



Submission to the DCMS BBC public consultation: Why BBC governance must be reformed



# Introduction

News-watch ([www.news-watch.co.uk](http://www.news-watch.co.uk)) has unique experience over the past 16 years in dealing with the BBC about issues of impartiality relating especially to the coverage of the affairs of the European Union<sup>1</sup>. We have found that the current structure of BBC governance favours too much the interests of the BBC itself, is not properly independent, and, because of multiple operational inadequacies, is not fit for purpose. There is brick-wall negativity in dealing with complaints<sup>2</sup>.

The Trustees have obdurately and unreasonably refused to accept extensive evidence that the EU-related output has continuing serious shortcomings of the type first [highlighted in the Lord Wilson of Dinton report of 2005](#).

The findings of News-watch, based on the systematic monitoring of BBC output and analysis using rigorous academic methodology, include: under-representation and poor understanding of the eurosceptic perspective, a continual tendency to view the European Union through the prism of Conservative splits, a failure to discuss properly the case for withdrawal, and severe under-reporting of EU affairs, to the extent that it is 'bias by omission'.

This submission demonstrates the dismissal of this evidence has been procedurally crass and is also a gross failure in fulfilling Charter obligations, especially with regard to impartiality. Another yardstick of their failure is that the Trustees [have not upheld a complaint about EU coverage in their entire existence](#).

The problems detailed here are in the past, but they are important now as an indicator of a mindset and approach that persists. The only way of addressing these endemic failures is

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<sup>1</sup> News-watch has been analysing BBC output on a structured basis, in accordance with academic practice of media monitoring, since 1999. More than 6,000 hours of news and current affairs programmes have been systematically logged and analysed on a regular basis through longitudinal surveys. It is arguably the largest research project ever undertaken into BBC output. An archive of this work is here: [www.news-watch.co.uk/archive](http://www.news-watch.co.uk/archive).

<sup>2</sup> In 2014, according to the Trustees' complaints bulletin, only nine complaints out of 144 considered by the Editorial Standards Committee were upheld.



through radical change that leads to robustly independent scrutiny on behalf of the interests of the licence fee-payers.

Arguably the most important role the Trustees play is in ensuring that the BBC output is impartial. It is here that the Trust's failings are most acute. Presented here is compelling evidence of numerous repeat shortcomings including:

- Inflexible rules and procedures relating assessment of complaints
- A blanket refusal to consider external longitudinal research as the basis of complaints about impartiality and fairness<sup>3</sup>
- Consistent favouritism towards the opinions of BBC staff
- Shoddy handling of complaint assessments
- Serial failures to ensure the rigorous independence of reviews
- The adoption of skewed assessment criteria through the adoption of the concept of 'due impartiality'
- The formal sanctioning through 'due impartiality' of skewed coverage of numerous topics
- Misplaced and inappropriate reliance on opinion polls to determine quality of content

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<sup>3</sup> With the exception of the News-watch complain discussed in this submission, but as is detailed in Section 2, the research was not considered fairly.



## Section 1

### **What is behind this failure?**

The Trustees have an inherently contradictory dual role as champions of the BBC and guardians of the public interest. The former takes precedence. A major consequence is that in one area at least – EU news and current affairs coverage – content quality is not properly understood or policed and has been seriously compromised.

A common denominator in many of the Trustees' BBC biographies is [a declared admiration of the Corporation](#). They are partisans in its favour. In addition, two of the current Trustees are former BBC staff members who, because they each worked for the Corporation for decades and receive BBC pensions, cannot remotely claim to be truly independent.

The individual and collective approach of the Trustees is to defend the Corporation rather than to hold it to robust account. Evidence of this – on top of that relating to EU content presented here – includes [the disastrous handling of the Savile affair](#) (and the continued delay in the publication of the Dame Janet Smith review) and a persistent failure to keep [executive and presenter remuneration in check](#).

In addition, the Trustees have this summer allowed the BBC management to use Corporation resources to embark on [an integrated strategy that amounts to a stonewall defence of the licence fee](#) and the obstruction of exploration of alternative sources of funding. They also recently sanctioned impertinent comment in the most recent BBC Annual Report that attacks Parliamentary Select Committees for attempting to hold the Corporation to account in terms of its Charter and public purposes obligations<sup>4</sup>.

Another major area of concern is that there is strong and increasing evidence that the BBC as a whole has been unduly influenced by the values of the liberal left. The systematic

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<sup>4</sup> p21 <http://downloads.bbc.co.uk/annualreport/pdf/2014-15/bbc-annualreport-201415.pdf>



research by News-watch has established this, especially with regard to coverage of the EU withdrawal perspective, and there is further extensive evidence on blog sites such as [‘Is the BBC Biased?’](#)

The Corporation denies this bias, but has produced no convincing evidence to the contrary. These failures are made worse through Trustee rulings which have compromised editorial impartiality, and have led to the adoption of a biased Corporation-wide stance towards some issues.

This is clearly evidenced in the partisan approach to topics such as [immigration](#), and their continued failure to ensure that the affairs of the EU are covered properly. In 2005, the independent Wilson Report into EU coverage noted inadequacies such as bias by omission. Very little has been done to redress that problem, as [was highlighted by the House of Commons European Scrutiny Committee](#) in a report issued in March 2015 after consideration of lengthy submissions from senior BBC management ([and from News-watch](#)).

There are disturbing questions, too, concerning the BBC’s overall handling of complaints. Only 6.4% of those considered by the Editorial Complaints Unit were fully upheld between March 2005 and March 2015<sup>5</sup>. There is compelling cumulative evidence that the complaints procedure is over-cumbersome and heavily stacked in the BBC’s favour, [to the extent that it is not fit for purpose](#).

At the heart of the failure by the BBC Trustees is how they defined ‘due impartiality’, following the ‘From Seesaw to Wagon Wheel’ [Bridcut report of 2007](#).

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<sup>5</sup> The Editorial Complaints Unit, between April 2005 and March 2015 (the date for which the most recently published figures are available) dealt with 3355 complaints, on 2546 separate items, which are ‘normally a single broadcast or webpage, but sometimes a broadcast series or a set of related webpages’. Of these complaints, 407 were upheld (12.1% of the total 3355 complaints) either fully or partially. Of the 407 upheld complaints, 192 were partly upheld and 215 fully upheld. This means that 6.4% of the total 3355 complaints assessed by the ECU were fully upheld, or that 8.4% of the 2546 separate items were fully upheld.



This has led to the BBC news management having near-total discretion in deciding what is properly impartial. In consequence, many shades of opinion are no longer incorporated at an appropriate level in programming. Complaints which hinge on impartiality are too often rejected, because the Trustees readily and too frequently endorse the views of the editorial executive.

A further problem is inflexible rules related to the complaints procedure. Complaints are restricted to items and programmes broadcast within the last thirty days, a system that seems to be more about containment for the BBC's convenience than being geared properly to considering the issues involved. The narrow, inflexible approach means that complaints based on detailed longitudinal academic analysis are never allowed.

That is an indefensible stance because the only way patterns of bias can be discerned is through such longitudinal work – as, for example, the BBC Trustees themselves clearly acknowledged when they commissioned the [Prebble Inquiry](#) into three areas of content in 2012, which relied heavily [on analysis produced by Cardiff University](#).

The Trustees rarely consider academic research into BBC output. Instead, they use opinion polls to decide whether the programme department is meeting content and quality targets contained within the Trustees' public purposes targets. But what such polls actually prove is open to serious doubt.

How do audiences judge whether, for example, overall BBC news content is impartial, when most viewers dip in and out of coverage and view only a fraction of the content available? Inevitably, responses are impressionistic and not based on any measurable or verifiable factors. They do not provide reliable evidence that output is satisfactory, and yet the Trustees treat these survey answers as if they do.

For example, BBC Chairman Rona Fairhead and Trustee Richard Ayre told the European Scrutiny Committee in January 2015, that an important part of their understanding of whether EU coverage met requirements was that [they asked through an annual poll](#)



whether audiences believed the BBC kept audiences informed about the affairs of the EU. The most recent response was that 61% of respondents agreed that this was the case. On that basis, they maintained, the BBC coverage was satisfactory.

This was incorrect. The question provided no such evidence, because the phrasing was actually, 'kept me...informed...about Europe', the latter, in this context, an ambiguous word that could refer to the affairs of a much wider political domain than the EU. Had the question been more precise, it could have elicited a different response.

The BBC Trustees have asked the same question in the same way in all their audience surveys. It appears they have based their belief that BBC output adequately informs viewers about the EU entirely on sand. In reality, they do not have any reliable evidence about what viewers think about coverage of the European Union.

#### **THE EVIDENCE:**

The Trustees' inadequacies outlined above are vividly evidenced by their general rejection of News-watch's findings. To bring this into focus, News-watch has selected three examples where this was particularly obvious. These are important case studies and the full documentation is appended. Below follows a brief summary of each.

1. The first is the Trustees treatment of a complaint about failures of impartiality in EU-related content highlighted in a detailed News-watch survey covering 84 consecutive editions of the Today programme in winter 2006. The survey found that Today featured too few eurosceptic speakers, demonstrated a poor understanding of the eurosceptic case, there was too little exploration of the withdrawal perspective and a generally low level of coverage of EU issues, amounting to 'bias by omission'. The response, commissioned by the Trustees' Editorial Standards Committee, was based upon the findings of a so-called 'independent advisor' (Keith Bowers) who worked for the BBC for 19 years. He seriously distorted and misrepresented News-watch's findings, did not consider properly the programme items that were the substance of



the complaint, and at the same time strongly favoured the word of BBC staff over those of the complainant. His approach was seriously flawed, his analysis contained major inaccuracies, and he unfairly played down or twisted the News-watch evidence. The ESC turned down an appeal against their ruling and never even considered the News-watch rebuttal of Mr Bowers' findings. The full response by News-watch is available [here](#).

2. The second is the Trustees' handling of the 2013 Prebble Report into 'breadth of opinion' in news and current affairs, covering three topics – religion, the European Union, and immigration. It was the Trustees' '[fifth impartiality review](#)'. Conducted by television executive Stuart Prebble, it was commissioned by Trustee David Liddiment. When the report was unveiled, Mr Liddiment claimed it gave a 'generally positive' indication that the BBC objectives and obligations in the selected areas of coverage were being met. However, News-watch subsequently wrote [a paper for the think-tank Civitas](#) which explained in detail why this was definitely not the case with regard to the EU findings. The paper chronicled a catalogue of serious structural and factual errors that meant the report was 'not worth the paper it was written on'. There was significant doubt whether Mr Prebble was 'independent' because he had close long-term professional links with Mr Liddiment. Other issues highlighted included that Mr Prebble had commissioned from Cardiff University research that was seriously flawed because it relied on too small a sample of output, was not conducted with appropriate academic rigour or expertise, was riddled with sampling errors, seriously misconstrued the nature of euroscepticism, and was not 'independent' because there were strong links between the Cardiff journalism school and the BBC. Another problem raised was that Mr Prebble had also surveyed a range of programmes himself using an approach that was inevitably partisan. His conclusions were highly-biased in favour of the BBC, and based to a significant extent on the opinions of BBC staff. The Trustees have not responded to the paper other than to give [a quote to the Times](#) that they stood by Mr Prebble's findings.





3. The third is an edition of BBC2 Newsnight on January 23, 2013, the day David Cameron announced that Conservative policy would be to hold an in/out EU referendum after the 2015 General Election. The programme covered this through reaction which featured 18 figures who were in favour of staying in the EU and one who wanted to leave. A complaint by Philip Hollobone MP, Kate Hoey and News-watch, that this was a clear breach of impartiality, went through the full BBC complaints procedure. It was eventually rejected by the senior complaints advisor, and a request for an appeal on the main substance of the complaint was rejected by the Trustees' Editorial Standards Committee. News-watch subsequently wrote a critique of this decision, which is included in full in Section 4. The main point was that that the Trustees' definition of 'due impartiality' – which in this instance allowed the complaints advisor to say that the 18:1 ratio of guests was justified and fair – was a violation of common sense because it skewed consideration of complaints entirely in the BBC's favour. Further, that it was totally unfair to appoint an anonymous so-called 'independent' advisor as part of the complaints procedure and not to demonstrate that they were indeed impartial. Another key point was that the advisor's decision that the 18:1 ratio was justified because this was not a 'decisive moment' news event (requiring under BBC rules stricter impartiality). This was perverse, highly-biased towards the BBC, and at odds with the news judgements of almost every other national media organisation. It illustrated again that the BBC has concocted its own rules to dismiss criticism.

In the following sections, each of these issues is dealt with in detail.



## Section 2 – the 2008 ESC findings

In February 2008 the BBC's Editorial Standards Committee (ESC) published adjudication on an appeal to the BBC Trust by Lord Pearson of Rannoch. His complaint centred [on a survey](#) of 84 editions (14 weeks) of Radio 4's Today programme by News-watch in winter 2006<sup>6</sup>. The findings included that broadly pro-EU speakers outnumbered broadly anti-EU speakers by a ratio of more than 2:1; that only four withdrawalist speakers had appeared on the programme despite promises and public claims following the publication of the Wilson Report in 2005 that these speakers would appear more regularly; and that overall, a low priority was given to the discussion of EU themes by Today.

The ESC appointed someone whom they described as an 'Independent Editorial Adviser', Keith Bowers, to investigate the claims of bias and to review the editions of Today covered in the survey. Mr Bowers also conducted interviews with News-watch staff. He was provided with unconditional open access to their relevant data.

On the basis of [Mr Bowers' report](#), the ESC rejected all of News-watch's complaint. They decided it was 'not upheld', and ruled also there could be no appeal.

After the judgement, News-watch compiled a detailed rebuttal. The BBC refused to consider this document, despite it highlighting serious procedural irregularities and inaccuracies.

An over-arching concern outlined in the rebuttal was that Keith Bowers was not 'independent' because he was a former BBC employee. He worked as a journalist and senior news manager for the corporation for almost 20 years. Posts he held included Deputy Editor of 'Newsnight' and Executive Editor of World Current Affairs. What follows shows that his handling of the complaint reflected his partisanship towards the BBC.

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<sup>6</sup> The research was conducted by Newswatch under its original business name of Minotaur Media Tracking.



1. Mr Bowers did not carry out a proper assessment on the statistical data produced by News-watch on the ground that it would take 'an enormous amount of time'. In reality, it amounted to only four hours and 35 minutes of EU-related material which News-watch could easily have made available to him had he requested it. Despite unreasonably avoiding the task, he then said he could not verify that News-watch's conclusions based on the data, and, thereby, in effect, classed it as unreliable. This was a failure of diligence that rendered his entire investigation worthless because he did not properly consider the core evidence, and undermined it on spurious grounds.
2. At Mr Bowers' request, News-watch provided him with a detailed written overview of its methodology. The document outlined the quantitative and qualitative traditions within academic media analysis, gave examples of how the techniques are applied in practice, and discussed the strengths and weaknesses of each approach. In his report to the ESC, Mr Bowers took what might be best described as a distorted view of this. He chose to focus only on those sections of the document in which News-watch addressed the well-established *limitations* of each method. He omitted any reference to their recognised benefits, or how they might operate in unison to create a robust analytical framework. His report created the deeply dishonest impression that News-watch employed two modes of analysis both of which were inherently flawed.
3. Mr Bowers' report contained numerous serious factual inaccuracies. For example, he excluded a 47-week survey undertaken in 2002-3 from calculations. This had the effect of understating the extent of News-watch's research, thereby undermining the credibility of its data and conclusions based on it. He twisted the results of a Today Christmas Poll by down-playing the level of euroscepticism amongst the listeners who had responded. Then in a sleight-of-hand argument suggesting that levels of coverage of the EU were higher than News-watch had established, he brought into account three reports on Bulgarian and Romanian accession which appeared on Today *outside* the survey period in question. Mr Bowers also failed to see that they appeared on a morning when the programme's running order had



actually been decided by a group of Today *listeners* and so were by no means typical of the output in the 84 editions monitored by News-watch.

4. Mr Bowers offered a range of possible theories for the comparatively low levels of EU coverage spelled out in meticulous detail by News-watch in comparisons with previous surveys. He admitted that it was beyond the scope of his remit 'to examine the highs and lows of other items on the agenda since 2002 apart from the EU', and then conjured up a reason why this was not important in any case. He claimed that 'a significant part' of the news agenda since 2001 had been devoted to the 'war on terror' (and had therefore, presumably, in his estimation, pushed EU coverage out). How he decided this was the case is a mystery. He provided no evidence to support his sweeping contention, other than a vague assertion that there had been 'more than 100 items on Iraq during the monitoring period, many of them in the 7-9am period'. In fact, News-watch monitoring had taken this into account in its consideration of the data.
5. The adviser included statements from the Europe Editor Mark Mardell, Deputy Editor of Today, Gavin Allen, and Director of News, Helen Boaden. He said that all three had claimed the EU had been 'low down on the agenda' during the survey interval. Mr Bowers accepted this as fact, even though none provided evidence to back up the claim. It seemed not to occur to him that such statements might be examples of exactly the sort of bias that News-watch had identified. It was, of course important to include the BBC's own perspective on the news agenda and the levels of EU coverage within it. But the adviser demonstrated his heavy pro-BBC partiality by presenting their opinions in his own commentary as though they were incontrovertible fact. Their opinions could not be challenged, but News-watch data could be.
6. Mr Bowers also demonstrated partiality in his comments about News-watch's classification of the various speakers on EU affairs. The author singled out ten appearances by EU politicians who had been listed as 'Pro-EU'. He said that, '...not everyone might agree that this automatically means that using them as interviewees



equated to conveying a pro-EU line'. Yet, even cursory examination of the News-watch's survey in question would have shown that there was nothing automatic about the categorisations. The data included one EU politician who spoke against the EU, and another who offered a neutral perspective. Further, Mr Bowers' decision to focus on the 'Pro-EU' speakers alone was a one-sided approach, which, it appears, was designed to erroneously cast doubt upon the categorisation process, and defend the BBC.

Overall, the ESC failed to offer any satisfactory arguments for dismissing News-watch's research, or provide any detailed data to refute its findings. News-watch's concerns regarding the independent adviser's approach, his neutrality, and the depth and quality of his research were not taken on board by the Committee, and the author's hypotheses were widely replicated without question in the final judgement.



## Section 3 - Summary of the News-watch response to the Prebble Report

The Prebble Report into the BBC's coverage of immigration, religion and the EU was published on July 3 2013. It was commissioned by the BBC Trust in August 2012 following claims that output in these areas was biased, particularly against groups regarded by the BBC to be on the right of British politics, including UKIP and Migration Watch. In a statement welcoming the publication of the report, David Liddiment, the BBC Trustee who commissioned it, suggested that it had provided 'generally positive findings'. Mr Liddiment's key observation was that the Prebble Report had found that 'a broad and impressive range of opinions' on its news, current affairs and factual programmes was carried, with no persuasive evidence that significant areas of opinion were not represented.

The Prebble Report used as its basis a series of face-to-face interviews, telephone interviews and written submissions from organisations and individuals external to the BBC, (including representatives from News-watch) and also conducted interviews with a range of senior BBC staff responsible for editorial policy and the delivery of news. Central to the Prebble Report was a content analysis of BBC programmes undertaken by the Cardiff School of Journalism, Media and Cultural Studies, a department of Cardiff University.

However, on its publication News-watch identified a number of extremely serious concerns which called into question the validity of the report and the underlying content analysis produced by Cardiff. First, News-watch suggested that the 'independence' of the report was severely compromised due to the following personal and professional links:

- 1) Author Stuart Prebble and the BBC Trustee who commissioned the report, David Liddiment, were close professional colleagues at Granada TV for many years. Stuart Prebble was also from 2002-10 the chief executive and part owner of Liberty Bell, a television production company which made programmes for the BBC.



- 2) Senior members of the Cardiff University department which provided the content analysis were former BBC executives, including Richard Sambrook, a former Head of BBC News, and Richard Tait, a former editor of Newsnight, who served as a BBC Governor and Trustee from 2004-10. The BBC Trustees commissioned the Cardiff research directly from Professor Sambrook. Professor Sambrook's colleague, who directed the research, had recently been paid by the EU to analyse media coverage on further integration, and why the UK was sceptical about that prospect.
- 3) The Cardiff researchers later went into print with claims that the BBC's EU coverage is skewed against Europhiles, pushing a clear agenda based on very scant evidence, and seemingly – given that the BBC didn't attempt to challenge or refute these claims – designed to bolster the perception that the BBC receives criticism from both the left and the right.

Second, when News-watch investigated Cardiff's content analysis in detail, and compared it to its own data gathered during these same monitoring intervals, a number of serious issues were identified which ultimately invalidated Cardiff's research entirely:

- 1) The BBC Trust asked Cardiff to answer the question: 'Is there evidence of a move from a "seesaw" view of impartiality towards a "wagon wheel" model between 2007 and 2012?' This was a direct reference to the BBC Trust's 2007 Bridcut Report, which had set out a new model for impartiality. However, rather than selecting a sample of BBC news coverage best suited to answering the question they had been tasked with answering, the Cardiff researchers recycled for the Prebble Report a piece of research from 2007 that had originally been gathered in connection with something else entirely: a survey of the BBC's coverage of the UK's nations and regions. It was a prime example of 'convenience sampling', defined in the academic literature on broadcast monitoring methodology as a sample which is not properly preconceived and directed, and instead is more a product of chance and opportunity. Therefore, the primary basis of the research – to investigate improvements between two periods – was wholly flawed. Cardiff's 2007 sample was actually gathered five



months *after* the publication of Bridcut, and therefore the whole analysis focused on two post-Bridcut periods. It certainly did not provide the ‘before and after’ comparisons that their remit had requested.

- 2) Cardiff’s sampling methodology also generated what research literature describes as ‘constant errors’, or structural biases emanating from initial monitoring choices which subsequently distorted their sample’s representative qualities. Cardiff actually elected to monitor less than half of the Today programme, but then compounded that limitation, by focusing rigidly on the 7am-8.30am time-slot in each monitored programme and ignoring Saturday broadcasts altogether. A ‘rolling’ sample, beginning at different points of the programme each day, would have ensured a much more representative appraisal of coverage, particularly given that ‘fixed slots’ such as Today’s 6.15am Business News were never sampled.
- 3) Cardiff based their conclusions on just 272 hours of broadcast output and 208 EU reports. As such, their EU sample was approximately 40 times smaller than that available to News-watch. Cardiff deliberately narrowed down their sample even further, with a key component of their research focusing on the main EU news stories during each of the two survey intervals: the Lisbon Treaty in 2007 and EU Budget negotiations in 2012. Both themes accounted for roughly 70% of the total EU coverage, and thus in some areas of their inquiry Cardiff discarded (apparently without further analysis) 30% of the material they had available.
- 4) University of Cardiff Lecturer Mike Berry, [writing in the New Statesman](#) in August 2013, came to some very bold conclusions about what the Cardiff research had established, including that “voices arguing for the benefits of EU membership were very sparse”. However, of the 21 pro-EU speakers who appeared on Today during the interval of Cardiff’s 2012 survey, 20 of these would have been missed by Cardiff, either because they were interviewed outside of the monitored time-slots, appeared on a Saturday, or had discussed an element of policy other than the EU Budget.





- 5) Cardiff made a number of assumptions about the nature of euroscepticism that were value-loaded and clearly biased against the withdrawal case. They decided, for example, that Conservative 'eurosceptic' arguments were 'broadly similar' to UKIP ones, and therefore that if Conservatives appeared making a eurosceptic arguments, they were reflecting the UKIP standpoint, when quite patently they were not. This raised the question of whether Cardiff really understood the basic nature of the field of inquiry.

Stuart Prebble appeared to accept without question that the Cardiff research was properly conducted and therefore provided independent evidence that the BBC's EU coverage was satisfactory. But he also decided to embellish those findings with his own observations and 'evidence' about output. It is clear that he interviews with BBC staff to gather their impressions about EU coverage. However, completely at odds with normal research practice, he used this clearly subjective material as 'objective' data about coverage side-by-side with the Cardiff data. And the material from BBC personnel – not linked at all with the Cardiff content analysis or their data-sampling periods – formed the core of his fundamental argument that the EU coverage was both wide-ranging and properly incorporated the views of minority opinion. Put another way, the basic premise of the Prebble report, in commissioning the Cardiff research, was to provide verifiable, independent, academic research that would underpin and validate its findings. But Mr Prebble decided to introduce his own randomly-gathered data and gave it equal, if not greater weight.



## Section 4 – Summary of Newsnight 23/1/2013 complaint

At the end of January 2013, Conservative MP Philip Hollobone submitted a complaint to the BBC based on analysis by News-watch of the January 23, 2013 edition of BBC2's Newsnight. This was the day Prime Minister David Cameron announced his intention to hold an in/out referendum on EU membership if the Conservatives returned to power after 2015.

The complaint made the following key points:

- 1) The editorial aim, on a day in which a referendum about possible departure from the EU was placed firmly on the national agenda for the first time since 1975, seemed to be to assemble a cast of contributors who were in favour of British EU membership.
- 2) The only voice in favour of withdrawal was UKIP leader Nigel Farage, against 18 other guests who wanted to stay in the European Union. Mr Farage's contribution amounted to around 10% of the words spoken by the 19 programme guests, and he was not asked at all about withdrawal.
- 3) By sharp contrast, Sir Peter Sutherland, a British former EU Commissioner, spoke at greater length than Mr Farage and had clear opportunity to present the case for Britain remaining within the EU. Mr Farage was not afforded an equivalent chance to outline the withdrawal case. He was confined by the questioning to talking about a possibility of a pact with the Conservatives rather than withdrawal itself.
- 4) A section featuring three Newsnight programme contributors broke Editorial Guidelines because it did not properly signpost that one of them, Peter Carroll, was an active supporter of the Liberal Democrat party and instead misleadingly introduced him as simply as a businessman that the programme had spoken to recently about Europe.



The complaint concluded:

“In summary, this was a major opportunity to explore and challenge opinion in favour of withdrawal from the EU on a day when – because of the Cameron speech the audience should have been informed about the withdrawal perspective. It was not taken. A number of those in favour of continued British membership were allowed to put their case, but there was not one single word from those who disagree. Nigel Farage, the sole representative of the EU withdrawal case was pegged into a narrow corner in terms of his contribution and the programme did not set out to explore wither the political or economic case for withdrawal. The programme seemed to deliberately want to put across the case for staying in the EU, but almost nothing of the alternatives, and rammed the message home further with a totally one-sided piece about the benefits of EU-led immigration. This was the start of a major national debate about withdrawal, but Newsnight displayed deliberate and systematic bias in not allowing the withdrawal case to be aired except in the most basic terms.”

The subsequent submissions and counter-submissions under the terms of the BBC complaints procedure extended over many months. The process culminated with a ruling by the Trustees’ Editorial Standards Committee that they would not hear an appeal from the complainant because the ruling by the Editorial Complaints Unit against the complaint was valid.

The first stage of the rejection was that Karen O’Connor, Acting Editor of Newsnight replied that the allegations about the programme were unfounded because the programme had ‘covered the debate about Europe from a wide variety of angles’ and that ‘it would be neither appropriate nor accurate given the extensive, profound and multi-layered issues involved in this important speech to depict it as a straight ‘in/out’ exercise. She also claimed that Newsnight had in December 2012 broadcast an edition which ‘did pose the question along binary lines’ and listed those who had contributed, including British and European politicians, the head of Norway’s ‘No’ campaign and Nigel Farage. She also noted that



Newsnight had recently commissioned films and interviews on internal views within the Conservative Party, and on how specific EU regulation affected individuals, along with several films on the issue of Bulgarian and Romanian immigration.

In response, News-watch investigated in detail the edition of Newsnight (December 12, 2012) referred to by Ms O'Connor, to assess how 'balanced' it had actually been. This revealed that – despite Ms O'Connor's claims - that only around a quarter of words spoken during the debate came from withdrawalists, compared to 60% who favoured continued membership in some form, with the rest being 'neutral' contributions. It thus did not create balance in respect of the January 23 programme, and indeed, was evidence of further bias against the withdrawal case.

Mr Hollobone therefore maintained in his second letter of complaint that his original observations stood. He said that, far from providing evidence of impartiality, the instances chosen by Ms O'Connor underlined further Newsnight's serious breaches of impartiality in terms of its EU coverage.

The complaint was then referred to the Editorial Complaints Unit, and a senior editorial adviser rejected the complaint. The main reasons it cited were:

Under the terms of the BBC's definition of 'due impartiality', it was a reasonable editorial decision for Newsnight to place the focus on the political ramifications of David Cameron's Speech on the EU, and speak to a spectrum of business and political opinion, rather than covering it on an 'in/out' basis. The principal section of the programme involved a debate between the representatives of the main political parties, UKIP included. This was reasonable given that the programme was seeking 'official reaction' to Mr Cameron's announcement.

Newsnight had covered the withdrawal perspective in other editions including the one in December 12. The adviser rejected therefore, that the 18:1 ratio of contributors and the lack of exploration of withdrawal was a problem. The adviser said the editorial decision



to cover the story in this way was further justified because the editor of BBC1's News at Ten had opted for a similar approach.

The adviser added that the complaint wrongly suggested the debate should be a '50-50 consideration of the withdrawal issue.' Under 'due impartiality' (adopted after the Bridcut report) this was an occasion where 'wagon-wheel nuances' applied. She added - using various polling data on public and business support for the repatriation of powers from Brussels - that the EU was a 'nuanced issue', and that viewpoints did not comprise only 'stay-in' and 'withdraw'.

The adviser argued that there was a further reason why the judgment of the Newsnight acting editor had been correct. She observed that a balance of speakers was required when a news event is classed as a 'decisive moment'. However, under the formal Editorial Guidelines at section 4.4.9, the referendum announcement was at the lesser level of only a 'major matter' and so this was not necessary. She quoted the rules:

*"When dealing with 'major matters', or when the issues involved are highly controversial and/or a decisive moment in the controversy is expected, it will normally be necessary to ensure that an appropriately wide range of significant views are reflected in a clearly linked 'series of programmes', a single programme or sometimes even a single item."*

The Adviser gave two justifications in reaching the conclusion that the David Cameron announcement of an in-out referendum was not a 'decisive moment'. First, that the timetable for the referendum was 'post-2015' and second that the debate had been framed 'through the promised re-negotiation of the terms of the UK's membership.'

The adviser also rejected the notion that audiences ought to have been made aware that in the section of the programme dealing with outside opinion, Peter Carroll, who had introduced himself as the part owner of a haulage firm, was also a former Liberal Democrat Parliamentary candidate and councillor. She ruled that the contribution he made was sufficiently related to his declared role that the Trustees were unlikely to



believe that audiences had been misled. The adviser also ruled that all three guests were not strongly pro-EU. The Adviser said that while none of the contributors called for outright withdrawal, 'at least two considered the prospect of the UK leaving.'

In response, Mr Hollobone rejected the findings and asked that the matter should be placed before the Trustees' ESC for an appeal.

He wrote:

### **The BBC and "Europe"; Newsnight 23/1/2013**

We ask that this complaint be now placed before the Trustees because we believe that the response from the Senior Editorial Strategy Adviser, Natalie Rose, fails to deal with the many concerns that are at its heart.

We do not believe that our complaint has been handled by a process that is genuinely independent or by individuals who properly understand the wide complexities of euroscepticism or withdrawal from the EU. Evidence of this is:

- A key judgment is that Newsnight's editorial decisions were sound on January 23 because they followed a similar pattern to those on the BBC1 10pm News. Lord Wilson warned specifically that the BBC's EU coverage was adversely affected by a BBC 'institutional mindset'. This is a vivid example of this.
- We note that 'an Independent Editorial Adviser' is included in the review process to show independence. Can we know who this person is, and how he or she came to be appointed to such a key role? Anonymity may be the Trust's modus operandi in this respect, but it is highly unsatisfactory. What credentials did he or she have for deciding that this was not a 'decisive moment' relating to a 'major matter' when, as is evidenced below (as just one example of an external yardstick) most UK newspapers and other media outlets (worldwide) on January 23 thought it was? Research into the shadowy world of who these advisers are reveals only one – Ivor Gaber, now a Professor of Media Studies. Like others chosen by the BBC to review BBC performance, he worked for the Corporation for many years, was an union activist, and seems – in his published works e.g. Environmentalism and the Mass Media (Routledge 1997) on climate change – to betray a mindset which certainly would not be sympathetic to a complaint of this nature (and see the concluding paragraphs at the end of the letter).
- Whilst on the subject of the independence of the BBC's inquiries, the only genuinely independent inquiry into the BBC's EU output of which we are



aware was that chaired by the former Cabinet Secretary Lord Wilson in 2005. The recent report by Stuart Prebble, for example, which found that News-watch's work was 'arithmetic metrics' cannot be regarded as independent because the commissioning trustee, to whom Mr Prebble reported, was David Liddiment, an old colleague of Mr Prebble at Granada.

- The rules for dealing with complaints outlined in the response - as contained in the various editorial codes - have been constructed in such a way that it is almost impossible to establish bias because the litmus test is so highly stacked in the BBC's favour, especially with regard to what 'due impartiality' is. The Senior Editorial Strategy Adviser says that on January 23, such impartiality applied in a programme where pro-EU contributors outnumbered ones who favoured withdrawal by an 18-1 margin. This, it seems to us, is a violation of common sense.

That is the preface to our dissatisfaction with the latest response. Our detailed observations are as follows:

The Senior Editorial Adviser decided that the appeal did not have a reasonable prospect of success with the BBC Trust on the following grounds:

**1) That it was a reasonable editorial decision for Newsnight to place the focus on the political ramifications of David Cameron's Speech on the EU.**

The Adviser's justification is that the BBC1 10pm News chose a similar angle for its coverage. Using the editorial decision of another BBC News team to support the choice of the angle taken by Newsnight's own staff betrays the very institutional bias which triggered this complaint. It confirms the problem – flagged by the Lord Wilson report – that editorial judgments in EU coverage have been made as a result of BBC institutional bias, that EU events are systematically viewed through the 'Westminster Prism', and as a result of a 'BBC mindset' at play. We say that the work by News-watch ([www.news-watch.co.uk](http://www.news-watch.co.uk)) in this complaint and in its detailed, wider analysis of BBC output, provides clear evidence of such institutional bias. The dismissal of the complaint on the basis that two BBC programmes reached similar editorial judgments on the same night is actually evidence only of a closed, insular, circular mindset.

It also rather strangely disregards the fundamental differences between the two programmes. Newsnight features are approximately ten times longer than a typical 10pm News report, and thus the programme has room for far more complex discussion, as well as the inclusion of a far greater range of opinion. At issue is why it did not use that extra time to better effect.

The complaint about the January 23 programme was not that withdrawal as an issue was not tackled, but rather that withdrawalist opinion in all its nuanced forms, on a day when for the first time in 40 years withdrawal from the EU became a specific matter of government planning, was so heavily outweighed.

**2) The Adviser argued that the EU withdrawal debate, despite being ‘a major matter’ had not reached a ‘decisive moment’ on January 23.**

The terms ‘decisive moment’ and ‘major matter’ are in the Editorial Guidelines, section 4.4.9. These state, “When dealing with ‘major matters’, or when the issues involved are highly controversial and/or a decisive moment in the controversy is expected, it will normally be necessary to ensure that an appropriately wide range of significant views are reflected in a clearly linked ‘series of programmes’, a single programme or sometimes even a single item.”

The Adviser gave two justifications in reaching the conclusion that the David Cameron announcement of an in-out referendum was not a ‘decisive moment’. First, that the timetable for the referendum was ‘post-2015’ and second that the debate had been framed ‘through the promised re-negotiation of the terms of the UK’s membership.’

However, the Adviser’s judgement is unacceptable. What constitutes ‘major matters’ and/or ‘decisive moments’ is purely down to editorial judgement. The BBC’s Chief Political Adviser, Ric Bailey, giving evidence to the European Scrutiny Committee of the House of Lords, Session 2013-14, said, ‘The question of what constitutes “major matters” is not defined and is a matter for editorial judgement, as is the amount of coverage which is given to “major matters”.’

In this case, that judgment, both on the night of January 23 and in the subsequent responses to our complaint, was clearly wrong. One yardstick of comparison is the front pages of the British and international press on the morning of January 23. They were united in their view that the most newsworthy element of Mr Cameron’s speech was the in/out referendum, rather than his plans to attempt a renegotiation.<sup>7</sup> The announcement was also most certainly controversial – and thus in a category to trigger the additional controls outlined in 4.4.9. Indeed, the following morning’s *Independent* carried on its front page “David Cameron’s promise of EU referendum by 2018 provokes storm of controversy”.

This was the first time a government had promised the British people a referendum on the country’s membership of the European Union in almost 40 years. Thus, David Cameron’s decision was without question a ‘decisive moment’ in European affairs on a highly controversial topic. It is difficult to think of a more seminal moment in the EU debate than a prime minister announcing a referendum on whether Britain should leave the EU.

**3) The principal section of the programme involved a debate between the representatives of the main political parties, UKIP included, and that this was reasonable given that the programme was seeking ‘official reaction’ to Mr Cameron’s announcement.**

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<sup>7</sup> Daily Express: ‘Britain will get an EU referendum.’; Daily Mail: ‘You will get an in or out vote on Europe.’; i: ‘Cameron Pledges in/out vote on Europe’ \*But not until 2017’; Daily Telegraph: ‘Cameron: I’ll hold an in-out vote on Europe’; The Guardian: ‘Cameron to Pledge In-out vote on EU’; Independent: ‘In or Out – PM pledges EU exit vote by 2017’; The Times: ‘Cameron pledges in-out referendum on Europe.’; The Mirror (front page, but not main headline) ‘Cam: I’ll give Brits Europe Quit Vote.’ The Sun (front page, but not main headline) ‘EU vote by 2017 says Cam’





Putting aside that it was an editorial decision to frame the debate in these terms, it is also vital to understand that this edition of Newsnight was most certainly not only about mainstream political reaction to David Cameron's announcement. The programme was patently designed to contain external, non-Westminster opinion, and deliberately gave the impression that the views included were a spectrum of those that were central to the overall EU debate. The contributors in this category were the Czech Ambassador, a former EU commissioner, a professor of EU law, two Romanian immigrants, a leader of Portsmouth Council and a head teacher. And yet none of these additional speakers were withdrawalist, contributing to the imbalance of 18 to 1. The Adviser fails to adequately explain or address this. Additional withdrawalist speakers – backbench MPs, peers, business leaders, trade unionists, members of the public from both the 'right' and the 'left' or any number of nuanced other positions – could and should have easily been included elsewhere in the programme, because the debate was not limited to only 'official reaction'.

- 4) The Adviser also referred us to the Newsnight programme of 12 December. She claimed it 'provided an in/out debate of the type sought by the complainants'. She then noted that our view was that the debate should be a 'seesaw' and '50-50 consideration of the withdrawal issue.' The Adviser said that this misinterpreted the BBC guidelines on impartiality, and also the Bridcut report which sought to move away from a simple 'seesaw' presentation to recognise the 'wagon-wheel' nuances that often exist. The Adviser then, over three paragraphs and using various polling data on public and business support for the repatriation of powers from Brussels, said that the EU is a nuanced issue, and that viewpoints do not comprise only 'stay-in' and 'withdraw'.**

We agree on the latter point, but the Senior Editorial Strategy Adviser misrepresents both the original complaint, and our view on how the debate should be covered. It has never been suggested by us that the EU debate ought to be represented as a 'seesaw' by the BBC – or that there should be a 50-50 consideration of the withdrawal issue in general EU coverage. The comments referred to were made in our complaint solely in reference to the December 12 edition of Newsnight. This was undoubtedly framed by Newsnight itself as unambiguously a 'seesaw' in/out debate. Our analysis shows that once the focus moved on from the initial studio setup, any semblance of fairness and equilibrium vanished. The '3 v.3' format was transformed into four advocates of withdrawal against eight who supported continued membership of the EU.

The Adviser argues that the in/out referendum question is not a binary issue, because a number of opinion polls indicate public and business support for the renegotiation of Britain's relationship with the EU. However, what the Adviser fails to appreciate is that, as the Prime Minister has made clear, the argument for renegotiation is a *pro*-EU argument, and at its core is the idea that EU powers and competences can be wrested back and that Britain can remain a member of a new, reformed EU. Most Eurosceptics arguing for the repatriation of powers support continued membership. The referendum question, if it comes, will not be 'in/out/renegotiate'; it will be 'in or out, after renegotiation'. Whether the matter at hand was a debate on withdrawal or not, the range of opinion presented to audiences on January 23 was patently biased; 18 guests holding broadly the same point of



view, that Britain benefits from its relationship with the EU and should remain a member, against just one who believes the opposite.

We are fully aware that the EU debate is intricate with lots of different complex opinions. Emphatically, it is not binary. However, the central issue is that the January 23 programme explored only the nuances of one side of the debate – that which ultimately wishes to see Britain remain a part of the EU.

The Adviser quotes the BBC guideline 4.4.2 that: ‘Impartiality does not necessarily require the range of perspectives or opinions to be covered in equal proportions either across our output as a whole, or within a single programme.’ It seems to us that this illustrates graphically that the BBC’s Editorial Guidelines can be used to justify virtually any permutation of guests, so long as ‘a wide range of significant views and perspectives are given due weight and prominence’. In this particular case, the guidelines have been used to rationalise - on a day when the in/out referendum was announced – 18 speakers in favour of Britain remaining within the EU, against just one speaker who wished to see Britain leave. Can you tell us how, under the current system, an argument could ever be won concerning the under-representation of a particular viewpoint on a major matter?

- 5) The Adviser rejected the notion that audiences ought to have been made aware that Peter Carroll, who had introduced himself as the part owner of a haulage firm, was also a former Liberal Democrat Parliamentary candidate and councillor. The Adviser found that the contribution he made was sufficiently related to his declared role that the Trustees were unlikely to believe that audiences had been misled. The Adviser also considered all three contributions in this segment and found against our complaint that all three were strongly pro-EU. The Adviser said that while none of the contributors called for outright withdrawal, ‘at least two considered the prospect of the UK leaving.’**

The Adviser stated that the three contributors were introduced by Kirsty Wark as ‘some of those who we’ve talked to on Newsnight recently about how Britain’s relationship with Europe affects their lives, to find out what they made of the Prime Minister’s speech.’ The Adviser omitted what was said by Ms Wark immediately preceding this, which was ‘Before we hear from the politicians again.’ The audience was thus given a direct indicator that the three people in the sequence were not politicians.

We reject as specious the notion that, simply because two of these guests mentioned the *concept* of withdrawal in their contributions, that they were anything other than pro-European in their outlook. Each speaker provided clear arguments for Britain remaining in the EU, or spoke about the benefits EU legislation had brought to their particular situation. This segment was completely one-sided and it beggars belief that the programme did not solicit the opinions of at least one non-politician who fully supported withdrawal. And so, as we said in the original complaint, the audience was seriously misled in direct contravention of editorial guidelines (letter ends).



In conclusion, the complaint about this Newsnight edition clearly raised issues at the heart of the BBC's approach to bias. The rejection of the complaint illustrated vividly the key points made at the beginning of this submission, and that, in essence, the complaints procedure is rigged massively against complainants because the Trustees have adopted rules such as the current definition of 'due impartiality' which allow at every turn discretion in BBC editors' favour. Trustee Richard Ayre, when he gave evidence to the House of Commons European Scrutiny Committee in January this year disclosed that during his tenure, as far as he knew, no complaint about EU coverage had been upheld about EU coverage by the ESC. The evidence presented here shows exactly why. The current system is unduly closed to outside opinion on matters related to editorial judgments.



## The way forward

The BBC occupies a unique place in British life and is trusted to an extraordinary extent to meet or exceed its Charter requirements and the public purposes as defined by the Trustees.

This submission provides damning evidence that this trust is being substantially betrayed. The track record of the Trustees shows that its open admiration of the BBC compromises its standards and biases its judgments.

After the Wilson report, the BBC promised:

***With specific reference to Europe our aims are:***

- a. To offer our audiences across all platforms clear, accurate and accessible information about the way EU institutions work and their impact on UK laws and life;***
- b. To ensure impartiality by reflecting the widest possible range of voices and viewpoints about EU issues, and to test those viewpoints using evidence-based argument or informed opinion;***
- c. To demonstrate the relationship between the different member states and the European Union;***
- d. To reveal or explain to our audiences areas of contentious fact and disputed principle.'***

The Trust has failed to ensure that these goals are fulfilled. This submission shows that the rot is so endemic that it is beyond reform.

The Trust's replacement should be a robustly independent body whose main role is to ensure that the Charter is met, and that there is genuinely independent scrutiny of content and of complaints. To facilitate this, the complaints system should be run by an independent outside body made up of figures who have never worked at the Corporation, and who have demonstrably a range of political and cultural views as well as the requisite journalistic experience.



The future complaints system should be fully transparent, made much simpler, allow submissions of all reasonable kinds, and should be supplemented by an internal BBC monitoring system that has the goal of policing impartiality on a systematic basis.