

**Editorial Complaints Unit – Quarterly Report
July–September 2005**

Analysis of complaints

From 1 July to 30 September 2005 the Unit dealt with 79 complaints concerning 71 items. Topics of complaint were as follows:

Table 1
Topics of Complaint

	<u>No of Complaints</u>	<u>No of Items</u>
Harm to individual/organisation (victim complaint)	21	13
Harm to individual/organisation (3 rd party complaint)	1	1
Bias (party political)	4	4
Bias (non-party political)	20	17
Factual inaccuracy	2	2
Offence to public taste	6	6
Bad language	4	4
Sensitivity and portrayal	7	7
Bad example (minors)	1	1
Standards of interviewing/presentation	6	4
Commercial concerns	6	6
Other	1	1
Total	79	66

In the period 1 July - 30 September, 16 complaints were upheld (13 of them partly) - 20.5% of the total. Of the items investigated in the July - September quarter, complaints were upheld against 14 items (21% of the total). This report contains summaries of the findings in those cases.

*Note: a summary of three complaints partly upheld against **Real Story: Nurseries Undercover**, BBC1, 2004 is not included. No summary was posted on bbc.co.uk at the time of the finding because information on an outstanding point was awaited from the principal complainant, and the issues of complaint have now been put to Ofcom. The action to be taken as a result of a complaint upheld against **Panorama: Nothing to Declare**, BBC1, 23 March 2005 has yet to be agreed, and the summary will appear in the next Bulletin.*

Standards of service

The Unit's target is to deal with most complaints within 20 working days of receiving them. A target of 35 days applies to a minority of cases (24 in this quarter) which require longer or more complex investigation. During the period 1 July - 30 September 2005, 47% of replies were sent within their target time.

Summaries of upheld complaints

Harm to individuals/organisations (victim complaint)

Panorama: A Carer's Story, BBC1, 16 November 2003

Complaint:

The programme explored concerns about the system of caring for the elderly at home, using secret filming by a reporter posing as an applicant for employment as a carer.

An employee of a care agency (who had been filmed while caring for clients and inducting and training the reporter as a new employee of the agency) complained that the footage had been misleadingly edited and presented to make her "look like a very bad person", with nothing to show the dedicated care she gave to clients.

BBC Editorial Complaints Unit's ruling:

Experts who viewed the relevant material advised that the complainant had fallen below acceptable standards, both in her induction and training of the reporter (which was the main focus of the part of the programme in which she appeared) and in some aspects of her care for clients. In particular, incorrect tube feeding was identified as liable to put clients at risk.

The material was not selectively edited to produce a misleading impression, but edited in a way which reflected legitimate grounds for concern.

In two respects, however, the programme created an impression which was less than fair to the complainant.

1. Critical remarks about the partner of a client

The programme included footage of the complainant describing the partner of a client as "an absolute arsehole" and "a wanker", and showing how she might demonstrate her contempt for him with graphic gestures behind his back.

Later in the programme, the remarks were quoted to an official of the local authority which commissioned care services from the agency concerned.

However, it was not made clear, to the official or to viewers, that the complainant had told the reporter that the partner was abusing the client.

Although the issue appeared to be one of unpleasant behaviour rather than physical abuse, and although the complainant's comments and gestures could only be regarded as unprofessional, the impression of the complainant might well have been somewhat different if her behaviour had been put in context.

2. Describing a client as "a waste of time"

The programme included the following exchange between the complainant and the reporter about a scheduled visit to a client with memory loss:

Complainant: Is that a morning or a night? Reporter: Night.

Complainant: A night call, it's an absolute waste of time. She doesn't know the time of day, she doesn't know what's going on.

The exchange was reported to the local authority official in these words:

She described...another of the clients as a complete waste of time because, she said, "she doesn't know the time of day".

In fact, the description applied to the evening visit, not to the client (the complainant having explained that, in her experience, the client herself had usually performed the task for which the evening visit was allocated).

While it was wrong for the complainant to describe as "a complete waste of time" a visit which might nevertheless be important for checking on the client's welfare, it was unfair for the programme to suggest that the complainant had applied such a dismissive description to a vulnerable client.

Further action:

The finding was discussed with the programme team, with a particular focus on how to avoid the circumstances which led to the complaint's being upheld in two respects.

Since this programme, though not directly as a response to this complaint, *Panorama* has also instituted a full "second chair" procedure for all undercover investigations. Under this procedure a senior journalist conducts an additional, independent assessment of the material gathered and the proposed broadcast, and advises the production team on issues which may arise.

Newsnight, BBC2, 22 November 2004

Complaint:

Guy Black (then Press Secretary of the Conservative Party) complained that a *Newsnight* report on a visit to Cornwall by Michael Howard had been unbalanced, partisan and biased.

It had featured a selection of vox pops, none of which were supportive of Mr Howard, without any effort to balance them; it had adopted an unreasonably critical tone, characterised by cheap jibes, representing the day as one in which Mr Howard was only "shaking a few prearranged hands"; and it had edited answers on important current topics such as Iraq and MRSA out of the main interview with Mr Howard in favour of less significant ones (including Mr Howard's dealings with the Director General of the Prison Service, Derek Lewis, when he had been Home Secretary in 1995).

BBC Editorial Complaints Unit's ruling:

The report's five extracts from interviews with members of the public in Falmouth were indeed unsupportive of Mr Howard, but this was a fair reflection of the 17 interviews which were recorded.

As their purpose was to assess the kind of impact Mr Howard had made on "some ordinary voters" in the area he was visiting, and as undue significance was not attached to them, their inclusion was legitimate.

The overall tone was broadly characteristic of *Newsnight's* trenchant style of political reporting, and the specific remarks cited in the complaint appeared to be fair comment in the circumstances of the day (in those instances where the circumstances could be established).

However, the report did not give an entirely fair reflection of the day's events - though it went further towards doing so than the complaint suggested - and that aspect of the complaint was upheld.

Though the editing of the main interview did not reflect all the topics it covered, it was balanced in the more important sense of reflecting the aspects of the interview most relevant to the issues raised in the preceding report.

The inclusion of Mr Howard's answers on Iraq and MRSA would not have added materially to his known position on those issues.

The question about Derek Lewis, though intended light-heartedly, related to a serious point about public perceptions of Mr Howard which remained relevant at a time when he was seeking election.

Further action:

The Editor of *Newsnight* has discussed the complaint, and the element of it which was upheld, with the team involved in the report and with the wider programme team.

Discussions have focussed on the use of vox pops, fair editing of interviews, tone and balance, accuracy and note-taking.

Time Shift: A Story of Circus, BBC4, 10 February 2005

Complaint:

Mr Martin Lacey, Director of The Great British Circus complained that the programme was biased (in including a contribution from an opponent of animal acts without a balancing view) and inaccurate (in suggesting that animal acts were a thing of the past, whereas they still formed part of a number of circuses in the UK, including his own).

BBC Editorial Complaints Unit's ruling:

The programme focused on the changing relationship between circus and television in the UK, and the growing public concern about the welfare of circus animals was an important factor in that relationship.

However, the claim by a contributor that animal acts almost inevitably involved violent treatment of animals was controversial, and should not have been included without a balancing view.

The programme was also mistaken in suggesting (unintentionally) that there were no longer any animal acts in UK circuses.

Further action:

The programme team were reminded of the need for balance when touching on issues of controversy, even where those issues are not the focus of the programme. The programme will be edited to take account of the finding before being broadcast again.

Spotlight, BBC1 (South West), 25 April 2005

Complaint:

The programme included an item on the proposal, currently the subject of a planning application, to build a biomass power station on a disused airfield at Winkleigh in Devon.

Mr Clive Jones, the architect for the project, complained that inaccuracies, misleading graphics and the inclusion of untrue or exaggerated claims by opponents gave a biased and misleading impression of the scheme and its likely environmental impact.

BBC Editorial Complaints Unit's ruling:

Although the ECU did not support some of Mr Jones' individual criticisms, it found that his concern about the overall impression created by the item was warranted, and that a number of lapses from proper editorial standards had contributed to it.

1. The claim that the power station would be seen from "up to thirty miles away" was included twice - once in the item's studio introduction and once in the body of the report. Although it was correctly attributed to protestors against the scheme, this attribution was not enough to guard against giving an exaggerated impression of the likely impact on the landscape.

2. It is planned that the power station will run on a mixture of locally-grown fuel crops and vegetable material derived from domestic refuse. The second fuel source was described in the script as "recovered old bin bags gathered during the recycling process" and misleadingly illustrated by footage of transparent bags containing plastic bottles.

3. The report significantly overstated the cost of the project.

4. The report described the project as "Europe's largest biomass power station". It is believed that it will be the largest of its kind, but there are larger biomass power stations which generate electricity and heat (rather than electricity only, as in the Winkleigh project). The omission of this qualification contributed to the exaggerated impression of the project's likely impact.

5. The introduction to the item featured a graphic which appeared to be derived from footage of another biomass power station. This created a very different visual impression from the published images of the Winkleigh project, and tended to reinforce the accompanying claim that the power station would be visible for up to thirty miles. Brief shots of a model of the Winkleigh project later in the item were not sufficient to offset this impression.

Further action:

Spotlight will take an early opportunity of returning to the topic, and Mr Jones will be invited to put the case for the project.

The Money Programme: Diana's Lost Millions, BBC2, 13 May 2005

Complaint:

The programme investigated the circumstances in which the Diana, Princess of Wales Memorial Fund spent large sums of money on unsuccessful litigation and its consequences.

Dr Andrew Purkis, the Chief Executive of the Fund, complained that it did not meet the BBC's editorial standards of fairness, accuracy and impartiality.

Because of the terms of its settlement agreement with Franklin Mint and other legal considerations, the Fund was unable to comment on some of the key issues, and it had been a mistake to make the programme in circumstances where it would inevitably be unbalanced.

The programme-makers' original assurance that the focus would be on "Diana's legacy" was misleading, and the final title reflected the same slanted viewpoint as the working title, *Wasting Diana's Millions*.

Within the limits of the legal constraints, the Fund had provided written responses to those allegations put to it by the programme, but had not been given the opportunity to comment on

other critical allegations - in particular, that the freezing of the Fund's grant to a landmine charity had resulted in lives being lost.

In addition, the programme had given a misleading account of the course of the legal action involving Franklin mint and the circumstances of the Fund's eventual settlement with it.

BBC Editorial Complaints Unit's ruling:

The BBC Editorial Guidelines recognise that there will be circumstances where individuals and organisations which are the subject of criticism are unwilling or unable to contribute to programmes, and make clear that this should not have the effect of a veto on discussion of the topic concerned.

The absence of an interview with a representative of the Trust did not make imbalance inevitable, and the programme overall was a good example of how to maintain fairness in such circumstances.

The focus of the programme changed somewhat during the production process, but the Fund was not misled about it.

In the Unit's view there was a material difference between the final title and the working title; *Diana's Lost Millions* simply reflected the fact that large sums of money had been lost to the Fund and the causes it supported, whereas *Wasting Diana's Millions* implied a judgement about how the money came to be lost.

However, the opinion expressed by a representative of the Mines Advisory Group that lives had been lost as a result of the freezing of the Fund's grant (which was for awareness training, not mine clearance) amounted to the kind of allegation which should have been put to the Fund for comment; and the use of the inaccurate term "damages" in connection with what was an out-of-court settlement with Franklin Mint gave a misleading impression of it.

Further action:

The Editor of *The Money Programme* discussed the finding with the programme team and emphasised the particular importance of accuracy and attention to detail when allegations are made about an organisation which has declined to participate in the programme.

In the event of a repeat of this edition, it would be edited in the light of the finding.

Bias (non-party political)

Instant Guide to the Landless Movement in Brazil, BBC World Service, 13 May 2005

Brazil landless march on capital

In pictures: Life on a landless camp in Brazil

Brazil's landless squeeze government

bbc.co.uk.

Complaint:

All the items related to the MST, a movement which campaigns for land redistribution in Brazil. The complainant maintained that they gave a biased, inaccurate and unduly favourable impression of the movement.

BBC Editorial Complaints Unit's ruling:

1. *Instant Guide to the Landless Movement in Brazil*

The programme did not convey the extent to which the MST is controversial in Brazil, and should have reflected the views of the movement's opponents.

On a point of fact, the complainant maintained that, though the MST ostensibly campaigns on behalf of landless agricultural workers, the bulk of its members had no experience of farming, and drew attention to evidence that a proportion of its membership came from the ranks of the urban unemployed. The ECU noted that the Brazilian government required people seeking land allocations to demonstrate five years of agricultural experience, and that the urban unemployed would include displaced agricultural workers who had lost their jobs because of mechanisation. Nevertheless, the programme should have included some examination of the nature of the MST's membership. The complaint was partly upheld.

2. Brazil landless march on capital

This item reported on the arrival of "More than 12,000 landless activists" in Brasilia, after a two-week march. In addition to the general complaint of bias, the complainant contested the statement that the march was the biggest staged by the MST, a march in 1997 having attracted an estimated 30,000 participants. The ECU noted that the item's statement was supported by a number of news agency sources. Having investigated the range of estimates relating to the 1997 march, the ECU concluded that it was probable (though not certain) that the 2005 march was not the biggest ever staged by the MST but, in the context, did not consider that this amounted to a serious breach of editorial standards. Although the item did not include the views of opponents of the MST, this was as would be expected in a factual account of the latest stage of a continuing story, and it was evident from the fact that such a demonstration was taking place that the MST's programme was not uncontroversial. The complaint was not upheld.

3. Life on a landless camp in Brazil

This item consisted of a gallery of photographs from an MST camp, with written commentary. The complainant described the photographs as "obviously staged", and said that the authors of the commentary were MST members. The ECU noted that, though it was unable to establish whether they were members, at least one of them had worked with the MST for a number of years, and considered that their connections with the movement should have been acknowledged in the item. However, it found no reason to believe that the photographs themselves gave a misleading or unduly favourable impression of the MST. The complaint was partly upheld.

4. Brazil's landless squeeze government

Describing events during the MST march to Brasilia, this item said "At midday they 'invaded' one of the largest private farms along the road and erected the 23 giant circus tents where they spend the night". In addition to the general complaint of bias, the complainant objected to the inverted commas round "invaded", which suggested scepticism about what was in fact the correct term for such an incursion onto private property. The complainant also challenged the item's references to the MST's educational activities among children (which, in his view, should be recognised as indoctrination), and its statement that "some 44 million Brazilians still struggle by on less than \$1 a day".

The ECU noted that "invasion" is a term used by the MST's opponents, while the MST and its supporters use the term "occupation". The inverted commas reflected the fact that terminology in this area is contentious. The MST teaches children that landless peasants who want land should be given it, but it has won a UNICEF award for the quality of its educational programme and is currently working with UNESCO on a literacy project, so its educational activities appear to go well beyond what could be regarded as indoctrination. The figure for Brazilians living on less than \$1 a day, though subject to exchange rate fluctuations, was within acceptable margins of approximation for a summary report of this kind. However, the item did not convey the extent to which the MST and its activities are controversial. The complaint was partly upheld.

Further action (updated 23 November 2005):

The wording of *Life on a landless camp in Brazil* has been changed to reflect the ECU ruling. A report on the Brazilian referendum on the sale of firearms, reflecting landowners' concerns about the MST, was commissioned and posted on the BBC website in October. *Instant Guide* was formally reviewed in the light of the ECU ruling by senior World Service executives and the Editor of the series. It was recognised that, although *Instant Guide* is about facts rather than opinions, controversial topics were characterised by differing ideas of what the facts are. The review noted the need for contributors to be clearly labelled, so that their perspectives on the topic in question are apparent to listeners, and for producers of the programme to be alert to any controversial aspects of the topic. The Editor has passed on the ruling and the lessons learned from it to the production team, has asked producers to take particular care in the labelling of contributors, and has instituted procedures to ensure that producers seek independent advice on the subjects they set out to cover.

Factual inaccuracy

News (10.00pm), Radio 4, 21 May 2005

Complaint:

The results of a survey of Conservative Constituency Association chairmen, showing support for change in the rules for electing the leader, had been broadcast in that morning's edition of *Today*. A listener complained that the 10.00pm news bulletin had reported the matter in terms which exaggerated the significance of the survey.

BBC Editorial Complaints Unit's ruling:

The introduction to the news bulletin's report described it as a survey "which suggests most local party officials favour a change in the rules for electing the leader".

As the report went on to make clear, however, the survey was not of "party officials", nor of all chairmen of constituency associations, but only of the 197 with a Conservative MP.

Of those, only 58 replied. A strong majority - 49 of the respondents - wanted "some change" in the rules, and 36 wanted MPs to have the final say.

However, there was no way of knowing whether opinion in constituency associations with an MP was typical of the constituency associations as a whole, and the relatively small response from this limited sample was not a sound basis for claims about the views of "most local party officials".

Further action:

The Newsroom Editor discussed the finding with the programme team, stressing the importance of not overstating the significance of surveys of this kind.

Bad language

Friday Night with Jonathan Ross, BBC1, 6 May 2005

Newsnight, BBC2, 1 March 2005

Newsnight Review, BBC2, 13 May 2005

Complaint:

A viewer complained about the occurrence of the f-word in these programmes, and of lack of appropriate warnings.

BBC Editorial Complaints Unit's ruling:

In each case, there was sufficient editorial justification for including the f-word. However, the BBC's Editorial Guidelines say that the most offensive language should be clearly signposted.

While this does not mean that a formal warning must be given in every case, it does require appropriate steps to ensure that viewers are not taken unawares. Such steps were not taken in these instances.

Further action:

Programme teams in the relevant areas have been reminded that the strongest language needs to be clearly signposted. In *Friday Night with Jonathan Ross*, the most offensive words will be appropriately masked.