

# Editorial Standards Findings

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

13 January 2010 issued February 2010

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# Remit of the Editorial Standards Committee

The Editorial Standards Committee (ESC) is responsible for assisting the Trust in securing editorial standards. It has a number of responsibilities, set out in its Terms of Reference at [bbc.co.uk/bbctrust/about/meetings\\_and\\_minutes/bbc\\_trust\\_committees.html](http://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](http://bbc.co.uk/bbctrust) or is available from:

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

# Finding

## “Panorama: What Next for Craig?”, BBC One, 12 November 2007

### 1. Summary of finding

The programme was an edition of Panorama that reported on new scientific research into the treatment of children with Attention Deficit Hyperactivity Disorder (ADHD). This is a third party appeal brought by the complainant who argues that the programme was seriously inaccurate and unbalanced in the way it dealt with the issue of how ADHD should be treated. He says that the broadcast of the programme was likely to cause serious harm to children with ADHD. The complainant also raises issues about the handling of his complaint at each stage of the complaints procedure. Decisions on those aspects of the complaint will be made separately.

The Editorial Standards Committee concluded:

#### Accuracy

- That the programme failed to accurately report the findings of a three year follow up study in the USA to the Multimodal Treatment Study of Children with ADHD (MTA). The MTA had been the most comprehensive study of its kind, looking at the safety and comparative effectiveness of medication (properly managed) and behaviour therapy, alone and in combination, and comparing those treatments to routine community care over a period of 14 months. The programme did not make it clear that all the treatment groups had improved at the 36 month stage and that medication did offer a significant improvement over time, albeit not over the other treatment groups, at 36 months.
- That the programme makers should not have relied solely on the views of Professor Pelham, one of the authors of the MTA 36 month follow up study, but should have included the views of other authors of the study as well.
- That the programme distorted some of the known facts in its presentation of the findings of the MTA 36 month follow up study.
- That the programme failed to report the MTA 36 month follow up findings in context. As a consequence the programme took insufficient care to avoid worrying the audience about health issues.
- That the BBC had failed to acknowledge a serious factual error.
- That the programme makers did not deliberately produce a programme that they knew to be inaccurate.

#### Impartiality

- That although the subject matter of the programme was not a “controversial matter of public policy” within the meaning of the editorial guidelines, this was a controversial subject within the medical community, and for those affected by ADHD. The programme was bound to comply with the requirement of due impartiality.
- That the programme failed to meet the requirements of impartiality in that the programme makers were not fair and open minded when examining the evidence

and weighing all the material facts, nor were they even handed in their approach to the subject.

- That the audience should have been informed there was a wide range of views. The programme did not acknowledge that the view expressed by Professor Pelham was not the only view and that there were significant counter views. The arguments of those who believe that medication still has an important part to play in the treatment of children with ADHD, should have been included. The programme should also have provided more context.

### Harm and Offence

- That although the programme had caused concern for parents and clinicians – a matter that the Committee very much regretted – there was no evidence that the programme contained material that “might seriously impair the physical, mental or moral development of children”.
- That accordingly there was no breach of the harm and offence guidelines.

### Children

- That the guidelines relating to children only apply to children who participate in programmes.
- That the Committee was satisfied that there was no evidence that the physical and emotional welfare and the dignity of the children who did participate in the programme, were not protected during the making and broadcast of the programme.
- That accordingly there was no breach of the children guidelines.

The ESC expects the highest standards from Panorama as BBC One’s flagship current affairs programme, and this programme failed to reach those standards. Due to the serious nature of the breaches the ESC will apologise to the complainant on behalf of the BBC and require the broadcast of a correction. Therefore as a consequence of this finding:

- The Committee will send an apology to the complainant on behalf of the BBC in respect of the breaches of editorial standards.
- A correction and apology is to be broadcast on BBC One at the beginning or end of the Panorama programme. The wording, date and time to be agreed by the Chairman of the ESC.
- The Deputy Director-General is to attend an ESC meeting to discuss the issues raised by this decision and what steps are to be taken by the Executive to ensure that these breaches are not repeated.
- The programme is not to be sold or repeated.
- Material found to have been in breach of the Guidelines is to be removed from BBC online within 5 working days of the release of this finding to the Executive.

The complaint was partially upheld.

## 2. The programme

1. This edition of Panorama reported on new scientific research into treatment of children with Attention Deficit Hyperactivity Disorder (ADHD). The programme

focused in particular on whether the long term application of stimulant drugs such as Ritalin is an appropriate form of treatment. The programme included an interview with one of the co-authors of the research, Professor Pelham, and featured two case studies of children with ADHD, Craig and Yasmin.

### 3. The complaint

2. A considerable volume of correspondence was generated in respect of this complaint. This note only summarises the main points raised.

#### Stage 1

3. The complainant wrote initially to BBC Information on 13 November 2007. The complainant said:

“Regrettably this programme sought to address ADHD in a way which was unbalanced and could be detrimental and damaging to the interests of young children with this condition.”
4. The complainant also said that the programme had an agenda that drug stimulant therapy should not be used to treat ADHD and should not be paid for on the NHS. He also believed the programme had failed to ensure that all reasonable views on the treatment of ADHD had been referred to and that the programme had relied instead on the opinions of Professor Pelham as if they were established truth. The complainant also considered the programme had failed to address in a “balanced or sensible way” the family or social problems associated with ADHD, such as the exclusion of children from school because of their disability.
5. The complainant believed the programme should have explained the underlying physical causes of ADHD and that there were children with genuine disability who needed help and understanding from schools and the public. The complainant also believed the programme had set out a potentially damaging impression of children with ADHD, which would encourage future discrimination by schools, universities and others.
6. BBC Information replied on 23 November 2007 having discussed the issues raised by the complainant with Panorama. BBC Information stated that the programme had not said that medication did not help anyone with ADHD – the programme had found that the medication had worked in the short term. The report had also not said that medication should not be made available by the NHS – all the programme had reported was how much the NHS had spent on medication. The reply also stated that Professor Pelham, who had featured in the programme, and who was a co-author of the American Multimodal Treatment Study of Children with ADHD (“the MTA study”) was a highly respected world authority on ADHD.
7. BBC Information also said that while the programme suggested that ADHD was associated with poor academic performance at no stage did the programme state that children with ADHD were “subnormal”. The programme explored what difference educational support made to children with the condition as well as the problems caused by lack of other kinds of support.
8. The complainant replied to BBC Information on 23 November 2007 reiterating his complaint stating that the reply had only relied on what Panorama had told them and that as such no inquiry about his complaint had been conducted.

#### Stage 2

9. The complainant wrote to the Editorial Complaints Unit (ECU) escalating his complaint to the BBC's second stage process on 4 February 2008.
10. The complainant and the ECU exchanged extensive correspondence during February and March 2008.
11. In the course of this correspondence the complainant sent various documents showing that there was considerable support for the use of stimulants in the treatment of ADHD and discussing the MTA study.
12. The complainant also referred to a previous Panorama programme about the treatment of ADHD, called Kids on Pills broadcast in April 2000. The Broadcasting Standards Commission had partially upheld a complaint about the way one of the interviews included in the programme had been edited. The programme had not included the view of the interviewee who made the complaint that "many health experts regard the drug Ritalin as effective in the management and treatment of ADHD".
13. On 15 April 2008, after the complainant agreed with the ECU a stay of their investigation, the complainant wrote to the ECU enclosing two documents, the first set out in detail his concerns about the programme ("Submissions") and the second gave his views on the meaning of the programme ("Meaning of the Broadcast").
14. The complainant stated that:

"The theme of the broadcast [the MTA study]...had shown that the use of stimulant drugs to treat children with ADHD was misconceived, and resulted in children and adolescents with ADHD, who were on stimulants, having serious problems, with only the potential for short lived gain in concentration over the first 14 months of treatment."
15. The complainant also expressed concern about the effect the programme would have on parents with ADHD children and on the children themselves. The complainant believed that the programme had created a bad impression on children on stimulants as to how they were likely to behave and perform. He believed the programme was liable to cause prejudice against parents with ADHD children on medication, and that it would put parents under pressure to refuse to allow their children to receive stimulant medication, which might result in children being deprived the best treatment. He also believed that the programme had the potential for causing serious damage to the lives of many thousands of children.
16. The complainant reiterated his concerns that the programme had broadcast incorrect and misleading information about the results of the MTA study which formed a central plank of the broadcast.
17. The complainant said that Panorama appeared not to have consulted organisations and individuals who could have helped explain the results of the MTA study, such as Professor Jensen, the lead investigator on the MTA study, and Professor Taylor, chairman of the group working on new National Institute for Health and Clinical Excellence (NICE) guidelines on the treatment of ADHD. The complainant also asked why the programme had ignored the research studies of the Mayo Clinic, which had reported in September 2007 that treatment with prescription stimulants was associated with improved long term academic success of children with ADHD.
18. The complainant then referred to the two cases of ADHD (Craig and Yasmin) which had featured in the programme. He believed the programme had given the

impression that these studies were representative of the 55,000 children on stimulant medication. He believed the studies had:

"[...] seriously misrepresented the characteristics of these children as a group, and maligned them."

19. The complainant was concerned that Dr Timimi, who was treating Yasmin and who featured in the programme, had stated publicly that he was not convinced there was such a thing as ADHD. He believed this should have been made clear to viewers.
20. The complainant was also concerned at comments made in the programme by Yasmin's Learning Support Assistant that stimulants "zombified" her. He believed such comments were alarmist and prejudicial. He also complained that the programme gave the impression that children on stimulant medication for three years had stunted growth and weighed less than normal where as the MTA study showed that the effect of stimulants on growth was extremely limited and that children with ADHD were on average larger to begin with than national averages.
21. The complainant requested further disclosure of documentation held by the programme for him to finalise his complaint.
22. The complainant believed the programme breached a number of the BBC's Editorial Guidelines and that the BBC should produce a further programme setting out the errors and putting forward the arguments omitted from "What Next for Craig?". He also requested that the BBC issue a full public statement on each and every breach of the guidelines.
23. There followed a lengthy exchange of correspondence between the ECU and the complainant between April and December 2008 in which the ECU apologised for the delay in responding to the complaint.
24. The ECU issued its finding on 29 January 2009. The ECU set out how it had investigated the complaint, which included obtaining an independent report on the meaning of the MTA study and interviewing Professor Jensen, Professor Pelham and Professor Taylor.
25. The ECU stated that it had considered the complaint against the BBC Editorial Guidelines relating to accuracy and children. It did not consider the complaint against the other guidelines referred to by the complainant – harm and offence, impartiality and accountability – as the ECU did not believe they applied in this case.
26. The ECU decision did not accept the complainant's suggestion that the programme gave the impression that the use of stimulant drugs "resulted in" serious behavioural and psychiatric problems. The ECU argued that it was ADHD itself which resulted in serious behavioural problems. However, the ECU accepted that the programme tended to give the impression that new research suggested that use of stimulant drugs to treat children with ADHD was misconceived. The ECU found that according to research that it had carried out, it was not correct to suggest that the MTA study demonstrated that it was inappropriate to continue drug treatment for more than three years. In fact, the researchers found no evidence to suggest that any one form of treatment produced better outcomes than others after three years.
27. The ECU noted in its finding that Professor Pelham acknowledged that it was possible all treatments, including stimulant drugs, worked; Professor Jensen

believed it would be incorrect to say or infer that drug treatment did not make a difference; and that Professor Fraser and Dr Mensah (the authors of the independent report commissioned by the ECU) confirmed that the MTA study showed that the symptoms of ADHD improved in all treatment groups and that medication and behavioural therapy both contributed to the management of children with ADHD.

28. The ECU also noted that this information would have been available to Panorama before broadcast. The unit noted that Professor Swanson, lead author of one of the MTA papers, had told the programme that the MTA findings did not alone suggest that stopping medication after a specific length of treatment (3 Years) or a specific age (12 years of age), but instead suggested an empirical test based on a "drug holiday" to guide clinicians and families in choosing the best course of action.
29. The ECU therefore concluded that it would uphold the complaint. The programme gave an inaccurate impression that the undoubted clinical implication of the MTA study was that children with ADHD should not be treated with medication in the long term, where "the long term" was more than 36 months. The ECU, however, did not believe that its finding affected the "legitimacy of the general approach taken by Panorama in drawing attention to the MTA results", specifically that the previously observed superiority of medication had disappeared by 36 months, or in seeking to explore the implications of this for the treatment of ADHD in children.
30. The ECU was also satisfied that there was no reason to conclude that the interviewees in the programme, Professor Pelham and Dr Timimi, were unqualified to comment on the study and the treatment of ADHD.
31. In relation to the guidelines on children the ECU noted that the programme had obtained appropriate parental consent from the children who participated in the programme. Yasmin's situation was positively portrayed, and Craig's portrayal was such as to foster a sympathetic understanding of his condition. The ECU also noted that Craig and his family had been featured previously and that his parents were well placed to judge the appropriateness of his participation with regard to his welfare.

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

32. The complainant wrote to the Chairman of the BBC Trust on 4 February 2009 asking for the whole complaint to be considered by the Trust together with the question of consequences arising from the ECU finding.
33. The complainant wrote again on 10 February, following receipt of a reply from the BBC Trust sent on 6 February outlining the process of appealing to the Trust, enclosing a large number of documents supporting his complaint. He also made various points including:
  - a) The ECU had either not addressed or mis-stated many complaints in the complainant's Submission document of 15 April 2008.
  - b) The ECU had not correctly ascertained the meaning of the broadcast.
  - c) The report commissioned by the ECU by Professor Fraser and Dr Mensah, on which the ECU relied, had gone too far in suggesting that the MTA study showed that the initial benefits of being on medication were lost after three years.

- d) The ECU had failed to address the issue of balance and fairness in the choice of interviewees.
34. Following a further exchange of correspondence in February 2009, the complainant provided a summary of his appeal on 27 February 2009 in which he said that the programme was inaccurate/misleading and biased/partial in various ways. The complainant also reiterated the following points:
- a) The programme had suggested the MTA study had shown that the long-term use of stimulant drugs to treat ADHD was misconceived and resulted in, or was associated with serious behavioural and psychological problems.
  - b) The programme failed to provide a range of views from established medical experts such as Professor Jensen and Professor Taylor.
  - c) The programme ignored the views of Professor Swanson whom it had interviewed before the broadcast.
  - d) The presentation of Craig's case as a representative view of a child with ADHD on stimulants.
  - e) The use of Dr Timimi, who the complainant believed to be a controversial figure whose views do not reflect mainstream psychiatric opinion.
  - f) The presentation of Yasmin's case as a representative of ADHD.
  - g) The way the programme maligned and disparaged children with ADHD on stimulant medication.
  - h) The programme's suggestion that doctors had been misleading parents with regard to treatment based on outdated research.
  - i) The representation of Professor Pelham's views as if they were fact.
  - j) The statements in the programme that children on stimulants for three years had stunted growth and weighed less than normal, and that stimulants made children zombies.
  - k) The support given by the programme for the use of psychological methods of treating ADHD rather than giving children stimulants.
  - l) The way in which the programme promoted the view that NHS funding of stimulants should be discontinued.
  - m) The programme criticized parents who in the future used stimulants.
  - n) The complaints handling procedure has been inadequate.
35. The complainant also reiterated his concerns that the programme had damaged the wellbeing and welfare of children with ADHD and attacked the vulnerable.
36. Further exchanges of correspondence followed between the complainant and the BBC Trust, notably on 17 April 2009 the BBC Trust stated that it would not consider the aspect of the complaint upheld by the ECU, but that other editorial complaints made by the complainant would be considered by the ESC.
37. The complainant replied on 23 April that he was appealing against the ECU's decision on the legitimacy of the general approach of Panorama to draw attention to the MTA results. The complainant believed the ECU had not explained how this approach was legitimate when the MTA study and its significance had been misrepresented by the broadcast.

38. The complainant also stated that he considered Professor Fraser and Dr Mensah's report to be inaccurate and incomplete, which had led to the ECU not appreciating the extent and seriousness of the inaccuracy of the programme.
39. In further correspondence with the BBC Trust the complainant in an email dated 3 June complained about the handling of his complaint by the ECU. He also continued to request various items of information for disclosure. The complainant also drew attention to the delay by the ECU in concluding its procedures following its finding on the complaint.
40. On 6 August the ECU issued its outcome following its partial uphold against the programme.
41. On 14 August the BBC Trust confirmed that the ESC would consider the adequacy of the ECU and BBC management's response to the ECU's findings.
42. On 24 August the complainant wrote to the Head of Editorial Standards, BBC Trust, complaining that his complaint had not been handled fairly, promptly or transparently by the BBC or the BBC Trust.
43. The complainant on 11 November 2009 set out his concern about the BBC's responsibilities to ensure a right of reply as set out in the European Directive regarding Television Without Frontiers.

## **4. Applicable editorial standards**

### **Introduction**

The BBC is committed to delivering the highest editorial and ethical standards in the provision of its programmes and services both in the UK and around the world.

We seek to balance our rights to freedom of expression and information with our responsibilities, for example, to respect privacy and protect children.

### **Section 1 – BBC's Editorial Values**

#### **Truth and accuracy**

We strive to be accurate and establish the truth of what has happened. Accuracy is more important than speed and it is often more than a question of getting the facts right. We will weigh all relevant facts and information to get at the truth. Our output will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We will be honest and open about what we don't know and avoid unfounded speculation.

#### **Impartiality and diversity of opinion**

We strive to be fair and open minded and reflect all significant strands of opinion by exploring the range and conflict of views. We will be objective and even handed in our approach to a subject. We will provide professional judgments where appropriate, but we will never promote a particular view on controversial matters of public policy or political or industrial controversy.

#### **Serving the public interest**

We seek to report stories of significance. We will be vigorous in driving to the heart of the story and well informed when explaining it. Our specialist expertise will bring authority and analysis to the complex world in which we live. We will ask searching questions of those who hold public office and provide a comprehensive forum for public debate.

### **Harm and offence**

We aim to reflect the world as it is, including all aspects of the human experience and the realities of the natural world. But we balance our right to broadcast and publish innovative and challenging content with our responsibility to protect the vulnerable.

### **Children**

We will always seek to safeguard the welfare of children and young people who contribute to and feature in our content including their right to be heard, wherever in the world we operate. We will also schedule content which might be unsuitable for children appropriately.

### **Accountability**

We are accountable to our audiences and will deal fairly and openly with them. Their continuing trust in the BBC is a crucial part of our contract with them. We will be open in admitting mistakes and encourage a culture of willingness to learn from them.

## **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.

### **Gathering materials**

We should try to witness events and gather information first hand. Where this is not possible, we should talk to first hand sources and, where necessary, corroborate their evidence.

**We should be reluctant to rely on a single source.** If we do rely on a single source, a named on the record source is always preferable.

### **Fact checking**

**We must check and verify information, facts and documents, particularly those researched on the internet.** This may include confirming with an individual or organisation that they posted material and that it is accurate. Even the most convincing material on the web may not be what it seems.

### **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.**

### **Reporting statistics and risks**

**We should report statistics and risks in context, taking care not to worry the audience unduly, especially about health or crime.** It may also be appropriate to report the margin of error and the source of figures to enable people to judge their significance. This may involve giving trends, taking care to avoid giving figures more weight than can stand scrutiny. If reporting a change, consideration should be given to making the baseline figure clear. For example, a doubling of a problem affecting one in two million people will still only affect one in a million.

We should consider the emotional impact pictures and personal testimony can have on perceptions of risk when not supported by the balance of argument. If a contributor's view is contrary to majority opinion, the demands of accuracy may require us to make this clear.

### **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.

The Agreement accompanying the BBC's Charter requires us to [produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout

the world to support fair and informed debate]<sup>1</sup>. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy. It also states that the BBC is forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

In practice, our commitment to impartiality means:

- 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.
- 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.
- 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.
- we should not automatically assume that academics and journalists from other organisations are impartial and make it clear to our audience when contributors are associated with a particular viewpoint.

### **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 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.

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<sup>1</sup> This is a reference to the Agreement which was in force at the time at which the 2005 Guidelines were written. This wording has been replaced in the 2006 Agreement, although similar requirements can be found in the BBC's Purpose Remits.

## **Controversial subjects**

In the United Kingdom controversial subjects are issues of significance for the whole of the country, such as elections, or highly contentious new legislation on the eve of a crucial Commons vote, or a UK wide public sector strike.

In the nations and regions of the UK, controversial subjects are those which have considerable impact on the nation or region. They include political or industrial issues or events which are the subject of intense debate or relate to a policy under discussion or already decided by local government.

In the global context, some controversial subjects such as national elections or referendums will obviously have varying degrees of global significance but will be of great sensitivity in that country or region in which they are taking place. We should always remember that much of the BBC's output is now available in most countries across the world.

We must ensure a wide range of significant views and perspectives are given due weight in the period during which a controversial subject is active. Opinion should be clearly distinguished from fact. When the issues involved are highly controversial and/or a decisive moment in the controversy is expected we will sometimes need to ensure that all of the main views are reflected in our output. This may mean featuring them in a single programme, or even a single item.

## **Impartiality in series**

In achieving impartiality a series of programmes on the same service may be considered as a whole. The Agreement states that in this case due impartiality does not require absolute neutrality on every issue or detachment from fundamental democratic principles.

**Programmes dealing with widely disparate issues from one programme to the next but also clearly linked as a strand with a common title.** These should normally achieve impartiality within individual programmes, or across two or three editorially linked programmes, rather than across the strand as a whole.

**We can not achieve impartiality in this context by ensuring other views will be heard on other services.**

## **Section 8 – Harm and Offence**

### **Introduction including editorial principles**

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.

## **Harm and offence editorial principles**

- We will not broadcast material that might seriously impair the physical, mental or moral development of children.
- We observe the television Watershed to ensure material that might be unsuitable for children is appropriately scheduled.
- We signpost and label challenging material to ensure our audiences have enough information on which to judge whether content is suitable for themselves or their children.
- We keep in touch with the expectations of our audiences for all of our services.

## **Television & the watershed**

**Programmes broadcast between 5.30 and 21.00 must be suitable for a family audience including children.** The earlier in the evening a programme is placed, the more suitable it should be for children to watch alone. Programmes in later pre-Watershed slots may not be suitable for the youngest children. Only in exceptional circumstances can there be any departure from this rule, and then clear content information should be given, for example images that some children might find distressing in natural history programmes or in the 6 O'Clock News.

## **Section 9 – Children**

### **Introduction**

Children and young people are very important to the BBC. We aim to provide them with challenging, educative, enjoyable and interesting content to help them make sense of the world in which they live. They also interact with us in many different ways – as contributors, actors, presenters and via our online and interactive services.

It is not always easy to strike a balance between the competing interests of the children who participate in our output, and the views and ambitions of their parents or our audiences. But we must always safeguard the welfare of the children and young people who contribute to our content, wherever in the world we operate, which includes their right to speak out and to participate.

For the purposes of the BBC Editorial Guidelines, a child is someone under the age of 15 years. Young people are those aged 15, 16 and 17. However, these are not legal definitions.

### **Children editorial principles**

- We must ensure that the physical and emotional welfare and the dignity of people under the age of eighteen, and in particular children under fifteen, are protected during the making and broadcast of programmes and online content, irrespective of any consent given by them or by a parent, guardian or other person in loco parentis.
- We must ensure that children and young people are not caused unnecessary anxiety or distress by their involvement in programmes or by their broadcast. Their involvement must be clearly editorially justified and support should be given to them where necessary.

- We must balance our responsibility to protect children and young people from unsuitable content with their rights to freedom of expression and freedom to receive information.

## **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.

### **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.

The first point of contact for a complaint should be BBC Information, although people can contact the programme directly if they prefer. We are committed to responding to complaints within ten working days of their first receipt and to keeping complainants informed of progress.

A licence fee payer may be unhappy with the response from BBC Information or a programme department. If the complaint concerns a breach of the editorial standards set out in the Editorial Guidelines or relates to a particular broadcast, programme or specific web content they can appeal to the Editorial Complaints Unit to investigate the issue independently.

The BBC has a Code of Practice for complaints handling which sets out these procedures in more detail.

## **5. The Committee's decision**

The ESC first considered some procedural issues raised by the complainant as a result of which it was decided that it was appropriate for it to continue to consider the appeal.

1. The ESC 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.
2. In reaching its decision the ESC took full account of material submitted by the complainant and the BBC, as well as by the Independent Editorial Adviser.
3. This appeal raised issues requiring consideration of the editorial guidelines relating to accuracy, impartiality, harm and offence, children, accountability, the Ofcom Broadcasting Code and the editorial value of serving the public interest.
4. For the reasons set out below, the ESC found that this programme was in breach of the accuracy and impartiality guidelines. The ESC expects the highest standards

from Panorama as BBC One's flagship current affairs programme, and this programme failed to reach those standards. Due to the serious nature of the breaches the ESC will apologise to the complainant on behalf of the BBC and require the broadcast of a correction.

### Meaning

5. Before considering the complaint in the context of the editorial guidelines, the members of the ESC discussed and decided what they thought the programme meant. In doing so, the Committee considered the complainant's views on meaning as well as the summary of that meaning set out in the Editorial Adviser's report.
6. The ESC agreed that the meaning of the programme is that:
  - a) It concerns the treatment of children diagnosed with Attention Deficit Hyperactivity Disorder (ADHD).
  - b) It is implied that medication has a limited and finite role in the treatment of children with ADHD.
  - c) Questions are now being asked about the effectiveness of that medication.
  - d) In most cases stimulant medication taken by children diagnosed with ADHD works initially, but the latest research suggests that that effect wears off.
  - e) The MTA 36 month follow up study continued to monitor the 600 children from the original MTA study on the same terms.
  - f) The MTA 36 month follow up study showed that medication for ADHD does not work in the long term.
  - g) There were beneficial effects in the short term but at the 3 year stage there was no benefit from medication at all.
  - h) Medication appeared to have little impact on preventing the more serious aspects of ADHD.
  - i) The effect of stimulant medication on children who had been taking it for three years was a reduction in height and weight, with no catch up.
  - j) The view put forward by Professor Pelham appeared to be the view of all the authors of the MTA 36 month follow up study. The programme did not, however, mean that "all the experts" agreed with this view, only the authors of the MTA follow up study.
  - k) Children with ADHD have behavioural problems. The programme did not, however, mean that only children with serious behavioural and psychiatric problems take stimulant medication, nor that the medication causes bad behaviour/makes those taking it behave more badly. The ESC saw no evidence in the programme of any causal relationship between the taking of medication and the children's behaviour.
  - l) Craig and Yasmin were examples taken from the minority of children diagnosed with ADHD who are prescribed stimulant medication. The programme said that at least 55,000 out of roughly 500,000 are in that sub-group. The programme did not suggest that they were representative or typical of all children with ADHD.

- m) Craig and Yasmin were portrayed as children who had been diagnosed with ADHD. The programme made it clear that there were other factors in their lives that may have affected their behaviour. The programme did not say whether or not the children in the programme had other medical conditions.
- n) There is an implication that the balance between medication and behavioural therapy has shifted. While the programme does not say that behavioural therapy is the correct treatment, it does say that therapy shows good results. The implication is that behavioural therapy is better than medication.
- o) The cost of medication to the NHS was raised as an issue. There was no suggestion in the programme that the NHS should stop paying for the medication.
- p) The programme did not malign and disparage children with ADHD who were being treated with stimulant medication for any length of time over 14 months.
- q) There was no suggestion in the programme that parents are being irresponsible in any way by giving stimulant medication to their children. Nor that parents should be attending parenting courses and undergoing training to use psychological methods – this was an example of one approach not the meaning of the programme.
- r) There was no suggestion in the programme that doctors had been misleading patients about the effectiveness of medication.

### The Editorial Guidelines

- 8. The ESC then went on to look at each editorial guideline referred to by the complainant, determining whether the guideline applies and if so whether and to what extent the programme has breached that guideline.

### Accuracy

- 9. The ESC considered the complaint in relation to the Accuracy editorial guideline and determined that the guideline does apply to this complaint. The ESC upheld the complaint on the following grounds:
  - a) The programme failed to accurately report the findings of the MTA 36 month follow up study. It was not clear that all the treatment groups had improved at the 36 month stage and that medication did offer a significant improvement over time, albeit that at 36 months it had no superiority over other treatment groups.
  - b) The programme makers should not have relied solely on Professor Pelham's interpretation of the MTA 36 month follow up study and should have included the views of other authors of the study as well.
  - c) Some of the known facts were distorted i.e. the presentation of the findings of the MTA 36 month follow up study.
  - d) The MTA 36 month follow up findings were not reported in context. This meant that insufficient care was taken to avoid worrying the audience about health issues.
  - e) No acknowledgement had been made by the BBC of a serious factual error.

10. In arriving at this decision the ESC determined that:

- f) The programme did not accurately represent the clinical significance of the MTA 36 month follow up study. The correct interpretation of the findings of the study was a matter of scientific debate. The programme erred in that it relied solely on Professor Pelham's interpretation of those findings, without explaining that other authors of the MTA 36 month follow up study interpreted the findings in different ways. The programme should not have relied on a single source. The MTA authors themselves had stated in their report, which the programme team had, that "...it would be incorrect to conclude from these results that (medical) treatment makes no difference or is not worth pursuing".
- g) The implication that the MTA 36 month follow up study had been carried out on the same basis as the original MTA study was inaccurate. Families were free to change treatments but were still monitored as part of the original treatment group they had been assigned to. The number of children in the study had changed.
- h) Craig was accurately portrayed in the programme. The programme showed his behaviour and accurately reported that he had been diagnosed with ADHD. There was no evidence that the portrayal of Craig's case was inaccurate.
- i) Craig was not presented as if he was representative of children diagnosed with ADHD. Craig was an example taken from the minority of children with the disorder who had symptoms serious enough to require medication. Craig was included in the programme so that it could follow his progress since he had last been seen in an earlier programme. That is what the programme did.
- j) The programme accurately explained that Dr Sami Timimi is a practising psychiatrist whose views are controversial: "...Dr Timimi who prescribes drugs only as a last resort, has been accused by colleagues of denying children essential treatment". It was not necessary in this case to include further information about his published views to achieve accuracy.
- k) Yasmin was accurately portrayed in the programme. The programme accurately reported that she had been diagnosed with ADHD. There was no evidence that the portrayal of Yasmin's case was inaccurate.
- l) Yasmin was not presented as if she was representative of children diagnosed with ADHD. She was an example taken from the minority of the children with the disorder who had symptoms serious enough to require medication. Yasmin was an example of how a child had responded to two different forms of treatment. She describes in the programme how she felt on medication "...Trapped. Fake, not me, rubbish it didn't make me feel good because it wasn't me ...". Her description of the effects of medication on her together with the observations made by her teaching assistant (that the medication "...actually zombified her...") were an accurate account of their views. Their comments had no greater significance than that.
- m) Professor Pelham was entitled to have the views he expressed. See above.
- n) The side effects of stimulant medication in relation to the rate of growth of height and weight were accurately reported.

- o) The programme was not inaccurate in the way that it presented psychological treatments. Those psychologists who advocated behavioural treatments accepted that they would use medication in extreme cases or as a last resort. In addition, Dr Kendall from NICE explained that having access to a comprehensive range of treatments was important. The Committee noted that he did not refer to medication but was clear in its understanding of the programme that he meant that a comprehensive range of treatments would include medication.
11. The ESC did not conclude that the programme makers deliberately produced a programme that they knew to be inaccurate. The ESC's view was that the programme team had either misunderstood the underlying material that the team had in its possession, or had chosen just one interpretation of it and failed to place it in context.

### Impartiality

12. The ESC considered the complaint in relation to the impartiality guideline and determined that the guideline does apply to this complaint.
13. Although the subject matter of the programme was not a "controversial matter of public policy" within the meaning of the guidelines, it was still necessary for it to comply with the requirement of due impartiality.
14. The ESC upheld the complaint on the following grounds:
- p) The programme failed to meet the requirements of impartiality in that the programme makers were not fair and open minded when examining the evidence and weighing all the material facts, nor were they objective and even handed in their approach to the subject. Although this was not a "controversial matter of public policy" within the meaning of the editorial guidelines, this was a controversial subject within the medical community – and for those affected by ADHD.
  - q) The audience should have been informed there was a wide range of views. The programme did not acknowledge that the view expressed by Professor Pelham was not the only view and that there were significant counter views. Those who believe that medication still has an important part to play in the treatment of children with ADHD, should have been included. The programme should also have provided more context.
15. In arriving at this decision the ESC determined that:
- r) The programme makers did not weigh up and include relevant evidence that was contrary to the programme's depiction of the MTA 36 month follow up study's findings. The MTA authors themselves had stated in their report, which the programme team had, that "...it would be incorrect to conclude from these results that (medical) treatment makes no difference or is not worth pursuing".
  - s) The arguments put forward by other authors, that there was benefit to medication, should have been included in the programme to achieve impartiality.
  - t) The programme did not take proper account of the views of Professor Swanson – set out in an email to the production team - that in some cases the beneficial effect of medication would not be lost after 3 years.

- u) Craig was an example taken from the minority of children diagnosed with ADHD who had symptoms serious enough to require medication. He was not representative of children with ADHD. There is no evidence to suggest that Craig's circumstances were not objectively researched and evaluated.
- v) The programme adequately explained that Dr Timimi's views were controversial. The impartiality guideline allows exploration of a range of views. Accordingly Dr Timimi was entitled to express his views regardless of whether or not they were controversial. However, the programme failed to put his comments into context and provide balance.
- w) Yasmin was an example taken from the minority of children diagnosed with ADHD who had symptoms serious enough to require medication. She was not representative of children with ADHD. There is no evidence to suggest that Yasmin's circumstances were not objectively researched and evaluated.
- x) The statements made by Professor Pelham in the programme were his own views which he was entitled to express as a qualified expert in his field. However, the programme lacked balance as it did not include the views of those within the medical profession who held opposing views. Although the programme makers did approach some of the other authors of the MTA 36 month follow up study (Jensen and Swanson), they failed to pursue Professor Jensen vigorously enough and did not take proper account of what Professor Swanson had to say where it did not agree with their own interpretation of the study's findings.
- y) The programme failed to achieve impartiality in respect of its depiction of psychological treatments as it did not include material which questioned how effective psychological treatments were.
- z) There was no mention in the programme that some doctors believed that these side effects might be mitigated by close management and the introduction of drug holidays.

#### Harm and Offence

15. The ESC considered the complaint in relation to the Harm and Offence guideline and determined that the guideline does apply to this complaint.
16. While the ESC acknowledges that regrettably the programme's inaccuracies and lack of impartiality would have caused concern, the test to apply in accordance with this guideline is whether the programme contained material which "might seriously impair the physical, mental or moral development of children".
17. The ESC took into account the warning at the end of the programme:

"...and if you are the parent of an ADHD child please don't take any drastic action without consulting your doctor first."
18. Although it appeared that the programme had caused concern to some parents and clinicians – a matter which the ESC very much regretted – there was no evidence of the likelihood of any "serious impairment". The programme had not sought to give medical advice and made it clear that concerned parents should consult their doctors before making any decisions about the treatment of their children.
19. Accordingly this part of the complaint was not upheld.

### Children

20. The ESC considered the complaint in relation to the Children Guideline and determined that the guideline does apply, but only in relation to children who participate in programmes.
21. The ESC was satisfied that there was no evidence that the physical and emotional welfare, and the dignity of Craig and Yasmin, were not protected during the making and broadcast of the programme.
22. Accordingly this part of the complaint was not upheld.

### Other Guidelines

23. The ESC did not think that the complaint needed to be assessed against any other sections of the BBC's Editorial Guidelines. The key areas of complaint identified by the complainant and the ESC's Editorial Adviser had all been considered and it was not apparent that the programme breached any other sections of the Guidelines.

### Accountability

24. This part of the complaint was adjourned.

### Ofcom

25. The ESC considered whether the editorial guidelines require this complaint to be determined in accordance with the wording of Ofcom's Broadcasting Code.
26. The BBC's editorial guidelines apply either the same or a higher standard on the BBC than that imposed by Ofcom on other broadcasters.
27. Accordingly the ESC took the view that the appropriate standards against which this complaint and all others should be determined by them is the wording set out in the editorial guidelines.
28. In addition, it was noted that the complainant was entitled to lodge a complaint with Ofcom in relation to matters within Ofcom's jurisdiction.

### Serving the Public Interest

29. The ESC considered whether the editorial value of Serving the Public Interest had been compromised.
30. The ESC concluded that the issues raised by the programme were a matter of legitimate public interest, but that the presentation of those issues was flawed resulting in breaches of the editorial guidelines relating to accuracy and impartiality.

### Outcomes

31. The ESC considered the complainant's requirements, which included an apology and the broadcast of a further "balancing" programme on the subject of ADHD. It also considered the complainant's observations about the relevant legal framework, in particular any obligations imposed by European legislation.
32. The ESC considered what steps should be taken as a result of the breaches in editorial standards. As part of its consideration of this aspect, the ESC noted that it had not been asked to consider complaints on behalf of anybody other than the complainant, who did not have a direct relationship with the programme other than as a viewer. The complainant had, however, produced letters from third parties taking issue with aspects of the programme. These were also taken into

account. The ESC did not agree with the complainant that there was evidence to suggest that the legitimate interests of the complainant or any third party had been damaged by the inclusion of incorrect facts in the programme. Notwithstanding this, the breaches in editorial standards were sufficiently serious for the ESC to determine that a broadcast correction was warranted.

33. In view of the serious nature of the breaches of the editorial guidelines, the ESC's decision is that:

- a) It will send an apology to the complainant on behalf of the BBC in respect of the breaches in editorial standards.
- b) A correction and apology is to be broadcast on BBC One at the beginning or end of the Panorama programme. The wording, date and time to be agreed by the Chairman of the ESC.
- c) The Deputy Director-General is to attend an ESC meeting to discuss the issues raised by this decision and what steps are to be taken by the Executive to ensure that these breaches are not repeated.
- d) The programme is not to be sold or repeated.
- e) Material found to have been in breach of the Guidelines is to be removed from BBC online within 5 working days of the release of this finding to the Executive.