

1. Original complaint letter from News-watch, sent 4 October 2016.

Complaint to the BBC
BBC Complaints Unit

Dear Sir,

This is a complaint against an item broadcast on the BBC 1 News at Six on August 31. The full transcript is below. A central feature of the report was that correspondent Daniel Sandford suggested that there was a fear that the killing of Arkadiusz Jóźwik in Harlow was the result of a 'frenzied racist attack triggered by the Brexit referendum'.

This strong claim was buttressed by other phrases in the report, and has to be seen in the context of other negative and sensationalist BBC reporting about alleged race hate. The relevance of this to the complaint is spelled out below.

In the introductory sequence, newsreader Fiona Bruce said that police suspected the crime 'may have been racially motivated'. Then, introducing local MP Robert Halfon, Mr Sandford said (Mr Halfon was) 'worrying that it could be a hate crime', and he included a brief soundbite from the MP:

"We need to be a kind and decent nation and we shouldn't allow . . . people who come from the sewers to exploit divisions."

The complaint is that, in including these carefully-edited claims the report suggested cumulatively that this was a frenzied race hate murder connected to the Brexit vote by people who had come from the sewers 'to exploit divisions'. This was sensationalist reporting which deliberately and irresponsibly over-emphasised the possibility of a link between the death of the victim with race hate and the Brexit vote.

The BBC was alone in reporting the attack was 'frenzied' – other newspaper reports do not mention the word.

Another theory about the death floated by the police, that the motive was different, was mentioned in the Sandford report, but was deliberately under-emphasised, because it was not explored to the same level as the 'race hate' angle. Correspondents have a choice about how they order the material they have gathered. Here, Mr Sandford unquestionably decided to give 'race hate' the most prominence.

The facts of the case, as known on August 31, simply did not warrant this.

The construction of the report appeared to be to stress strongly and unduly the idea (propagated mainly by those who supported Remain) that those who voted for Brexit were motivated by race hate.

Mr Sandford said that detectives ‘were not ruling out’ the ‘fear that this was a frenzied attack triggered by the Brexit vote’. What did he actually mean by this? From where did the fear emanate? And where the word ‘frenzied’? It is not clear from the transcript. Was he implying that it was from the detectives investigating the crime, perhaps in an off-the-record briefing?

If so, he should have said so explicitly. That, however, does not seem likely because if police had done so – in effect saying that they were investigating a race hate crime – Mr Sandford would surely have said so, and it would have also appeared in other reports. It would have strengthened the story considerably if this is what police believed.

The fact that it was couched as a ‘fear’ suggests rather that someone other than the police had expressed that idea. Was it the Polish ambassador? Or one of the local residents? Either way, Mr Sandford should have made it clear so that viewers could judge for themselves the validity or otherwise of the source of the fear.

What were the facts as they were known on August 31 when the report was transmitted? At that point, six youths had been arrested by police in connection with the death and released on bail. They had not been charged with a crime and police made it clear that their inquiries were continuing and incomplete.

Essex police had clearly not told reporters that the main line of inquiry was potential race hate. They had simply said to a variety of media outlets that they had ‘not ruled out’ race hate as one possible motive for what they said was an ‘unprovoked’ and ‘vicious’ crime. Police at the scene said the killing was thought to have been caused by ‘a single punch’.

An important ‘but’ is that they had also said that this was only one of the leads and ideas they were following. It is customary for the police to keep an open mind on the motive for crimes until the full facts are established. Put another way, it does not mean that weight is being put on a possibility simply because it has not been ruled out.

Another possibility being investigated by the police mentioned by Mr Sandford, but only in passing and not in the introduction, was that race hate was not involved, and that Mr Jozwik had been simply in the wrong place when a group of youths were ‘looking for trouble’.

That apart, the police had not said on the record that it was a ‘frenzied attack’ – or if they had, others such [as The Guardian had not reported it](#). Further, because on August 31 the inquest had not been opened, there was no clear indication of what the cause of death of the Polish man was, or the circumstances of his death.

The Pizza Parlour employee spoken to by Mr Sandford had not seen the attack itself, and confirmed only that he had seen that the victim had been ‘badly hurt’ and had injuries that looked like he had bled from his ear.

‘Frenzy’ is defined as ‘extreme mental agitation; wild excitement or derangement’ He did not reveal the source of where the fear came from – only that it existed as a theory of why the killing had happened. The complaint is that this was an overly emotive word (wherever it was derived) that did not accord with the facts. The inclusion was deliberately calculated to

reinforce ideas, circulating widely among the Remain community, that the Brexit vote had been motivated by racism and unreasonable bigotry.

A further over-arching issue is that much greater caution should have been exercised in bracketing race hate with extreme violence and linking that alleged violence with Brexit. This is not a step that should have been taken lightly. The BBC has a special responsibility as a public service broadcaster bound by Royal Charter to ensure that extreme claims are not made irresponsibly and when they are, properly put into context.

The issues here were very recently neatly underlined on the BBC itself. In an interview of Adam Bodnar, the Polish Commissioner for Human Rights, on Radio 4's Today programme on October 1, by John Humphrys, Mr Bodnar suggested that the Harlow murder was an example of race hate after the Brexit vote. Mr Humphrys responded:

'Well, yes, but we need to be very careful about that, don't we? . . . the police themselves say that that . . . there's no clear evidence that that was a hate crime . . . it is one of many leads that they are following up... But the fact is there is no proof, that that was a hate crime . . .'

He thus saw the need to tread with great caution in the Harlow case. Mr Sandford with much less certainty at his disposal, because the event had just happened, did not.

In the immediate aftermath of the murder, before allegations of links with race hate and Brexit, effort should have been taken to assess how likely this was. A key ingredient of that process should have been an examination of the race hate data to see how common such crimes are.

In fact, finding objective reports of race hate violence involving physical injury is not easy, and the fact that it is should invoke severe caution in making claims about such crimes.

Very little has been written about race hate crime, and indeed, it only became a specific recorded category of crime in 2011.

The difficulty and complexity of the terrain is defined by a report by Leicester University **The Hate Crime Project**, which was published in 2014. At its core were 1,100 questionnaires completed by people, who, in their perception, had been victims of hate crime. Of these, around one third (c.450), said they had been targeted because of their race or ethnicity. The majority of these crimes (83%) involved verbal abuse or harassment. Almost half the crimes were one year ago or more. Only 9% were thought to be recent incidences of 'violent crime', though none detailed the nature of the physical injuries involved

Included in the sample, however, were only 23 people from 'Eastern Europe'; the ethnic minorities involved were mainly Black African or Caribbean, or Asian (almost half the sample). There was thus little evidence that Poles or anyone of Eastern European 'ethnicity' have been subject to hate crime violence, even at the level of 'common assault' (which does not necessarily include violence).

The Institute of Race Relations is one of the few bodies that has been systematically recording race hate crimes and murders in the UK over a considerable timespan. It is, however, extremely vague in its section dealing with violent attacks involving actual physical injury – there are no numbers. With murders, it is more specific. Most of the 84 unfortunate victims listed, however, are again from black or Asian ethnic backgrounds.

It is clear that in many of them that, although witnesses had alleged that race hate was a component of the murders, the judge had subsequently discounted such motives. That said, the Institute's figures show only one race hate murder against a Polish man in the period 2002 and 2013, and a further one where the victim was actually from Slovakia but thought to be a Pole by the perpetrator.

Examination of the reports reveals that in both these cases, the connection with race hate was not straightforward. There were clearly other motivations and complexities in the cases.

The Institute's figures underline that even though up to 700,000 Poles born in Poland now live in the UK, there have been in more than a decade (2002-14) no murders of a Pole simply because he was a Pole and only because the murderer had acted only or even primarily because of race hate.

Another strand is that on the day of the Harlow killing, the Stop-Hate website carried a report conducted by the charity containing examples of the type of race hate crimes that were allegedly being committed after Brexit. It was published on July 11. As an organisation, Stop-Hate, which was founded to encourage the reporting of perceived incidences of hate crimes, is strongly against Brexit and believed the 'out' vote was motivated primarily by anti-immigrant factors. Its stance was not impartial in this respect. Notwithstanding, its report said that only 14% of the examples of race hate that had been reported to it contained the 'threat' of physical violence. Most of the reports related to verbal abuse. It did not detail any instances of physical violence, suggesting that none had been reported to it.

The National Police Chief's Council (NPCC), has become the main national conduit through which hate crimes are reported and collated. It runs a website called True Vision, which is for the reporting of race hate crime and exhorts the public to do so. After the referendum vote, the NPCC issued a series of press releases based on statistics generated through the True Vision site suggesting that there had been a rise in hate crime targeted on ethnic minorities. Figures released by the Council at the end of September, showed that in the nine weeks from June 23 there had been an average 29% weekly increase, up from 10,883 in the corresponding period in 2015 to 14,397, an average of an extra 411 such crimes each week or 56 per day more – to 229 per day, as against 173 per day the previous year.

All these releases, however, have made it clear that although such rises have been recorded, the figures should be treated with caution and specifically not taken as clear evidence of national trends. This is mainly because True Vision is self-reporting and has been designed to make it easy to report incidents. The releases also warned prominently that the seeming 'spike' in the figures after June 23 was not evidence of a national trend; it reflected simply an increase in reporting which by the second week of September had subsided.

What is also not clear, is what these crimes actually were. NPCC figures in general and those in its annual reports do not say so with precision – they list some incidents as ‘assaults’ but do not state how many include physical attack involving injury. The reports speak very little about the topic of injury at all. If such violence was a major feature of such crime, they surely would.

The rise in reported race hate crime nonetheless sounded superficially shocking. But the BBC, for all the reasons outlined above, should have treated it with caution and worked assiduously to put it into proper context.

BBC reports from June 26 onwards projected the ‘spike’ and ignored the caution about ‘national trends’. On August 26, for example, five days before the Harlow killing, BBC online reported uncritically a report of the United Nations Committee on the Elimination of Racial Discrimination. The report (quoting NPCC figures) said that 289 hate crimes and incidents were reported on June 25 ‘the day after the referendum result was announced’ and that a further 3,001 reports of hate crimes were made to police between July 1 and 14 – ‘equivalent to more than 200 every day’.

The report then included the UN committee’s quote about their observations on the referendum campaign, that it had been marked by ‘divisive, anti-immigrant and xenophobic rhetoric’. That was a conclusion that the PPCC specifically warned against reaching, but no mention was made of this. The UN’s sensationalist claims were followed by a quote from the committee that there was a problem of under-reporting of race hate, and that therefore, ‘a large number of racist hate crimes seem to go unpunished’.

Correspondent John Kelly had reported in the BBC Magazine on August 10:

‘But there's clear evidence that there's been a spike in hate crime since the 23 June ballot. Reported hate crime rose by 57% in the four days after the referendum, police say. ‘There were more than 6,000 reports of hate crime to police between mid-June and mid-July, according to the National Police Chiefs' Council (NPCC).’

Evidence of any crimes have been committed against Eastern Europeans since June 29 is as hard to come by as establishing which reports contained physical violence. Most are in newspaper reports, and the veracity is not certain. On June 26, the BBC and a local newspaper reported that laminated cards containing the phrase ‘Leave the EU. ---no more Polish vermin’ had been found at three schools in Huntingdon, with confirmation that the police were investigating. <http://www.bbc.co.uk/news/uk-england-cambridgeshire-36633388>

The Huntingdon cards prompted the Polish ambassador to condemn attacks against Poles. The same day, The Independent reported that a Polish woman had been told by a woman ‘with a vicious smile’ that she must now get a visa. It was also said that the London Polish and Social Cultural Association had been sprayed with graffiti.

On July 8, ITV News reported that a Polish man in Plymouth had been the victim of an arson attack. His shed, it was said, had been set on fire and a note telling him to go back to Poland had been found. But this was not followed up and there is no record of charges being brought.

These were clearly unpleasant and deeply worrying incidents, but they did not add up to a crime wave against Poles. In this context, taking into account the facts about race hate following the Brexit vote, Daniel Sandford's observations about the crime were simply not born out by the facts.

The reality was that on August 31, there was no hard data that violent crimes were being triggered by Brexit.

It boils down to that all that could legitimately and responsibly be said on August 31 about the Harlow killing was something on the following lines:

Police in Harlow are investigating the death of a Polish man who, it is understood, was attacked late at night in a local pizza parlour.

'Six local men have been arrested and released on bail in connection with the killing, but they have not been charged.

'Local police are investigating a number of leads about the death. They have not ruled out that it may have had a race hate element, but they have not confirmed that there was. They are also considering reports that groups of local youths have been out of control and aggressive in the local shopping centre for several weeks before the death.

'The Harlow MP, Robert Halfon, has expressed concern that the crime was directed at a Polish man, but has stressed that the local Polish community, among the largest in the UK, has previously lived mainly harmoniously with locals. He speculated that if it was a race hate crime, those who had committed it 'had come from the sewers'.

'The Polish ambassador, who has visited the town, said there were some reports that Polish people in the UK had come under attack more since the Brexit vote. Some commentators, particularly those who supported 'remain' in the referendum, are claiming that these incidents have been triggered by the 'leave' vote.

'Around ten such incidents have been reported to the Polish embassy in London, but none has hitherto involved physical injury. Details of all of them are relatively sketchy, with strong room for doubt whether race hate was actually involved.'

In summary, as has already been stated, Mr Sandford put a wholly unwarranted sensational angle on this story, and did not contextualise properly the issues involved. The BBC has a fundamental duty to ensure that issues of alleged race hate are dealt with responsibly and in proper context. John Humphrys has recognised that in his handling of the Harlow killing, but this report emphatically did not. It irresponsibly poured petrol on the concept that one component of the Brexit vote was the result of race hate.

Transcript of BBC1, News at Six, 31st August, Polish Man Murdered, 6.22pm

FIONA BRUCE: Five 15-year-old boys and a 16-year-old have been arrested on suspicion of killing a Polish man in Harlow in Essex. Arkadiusz Jóźwik who was 40 was left with fatal head injuries after an unprovoked attack on Saturday night. Police suspect it may have been racially motivated. The Polish ambassador to the UK has visited the scene. Our home affairs correspondent Daniel Sandford's report contains some distressing details.

DANIEL SANDFORD: On his first day in the job, Poland's new ambassador to Britain found himself laying flowers, mourning one of his countrymen – a man murdered while eating a pizza in what may have been a racist attack.

ARKADY RZEGOCKI *Polish Ambassador*: I'm really shocked and deeply concerned on this, on this tragedy. It's a great tragedy, not only for Polish community but also for, for British community.

DS: Arkadiusz Jóźwik was 40, he and two friends were attacked just before midnight on Saturday. Alerted by one of the men who survived, the manager of the pizza takeaway, who didn't want us to use his name, told us he was the first to find Arkadiusz as he lay dying.

PIZZA TAKEAWAY MANAGER: He was on the floor and on his side, it's . . . a lot of thick blood coming out of his left ear on the floor, and very thick, it's clumped up really. And . . . you could see that it's . . . it's really dangerous, he's badly hurt.

DS: The fear is that this was a frenzied racist attack triggered by the Brexit referendum. But while detectives aren't ruling that out, it may be that Arkadiusz Jóźwik wasn't targeted because of his race, but simply because he was there when a group of youths was looking for trouble. People in The Stow shopping precinct said that teenagers had been causing havoc here all summer, and not just harassing Polish people. But worrying it could be a hate crime, the local MP made this appeal.

ROBERT HALFON MP *Conservative, Harlow*: We need to be a kind and decent nation and we shouldn't allow . . . people who come from the sewers to exploit divisions.

DS: As people mourn, detectives are pouring through CCTV footage, and have arrested six teenagers, but all have since been released on police bail. Daniel Sandford, BBC News, Harlow.

Transcript of BBC Radio 4, Today, 1 October 2016, Abuse towards Polish Immigrants, 7.50am

JOHN HUMPHRYS: Polish builders would still be welcome to come and work in Britain after Brexit, that's what the Cabinet minister Sajid Javid has told the Financial Times this morning, but what sort of reception will they get? There have been some reports since the referendum of hostility in some parts of the country towards migrants and foreign workers, and it seems there may be some concern about that in Poland too. Poland's Commissioner for Human Rights, Adam Bodnar is in London. Last night, he met leaders of the Polish community, and some of them spoke to our reporter Sanchia Berg.

VOX POP FEMALE: People are worried, but perhaps in London they are not so worried, because London society is . . . better. For, for Polish people who are living here, but somewhere in the country we can see that this really sad.

VOX POP MALE: We get signals from our members, from our, from our clubs, from our societies, that actually the anti-Polish sentiment is on the increase.

SANCHIA BERG: What kind of anti-Polish sentiment, and is it all post-the referendum?

VOX POP MALE: I think the referendum was a catalyst for certain opinions that like, (*words unclear*) from many of, of, of, of my friends it was a quite a . . . quite a strange experience, because for England or UK is, is known for its very high level of debate, very, very . . . er, high profile of the, of the . . . of its politics, and suddenly the mainstream adopted the language which we could know from the fringe parties like Alternative fur Deutschland or the Front National in, in France.

VOX POP MALE 2: I know of Vodafone staff in Uxbridge who was vilified, er, by somebody saying I don't want to be served, you should be going back to your home country. Er, and, er a number of parents have complained about what their children have faced in school, particularly in that first day after the vote. Obviously, there are the big events that we've seen, the murder in Harlow, the er . . . beatings up in Leeds, and the government absolutely must bite the bullet and take a stand and state that European Union citizens, at present in this country, not those who are going to come, but at present in this country should have a right to stay, they came here legally, they worked here legally, they have their families here, they have their children here, and I'm really waiting for Theresa May to do that.

JH: Well, as I say, Poland's Commissioner for human rights Adam Bodnar is in London, indeed, he's with me in the studio now. Good morning to you.

ADAM BODNAR: Good morning.

JH: What impression do you have of the way erm, Polish people here feel they are now being treated, as opposed to the way they were treated before the referendum, if indeed there is a difference at all?

AB: I think that the moment of the referendum was something crucial in this whole situation, because there is a great level of sympathy towards Polish people, but unfortunately . . .

JH: (*speaking over*) You mean in general.

AB: In general, yeah, in terms of the Polish contribution to history (*sic*) of England, in terms of Polish food, in terms of Polish culture and I would say good assimilation of Polish people with the English society.

JH: And indeed, the way they have done many, many useful jobs in . . . (*words unclear due to speaking over 'over the years'?*)

AB: (*speaking over*) (*fragments of words, unclear*) And of course, this level of hard-working and compassion, er towards other people is also something which is quite important in terms of Polish people. But . . .

JH: And the expression 'Polish plumber' has entered the language.

AB: (*laughs*) Exactly. But the problem is that, er, the Brexit referendum unleashed some fears and unleashed some bad emotions, and unfortunately especially in some rural areas outside of London especially, there are some incidents of hatred towards Polish people . . .

JH: (*interrupting*) What do you mean by hatred? Incidents of hatred?

AB: Erm, it's the situation when you are attacking somebody, er either physically or verbally, just because he is Polish, or just because he is of some other colour of skin, or he's coming from some other country. And unfortunately, especially in Harlow, there was one murder . . .

JH: (*interrupting*) Well, yes, but we need to be very careful about that, don't we?

AB: (*speaking over*) Er, yes . . .

JH: . . . the police themselves say that that . . . there's no clear evidence that that was a hate crime . . .

AB: (*speaking over*) They are investigating . . .

JH: . . . it is one of many leads that they are following up, yes.

AB: Hm-hmm, but, but at the same time they are saying that they are investigating into this, into this whether there was a . . .

JH: (*interrupting*) But the fact is there is no proof, that that was a hate crime . . .

AB: (*speaking over*) No proof yet, exactly, but, but any such situation should be subject of . . . er, major concern, and especially . . . and I met, even representatives of the UK police and they were saying that there is a rise in hate crimes and hate . . . erm, offences, er . . .

JH: (*interrupting*) Specifically against Eastern and Middle European people coming here?

AB: I would say that they are one of the, one of the targets, and yesterday I met Mr David Isaac, who is the Chair of the Equality and Human Rights Commission here in London, and he

also shared my concern and his comments to the government, the reports on racial discrimination, he expressed his concern that after Brexit, there is a rise in that kind of crimes.

JH: Is it possible, do you think that . . . people are now reporting incidents that, Polish people, perhaps as well, that might not have reported before Brexit, because now it's become a part of the agenda, we're all talking about it now and therefore, as is the way of these things, erm, it acquires, people mightn't have said anything a year ago, but because of the referendum and all that they now think, 'Oh, well maybe I should say something'.

AB: I think it's not a problem only of reporting, er, whether it was reported properly before or whether it is reported now. I think that, you know, we have some incidents, but the most important thing is, is the situation of er, I would say instability. That there is not like a clear assurance that . . . er, Brexit referendum does not mean any specific or any dangers to Polish and Eastern European, er, migrants, then you create this situation, you create the feeling that they might one day go home, and it increases some negative (*fragment of word, unclear due to speaking over*) emotions . . .

JH: (*speaking over*) Ah, that's a slightly different issue, though isn't? Whether, what sort of arrangements we eventually arrive at with the rest of Europe, that's rather different from the kind of thing we're talking about here - (*word unclear 'hate'?*)

AB: But . . . but, at the end of the day, it creates a feeling of insecurity and it . . . er, raises emotions, negative emotions towards Polish people, and yesterday I talked to people from Amnesty International and . . . from here, from UK, and, and they also expressed the similar concern that . . . raising such statements like that, er, it is the bargaining chip in the question of negotiations is not something which is good from the point of view of human rights.

JH: Finally, very quickly if you wouldn't mind, do you get the sense that, that Poles want to go back to Poland now, more of them than before the referendum, simply because of the change atmosphere, if there is a changed atmosphere here?

AB: I don't have such a feeling, but my role here is to coordinate my work with the Equality and Human Right Commission and to secure that in case of any hate crime, Polish migrants have a proper procedure of reporting crimes that they are, that there is accessibility of materials in Polish, but also I think that the Equality and Human Rights Commission would do a good thing if it would meet, er, Polish community here and talk about their problems.

JH: Adam Bodnar many thanks.

2. Response from BBC Audience Services, 18 October 2016



BBC Audience Services PO Box 1922, Darlington, DL3 0UR Telephone 03700 100 222

David Keighley
Flat 1
21 Palmeira Square
HOVE
BN3 2JN

18 October 2016

Dear David

Reference CAS-4039865-6LKPTT

Thank you for writing to us in such detail regarding 'BBC News at Six' on 31 August.

We understand that you feel the report on 'BBC News at Six' was negative and sensationalist and linked the murder of a Polish man to the Brexit vote.

Daniel stated in reference to the assault that 'the fear is that this was a frenzied attack triggered by the Brexit referendum'. The reference to 'frenzied' therefore reflected the concern in Harlow and among the Polish community that this was the nature of the attack i.e. 'the fear'. We believe this was fair given what was known at the time, that is that Mr Jozwik had been killed following an unprovoked attack

On a wider issue of our reporting on this, BBC News did not report that the murder of Arkadiusz Jóźwik was a racially motivated attack as a consequence of the Brexit vote. Our coverage simply reflected that this was one possible reason. We reported what was being said by the police, that this was one line of inquiry, and statements made by both the Polish Ambassador and the local MP.

We did, however, also report on the belief among some people in Harlow that the murder could have had more to do with anti-social behaviour than racism. Daniel Sanford, in his report, said that the Mr Jóźwik could have been killed "simply because he was there".

There has been a rise in reported hate crime and incidents of racism, since the EU Referendum. With this in mind, and given that the police are investigating this as a possible cause of this murder, we believe we were right to explore whether this could have been the motivation behind the attack.

We do appreciate your points about this, as we remain absolutely committed to bringing the user the most comprehensive, impartial, factual and fair news reporting.

This is where feedback such as yours is very much valued by the BBC as it tells us what users think we're getting right, and of course what they think we're getting wrong.

Please be assured that your concerns were sent to senior staff at BBC News via our daily report.



BBC Audience Services PO Box 1922, Darlington, DL3 0UR Telephone 03700 100 222

Your views are important to us and we welcome feedback from our audience to help us review how our news is being reported.

Thank you again for taking the time to contact us with your concerns.

Kind regards

Ciaran Hanna
BBC Complaints Team
www.bbc.co.uk/complaints

3. News-watch response to BBC Complaints Unit response sent 24 October 2016

Reference : CAS – 4039865-6LKPTT

Thank you for your reply in connection with this complaint. It is, however, unsatisfactory, because it does not deal with the key points raised.

The complaint is that the report by Daniel Sandford was constructed with sensationalist intent to emphasise the fear that this was a ‘frenzied race hate attack triggered by the Brexit vote’, and this was elevated to the main fulcrum of the report.

The letter from the Complaints Unit in fact confirms that there was not enough evidence available on the day to support such weight being given to this alleged ‘fear’.

The *prominence* given to the theory that the Brexit vote had triggered the attack, particularly when compared to the other possibilities given, was unwarranted. That this was part of the editorial intent of the BBC is borne out by that the claim was developed further on BBC2’s Newsnight the same evening, where allegations that Nigel Farage could have ‘blood on his hands as a result of the killing were included as the concluding line of a report.

Quotes from Robert Halfon MP and the Polish Ambassador were carefully edited and inserted in the News at Six report in a way that buttressed the claim. An alternative theory about the crime was included but clearly not afforded the same weight. The impression left most strongly with viewers was the race hate/Brexit line. That was clearly the editorial intent (cumulatively and individually).

An important consideration here – not touched on by the Complaint Unit response – is that the evidence provided in the complaint indicates that race hate murder in the UK involving those of European ethnicity is extremely rare. Further, although there had been reports of a ‘spike’ in race-hate crimes after June 23, the police had specifically warned that this should be treated with great caution because collection of such alleged incidents is on a self-report basis via a website deliberately designed to make the reporting of such instances as easy as possible. Further, there was no indication whatsoever in the official figures about how many of these crimes included violence. Such figures that do exist suggest physical violence in hate crimes is rare; most are verbal.

The BBC’s Charter obligations towards responsible and accurate reporting, combined with the internally-devised Editorial Guidelines, stipulate that all Corporation journalists should be wary of reporting inflammatory claims or statements, and should do so only if such claims are very carefully checked out and fully substantiated by the evidence.

In this case, there had clearly been a violent crime, but ‘race hate’ was only one line of inquiry. The ‘fear’ that a group of disaffected youths too young to vote had killed a Polish man because they were fired up by the Brexit vote ten weeks previously - no matter who had expressed it – should have been treated with much greater caution and afforded much less weight than in this report.

The question remains as to why the word 'frenzied' was used, when, as the CU letter confirms, there was no evidence presented to support this, apart from an unattributed 'fear'. Other media reports suggest that Mr Jóźwik could have been killed by a single punch, and that there was an ensuing fight between Mr Jóźwik's friends and the group of youths. Further, there was no evidence to suggest that the alleged attackers were in any way politically motivated, or that they had particular views on the referendum. All of them were too young to vote, and five were minors under the age of 16.

The CU response claims that that 'the fear' referred to by Daniel Sandford was 'the concern in Harlow and among the Polish community'. But this was not made explicit in the item as originally broadcast. The sentence Mr Sandford used, 'The fear is that this was a frenzied racist attack triggered by the Brexit referendum', was included without explanation, and therefore viewers could not know precisely from where this fear was emanating, whether it be the police, the local community or Daniel Sandford himself. Although it is now suggested in the CU letter that it was actually the people of Harlow, this was not made clear in the original report.

Yours etc.

4. Response from BBC Audience Services, 30 November 2016



BBC Audience Services PO Box 1922, Darlington, DL3 0UR Telephone 03700 100 222

David Keighley
Flat 1
21 Palmeira Square
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30 Nov 2016

Dear David
Reference CAS-4072495-39S3H8

Thank you for taking the time to contact us and we appreciate that you felt strongly enough to write to us again. We apologise for the delayed response. We have noted your points and are sorry to learn you were not satisfied with our earlier response.

We are sorry to tell you that we have nothing to add to our previous reply. We do not believe your complaint has raised a significant issue of general importance that might justify further investigation. We will not therefore correspond further in response to additional points, or further comments or questions, made about this issue or our responses to it.

We realise you will be disappointed to hear this but hope this explains why we are not able to take your complaint further. If you remain dissatisfied about our decision you can appeal to the BBC Trust, the body which represents licence fee payers. The Trust has asked that we should explain to complainants that the BBC's Royal Charter draws a clear distinction between the role of the Trust - which determines the overall scope of the BBC's services and sets its standards - and that of the BBC Executive - which runs the Corporation and decides what to broadcast and publish.

The Trust does not entertain every appeal submitted to it. It will normally hear appeals about the Executive's decisions only if a complainant can show that they involved a potential breach of the BBC's published standards, or that an operational decision has raised significant issues of general importance. The Trust is the final arbiter of which appeals it should consider. For the full information about the BBC Trust's appeals procedures please visit www.bbc.co.uk/bbctrust/governance/complaints_framework/. If you don't have access to the internet at home, you can go online at most public libraries without charge.

If you wish to submit an appeal you must write within 20 working days of receiving this reply, explaining why you wish to appeal. You can contact the BBC Trust at 180 Great Portland Street, London W1W 5QZ, or by emailing trust.editorial@bbc.co.uk. Please would you include for them the relevant case reference which you may have been given.

Thank you again for contacting us.

Kind regards

Stuart Webb
BBC Complaints Team
www.bbc.co.uk/complaints

5. Letter to the BBC Trust, 30 December 2016

The BBC Trust
180 Great Portland Street
London W1W 5QZ
Trust-editorial@bbc.co.uk

December 30, 2016

Reference: CAS-4072495-39S3H8

I write because I am dissatisfied with responses from the BBC Complaints Unit following a complaint and follow-up I submitted about an item on the the BBC1 News at Six bulletin broadcast on August 31, 2016. The CU responses are dated October 18, November 17, and November 30 - the latter of which I received on December 6.

I am now appealing to the ECU Unit of the BBC Trust in accordance with the advertised procedures, and within the stipulated time-frame.

In line with submission guidance, I have laid out below a brief summary of the complaint, though I would stress that my original two letters need to be read in full to understand the exact nature of what it involved. The summary is:

In the edition of BBC1 News at Six on August 31, the relevant report, by Daniel Sandford, was edited to put disproportionate, irresponsible and sensationalist weight on the claim (by Mr Sandford) at the heart of the item that the killing of Arkadiusz Jóźwik, a Polish man living in Harlow, was the result of a 'frenzied racist attack triggered by the Brexit referendum'.

Mr Sandford also mentioned that there was another possible explanation linked to the killing, namely that Mr Jóźwik was not targeted for his 'race' (in the words of Mr Sandford, though 'Polish' is not actually a race, rather a nationality), but by a group of youths 'looking for trouble'.

But the structure and editing of the report unquestionably placed most prominence on claims that this was a racially motivated attack, that Mr Jóźwik was a man murdered while eating a pizza in what may have been a racist attack, that the violence was perpetrated by 'people who come from the sewers to exploit divisions', and that the attack was 'frenzied' (without attribution of the source).

This was sensationalist and disproportionate because at the time the report was broadcast, very few details of the crime had actually been established. The police had confirmed that Mr Jóźwik had been the subject of an attack, but it was not established that the incident was 'murder'; how many people were involved; and the the nature of his fatal injuries was not known.

It is the job of a responsible reporter (for example outlined in points two and nine of the NUJ's Code of Conduct, and at 8.2.4 and 8.4.2 of the BBC's own Editorial Guidelines) in such circumstances to convey facts carefully. Mr Sandford did the opposite – he inflated the events surrounding the death of Mr Jóźwik to the level of a possible major hate crime by Brexit supporters, even though this was definitely not established (the police had only said they had 'not ruled out' race hate) and those who had been arrested (and released on bail) in connection with the alleged crime were all considerably below the voting age.

Crucial here is that the report made no effort at all to put into context how extraordinary and unusual in the UK are murder or violence triggered purely or primarily by race-related motives. Such crimes based on a victim's nationality are even rarer. My original letter explains this in significant detail. In the absence of hard facts about the alleged crime itself, the BBC's main flagship bulletin should have checked this and included balancing/contextualising narrative or comment.

The same applies to the race hate figures that have been used by the BBC (and others) to add substance to claims there was a rise in such crimes around and following the Brexit vote. It is true that the police reported a rise in 'race hate' incidents on their specially-maintained website after Brexit, but they also pointed out that the details and nature of these crimes were unclear because they were on a self-report basis.

Finally, the CU decided that my second letter did not raise a 'significant issue of general importance'. I strongly disagree; and indeed, I contend that this judgment (in the CU letter of November 30) is itself based on a biased perspective because it relegates my claims of exaggeration to a matter of lesser importance without any accompanying justification.

Leave supporters have frequently been branded as racist by both the remain side and the BBC itself (for example here: <http://news-watch.co.uk/bbc-continues-to-push-brexit-race-hate-line/>). This report on August 31 by Mr Sandford opportunistically and without regard for the uncertainties in the case, sensationally elevated 'racism' (with all its various highly negative and inflammatory connotations) to a savage ingredient in the 'leave' equation.

Subsequent events have underlined how unwarranted and irresponsible Mr Sandford's claims were. As the BBC itself reported on December 1 (however, only on its regional pages, as opposed to the sensationalist reporting of August 31), one youth aged 15 has been charged with manslaughter in connection with the death of Mr Jóźwik, and has been released on bail pending his court appearance in January.

I have included below for your convenience my two letters to the CU, together with the relevant transcripts, one of which is from Today on October 1, when John Humphrys outlined some of the caution required in reporting the Harlow death. I have also attached the CU letters to me.

Yours sincerely

David Keighley

6. Response from BBC Trust, 15 March 2017

BBC Trust
British Broadcasting Corporation
180 Great Portland Street
London W1W 5QZ

T. 020 3214 4994
bbc.co.uk/bbctrust



Mr D Keighley
Via email: david.keighley@btconnect.com

Our Ref: 4171893

15 March 2017

Dear Mr Keighley

Decision of BBC Audience Services not to respond further to your complaint about BBC News at Six, 31 August 2016

Thank you for writing to the BBC Trust. I am responding to your appeal of 30 December 2016. I apologise for my late reply. The BBC has informed you that it does not wish to respond further to your complaint and the point I have considered is whether you have been given a reasonable response to your original complaint.

I am sorry to send a disappointing response, but I have assessed your complaint and do not intend to put it before Trustees. The detailed reasons for my decision are in the following annex. In the second annex are relevant sections of the BBC's complaints procedures and the Charter and Agreements which you may find helpful.

I am afraid my decision on this matter is final and there is no further route of appeal open to you. We will now close your complaint on our systems and my decision will be published in the next complaints bulletin which will be available at http://www.bbc.co.uk/bbctrust/our_work/complaints_and_appeals/editorial.html. At present, we anticipate a publication date of 31 March 2017. We would ask you to keep it confidential until the final version is published by the Trust.

Yours sincerely

A handwritten signature in blue ink that reads 'Fran O'Brien'.

Fran O'Brien
Head of Editorial Standards
Trust Unit

Annex 1 – BBC News at Six, 31 August 2016

The complaint concerned an item on the News at Six which reported the arrest of six teenagers following the death of a Polish man in what the BBC referred to as an unprovoked attack. The Polish Ambassador and the local MP had that day visited the site of the incident at Harlow in Essex and were featured in the news report laying a wreath.

The complainant considered the report was sensationalist and gave unjustifiable weight to the possibility that the attack was racially motivated and linked to the referendum vote to leave the EU at the expense of other possible explanations for the attack. Below are some of the relevant extracts from the item on the News at Six:

NEWSREADER:

...Arkadiusz Jóźwik who was 40 was left with fatal head injuries after an unprovoked attack on Friday night. Police suspect it might have been racially motivated. The Polish ambassador to the UK has visited the scene. Our Home Affairs Correspondent, Daniel Sandiford's report contains some distressing details.

CORRESPONDENT:

On his first day in the job, Poland's new ambassador to Britain, found himself laying flowers, mourning one of his countrymen, - a man murdered while eating a pizza in what may have been a racist attack.

ARKADY RZEGOCKI, POLISH AMBASSADOR:

I'm really shocked and deeply concerned on this, on this tragedy. It's a great tragedy, not only for Polish community but also for, for British community.

...

CORRESPONDENT:

The fear is that this was a frenzied racist attack triggered by the Brexit referendum. But while detectives aren't ruling that out, it may be that Arkadiusz Jóźwik wasn't targeted because of his race, but simply because he was there when a group of youths was looking for trouble. People in The Stow shopping precinct said that teenagers had been causing havoc here all summer, and not just harassing Polish people. But worrying it could be a hate crime, the local MP made this appeal

ROBERT HALFON MP, CONSERVATIVE HARLOW

We need to be a kind and decent nation and we shouldn't allow . . . people who come from the sewers to exploit divisions.

The complainant made a number of detailed points including that:

- the BBC has a special responsibility as a public service broadcaster to ensure that extreme claims are not made irresponsibly and when they are, properly put into context
- by including the "carefully-edited claims" of the police and the local MP the report suggested cumulatively that this was a frenzied race hate murder connected to the Brexit vote by people who had "come from the sewers to exploit divisions"

- this was sensationalist and “deliberately and irresponsibly” over-emphasised the possibility of a link between the man’s death and the Brexit vote
- the alternative motive, that it was not connected to Brexit and was not a race hate attack, was “deliberately under-emphasised” because it was not explored to the same level as the “race hate” angle
- he objected to the use of the word ‘frenzied’ and ‘fear’
- it was not clear where the “fear that this was a frenzied attack triggered by Brexit” came from. Frenzy implied that the Brexit vote had been motivated by racism and unreasoned bigotry.
- recent statistics on the trend in the nature and volume of race hate crime in the UK reflected that there was no hard data that violent crimes were being triggered by Brexit
- in the immediate aftermath of the murder, before allegations of links with race hate and Brexit, effort should have been taken to assess how likely this was. A key ingredient of that process should have been an examination of the race hate data to see how common such crimes are
- much greater caution should have been exercised in bracketing race hate with extreme violence and linking that alleged violence with Brexit
- Further information was provided on the data
- Violence in hate crimes was rare most was verbal
- an item in October on the Today programme was careful not to link the killing with race hate.
- Police figures showed a rise in hate crime but press releases warned that the seeming ‘spike’ after 23 June should not be taken as evidence of a national trends. The increase in reporting subsided by the second week of September.
- But BBC reports projected the spike and ignored the caution about a national trend. For example a BBC story on 26 August on a report by the UN Committee on the Elimination of Racial Discrimination
- a BBC magazine report had suggested there had been a spike in crime after the Referendum. Evidence that there had been a spike in crimes against Eastern Europeans was hard to come by.

Audience Services made the following points:

- the coverage did not report that Mr Jozwik had been killed in a racially motivated attack as a consequence of the Brexit vote; the BBC’s coverage simply reflected that this was one possible reason
- the BBC reported what the police had said, that this was one line of inquiry
- the BBC reported statements made by both the Polish Ambassador and the local MP
- the reference to “frenzied” reflected the concern (fear) in Harlow and among the community that this was the nature of the attack; this was fair given what was known at the time: that Mr Jozwik had been killed following an unprovoked attack
- the BBC also reported the belief among some people in Harlow that the murder could have had more to do with anti-social behaviour than racism
- there has been a rise in reported hate crime and incidents of racism since the EU Referendum; given that, the BBC said they believed they were right to explore whether this could have been the motivation behind the attack
- the BBC was committed to bringing the user comprehensive, impartial, factual and fair reporting

Audience Services said they had responded as fully as they could and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal

The complainant appealed to the BBC Trust on the substance of his complaint. He raised the following guidelines:

8.2.4

Investigations into crime or anti-social behaviour, involving deception and/or intrusion, must be clearly editorially justified and proportionate to the wrongdoing they seek to expose

8.4.2

In cases where potential law-breaking or civil disobedience form part of a current news story or public policy debate, editors must consider both their responsibility to reflect the debate or events fully and accurately and their duty not to broadcast material likely to encourage or incite crime. Context and explanation will be critical.

The mere recording and broadcasting of criminal activity will not normally amount to encouragement or incitement, unless it reveals imitable detail. However, we should take care that criminal acts are not glorified or glamorised.

Direct calls or provocation to audiences to commit criminal acts should be robustly challenged.

Illegal activities such as drug use or joy riding should not be portrayed as problem free or glamorous. It may be appropriate to reflect the negative consequences of such activities, over and above the fact they are illegal.

Decision of the Head of Editorial Standards, BBC Trust

The Head of Editorial Standards understood that BBC Audience Services had decided not to correspond further with the complainant after stage 1. She decided that the point she should consider was whether the complainant's appeal against the decision of Audience Services not to correspond further had a reasonable prospect of success.

The decision of what to include and not to include in a story is a matter of editorial judgement for the journalists involved as long as the material does not breach editorial standards. As the Royal Charter (2006) sets out, editorial and creative decisions are a matter for the Executive Board (Article 38 (1 (a))) and not the Trust. In this case the journalists concerned reported through BBC News to the Executive Board. So the point at issue was whether there was a reasonable prospect of success for an allegation that the Editorial Guidelines had been breached in this item in which case it would have been incorrect for Audience Services to have ended correspondence on the matter.

The Head of Editorial Standards noted that all BBC output was required to meet the standard of "due accuracy" and "due impartiality" which, under the Editorial Guidelines, was defined as follows:

"The term 'due' means that the accuracy/impartiality must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation."

The Head of Editorial Standards noted that the complainant had cited the Editorial Guidelines on Reporting Crime and Social Behaviour in respect of the issues he had raised. She did not consider either guideline raised by the complaint to be appropriate. The first guideline was relevant when the BBC was involved in intrusion or deception which was not the case with this story. The second concerned incitement to crime which again was not the case.

The Head of Editorial Standards noted the introduction to the section as the most relevant to the issues raised by the complainant:

"Our coverage of crime and anti-social behaviour is part of the BBC's public purpose and is aimed at giving audiences the facts in their context.

...

"Our reporting must not add to people's fear of becoming victims of crime if statistics suggest it is very unlikely."

The Head of Editorial Standards noted the complainant's assertion that the report lacked context and gave too much weight to the possibility that the attack had been racially motivated, when the known facts did not warrant it. She considered the content of the item and the nature of the response the complainant had received from Audience Services in reaching her decision.

The BBC's role is to report the world as it is, but to do so responsibly. The Head of Editorial Standards considered that the requirement to do so was likely to have been fulfilled on this occasion. The decision to reflect concerns that this was a racially motivated attack, and how to report those concerns, was one for journalists to make, and appeared to have had adequate editorial justification at the time: the police had said it was one line of inquiry and in his statement to the media, the MP had chosen also to highlight his concerns in that respect. He was reported elsewhere as saying "...if it is also true, as is being investigated, that this could be a hate crime, then it is all the more disturbing and shocking".

Just as importantly in the view of the Head of Editorial Standards, the reporter set out clearly that this was one line of inquiry and then set out an alternative explanation for the attack: that the murder could have had more to do with anti-social behaviour and that Mr Jozwik could have been killed "simply because he was there".

The choice of interview clips was appropriate to this story. The choice of the words 'fear' and 'frenzied' had both been explained by the BBC and the explanations were reasonable: this was the 'fear' locally and the attack was unprovoked and self-evidently resulted in a very serious injury and therefore could be described as 'frenzied'.

Finally, the BBC story had not addressed whether or not there had been a 'spike' in reported hate crime after the vote and whether that amounted to a national trend. The Head of Editorial Standards acknowledged that additional information on the prevalence of race hate crime in the context of the EU Referendum would undoubtedly have added to the audience's understanding. But she considered that it was neither required nor expected in the context of a short news item reflecting the key events of that day in what was still an unfolding story.

Taking all this into account, the Head of Editorial Standards, BBC Trust, considered Trustees would be likely to conclude that the appeal did not have a reasonable prospect of success. She did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal and therefore the appeal would not be put before Trustees.

Annex 2

The Trust is the last stage of the complaints process and everyone who works within the Trust Unit is outside the day-to-day operations of the BBC. We review the complaints that come to us to assess whether they should be put before the BBC's Trustees for them to reach a final decision. We read the correspondence in each case and also review the relevant BBC content in order to make this assessment. The Trust acts in the interests of all licence-fee payers and it would not be proportionate, appropriate or cost-effective to spend a good deal of time and money on cases that do not stand a realistic prospect of success.

Here is the web link for information about the complaints system:
http://www.bbc.co.uk/bbctrust/governance/complaints_framework/

All BBC output is required to meet the standards set out in the BBC's Editorial Guidelines. These are written by the BBC and are commissioned and approved by the BBC Trust. They are publicly available and can be found through this link:
www.bbc.co.uk/editorialguidelines.

The Trust's Editorial Appeals procedure states that:

The Trust will only consider an appeal if it raises "a matter of substance".¹ This will ordinarily mean that in the opinion of the Trust there is a reasonable prospect that the appeal will be upheld as amounting to a breach of the Editorial Guidelines. In deciding whether an appeal raises a matter of substance, the Trust may consider (in fairness to the interests of all licence fee payers in general) whether it is appropriate, proportionate and cost-effective to consider the appeal.²

The Royal Charter and accompanying Agreement between the Secretary of State and the BBC draw a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" is defined as a duty that is the responsibility of the Executive Board under paragraph 38, (1)(b). This is important because it is intended to protect the BBC's editorial freedom and independence. It means that the BBC is entitled to make editorial decisions without the Trust's intervention – and the Trust would only have a role if, for example, a complaint raised a matter that was a potential breach of the BBC's editorial standards (as set out in the Editorial Guidelines). A high proportion of complaints that reach the Trust are about editorial and creative decisions. However, it is outside the remit of the Trust to consider those complaints.

¹ Under the Charter and Agreement, the Trust has a role as final arbiter in appropriate cases, and must provide a right of appeal in cases that raise a matter of substance.

² For example, if an appeal raises a relatively minor issue that would be complicated, time-consuming or expensive to resolve, the Trust may decide that the appeal does not raise a matter of substance, and decline to consider it.