

DCMS BBC Mid-term Review

News-watch response to request for further information

Editorial Standards and Impartiality:

You suggest that much more detail could have been included in the BBC's Annual Report statement about complaints e.g. numbers received relating to impartiality along with the issues raised and how they had been resolved or dealt with.

What do you think the practical impact of this would be - please provide specific evidence.

Our analysis about the handling of complaints in our July 29 submission is not confined to the reporting of this issue in the BBC Annual Reports and Accounts (ARA). As we stated, the current BBC First system is not fit for purpose and designed to block complaints and to minimise costs rather than to encourage a healthy interaction with audiences about impartiality issues.

In the 2021/22 ARA, Ian Hargreaves, outgoing chair of the Editorial Guidelines and Standards Committee, stated that the BBC is accountable in its aim to achieve 'the highest editorial standards' through the complaints process. That is what should be happening – but it is not.

News-watch strongly believes in that vein that the BBC must make the complaints process more open, more detailed and more independent at every stage and on every communications platform including what is mentioned in the ARA as the Corporation's most prominent shop-window. The attainment of impartiality should become a subject of regular debate in every part of BBC operations. Public involvement must also be invited and encouraged, with the complaints system an essential ingredient in that process.

In fact, the ARA 2021/22 report about complaints and impartiality was startling in its complacency. There is virtually no acceptance or awareness that there are any problems – apart from the high volume of complaints. Mr Hargreaves appeared completely oblivious to that rise in complaints, 39% of which, according to Ofcom, relate to impartiality issues. This might be because the current shortcomings in the complaints process in holding the BBC to account have led to a massive rise in bias.

Against that framework, the provision in future of more detailed information about complaints must be considered. In June 2022, Ofcom reported serious concern about how complaints are handled and warned that these must be addressed. But, as we have already said in our July 29 submission, Ofcom's criticisms do not go far enough. The way through the Gordian Knot of complacency and internal confirmation bias (on behalf of the BBC and Ofcom) is through the reform of the complaints system so that it delivers genuinely independent adjudications of complaints issues.

Examples of these independent findings should become a prominent feature of every future ARA. The impact of this would be a gradual increase in trust that the BBC is accountable and wants to properly reflect the views of its audiences in its content offerings.

Given how many complaints the BBC receives each year, how practical do you think this would really be? Why would the impact justify the resource required?

News-watch pointed out in its submission to DCMS on July 29 that the associated remedial impartiality-related measures introduced in the wake of the Dyson report are piecemeal and can be seen as little more than window-dressing. The current problem with impartiality is rooted in that the BBC, despite assertions to the contrary such as that by Ian Hargreaves in the ARA EGSC report, is not treating the related issues with the priority and attention to detail they warrant as fundamental Charter requirements. This is further underlined in Appendix 1 which lists all the references to impartiality measures in the annual report – quite simply, this is bare minimum reportage by the BBC.

Against that background, sufficient costs and resources proportionate to the problems involved must be made available, though obviously the BBC needs always to be able to demonstrate that it is conducting its affairs as economically as possible. That said, what is being proposed in terms of the presentation of complaints issues in the ARA (and other BBC platforms) should not have major cost implications. Data on complaints is already being collected and used internally within the BBC in regular daily reports and externally through the fortnightly complaints bulletins and ECU rulings. Obviously, another layer of analysis will be required, but that is all. And to repeat: expense in this domain is justified because this is a central BBC obligation.

In June 2020, in sharp contrast to the apparent reluctance so spend money on dealing with bias issues, the BBC trumpeted that it was committing £100m of its ‘content spend’ on ‘diverse productions and talent’ and also introduced a ‘20% mandatory diversity-talent target’ in all network commissions from April 2021¹. But according to the 2011 UK census, the proportion of the population from ‘Black, Asian Mixed or Other ethnic group’ is 13%². Director general Tim Davie further committed to the target when he assumed office in September 2020 and said he wanted to create ‘the most inclusive and diverse workforce in the media sector’³.

The Corporation has thus committed very significant resources to measures in the diversity domain which exceed those which are required in law and has put on record what its commitments are. The same should happen in the impartiality domain.

¹ <https://www.bbc.co.uk/mediacentre/latestnews/2020/creative-diversity-commitment>

² <https://www.ethnicity-facts-figures.service.gov.uk/#:~:text=87%25%20of%20people%20in%20the,a%20variety%20of%20ethnic%20backgrounds>.

³ <https://www.google.com/search?q=BBC+meets+ethnic+minority+targets+Davie&og=BBC+meets+ethnic+minority+targets+Davie&aqs=chrome..69i57j33i160l3.9169j0j15&sourceid=chrome&ie=UTF-8>

You mention the above example - do you have any more proposals for greater transparency about complaints handling in the Annual Report and Accounts?

Examples of what could be included are:

Case studies: Here the BBC could demonstrate their commitment to rigorous impartiality by reference to some of the major complaints made during the year and how they were dealt with. Top of the list here, as an example, might be the handling of the Oxford Street Bus incident of December 2021, which received widespread press publicity but is still not resolved 10 months later.

Analysis of complaints received: Independent figures on the complaints tribunal could give an overview of the key issues raised during the year of issues dealt with, matters for concern, audience interaction etc. These would include precise figures about the number of cases upheld and rejected, the breakdown of figures for impartiality and inaccuracy cases and detail of what was done to rectify mistakes and make sure that underlying bias concerns are dealt with.

Measures taken to generate greater understanding of how bias occurs: Steps taken by the BBC to encourage debate about bias issues and to engage audiences throughout the country in the process. Educative outreach to appropriate outside bodies, including universities and colleges.

Publication of examples of efforts to improve impartiality: In addition to the periodic content thematic reviews promised in the BBC's Ten-Point Impartiality Plan, the Corporation must commit to the commissioning and publication of a rolling cycle of internal and external independent academic monitoring of selected programmes so that the public can become confident that its methodology for assessing impartiality is properly rigorous and objective. Currently, decisions on bias are made behind closed doors entirely on the BBC's terms. This often leads to confirmation bias and is an issue that must be addressed openly.

What would the practical impact be of making the details of the impartiality training public?

Currently, confidence in BBC impartiality, according to opinion polls as mentioned in the News-watch July 29 DCMS submission, is falling and is at historic low levels. As with the measures outlined above, publishing the details would indicate a desire for transparency and demonstrate to the licence fee payers the level of the BBC's commitment to this domain.

- a. The public will have greater awareness of the importance of impartiality to the BBC;
- b. It is consistent with 10-Point Plan and current BBC statements e.g. by Tim Davie and Ian Hargreaves as to the importance of impartiality.
- c. The details of the impartiality training and its content are highly relevant to impartiality obligations which are a matter of public interest and concern. They should be publicly available and in principle can be the subject of a Freedom of Information Act request.

What role does the BBC governance structure (e.g. the Board) have to play in your proposals for improvement? How effective do you think EGSC is, and why? What would you propose by way of improvements, other than to push forward the proposals you have already made in your submission?

News-watch monitoring has demonstrated over 23 years and 60 reports that bias has been and remains a serious concern. From the outside, it is impossible to gauge with any certainty what the EGSC actually does, but the current levels of bias identified by News-watch suggest that it is far from effective. Our proposals for improvements would inevitably be the responsibility to a large extent of the EGSC, and that is why we have argued for a greater input from external sources, including especially the routine independent monitoring of programme output

You raise concerns about the make-up of the Ofcom Content Board. What would your proposal be to address those concerns?

A major obstacle to Ofcom being properly and rigorously vigilant about impartiality is that a majority of those working in the media have strong liberal-left views, and are likely to preclude consideration of views with which they disagree. As was pointed out in the July 29 News-watch submission to DCMS, this is reflected in the current composition of the Content Board which has large numbers of those who have worked at the BBC as members. News-watch believes that the paucity of rulings against the BBC on content issues since 2017 is a direct consequence of this skew.

Further insight into how such bias operates is provided by a July 2022 survey by the US-based Pew Research Center⁴ into the political attitudes of journalists. It found that 55% of those surveyed believed that every side did not always deserve equal coverage in the news. By contrast more than three-quarters of Americans (76%) believed that journalists should always strive to give all sides equal coverage. Unfortunately similar detailed research is not carried out in the UK. But a Reuters Institute survey found in 2016 that half of UK journalists take a left of centre political stance, with the remaining half 'are split between the centre and the right-wing'⁵

In future the Content Board must be constituted to avoid these problems. A possible solution would be that no more than a quarter of members should be those who have worked for the BBC in any capacity. A majority of members should not have worked in the public service broadcast media sector or be MSM media journalists and must be recruited on the basis of their independence of outlook. Members of the Board should also receive regular training which ensures that their approach to impartiality is robustly independent. Members should be asked to formally attest to their independence. Part of the review

⁴ <https://www.pewresearch.org/fact-tank/2022/07/13/u-s-journalists-differ-from-the-public-in-their-views-of-both-sidesism-in-journalism/>

⁵ <https://reutersinstitute.politics.ox.ac.uk/sites/default/files/research/files/Journalists%2520in%2520the%2520UK.pdf>

process should include the right to challenge verdicts on grounds of political balance. There are workable precedents for this type of structure.

That may seem a difficult target, but it is precisely because such checks are not in place that the complaints process has not prevented the output of the BBC from becoming massively biased.

Complaints

You've suggested that Stage 1B responses offer little additional value to Stage1A. Can you explain a little more about why specifically you think this, and what you'd like to see the BBC doing differently at this stage?

On Ofcom's recent requirement that the BBC publish "not upheld" Stage 2 decisions which relate to due accuracy or due impartiality, or where more than 100 Stage 1a complaints have been made, you've suggested that how impactful this will be is dependent on how much new information is provided. Could you detail the kind of information you'd like to see included?

1. Stage 1a v. Stage 1b Complaints

- a. The reason why Stage 1b complaints offer little additional value to Stage 1a complaints is that a Stage 1b complaint is essentially a repetition of the Stage 1a complaint but is dealt with by a manager.
 - i. The Stage 1b process is a repetition of Stage 1a rather than a complaint made de novo or by way of appeal.
 - ii. Both Stage 1a and Stage 1b complaints are notionally made to the BBC Complaints Team which will apply the same test in each stage.
 - iii. In practice there is little benefit to the Stage 1a complainant in making a further Stage 1b complaint.
 - iv. What is required is a new complaints procedure as follows:

Stage 1. Initial Complaint to the Complaints Team
Stage 2. Appeal to an appellate body akin to the ECU.
Stage 3. Appeal to an independent appeal tribunal with a legally qualified chairman. This could be either with leave of the Stage 2 appellate body or the Stage 3 independent appeals tribunal, or, as of right, without leave.
- v. There may be benefit to the BBC in terms of cost in using stage 1a and 1b as a filtering process.
- vi. vi. The BBC Complaints Framework is silent as to any benefit to the complainant in having a stage 1b complaints procedure.
- vii. vii. The Stage 1 b complaint delays the ability of a complainant to make a stage 2 complaint.

- viii. The Stage 2 complaint made to the ECU is theoretically a more substantial procedure being made in effect by way of appeal to the ECU a body specifically charged with hearing complaints.
- ix. A Stage 2 complainant is essentially an appeal from stage 1.

2. Publication of “not upheld” Stage 2 decisions

- i. The benefit of such publication is to attempt to demonstrate what criteria the ECU has applied in deciding not to uphold a complaint.
- ii. ECU determinations are one of the few measures available for the public to assess whether the BBC is complying with its accuracy and impartiality obligations. For example, if a Stage 2 complaint had not been upheld in respect of a particular broadcast or coverage whilst at the same time there had been considerable public and press disquiet in respect of the broadcast this would evidence that the BBC is failing to comply with its obligations. This measure should be of considerable value to BBC management in its professed determination to comply with accuracy and impartiality obligations.
- iii. The information required should consist of the complaints and determinations.

September 29, 2022

Appendix

This is included to illustrate how sparse and inadequate is the current reporting of impartiality issues in the Annual BBC Report and Accounts

In the BBC Annual Report and Accounts 2021/22, there are 53 references overall to complaints.⁶ Those below address editorial complaints.

p.115 in the section on 'Principal risks' there is reference to the updating of the fast-track complaints component of the Complaints Framework and the publication of a process of 'self-initiated investigations into editorial breaches of impartiality and accuracy.

p.122, in the same section it says that an 'established editorial policy' is in place to handle complaints within the BBC

p.122, in the same section, it is stated that Ofcom complaints are monitored regularly with regular reporting to the DG and the Executive Committee, as well as monthly Board reporting.

P122, it is claimed that, in the context of a high level of scrutiny of the BBC, and 'external interest in editorial judgments', 'The trend of complaints volumes [presumably upwards] has continued due to polarised public opinion, the political landscape and the role of social media'. No evidence is provided for this contention.

p.122, as a 'residual risk' under compliance to 'legal, regulatory requirements and other obligations' which may increase as 'the focus of regulatory bodies returns to business-as-usual matters, it is stated that 'the management of the overall trend of increasing complaints levels' is a matter to 'consider and/or address'. Associated with that, it is said the risk will be monitored through the volume and management of complaints.

p.129 in the Editorial Guidelines and Standards Committee report, it is stated that the BBC is accountable in its aim to achieve 'the highest editorial standards' through the complaints process.

p.129, it is stated that during the election periods in May 2021 and 2022, that the BBC election broadcasts were fully compliant with legal and regulatory requirements and withstood scrutiny from the political parties.

p.129, it is noted that complaints about election coverage in May 2021, complaints by Reform UK and the Alba political parties were not upheld by Ofcom.

It is then stated:

'A core function of the Committee is to oversee the BBC's complaints process and to ensure adherence to the BBC's Editorial Guidelines and Ofcom's Broadcasting Code. Transparency and accountability through the complaints process is important to audience trust and the

⁶https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1098831/BBC_Group_Annual_Report_and_Accounts_2021_22_1.pdf

reputation of the BBC. The Serota Review identified a number of amendments to the complaints framework to improve transparency and audiences' understanding of how the complaints process works. These have been discussed with Ofcom and are in the process of being implemented. In last year's Annual Report, we highlighted concern with the volume of complaints to the BBC and said that we had asked the Executive to review the handling of complaints at stage 1 of the complaints process. The EGSC agreed to a number of proposed changes in the way the BBC responds to complaints at stage 1 and this has helped operational handling of complaints without compromising the quality of responses. The BBC received 433,572 complaints at stage 1 in 2021/22, a decrease of 28,683 on last year but still considerably more than the long-term annual average. The KPIs set by Ofcom for answering complaints at stage 1 and 2 of the 'BBC First' complaints process were met (stage 3 is an appeal to Ofcom). 95% of complaints at stage 1 were handled within ten working days against a target of 93%. 87% of complaints at stage 2 were concluded within 20 working days for standard stage 2 complaints and 35 working days for complex stage 2 complaints against a target of 80%. Ofcom is currently undertaking a review of the BBC, including compliance with the Broadcasting Code and complaints handling. The EGSC will engage with Ofcom to ascertain if amendments are required to the 'BBC First' system of handling complaints.'

p.129, it is noted that the BBC was found on one occasion in the ARA period by Ofcom to be in breach of the editorial code in an 'inaccurate' report about former SNP leader Alex Salmond. It was also noted that the errors should have led to an on-air correction, but was not.

p.129, it is reported that the BBC continues to publish a 'fortnightly' details of programme complaints which number over 100 and fall within the remit of Ofcom's Broadcasting Code.

p.129, it is then asserted that published details 'include fully reasoned versions of the Executive Complaints Unit's (ECU) upheld and resolved findings. The criteria for publishing some not upheld findings are currently being reviewed by Ofcom'.

p.129-130, as a general statement about 'lessons learned, it is stated:

The vast majority of BBC content complied with the standards set by the BBC's Editorial Guidelines. However, the following serious editorial breaches were identified by the Executive and reported to the Committee, together with action taken:

BBC Newshour – breach of fairness to contributors and consent guidelines. A hoaxer, claiming to be US Senator Cory Booker, was interviewed live on-air about US-Saudi relations in light of the US government report on the murder of Jamal Khashoggi. During the interview, the team realised that something was not quite right. Senator Booker's office was contacted after the programme and his Director of Communications confirmed that he had not given the interview. The item was removed from BBC Sounds, an apology was published on the Newshour page, and an on-air apology was given.

Further action taken: This was a deliberate hoax. The Newshour team was briefed on how the error occurred and reminded about steps which need to be taken to verify the identity of guests and adherence to section 6.3.12 of the Editorial Guidelines.

BBC Good Food magazine – breach of conflict-of-interest guidelines. A freelance food writer had a commercial relationship with a company mentioned in a published recipe. Although references to specific brands or retailers are permitted where there is strong editorial justification, they are not allowed where there is a conflict of interest.

Further action taken: BBC Good Food magazine is published by Immediate Media under licence from BBC Studios. The editorial team from Immediate Media was reminded of the Editorial Guidelines and given specific training in the BBC's conflict of interest policy. They were also required to undertake further online training about BBC editorial and advertising standards.

It was agreed that in future, all references to specific brands should be escalated to the Editor-in-Chief of the magazine for approval.

In addition to these breaches, the BBC's Executive Complaints Unit found a total of 41 breaches in editorial standards in this reporting period. As with the serious editorial breaches, these editorial breaches are reported to the committee together with action taken.

p.160, under Performance against public commitments, it is said that the BBC will publish the number of complaints upheld where 'we have failed to comply with the BBC's obligations under Charter and Agreement or with the Ofcom Operating Framework or World Service Licence'.

p.160, it is stated: 'We will publish the number of complaints upheld on BBC editorial matters and overall volumes of complaints made'.