous engagements and that he was still in discussion with the BBC over the nature of the position and the terms under which the BBC would consider any role compatible with his position on *The Apprentice*. It would not therefore have been possible for him to appear as Government Enterprise Champion. The programme captioned Sir Alan as “Businessman and Television Personality”.
- Andrew Marr specifically questioned Sir Alan on the nature of his new position and asked him if the appointment was not in fact a “publicity stunt”. The Director-General added that he could not agree that a robust quizzing on the nature of an individual’s involvement with Government amounted to an opportunity for unchallenged endorsement of Government policy.

The Director-General concluded by saying that the BBC Executive was satisfied that Sir Alan’s appearance on *The Andrew Marr Show* did meet the standards expected of presenters and talent.

The complainant wrote to the Secretary, ESC on 6 July 2009 and lodged an appeal about the Director-General’s decision about Sir Alan Sugar’s appearance on *The Andrew Marr Show* on 7 June 2009. In his email the complainant said that the Director-General stated that he understood Sir Alan was not asked to appear in lieu of a Government minister or Government representative. He said he would like this to be confirmed as he had no evidence that it was the case. In addition the complainant said the Director-General understood that at the point of appearing on the show Sir Alan had not formally accepted any role offering advice to the Government. The complainant referred to the Government press release dated Friday 5th June 2009 which read – “*Sir Alan Sugar has been appointed as the Government’s Enterprise Champion*” and said he failed to see how Sir Alan Sugar was not the Government’s Enterprise Champion on 7th June, two days after it was announced that he was. He therefore said his original question had not been answered. Was Sir Alan Sugar appearing as the Government’s Enterprise Champion or as the presenter of *The Apprentice*? Or was he mixing the two roles? He concluded by saying that as his initial complaint had not been dealt with adequately he had no choice but to appeal the decision to the BBC Trust.

3. Applicable editorial standards

BBC Editorial Guidelines

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:

- 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.

BBC Editorial Guidelines

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.
- 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.

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.

Conflicts of Interest Guidelines (revised 20 January 2004) – available at bbc.co.uk/editorialguidelines/advice

Section One – General

The BBC's reputation for impartiality and objectivity is crucial. The public must be able to trust the integrity of BBC programmes and services. Our audiences need to be confident that the outside activities of our programme makers or presenters do not undermine the BBC's impartiality and that editorial decisions are not influenced by any commercial or personal interests.

Conflicts of interest can arise for anyone who appears on air or has responsibility for the content of a programme or service or associated activity. Presenters, reporters, producers, editors and researchers are all affected. There may be particular sensitivities concerning on-air talent...

When drawing up contracts for presenters, freelancers and production staff, the provisions of these guidelines should be taken into account.

Freelance presenters, reporters, producers and researchers will be required to declare any personal interests which may affect their work with the BBC.

Section Two – Maintaining Impartiality

2.4 Other programming

In all [other] areas it is essential that programme makers and on-air talent do not undermine their own integrity and the integrity of their programmes by off-air involvement in inappropriate activities or commercial interests.

Section Four – Political Activities

Some individuals wish to become involved in political activity and they will be free to do so when it is consistent with the nature of their work for the BBC and the BBC's public service obligations. Political activity is not acceptable if it is likely to compromise the BBC's impartiality or undermine public confidence in the BBC. Judgements about what is acceptable will reflect individual circumstances and advance discussion with managers is vital.

Staff should declare any active political involvement on the Declaration of Personal Interest form. In some cases it will also be appropriate to declare the political activities of close family members.

The Chief Political Adviser is responsible for providing advice to individuals and to Divisions in order to ensure fairness and consistency in dealing with these matters.

4.1 Levels of Political Involvement

Anyone is entitled to be a member of a political party or organisation. However, active political involvement and commitments can give rise to conflicts of interest for

people who are involved in programme making or have any editorial responsibilities in any BBC service, particularly if they deal with political or public policy issues.

Active political involvement can give rise to questions about the impartiality of the individual, the impartiality of the area in which they work and the impartiality of the BBC. Individuals should inform their manager about any political involvement so that it can be fully considered in the light of the guidance below. If individuals or managers have any doubts they can seek advice from the Chief Political Adviser.

There are three general considerations:

- the level of political involvement
- the nature and level of the individual's job
- the extent of involvement in editorial decisions, programme making and/or BBC policy.

In any individual case it will be necessary to consider:

- whether they are known to the public or whether their contribution is acknowledged on-air or on-line during the course of a programme or through beginning or end credits
- the level of the individual's political involvement at national or local level:
 - being publicly identified as a candidate or prospective candidate for a parliamentary assembly or local authority election; no matter that the date of the election is not confirmed;
 - holding office in a party political organisation which impacts on party politics as it affects elected bodies;
 - speaking in public on matters of political controversy and matters of controversial public policy;
 - expressing views on matters of political controversy and matters of controversial public policy in books, articles, leaflets and letters in the press;
 - canvassing on behalf of a political party or candidate for election
 - promoting a partisan view on an issue put to local or national referendum
- the nature and level of their work. In some cases, if they wish to maintain their level of political activity, it may be necessary to move them to a less sensitive position
- the type of programme. News and current affairs programmes for international, national, regional and local output are subject to the most stringent tests of impartiality. For more general output considerations will be less stringent but the managers will consider the implications for those in more senior editorial roles, those involved in presentation and those who are or might become known to the public.

The following Conflict of Interest Guidelines do not apply in this case as Sir Alan Sugar is not a candidate. They are included here as a point of information.

4.2 Elections ...

- Presenters and regular contributors who are candidates for elections should not appear in any programmes in their normal programme roles during election campaigns or when elections they are involved in are imminent. This avoids unfair publicity for them at a critical time. They may of course appear as candidates under the usual election guidelines (see BBC Election Guidance)
- Outside election periods, the BBC will not discriminate against politically active people on the grounds that they gain publicity from working for the BBC. The appropriateness of a role will be dependent solely on whether there is a conflict of interest with programme making or policy making responsibilities.

BBC Editorial Guidelines

Section 10 – Politics and Public Policy

Principles of political impartiality

- We must not campaign, or allow ourselves to be used to campaign.

4. The Committee's decision

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

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 BBC Executive and the complainant.

This appeal raised issues requiring consideration of the editorial guidelines relating to Political Impartiality, Editorial Integrity and Independence and, particularly, Conflict of Interest.

The Committee acknowledged that *The Apprentice* is a factual entertainment show which does not deal with matters of public policy or of political or industrial controversy. The Committee agreed that the show was in effect a reality show where candidates undertake tasks and compete against each other to avoid being removed from the series by Sir Alan. The tasks are profit orientated but the tension in the show largely revolves around the personalities of the contestants and their behaviour as they compete to avoid being fired. It does not deal with business policy or business current affairs. This means that editorial and conflict of interest guidelines applying to news and current affairs programmes, and programmes dealing with matters of public policy or of political or industrial controversy and presenters of such programmes are not directly applicable in relation to this complaint.

However, the Committee noted that the BBC Editorial Guidelines are not written for every eventuality and do not specifically deal with the appointment of a key BBC One entertainment talent to the role of Government Adviser in combination with a nomination for a peerage. It also noted that few guidelines directly apply to on-air talent and agreed that a number of other less specific guidelines (some of which are primarily targeted at news and current affairs programmes and editorial staff) are more broadly relevant to this complaint because they are designed to protect the BBC's impartiality, integrity and independence.

The Committee considered that the spirit of the guidelines was of the utmost importance and that it should not apply the guidelines too literally and restrictively, thereby missing something more fundamental. Nevertheless, it concluded that the guidelines as a whole did comprise sufficient advice to allow it properly to judge the issues raised by the Complainant. The Committee's determinations are therefore based on the specific guidelines applicable in this case, as well as reflecting the spirit of the guidelines which are intended to protect the BBC's reputation and particularly its independence, integrity and impartiality.

The Committee noted that in relation to conflicts of interest the BBC Editorial Guidelines acknowledge that "*there may be particular sensitivities concerning the activities of on air talent.*"

It also noted that the only specific section in the Conflict of Interest Guidelines that deals with programmes like *The Apprentice* appears in Maintaining Impartiality and says:

2.4 Other programming

In all [other] areas it is essential that programme makers and on-air talent do not undermine their own integrity and the integrity of their programmes by off-air involvement in inappropriate activities or commercial interests.

The Committee noted the following as relevant context for the consideration of this complaint:

- *The Apprentice* is commissioned by the Entertainment Department of the BBC and is categorised as a factual entertainment programme alongside such shows as *Dragons' Den*, *Ready Steady Cook*, *Celebrity Masterchef* and *Mary Queen of Shops*.
- *The Apprentice* is not a serious factual programme. It is not a finance programme and does not deal with business policy issues. It is not a news or current affairs programme and it does not deal with matters of public policy or of political or industrial controversy.
- Sir Alan Sugar was invited to star in the BBC's version of *The Apprentice* because of his pre-existing non-BBC professional status as a well-known British businessman and entrepreneur.
- It was part of the BBC licensing deal that the programme was called *The Apprentice* – the title already used in America.

- Sir Alan Sugar's activities in relation to advising Government on business matters had been ongoing for some time before the announcement of his Enterprise Champion role. They included his recruitment to the Government's Business Council for Britain in 2007 where he advised Gordon Brown on issues affecting enterprise, business and the long-term productivity and competitiveness of the economy. Sir Alan Sugar's commitment to youth and new talent has also been established over a number of years and he is well known for his support of business apprenticeships and for nurturing entrepreneurship. It is also well documented that he has advised both Conservative and Labour Governments, that he worked with Prime Ministers Thatcher and Blair and now Gordon Brown, and that he has made at least one donation to the Labour party.

The Committee also noted various other facts and observations which it judged affected the context in which this complaint should be considered. They were that:

- A general election to elect a new parliament must be held no later than Thursday 3 June 2010 which means the BBC is now operating in an increasingly sensitive political environment.
- Politics has changed, with many more professional people being asked to perform roles as advisers to the Government.
- The nature of entertainment programmes has changed, with many now dealing with factual subjects including business, housing and bringing up children.
- Television has changed with leading businessman and other people known for a specific professional expertise and prominence now hired to front factual entertainment programmes.

The Committee agreed there were six elements to the complaint that required consideration. The six elements were:

- The announcement
- Sir Alan Sugar's role as Government Enterprise Champion and (future) peer
- Sir Alan Sugar's appearance on *The Andrew Marr Show*
- Sir Alan Sugar's involvement with the National Apprenticeship Service and in particular his attendance at the Gateshead event
- Public confidence in the BBC
- Safeguarding public confidence in the BBC

1) The Announcement

Background

The Committee noted that the Executive was informed about Sir Alan Sugar's potential appointment as Government Enterprise Champion and nomination as a Labour peer, and that the Executive advised him in relation to potential conflicts of interest. Sir Alan contacted the Director of Vision (Director Vision) by email on

Thursday 4 June 2009, shortly before 16.00 asking her to call him. Director Vision's initial advice to Sir Alan was that a ministerial brief or any ministerial role was out of the question. By 21.00 the Director of Editorial Policy and Standards (Director Editorial Policy) was providing detailed advice and guidance on guidelines issues. Chief Adviser, Politics was consulted and advised both the Director Editorial Policy and Director Vision at various times.

The Committee noted that the Government announced Sir Alan's appointment as Enterprise Champion on Friday 5 June 2009 and that at that time there was much confusion about the precise nature of the role. The media began referring to Sir Alan as the Government's "Enterprise Tsar" and at one stage the impression being given was that Sir Alan had accepted a ministerial job in the Government. On the same day as the announcement the BBC prepared a line for press queries: "*Sir Alan is in discussions with us about his plans. He hasn't yet agreed details of what he's going to do. But Sir Alan has assured us that he is determined not to do anything that would jeopardise his work at the BBC.*" On Friday evening Sir Alan also issued his own statement:

"I'm pleased to be continuing my role in promoting and championing British business and entrepreneurship at a time when the country needs it most. There has been a lot of speculation around this announcement and I would like to take this opportunity to clarify matters. The role is in an advisory capacity only and is not a ministerial appointment. I will not be claiming any salary or expenses and I will have no direct control over Government policy. As loyal as I am to Gordon Brown, I am equally loyal to the BBC, and before this announcement was made I consulted with them to assure them that, as ever, I have no intention of doing anything that would compromise their policy guidelines."

The Committee noted that the Government's announcement on 5 June 2009 was made before Sir Alan was able to have detailed face to face discussions with the Executive about the exact nature of the Government role as Enterprise Champion and whether it, or his nomination as a Labour peer, posed a conflict of interest with his BBC role as star of *The Apprentice*.

The Committee also noted that discussions continued between Sir Alan and the BBC over the weekend of 6/7 June culminating in a face to face meeting between Sir Alan, his legal representative and members of the Executive on Wednesday 10 June. He confirmed to that meeting that, contrary to the Government's announcement the previous Friday, he had not formally accepted any post. The following day Director Editorial Policy sent an email to Sir Alan Sugar which summarised the outcome of the previous day's discussions. It took the form of a covering letter and a formal agreement entitled: Sir Alan Sugar: "Enterprise Champion".

The Committee noted that the Head of the Director-General's Office had confirmed to the editorial adviser to the Committee that "*there has been no communication - either written or verbal - between the Director-General's Office and the Government about Sir Alan Sugar's proposed role as the Government's Enterprise Champion*".

Considerations

First, the Committee considered whether the Executive acted appropriately in relation to the rapidly unfolding story about the Government's approach to Sir Alan Sugar and the offer of a role as Enterprise Champion and a Labour peerage. It noted that the complainant had asked various questions in relation to this including:

- “Who at the BBC was informed about Sir Alan’s potential appointment and subsequently advised him of any potential conflict of interest?”
- “Was the Chief Adviser, Politics informed of the potential appointment as they should have been? If this did not happen, why not?”

A conflict of interest guideline says that:

“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.”

“When drawing up contracts for presenters, freelances and production staff, the provisions of these guidelines should be taken into account.”

“Freelance presenters, reporters, producers and researchers will be required to declare any personal interests which may affect their work with the BBC.”

The Committee noted that the complainant had asked:

- that for most people there are contractual requirements to comply with BBC rules on political activities. Is this the case for Sir Alan Sugar and if so, is he in breach of any contractual obligations?

The Committee noted that the Executive did not consider Sir Alan as a presenter but as the star of an entertainment show. The Committee also noted that the Executive and Sir Alan treat their contractual arrangements as strictly confidential. No copies of any contract were provided to the Committee, however, a legal adviser for the Trust reviewed the relevant contractual provisions and confirmed that appropriate safeguards were in place.

The Committee confirmed that in its view contractual issues were a matter for the Executive. The Committee would address the issue by considering whether or not Sir Alan had declared these matters to the BBC and therefore whether the intention of the editorial guidelines had been complied with.

The Committee noted that Sir Alan had himself contacted the BBC requesting guidance on a possible role with the Government and had therefore complied with this conflict of interest guideline requiring the declaration of any personal interests or relationships which may affect an individual’s BBC work. It saw evidence that very senior editorial figures in the BBC were involved in giving Sir Alan advice. First, the Director Vision had made it clear to Sir Alan at an early stage that any ministerial

brief or ministerial role would be incompatible with presenting *The Apprentice*. Then the Director Editorial Policy and Standards followed with more detailed advice. Communication of advice and guidance to Sir Alan was ongoing throughout this period. The Chief Adviser, Politics was also consulted and advised both the Director Editorial Policy and Director Vision at various times.

The Committee was satisfied that despite the tight time frame Sir Alan Sugar had properly raised the issue of his potential conflict of interest and had discussions with and received advice from very senior managers in the Executive who dealt with the matter properly and with speed. It was also satisfied that Sir Alan Sugar's acceptance of the Government Adviser role on 5 June 2009 was conditional on his consulting with the BBC about how to deal with the potential impact on his BBC role as star of *The Apprentice*.

2) Sir Alan Sugar's Role as Government Enterprise Champion and (future) peer

The BBC Editorial Guidelines section 13 Editorial Integrity and Independence say:

“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.”

In the Conflict of Interest Guidelines referred to above the maintaining impartiality section which refers to other programming (that is, other than news and current affairs, serious factual and consumer or lifestyle) says:

In all other areas it is essential that programme makers and on-air talent do not undermine their own integrity and the integrity of their programmes by off- air involvement in inappropriate activities or commercial interests.

And in section four Political Activities it says:

“Some individuals wish to become involved in political activity and they will be free to do so when it is consistent with the nature of their work for the BBC and the BBC's public service obligations. Political activity is not acceptable if it is likely to compromise the BBC's impartiality or undermine public confidence in the BBC. Judgements about what is acceptable will reflect individual circumstances and

advance discussion with managers is vital.... The Chief Political Adviser is responsible for providing advice to individuals and to Divisions in order to ensure fairness and consistency in dealing with these matters.

The guidelines go on to say that “*Active political involvement and commitments can give rise to conflicts of interest for people who are involved in programme making or have any editorial responsibilities in any BBC service, particularly if they deal with political or public policy issues.*

Active political involvement can give rise to questions about the impartiality of the individual, the impartiality of the area in which they work and the impartiality of the BBC. Individuals should inform their manager about any political involvement so that it can be fully considered in the light of the guidance below. If individuals or managers have any doubts they can seek advice from the Chief Political Adviser.

There are three general considerations:

- *the level of political involvement*
- *the nature and level of the individual’s job*
- *the extent of involvement in editorial decisions, programme making and/or BBC policy.... . For more general output considerations will be less stringent but the managers will consider the implications for those in more senior editorial roles, those involved in presentation and those who are or might become known to the public”.*

The Committee noted that the guidelines outlined above are primarily directed at editorial staff rather than on-air talent of an entertainment programme such as *The Apprentice*. Nevertheless, the Committee thought the guidelines offered a useful template in relation to assessing the risk to the BBC’s impartiality, integrity and independence in this case. The Committee noted three stages it would follow in its consideration of the complaint:

1. Did Sir Alan's prospective role as Enterprise Champion and the nomination for a peerage constitute active political involvement or commitment? If so what was the level of political involvement?
2. Did this create a potential conflict of interest?
3. If so how was the risk managed?

Following these three stages the Committee agreed that:

1. Sir Alan Sugar’s prospective roles as Enterprise Champion and (future) peer did constitute an “*active political involvement and commitment*”.
2. The BBC’s on air talent on Entertainment shows have an off air life in which they may sometimes express strong political views but when doing so they are expected to avoid bringing the BBC into disrepute.
3. The BBC faces a particular risk in Sir Alan Sugar’s case because of the way the public perceives the BBC’s impartiality, integrity and independence. In the public’s eye Sir Alan is now both an iconic figure, a key part of the BBC brand as star of *The Apprentice*, but he is also a political figure with two political roles as Government Adviser and Labour peer. His role as

- Enterprise Champion means he is now formally associated with the Labour Government and as a Labour peer he will sit in the legislature. The risk that the BBC's impartiality, integrity and independence will be compromised and/or public confidence in the BBC will be undermined is therefore greater in respect of Sir Alan Sugar than for other comparable BBC on-air talent.
4. The Committee also agreed that the risk to the BBC in relation to its impartiality, integrity and independence is heightened because of the timing of the appointment and political climate. The Committee noted that the current Parliament will cease to exist at midnight on Monday 10 May 2010 and that a general election to elect a new one must be held no later than Thursday 3 June 2010. It agreed that the combination of Sir Alan's roles as star of a BBC entertainment show, Government Adviser and peer with the closeness to the next general election poses a greater than normal risk to the impartiality, integrity and independence of the BBC in relation to the broadcasting of *The Apprentice* and *Junior Apprentice* next year. The sensitivity of the environment will continue to increase as the possible date for a general election comes closer.
 5. Even accepting that Sir Alan Sugar's role as Enterprise Champion and his nomination for a peerage do constitute "*active political involvement and commitment*" and even accepting that there are risks to the public perception of the BBC's impartiality, integrity and independence in this case, the Committee was of the view that these two factors do not lead to an actual conflict of interest with his role as star of *The Apprentice* as long as the safeguards put in place by the Executive are strictly observed. These safeguards are detailed in the Director-General's letters to the complainant of 9 and 18 June 2009 and some of them were highlighted in a briefing on 18 June by the Head of Communications, BBC One and Drama to the Press Association, Media Guardian, Ariel, BBC News and the Daily Mail at the same time as it was confirmed that Sir Alan Sugar would be continuing in his role as the star of *The Apprentice*.

The Committee carefully considered the Executive's safeguards and reiterated that the public's perception of the BBC's impartiality, integrity and independence is a very important factor in this matter because Sir Alan Sugar is now perceived to be both a BBC star and a political figure. For the avoidance of any doubt the Committee decided to set out its understanding of some of the Executive's safeguards relating to Sir Alan Sugar's public facing activities and the tests to be used in the future to judge whether any of his public facing activities as Enterprise Champion and Labour peer when linked to his on-air role as star of *The Apprentice* compromised the BBC's impartiality, integrity or independence.

The Committee therefore noted the principle of political impartiality detailed in section 10 of the BBC Editorial Guidelines which says:

"We must not campaign, or allow ourselves to be used to campaign."

The Committee agreed that it did not wish to, nor did it have reason to, impose restrictions on Sir Alan Sugar's ability to undertake his role as Enterprise Champion

and advise the Government on appropriate matters in private. And it did not wish to restrict his democratic right to address colleagues in the House of Lords in his role as a Labour peer. However, it agreed that in view of the proximity of the next general election it was important to spell out various aspects of Sir Alan Sugar's public facing role as Enterprise Champion and Labour peer which have the potential to be perceived by the public as campaigning on behalf of the Government and which should therefore be avoided from now on.

The Committee indicated that its understanding of the meaning of the campaigning guideline in association with the Executive's safeguards, means that while under contract to the BBC Sir Alan Sugar must not:

- Campaign or lobby on behalf of the Government. This would include encouraging people to vote for one party over another and endorsing Government policy on a public platform, such as attending a press briefing with Government Ministers on policy issues.

Additionally:

- to the extent that he has control over the use of his own image, Sir Alan should exercise that control to ensure his image is not used to campaign or for campaigning material.

The Committee agreed that in its view these safeguards should also include the additional understanding that Sir Alan would not criticise other political parties

The Committee also addressed the issue of whether Sir Alan Sugar's possible attendance at Cabinet in his role as Enterprise Champion meant he would have a "direct role in formulating Government policy" as suggested by the complainant and which the complainant also said would give rise to a conflict of interest with serious consequences for the BBC's political independence.

The Committee agreed that the Executive could not be expected to police Sir Alan's meeting with ministers and recognised that it had given clear advice about the circumstances in which it would be appropriate for him to attend Cabinet in this context. It agreed that while Sir Alan might perform "a role" in formulating Government policy this would always be an "indirect role" if Sir Alan honours the safeguards put in place by the Executive in the way he has agreed. The safeguards relating to his possible attendance at Cabinet say: "*Sir Alan could offer independent advice, as an individual or on behalf of the business community but he could not serve as a Minister in the Government or take any other paid Government role. Similarly he would not attend any Cabinet or other official Government meetings except as a guest or invited attendee to give presentations or to inform debate. As a consequence Sir Alan would not expect to be on the payroll of the Government nor claim expenses or other benefits associated with office. While he would be free to discuss his work, crucially he could not be put up for interview by any Government Department in lieu of a Minister or other Government representative.*"

The Committee then considered whether the fact that as Enterprise Champion Sir Alan Sugar “will raise awareness among entrepreneurs and businesses about the practical help that is available from Government and other sources” amounted to promoting or endorsing Government policy as suggested by the Complainant. The Committee determined that it did not view this aspect of the role as promoting or endorsing Government policy and agreed with the Executive that it amounted to drawing attention to information already in the public domain, from all sources, including Government.

3) Sir Alan Sugar’s appearance on *The Andrew Marr Show*, Sunday 7 June 2009

The Committee noted that this was a sixty minute programme broadcast on BBC One at 9.00am on Sunday 7 June 2009. It was presented by Andrew Marr, former BBC Political Editor. The programme included a review of the Sunday newspapers, weather forecast, news bulletin and live interviews with Sir Alan Sugar, environmental campaigner Charles Clover, Labour MP Nick Raynsford, Shadow Foreign Secretary William Hague MP and Business Secretary Lord Mandelson.

The Committee considered the evidence before it in relation to the complaints about *The Andrew Marr Show*. It noted that Sir Alan was not asked to appear on *The Andrew Marr Show* in lieu of a Government minister or Government representative. A producer working on *The Andrew Marr Show* emailed a bid for a live interview with Sir Alan Sugar for that Sunday’s programme (7 June 2009). The bid was made directly to Sir Alan Sugar’s PR team at Amshold at 11.34 on Friday 5 June 2009. The bid requested a one-to-one interview about Sir Alan’s new role with Andrew Marr, lasting about six minutes. In addition it made it clear that other guests would include a senior Cabinet minister, although at that time the Marr team had not cleared who that was to be. A member of Sir Alan Sugar’s PR team confirmed by phone on Saturday evening that he would appear on the programme.

The Committee was satisfied that Sir Alan Sugar had not been asked to appear on the programme in lieu of a Government minister or other Government figure and noted that Lord Mandelson had been interviewed in that capacity on the programme. The Committee also noted the comments made by the complainant and the Executive about whether or not Sir Alan Sugar had actually formally agreed on the role that had been announced by the Government on Friday 5 June 2009 at the time of his interview on *The Andrew Marr Show*. However, it did not believe this raised any guideline issues of impartiality, integrity or independence as it considered that as a high profile personality who was in the news it was editorially justified and appropriate for Sir Alan Sugar, as a man in effect wearing three hats, to be interviewed about his appointment as Enterprise Champion, his nomination to a Labour peerage and about the final of *The Apprentice* to be broadcast that night. It also agreed that the public had a right to hear him talk about how he viewed his role as Enterprise Champion and his nomination for a peerage and the BBC had a right to challenge him about his role and his work for the BBC. The Committee noted that he was captioned as “Businessman and Television Personality”.

4) Sir Alan Sugar's involvement with the National Apprenticeship Service and in particular his attendance at the Gateshead event

Background

The Committee noted that the National Apprenticeship Service (NAS) was announced in January 2008 and officially launched in April 2009. According to its website it was established to drive forward the Government's ambition for Apprenticeships and aims to bring about a significant growth in the number of employers offering Apprenticeships. Sir Alan Sugar fronted the Apprenticeships TV advert saying "apprentices make things happen". The advert was supported by press, radio and online advertising during February and March 2009.

It also noted that Sir Alan Sugar was invited to head up a campaign for the NAS in November 2008. He agreed to front a national press and television campaign and to talk to prospective employers at four events in England about his views on the value of apprentices to British businesses, for no fee. In March 2009 he attended seminars in London, Leeds and Birmingham. The fourth, in Gateshead, was delayed and took place on 9 June 2009 where Sir Alan addressed 370 employers. He shared a platform with the Secretary of State for Children, Schools and Families – Ed Balls. The Committee noted that this event marked the end of Sir Alan's relationship with the National Apprenticeship Service.

The Committee noted that Sir Alan Sugar did not consider that the TV advert and public appearances at the four NAS events required prior written consent from the BBC. It also noted that the Executive was aware of Sir Alan Sugar's relationship with the NAS and that the Executive's view was that Sir Alan would not have required written consent for his involvement as it would only have been entitled to withhold its approval if, in its reasonable opinion, the proposed activity would have undermined the editorial integrity and independence of the programme or diminished the value of Sir Alan's exclusivity to the BBC. The Committee also noted that the press notes accompanying the last series of *The Apprentice* included a reference to Sir Alan's work in this area. The press notes said:

"He is currently working with the Rt Hon Ed Balls MP, Secretary of State for Children, Schools and Families, and the Rt Hon John Denham MP, Secretary of State for Innovation, Universities and Skills, to front a campaign promoting the benefits of apprenticeships."

The Committee noted that Sir Alan Sugar agreed to undertake the work for the NAS in good faith and because of his long standing and personal interest in the value of apprenticeships to UK businesses. It also noted that: in November 2008 he had not been appointed as Government Enterprise Champion; whilst parties had different plans for promoting apprenticeships there was nonetheless broad cross-party support for promoting the value of apprentices to UK businesses; the value of apprenticeships was not generally regarded as a controversial public policy issue; and at that stage a general election was still possibly as much as eighteen months away.

The Committee nevertheless concluded that it regarded this work for the NSA as political activity which should have been formally referred by Sir Alan Sugar to the appropriate editorial figure at the BBC and gained their consent. It agreed with the complainant that there was an issue here but that it was not an example of Sir Alan mixing his government role with that of *The Apprentice* format. The Committee noted that the format of *The Apprentice* was not used at the Gateshead event; that Sir Alan's speech to business people in Gateshead had not advocated Government policy; and that it was very unfortunate the event had been delayed from March as it had originally been planned that this event would have taken place long before the transmission of *The Apprentice* final on 7 June 2009.

The Committee agreed that once the Executive was aware of Sir Alan Sugar's role with the NAS it should have reviewed the political activity to satisfy itself that the work did not in any way risk damaging the impartiality, integrity or independence of the BBC or the integrity of Sir Alan himself. The Committee confirmed it had not seen any evidence that such an evaluation process was carried out or whether any kind of verbal or written permission had been granted to Sir Alan at any stage which formally allowed him to do the work.

The Committee referred again here to the Conflict of Interest guidelines on the BBC website, particularly the guidelines which say:

“Active political involvement can give rise to questions about the impartiality of the individual, the impartiality of the area in which they work and the impartiality of the BBC. Individuals should inform their manager about any political involvement so that it can be fully considered in the light of the guidance below. If individuals or managers have any doubts they can seek advice from the Chief Political Adviser. There are three general considerations:

- *the level of political involvement*
- *the nature and level of the individual's job*
- *the extent of involvement in editorial decisions, programme making and/or BBC policy.... For more general output considerations will be less stringent but the managers will consider the implications for those in more senior editorial roles, those involved in presentation and those who are or might become known to the public”.*

The Committee felt that although a literal interpretation of these guidelines did not apply in Sir Alan's case, because he is the star of a factual entertainment programme and not a member of staff, it was nevertheless desirable to apply the spirit of these guidelines.

The Committee therefore agreed that Sir Alan Sugar's off-air work with the NAS was a political activity which should have been declared, because of Sir Alan's high media profile and the public perception of the closeness and possibly even overlap of subject area between the National Apprenticeship Service and *The Apprentice* programme – a public perception which the Committee agreed was largely misplaced but a perception which in its view still existed.

The Committee believed that if the political activity had been referred, the Executive could have assessed whether or not it posed any risk in terms of a conflict of interest with Sir Alan's on-air role as the star of *The Apprentice* or to the BBC's impartiality or reputation. It would also have allowed the Executive to seek advice from the Chief Adviser Politics if required.

The Committee agreed that, on balance, Sir Alan Sugar's off-air work with the NAS had been acceptable political activity within the spirit of the BBC's guidelines because promoting apprenticeships had broad cross-political support; the value of apprenticeships was not generally regarded as a controversial public policy issue and that nothing Sir Alan had said or done in Gateshead had undermined the BBC's impartiality or damaged the integrity of a future series of *The Apprentice* or the integrity of Sir Alan Sugar himself. Sir Alan had not been campaigning on behalf of the government.

However, the Committee expressed concern about the implications of this aspect of the complaint in relation to the BBC's compliance procedures now and in the future.

It noted that the safeguards put in place by the Executive in relation to Sir Alan Sugar's role as Government Enterprise Champion and Labour peer and detailed in the Director-General's letters to the complainant of 9 and 18 June 2009 put the onus on Sir Alan Sugar himself to recognise and refer all the issues that could pose a risk to the BBC's impartiality, integrity and independence and to Sir Alan's own integrity.

It also noted that senior editorial figures, to whom such referrals are made, particularly in programme areas other than news and current affairs, are not always sufficiently versed in the issues that can arise in the relationship between politics and broadcasting so as to enable them to recognise potential risks in relation to impartiality, integrity and independence, or to recognise when they should be referred to Editorial Policy or to make the necessary judgements about how they should be managed. It considered that when on air talent made a referral in the future advice should always be sought from Editorial Policy. It also noted that any such referrals needed to be documented.

The Committee noted that an increasing number of BBC factual entertainment shows had engaged talent from professional spheres, including business, finance, property development, and restaurants which had resulted in their gaining a high media profile for both their on-air and off-air work. It warned that there was an increased potential for perceived and actual conflicts of interest in relation to this talent and also to the impartiality, integrity and independence of the BBC.

The Committee concluded that although the precise guidelines did not apply to Sir Alan, had they done so a breach would have occurred as advice had not been sought or given and written permission had not been obtained. Once it was aware of Sir Alan's involvement, the Executive should have assessed the implications for the BBC's impartiality and for public perceptions of the BBC's impartiality; it should have

taken appropriate advice from the Chief Adviser Politics and/or his department head, the Director, Editorial Policy; it should have kept careful records of its deliberations and discussions with Sir Alan; and it should have learned appropriate lessons for the future.

5) Public confidence in the BBC

The Committee considered that there was a period immediately following the Government's announcement on Friday 5 June 2009 about Sir Alan's appointment as the Government's Enterprise Champion when public confidence in the BBC may well have been undermined. At this time there was a lack of clarity about the precise nature of the role. Initially it appeared that Sir Alan had agreed to join the Government and both the press and broadcast media reported that he was the Government's Enterprise Tsar. The story was unfolding up to and following the broadcast of *The Apprentice* final at 21.00 on Sunday 7 June 2009. Although both the BBC and Sir Alan issued public statements on Friday 5 June to try and clarify the situation this did not succeed in correcting the misleading story that was being reported externally and which may well have influenced the public's perception that Sir Alan's appointment and nomination for a peerage did pose a significant risk to the BBC's impartiality, integrity and independence.

The Committee agreed that the situation was resolved when the Executive announced the safeguards it had agreed with Sir Alan Sugar about his new roles which had been put in place to ensure the BBC's impartiality, integrity and independence.

The Committee did not believe the BBC was brought into disrepute at any stage or currently.

6) Safeguarding public confidence in the BBC

The Committee was aware that the complainant had asked if the next series of *The Apprentice* would be rescheduled to take into account the need for impartiality during a general election. The Committee noted that, although the complainant had not mentioned it, there would also be a series called *Junior Apprentice* which would also star Sir Alan Sugar.

The Royal Charter and the Agreement between the BBC and the Secretary of State for Culture, Media and Sport of 2006 set out the division of the BBC's roles and responsibilities between the Trust and the Executive.

In the context of editorial matters, the Trust's responsibility is to set standards and secure compliance with the rules and guidelines regarding impartiality included within the BBC Editorial Guidelines. The Executive is responsible for the direction of the BBC's editorial and creative output.

In the Committee's view, scheduling is primarily an editorial and creative matter and the decision as to when *The Apprentice* and *Junior Apprentice* will be scheduled rests

with the Executive. That said, the Committee considered that if scheduling issues call into question the impartiality of the BBC they become a matter for the Trust also.

Within this framework the Committee reached the following conclusions:

The Committee noted that there is a prohibition on those who are presenters or regular contributors, who are candidates for election, appearing on the BBC in their normal programme roles during the Election period (for a general election this is the period between the dissolution of Parliament and when a general election takes place) or when an election is imminent. The Committee noted that this is to prevent a candidate gaining unfair publicity at a critical time at the expense of other candidates in a constituency. They were satisfied this did not apply to Sir Alan who is not a candidate.

The Committee considered that the complainant was raising an issue which for the Committee could be expressed in two ways:

- Was there a risk of the Labour Party gaining unfair publicity at a critical time if *The Apprentice* and/or the *Junior Apprentice* were to be scheduled during the Election Period for the next general election or when the next general election was imminent?
- Was there a possibility that broadcasting *The Apprentice* and/or the *Junior Apprentice* at this time is likely to compromise the BBC's impartiality or undermine public confidence in the BBC?

The Committee noted that the general election will occur within the next eleven months. It further noted that the choice of Sir Alan as Enterprise Champion, government adviser and peer (who is expected to take the Labour whip) presented the Executive with a unique set of circumstances. In the Committee's view there is a risk that broadcasting *The Apprentice* and/or *Junior Apprentice* when the next general election is imminent or during the Election Period for the next general election would be likely to compromise the BBC's impartiality and/or undermine public confidence in the BBC. This is because the role Sir Alan has chosen to take in relation to the present government could lead the public to view his presence on screen during an election campaign as undue or unfair publicity for the Labour Party.

The Committee concluded that when the Executive determines when to schedule *The Apprentice* and *Junior Apprentice* it must give due consideration to the implications of showing the programmes during the Election Period for the next general election or when the next general election is imminent.

5. Conclusion

The Committee concluded there was no actual conflict of interest nor was the BBC's impartiality, integrity or independence undermined in the period immediately following the announcement of Sir Alan Sugar's appointment as Enterprise Champion and nomination to a Labour peerage, or since. However, the Committee acknowledged that until the precise role that Sir Alan would undertake became clear

and the safeguards were put in place there may have been an initial public perception that the BBC's impartiality, integrity and independence had been undermined.

The Committee considered that Sir Alan Sugar's role as the Government's Enterprise Champion and nomination for a Labour peerage do not pose a conflict of interest with his BBC role as star of *The Apprentice* and any associated programming as long as the safeguards put in place by the Executive, and the understanding by the Committee of the meaning of the campaigning guideline in association with the Executive's safeguards, are observed. The Committee's understanding is that while under contract to the BBC Sir Alan Sugar must not:

- Campaign or lobby on behalf of the Government. This would include encouraging people to vote for one party over another and endorsing Government policy on a public platform, such as attending a press briefing with Government Ministers on policy issues.
- Criticise other political parties.

Additionally:

- to the extent that he has control over the use of his own image, Sir Alan should exercising that control to ensure his image is not used to campaign or for campaigning material.

The Committee said its ruling and particularly the understanding it has set out above should provide the public and the complainant with the necessary assurances that the potential risks to the BBC's impartiality, integrity and independence have been adequately addressed.

In addition, while the Committee recognised that scheduling decisions rest with the Executive, it concluded that the Executive must give due consideration when scheduling next year's transmissions of the *The Apprentice* and *Junior Apprentice* to the implications of showing the programmes during the Election Period or in the months immediately before a general election which must be held by 3 June 2010.

The Committee considered some broader questions arising from the complaint, particularly in relation to the current revision of the BBC Editorial Guidelines where there is an opportunity to make changes, if appropriate. It agreed to ask the Executive to provide:

- greater clarity in the guidelines about the circumstances in which it is appropriate or inappropriate for prominent on-air talent appearing in entertainment or general factual programmes to be actively involved in politics.
- a section in the Politics and Public Policy section of the BBC Editorial Guidelines which specifically refers to the House of Lords.
- a clearer definition in the BBC Editorial Guidelines of terms relating to politics and political activities.

Finding:
No breach of the BBC Editorial Guidelines.