

**Complaints and
Appeals Board Findings
Appeals to the Trust
considered by the
Complaints and
Appeals Board**

March and April 2016, issued June 2016

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Remit of the Complaints and Appeals Board

The Complaints and Appeals Board (CAB) is responsible for hearing appeals on complaints made under all complaints procedures, as set out in the BBC Complaints Framework, other than editorial complaints and complaints about the Digital Switchover Help Scheme. Its responsibilities are set out in its Terms of Reference at:

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2015/cab_tor.pdf

All Trustees are members of the Board; Bill Matthews is Chairman. Sonita Alleyne is Deputy Chairman. The duties of the CAB are conducted by Panels of the Board consisting of at least two Trustees, including the Chairman of the CAB and other Trustees as required. The Board is advised and supported by the Trust Unit.

The Board considers appeals against the decisions and actions of the BBC Executive in relation to general complaints, fair trading, TV licensing and other matters including commissioning and procurement but not including editorial complaints as defined by the BBC Complaints Framework and Procedures. The Board will also consider complaints about the BBC Trust.

The Board will consider appeals concerning complaints which fall within the BBC's complaints process as set out in the BBC Complaints Framework and which:

- raise a matter of substance – in particular, that there is sufficient evidence to suggest that the complaint has a reasonable prospect of success and there is a case for the BBC Executive to answer
- have already been considered by the BBC Executive under Stages 1 and 2 of the BBC's general complaints procedures and which are now being referred to the Trust on appeal as the final arbiter on complaints (unless it is a complaint about the BBC Trust)

The Board will aim to reach a final decision on an appeal within the timescale specified in the relevant Procedures. An extended timescale will apply during holiday periods when the Board does not sit. The complainant and BBC management will be informed of the outcome after the minutes of the relevant meeting have been agreed.

The findings for all appeals considered by the Board are reported in this bulletin, Complaints and Appeals Board: Appeals to the Trust.

As set out in the Complaints Framework and Procedures, the Board can decline to consider an appeal which in its opinion:

- is vexatious or trivial;
- does not raise a matter of substance;
- is a complaint where the complainant has recourse to the law;
- is a complaint where the complainant has recourse to other external authorities, for example the Information Commissioner or the Office of Fair Trading; and
- is a Human Resources complaint as defined by the Complaints Framework and Procedures.

The Board also reserves the right to decline to hear an appeal whilst it relates to matters which are the subject of or likely to be the subject of, or relevant to, legal proceedings. The Board will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.

Any appeals that the Board has declined to consider under the above criteria are reported in the bulletin.

The bulletin also includes any remedial action/s directed by the Board.

It is published at bbc.co.uk/bbctrust or is available from:

The Secretary, Complaints and Appeals Board
BBC Trust Unit
180 Great Portland Street
London W1W 5QZ

Summary of findings

Gender balance in TV coverage of Wimbledon

Summary of finding

The complainant contacted the BBC to complain that the selection of which Wimbledon matches to cover on BBC One, BBC Two and the Broadcast Red Button showed unacceptable levels of gender bias against the women's game.

Taking into account that the proportion of time spent on men's and women's matches could be reviewed effectively on the broadcast channels, which were in any event watched by a large proportion of viewers, Trustees decided it would be disproportionate and not cost effective to ask BBC Sport to provide detailed figures for the BBC Red Button.

Regarding the matches on BBC One and BBC Two, the Committee concluded that:

- the complainant had raised a significant issue of "general importance", as defined by the Royal Charter, which was appropriate for the Committee to consider. However, Trustees concluded that they did not believe that the BBC was failing to meet the public commitments made in its Diversity Strategy.
- although there was no basis for Trustees to intervene regarding the percentage of men's matches compared to women's matches covered, Trustees were pleased to note the Executive's assurances that they would take the complainant's research into consideration when planning and delivering coverage of Wimbledon 2016.
- it had not seen bias against the women's game through the selection of which seeded players to feature.
- while it was surprising that Serena Williams' matches were not shown in full, editorial judgements were likely to have played a part and there was no evidence of a significant discrepancy that suggested bias against the women's game.
- despite the disparity in the amount of coverage on Saturday 4 July 2015, there was evidence of the exercise of reasonable editorial judgement which outweighed the suggestion of any bias against the women's game.

The complaint was not upheld

Appeal Findings

Gender balance in TV coverage of Wimbledon

Background

The 2015 Wimbledon Championships were held between 29 June and 12 July 2015. There was no play, as is traditional, on Sunday 5 July 2015. The BBC broadcast live coverage of the Championships on BBC One and BBC Two and on up to seven additional channels on the BBC Red Button (the number of available channels varying according to the broadcast platform). In addition BBC Sport streamed up to 15 courts live via the BBC Sport website and the Connected Red Button.

The complaint

The complainant said that the BBC's selection of matches shown on BBC One, BBC Two and the "free-to-air BBC Red Button channel" during the first week of the Championships showed gender bias against the women's game.

During the first week of Wimbledon 2015 the complainant monitored, at intervals of 15 minutes, the matches being shown on each of BBC One, BBC Two, and the Red Button (those channels available to viewers with a free-to-air service and no internet connection). He said that he chose to monitor the first week because "this is the time when large and equal numbers of men's and women's singles matches are being played, giving a wide choice of both for transmission on the main channels".

Appeal to the Trust

The complainant raised the following points in relation to "gender bias" in the coverage of Wimbledon 2015:

Point (A)

The complainant said that during the first six days of the Championships, more than 75% of coverage was of men's matches and less than 25% of coverage was of women's matches.

Point (B)

The complainant said that all but one of the men's top 16 seeds featured on one or more occasions over the first week, but that seven of the women's top seeds were not shown.

Point (C)

The complainant said that bias was evident when coverage of the "very top" players was considered – for instance though Serena Williams was competing for a historic second grand slam, only 48% of her first two matches was televised.

Point (D)

The complainant said that on Saturday 4 July 2015, 93% of coverage was of men's matches.

The Committee considered the appeal at its meeting on 18 January 2016. Trustees did not uphold the complaint. The Trust Unit asked the complainant to comment on the accuracy of the finding and on the process. The complainant said that, in reaching their decision Trustees had relied upon a comparison of his data with that of the BBC, made orally by the Independent Editorial Adviser, and that this amounted to an error of process because it was not shared with him prior to the meeting. The Committee agreed to reconsider the complaint afresh. The complainant was provided with a note prepared by the Independent Editorial Adviser and commented upon it.

Applicable Guidelines and Guidance

There were no Editorial Guidelines applicable to this case and the BBC's Service Licences for BBC One, BBC Two and the BBC Red Button did not set specific targets for coverage of women's sport.

The Committee's decision

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Independent Editorial Adviser's report, comments by the complainant and BBC Sport.

The Committee noted:

- the BBC's objectives for 2015-16¹ which include, under the objective to "make distinctive world-class content", the aim of "better reflecting the diversity of the UK across our programmes and services"
- the BBC's diversity strategy 2011-15² which has as one of its five strategic equality and diversity objectives:

"Deliver high quality programming which reflects modern Britain accurately and authentically."

The Committee noted that the complainant had recorded a snapshot of coverage every 15 minutes on BBC One, BBC Two and the Red Button during the first week of the tournament. The Independent Editorial Adviser had therefore asked BBC Sport to provide full data regarding matches shown during the same period on the same channels as those monitored by the complainant.

BBC Sport provided full documentation for BBC One and BBC Two across the entire Wimbledon fortnight. However, it did not supply information for the BBC Red Button because it said that different platforms offered different selections of programmes – for instance Freeview HD offered three Red Button channels, whereas on Freeview SD there was one and on Freesat there were up five channels. BBC Sport said that these channels were not archived in the same way as BBC One or Two. It said it would take considerable

¹ http://www.bbc.co.uk/aboutthebbc/insidethebbc/whoweare/mission_and_values/objectives.html

² http://downloads.bbc.co.uk/diversity/pdf/Diversity_strategy_110523.pdf

time to reconstitute the schedule and log it and, while it was prepared to do so if requested by Trustees, there were value for money considerations in doing so.

The complainant was concerned that this data had not been provided.

Trustees noted that the number of viewers who had watched Wimbledon coverage on Red Button channels totalled 7.4 million. They noted that BBC One and BBC Two's combined audience for Wimbledon was 29.2 million. Trustees decided they were principally concerned with the matches available to and accessed by the greatest number of viewers.

Trustees also noted that, according to the complainant's figures, the proportion of time spent on men's tennis on BBC One and BBC Two combined was 71%, and that when the Red Button was included this figure rose to 76%.

Trustees agreed it would have been preferable to have had a detailed breakdown of the matches broadcast on Red Button services but recognised the cost in reconstituting the schedule and logging the data as well as the fact that the number of Red Button services varied according to which platform the viewer had access to. Taking into account that the proportion of time spent on men's and women's matches could be reviewed effectively on the broadcast channels, which were in any event watched by a large proportion of viewers, Trustees decided it would be disproportionate to ask BBC Sport to provide detailed figures for the BBC Red Button. It would not be cost effective to require more information.

Trustees noted that the complainant had made a number of complaints about the robustness of BBC Sport's data and they agreed that human error was occasionally evident in the data. Trustees noted, however, that when the complainant's figures for BBC One and BBC Two were compared with that of BBC Sport, the two results were remarkably similar. In the first six days of the tournament BBC Sport suggested that the percentage of broadcast time spent on men's matches was 70%, compared to 30% of broadcast time spent on women's matches; the complainant suggested that it was 71:29. Taking this into account Trustees were satisfied that they had sufficient data to consider the issues raised by the complainant.

Point (A)

The Committee noted the complainant's view that:

"In a sport where the genders enjoy similar levels of popularity, and where the choice exists to show either top level men's sport or top level women's sport, the BBC's commitment is very clearly to the men's tournament."

The Committee noted the BBC's view that:

"...the choice of which matches to show on network TV is based solely on editorial merit and not a quota-based system that seeks to equalise the amount of airtime afforded to men's and women's tennis..."

The Committee noted that the complaint was based upon the percentage of broadcast time devoted to men's singles matches compared to women's singles matches.

Trustees noted that men's matches may run to five sets whereas women's may run to three. They noted that the complainant had calculated the average duration of men's matches and women's matches using official data from the Wimbledon Championships'

website and that this resulted in a ratio of 61:39. They noted that this was largely consistent with the overall ratio of coverage on BBC One and BBC Two (combined) of 65:35 across the whole tournament, according to figures provided by BBC Sport.

Trustees noted the complainant's view that in the first week of the tournament the ratio was 71:29 for BBC One and BBC Two, rising to 76:24 including the Red Button and his argument that there was less possibility to exercise bias in the second week as the matches effectively pick themselves. However, they were mindful of the Royal Charter and accompanying Agreement between the Secretary of State for Culture, Media and Sport and the BBC which 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" and "The operational management of the BBC" are defined as duties that are the responsibility of the Executive Board under article 38, (1)(b) and (1)(c) of the Charter.

The Committee noted that this distinction exists to protect the editorial and operational independence of the BBC. Complaints regarding operational matters or matters of editorial and creative decision making (excluding editorial standards) should be matters for the Executive (possibly Unitary) Board. The exception is where an appeal raises a significant matter of general importance. Trustees agreed that the complainant had raised a significant issue of "general importance" which was appropriate for the Committee to consider; however, Trustees concluded that no breach of editorial standards had occurred, nor did Trustees believe that the BBC was failing to meet the public commitments made in its Diversity Strategy.

Trustees noted that the complainant had not based his complaint upon the number of matches covered, but had concentrated instead on the total duration of coverage. Trustees did, however, note that significantly more men's matches were shown (in whole or in part) during the first week on BBC One and BBC Two, compared to women's matches during the same period on the same channels, and they found this disparity surprising. Trustees noted the complainant's concern that girls should have the opportunity to watch and be inspired by leading female players as boys are by leading male players. Trustees understood that the BBC would apply legitimate editorial considerations in deciding what matches to feature but felt strongly that viewers had every right to expect the BBC would start from the basis of equality between male and female players. Trustees would encourage BBC Sport to maintain momentum in highlighting the importance of women's sport – in this case tennis.

Trustees also noted that the selection of which matches to cover was to some extent dependent upon the scheduling of matches by the All England Lawn Tennis Club (AELTC) on the nine courts capable of live broadcasts in the first week. They noted that there were slightly more men's matches on these courts in the first week than women's matches. They also noted that Centre Court and Court No 1 (which allow for substantially larger audiences than the other courts), show significantly more men's matches than women's matches.

Again, Trustees noted that this did not form part of the complainant's appeal but they acknowledged that these considerations may form part of BBC Sport's editorial judgements when determining which matches to cover, and they welcomed any discussion between the AELTC and BBC Sport which aimed to give a higher profile to women's matches.

In conclusion, although Trustees decided there was no basis for them to intervene in this case, they were pleased to note the Executive's assurances (made earlier in the

complaints process) that they would take the complainant's research into consideration when planning and delivering coverage of Wimbledon 2016.

Point (A) finding: not upheld

Point (B)

The Committee noted the complainant's view that one of the objectives of BBC schedulers during the early stages of the Championships must be to "give viewers a chance to see as many as possible of the title contenders in action".

Trustees noted the complainant's view that all of the men's top 16 seeds featured on one or more occasions over the first week, with the exception of #15, Lopez, and that this compared unfavourably to the coverage of the women's top 16 seeds:

"On the women's side, no match was shown featuring any of the following: Safarova (#6 seed and runner up in the French Open), Ivanovic (#7), Makarova (#8), Suarez-Navarro (#9), Kerber (#10), Pliskova (#11) and Bacsinszky (#15)."

Trustees noted that BBC schedulers may have additional objectives to consider during this early period in the tournament, such as the wish to show Britain's leading female players in action, whether seeded or not. They noted that the complainant's analysis related to BBC One, BBC Two and the BBC Red Button on Freeview SD. Being principally concerned with the matches available to the greatest number of viewers, they noted that on BBC One and BBC Two, 11 of the top male seeds featured during the first week of the Championships, compared to ten of the top female seeds. They considered that in these circumstances they had not seen bias against the women's game through the selection of which seeds to feature.

Point (B) finding: not upheld

Point (C)

The Committee noted the complainant's view that bias was evident when coverage of the "very top" players was considered:

"During the opening two rounds, Murray's matches were of course covered in full. Of other leading men, none of whom faced a British opponent, we saw 100% (by time) of Djokovic's matches, 100% of Federer's, 100% of Wawrinka's and 79% of Nadal's, even though he was only seeded 10. By contrast, though top women's seed S. Williams was competing for a historic second grand slam, we saw only 48% of her first two matches."

The Committee noted that on BBC One and BBC Two the top three male seeds had their first- and second-round matches broadcast almost entirely in full; the fourth, Wawrinka's matches were featured more briefly. Trustees noted that a quarter of Serena Williams' first-round match and two-thirds of her second-round match were shown; the second and fourth female seeds' matches were shown almost entirely in full; half of the third seed (Halep)'s first-round (and only) match was shown. They concluded that, while it was surprising that Serena Williams' matches were not shown in full, editorial judgements were likely to have played a part and there was no evidence of a significant discrepancy that suggested bias against the women's game.

Point (C) finding: not upheld

Point (D)

The Committee noted that the complainant raised a specific point about coverage on Saturday 4 July 2015. He stated:

“The most extreme example of bias came on the middle Saturday, the best chance working people have to watch live tennis apart from finals weekend. An equal number of men’s and women’s third-round matches were played on this day, but only one women’s match (Kvitova vs Jankovic) was shown (in part only) and 93% of coverage was of men’s matches. Between 11.30, when play started on the outside courts, and 13.00 when it started on Centre and No 1 Courts, a predictably fascinating and tough women’s battle took place on No 2 Court between Kerber (#10 seed) and Muguruza (#20, the eventual finalist) neither of whom had been featured at all during the first week. This was described by one of the match commentators as: ‘One of the best matches I’ve seen all year,’ while the other commentator remarked at the end: ‘You’ll go a long way to see anything as good as that.’ The BBC’s free-to-air viewers didn’t get to see any of it, despite the fact that all three BBC channels were broadcasting tennis at different times while it was being played. Instead, between 11.30 and 13.00 all channels were showing a men’s match on Court 3 between Troicki (#22 seed) and Brown (unseeded). For more than an hour of the time, this match was being shown on two channels at once.”

Being principally concerned with the matches available to the greatest number of viewers, the Committee considered the order of play on BBC One and BBC Two on Saturday 4 July 2015. Trustees noted that no women’s matches were broadcast on BBC Two on Saturday 4 July, and that only one women’s match was broadcast on BBC One: Jankovic v Kvitova. They noted that the complainant’s data indicated a ratio of 87:13 for men vs women’s tennis across the two channels.

The Committee noted that while this appeared to be a startling disparity, and that BBC Sport had not furnished the Committee with any information as to its editorial considerations, BBC One had covered four matches: Troicki v Brown, Groth v Federer, Jankovic v Kvitova, and Murray v Seppi. Trustees noted that Andy Murray was Britain’s top male seed and the overall #3 seed. They noted that Federer was the #2 seed and Kvitova the defending women’s champion.

Trustees noted that the complainant had raised a specific concern about the BBC’s decision not to broadcast coverage of Kerber v Muguruza. They noted that during this period Troicki v Brown was shown, but was not simulcast on BBC One and BBC Two, because coverage switched between the two channels until 2.30pm. They noted that the match was covered on BBC Two from its start to the fifth game of the first set, and then switched to BBC One from the second set, third game, until the first game in the third set when coverage ended. Trustees noted that though Dustin Brown was unseeded, he had knocked out the #10 seed Nadal in the second round and this was popularly referred to as one of the stories of the tournament. The Committee decided that, despite the disparity in the amount of coverage on this date, there was evidence of reasonable editorial judgement which outweighed suggestion of any bias against the women’s game.

Point (D) finding: not upheld

Overall finding: not upheld

Requests to review the Trust Unit's decisions on Television Licensing appeals

The following complainant asked the Complaints and Appeals Board to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Panel.

The Panel was provided with the complainant's appeal/s to the Trust, the response or responses from the Trust Unit and the complainant's request/s to review that decision.

Television Licensing complaint – concerning a refund

The complaint concerned a request for a refund of TV Licences backdated to 2002, which the complainant said she had submitted because she did not watch live TV³. TV Licensing (TVL) had refused the refund application because the complainant had not submitted any evidence to support the claim. The complainant also complained about the way the complaint was handled.

The complainant made the following points:

- She did not require a TV Licence as she did not receive or record live BBC television broadcasts.
- Despite this she had received multiple letters implying that she was committing a criminal offence.
- She was withdrawing the implied right of access which the TV Licensing authorities would otherwise have to her property.

TVL replied acknowledging her wish to withdraw their common law right to approach her property:

- They reserved the right to use other methods available for the detection of television receiving equipment.
- They updated their records to reflect the fact that she had informed them that she did not require a TV Licence and confirmed that she would not hear from them again for nearly two years.

The complainant wrote again and made the following points in a series of letters/emails to TVL:

- She had been paying her TV Licence under "false pretences" and under "duress", since she had moved into her property, in 2002.
- She requested a full refund of all her payments between 2002 and 2012 when she ceased payments.
- She had never, and never would, watch or record live TV programmes.

³ A person needs to be covered by a TV Licence if they watch or record programmes as they're being shown on TV or live on an online TV service. If a person only ever watches on-demand programmes, they do not need a TV Licence.

- She had suffered financial hardship, and she had felt threatened by TVL advertising materials which suggested she would be committing a criminal offence and could be liable to imprisonment if she did not continue to pay the TV Licence fee.

TVL made the following points:

- TVL was under no obligation to make refunds but had the discretion to refund up to two years' worth of licence fees in certain circumstances (it could refund up to six years where an error by TVL had led to overpayments).
- The complainant would need to fill in an application for a refund and this should include any evidence to show the licence fee was paid in error; and in some cases enclose the original licence as proof of purchase as TVL does not keep records of expired licences.
- They asked for the address at which she had paid the TV Licence in order to help trace her payment history.

The complainant informed TVL of the address but was then told that TVL had no record of any payment at that address and they requested further proof of payment.

The complainant made a Subject Access Request for information about her payments and informed TVL in that request that she had paid by payment card. TVL were then able to access her payment history and confirmed that she had paid for a TV Licence from 2002 until she cancelled it in 2012.

The complainant escalated her complaint to the BBC's Head of Revenue Management in March 2015.

The BBC's Customer Experience Manager wrote on behalf of the Head of Revenue Management (in April 2015) and made the following points in response:

- Information about licensing requirements was freely available in the public domain and was also included on TV Licensing's communications. In the circumstances, TVL would not consider issuing a refund for more than two years' fees as there did not appear to have been an error on their part.
- The Customer Experience Manager noted that TVL had explained to the complainant that they would consider a two-year refund on receipt of evidence that her TV Licences were purchased unnecessarily. In an email to TVL in February, the complainant mentioned that she had proof and supporting evidence showing that she purchased TV Licences under "duress" and that she could provide a copy if this was needed. The Customer Experience Manager said that if the complainant would send in this evidence the BBC would review her refund claim.
- Unfortunately, TVL had been unable to trace the complainant's payments until she made a Subject Access Request (under the Data Protection Act) in December 2014, in which the complainant mentioned that the payments in question were made between 2002 and 2012 and that she had used a Payment Card. The Customer Experience Manager said she was sorry that it had not been possible for TVL to provide the complainant with the details she requested prior to December 2014; the BBC had only been able to trace payments once they had known the payment method used.

The complainant escalated her complaint to Stage 3 of the complaints process in May 2015.

In February 2015 a letter intended for another licence fee payer with a similar name was sent to the complainant in error, which suggested that TVL had the complainant's bank details.

- The complainant wrote to TVL in February 2015 and again in May 2015 asking for more details about the contents of the letter stating that she had not given permission for TVL to obtain her bank details.
- She wrote again in June 2015 having received no response.
- The Customer Experience Manager wrote to the complainant in June apologising for the delay in responding and stating that the BBC's Executive Board member for licence fee collection would respond "in due course"; the complainant wrote at the end of July stating "due course has now passed" and asked for the promised response.
- The Customer Experience Manager wrote again in early August, apologising again and stating that further enquiries had been carried out.

The BBC's Executive Board member responsible for licence fee collection replied in August 2015, apologising for the delay in responding, and made the following points:

- TVL ought to have been able to confirm the complainant's payment records sooner; and the Executive Board member had asked them to review their procedures.
- She apologised for the letter in February 2015 which was sent to the complainant in error.
- As a gesture of goodwill and in view of the effort the complainant had gone to, to obtain her payment records, and also because of the concern caused to the complainant when she was sent the letter in error, the Executive Board member had arranged exceptionally for a refund of one year's licence fee at £145.50.
- However, it was still the case that evidence was required from the complainant to demonstrate that the TV Licences were not required; and in the absence of such evidence it was not open to TVL to issue a refund.

Appeal

The complainant responded to the BBC's Executive Board member responsible for licence fee collection, also in August 2015, and asked for her complaint to be escalated to the BBC Trust. The following day the complainant was informed in an email from the BBC Executive that her appeal had been sent to the Trust by email. However, the BBC omitted, by mistake, to forward the complaint to the BBC Trust Unit until November 2015.

As to the handling aspects of the case, the complainant made the following points:

- She wished to be compensated for TVL's "malpractice and misconduct, imprudent advice [she had] been given from the start of my complaint".
- She referred to the letter sent to her in error; and to the fact that TVL had stated they could not trace her payment details and then were able to once she had informed them that she had paid by payment card.
- She did not agree that she should have to prove the licence she paid for was not needed as it was impossible to prove a negative.
- She complained of the delay in handling her complaint.
- Her health had suffered as a result of the complaint.

On the substance of her appeal she stated:

- She felt TVL had “extorted” money from her whilst she was put under “duress”, by “installing fear through a lifetime of watching [your] alarming adverts and receiving [your] threatening letters claiming I will become a criminal if I do not purchase a licence instantly”.
- She requested a full refund of all her TV Licence fees between 2002 and 2012.
- She felt her human rights had been “ruptured” and she had been caused considerable distress & harm.
- She asked what further evidence the BBC required to prove she was “living in fear”.

On receipt of the complaint, the Trust Unit explained to the complainant that the BBC had omitted, by mistake, to forward the complaint to the BBC Trust Unit until November 2015 and passed on an apology on behalf of the BBC Executive. On realising that there had been a delay in passing on the complaint to the Trust Unit, the complainant sought compensation.

The BBC’s Customer Experience Manager wrote to the complainant apologising again for the error in not having forwarded the appeal to the Trust Unit until November 2015, and explained that it was a genuine oversight. She offered the complainant £30 as a goodwill gesture in compensation.

The complainant confirmed in an email to the Trust Unit in December 2015 that she wished for this point about the delay in passing over her complaint to the BBC Trust Unit to be included in her request for an appeal.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) carefully considered all the correspondence and the relevant Complaints Procedure and decided that the complainant’s appeal did not have a reasonable prospect of success because it did not “raise a matter of substance”.

In relation to the substance of the complaint, the Adviser noted that TVL had clearly explained to the complainant on a number of occasions that unless she could provide evidence that she had paid the licence fee either under “duress” (as alleged by the complainant) or in any event when it was not necessary, then it was not open to TVL to refund her payments. The Adviser noted that this was in accordance with TV Licensing’s Refund Policy.⁴

The Adviser thought Trustees would be likely to agree that TV Licensing’s power to refund up to two years’ worth of fees, where evidence was provided that a TV Licence was not required, in cases where the error in payment was due to a mistake of the payer was a sufficient timeframe for a refund. The evidence that TVL accepts can be found at this link: <http://www.tvlicensing.co.uk/check-if-you-need-one/refunds-and-cancellations/apply-for-a-refund>

The Adviser noted that it appeared from her correspondence that the complainant had felt under “duress” because of the standard information publicly available about TVL and the possible penalties for non-payment. However, the Adviser thought Trustees would agree that this alone could not be sufficient evidence to suggest that the complainant had been paying in error or under duress or that her human rights had been infringed.

⁴ Available at <http://www.tvlicensing.co.uk/ss/Satellite?blobcol=urldata&blobheadername1=content-type&blobheadervalue1=application%2Fpdf&blobkey=id&blobtable=MungoBlobs&blobwhere=1370006321763&ssbinary=true>

For these reasons the Adviser considered Trustees would be likely to conclude that the appeal on the substance did not have a reasonable prospect of success and she therefore did not propose to put this aspect of the appeal before Trustees.

Turning to the handling of the complaint, the Adviser noted that there had been some acknowledged mistakes on the part of the BBC Executive.

For example, the Adviser noted that there had been a delay between the complainant's escalation at Stage 3 of the complaints procedure in May, and the reply in August, and that the BBC's Executive Board member responsible for licence fee collection had apologised for the delay. The Adviser noted that there had also been a delay between the complainant's escalation of the complaint to the BBC Trust (in August 2015) and actual notification to the BBC Trust in November 2015. The Adviser noted that the BBC Trust had apologised to the complainant on the BBC Executive's behalf (and the Executive had also apologised); and also noted the BBC's Customer Experience Manager's authorisation of a £30 cheque to be paid to the complainant in goodwill because of this latter delay.

In addition, the Adviser noted that TVL had erroneously sent the complainant a letter intended for a different licence fee payer with a similar name and this had caused the complainant some confusion and, as was evident from her letters in response, some distress. The BBC Executive had written to the complainant apologising for this error and the Adviser noted that the goodwill payment of £145.50 had, in part, been made in respect of this error.

Finally, because TVL had been unable to locate evidence of the complainant's payment history until she informed them that she had used a payment card, the Adviser noted that the complainant had been put to some trouble to obtain her evidence of payment. The Adviser noted that the Executive Board member responsible for licence fee collection had asked TVL to review their procedures in this regard.

Noting that the Executive Board member had authorised an exceptional refund to the complainant of one year's licence fee, and that the complainant had received apologies from the BBC and a further payment as outlined above, the Adviser considered that Trustees would be likely to conclude that the BBC Executive had dealt reasonably and appropriately with the handling aspects of the case.

The Adviser did not therefore consider that it would be appropriate, proportionate or cost-effective to place these aspects of the case before Trustees as she did not consider, taking into account the nature and explanation for the mistakes, and the way the BBC Executive had dealt with them, that there was a reasonable prospect that the appeal would be upheld.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with the appeal.

The Panel's decision

Trustees noted the points made by the complainant, TVL, the BBC and the Adviser.

The Trustees agreed that if they took this matter on appeal they would be likely not to uphold this complaint the given that:

- TVL and the BBC had correctly applied the TV Licensing's Refund Policy in this case.
- Although the complainant said she had felt under "duress" because of the standard information publicly available about TVL and the possible penalties for non-payment, this alone would not be sufficient evidence to suggest that the complainant had been paying in error or under duress or that her human rights had been infringed.

Turning to the handling of the complaint, the Trustees agreed that if they took this matter on appeal they would be likely not to uphold this complaint but would consider it resolved given that:

- It was very unfortunate that there had been a delay in passing to the BBC Trust the complainant's request for an appeal. However, several apologies had been offered in respect of this error, in addition to a goodwill payment.
- Separately an exceptional payment equalling one year's licence fee payment had also been made in respect of earlier mistakes in the handling of the complaint together with apologies from the BBC.
- Otherwise the BBC Executive had dealt reasonably and appropriately with the handling aspects of the case.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore agreed that the appeal did not qualify to proceed for consideration.

Requests to review the Trust Unit's decisions on appeals

The following complainants asked the Complaints and Appeals Board to review the decision of the Trust Unit that the complainant's appeal did not qualify to proceed for consideration by the Panel.

The Panel was provided with the complainant's appeal/s to the Trust, the response or responses from the Trust Unit and the complainant's request/s to review that decision.

Decision to include Tyson Fury in the shortlist for BBC Sports Personality of the Year 2015

A number of complainants contacted the BBC about the inclusion of world heavyweight boxing champion, Tyson Fury, in the shortlist for the BBC Sports Personality of the Year 2015. The complaints all related to comments he had made about homosexuality. Tyson Fury had been reported as stating, among other views, that the legalisation of homosexuality and abortion were equivalent to legalising paedophilia. The complainants made the following points:

- Complainants were shocked, saddened and angry about the inclusion of Tyson Fury on the list because of his comments about homosexuality.
- If Tyson Fury had made equivalent racist comments, he would not have been included in the shortlist.
- His inclusion indicated an acceptance by the BBC of the views he expressed.
- His inclusion indicated the BBC considered it was acceptable to incite hatred towards minority groups.
- Complainants had previously held the BBC in high regard, but this had been undermined.
- The fact that the title was for the sports "personality" meant it was not simply a matter of sporting achievement, but a wider evaluation of an individual.
- One complainant noted that a member of BBC staff had been reported as having been disciplined for having spoken out against the nomination.
- One complainant reported that news about Tyson Fury's inclusion on the list made him depressed and suicidal.
- All the complainants considered Tyson Fury should be removed from the list of nominees.

At Stage 1, Audience Services sent a standardised response, which made the following points:

- The shortlist was decided by an independent panel of experts – complainants were sent a link to a webpage which gave more information about the panel.
- Tyson Fury had been included in the list because he had become the world heavyweight boxing champion.
- His inclusion on the shortlist did not mean the BBC was endorsing his opinions.
- It was not possible to respond to each detail raised by complainants because of the volume of complaints received, and there was evidence that the number had been raised because of online lobbying; however, the response was intended to explain why Tyson Fury had been included on the list.

- Complainants were thanked for their feedback.

One complainant did not receive the Stage 1 response because his first complaint had not been made through Audience Services, but directly to the Director-General; his first substantive response came at Stage 2. All the complainants pursued the complaint at Stage 2. The complainant who had reported feeling suicidal referred to his continuing distress. He stated that the BBC had not responded specifically on this matter because, apparently, there had not been time to read his complaint.

All the complainants were sent a standardised Stage 2 response from the Chief Adviser and Business Manager, BBC Sport. This informed complainants that they could appeal to the Trust if they remained unhappy, and stated:

“I’m sorry to learn that you were unhappy with the inclusion of Tyson Fury on the shortlist for BBC Sports Personality of the Year 2015.

It was an issue that divided opinion in the run-up to the event and sparked considerable debate about the statements he made and the purpose of the award. I fully understand the strength of feeling that some people have with regards to Tyson Fury’s inclusion on the shortlist.

However, the BBC’s position on issues such as these has always been clear. Sportspeople are included on the shortlist in recognition of the impact made by their sporting achievements. The inclusion of a sportsperson on the shortlist does not represent an endorsement of their personally-held views either by the BBC or the industry shortlisting panel – it never has done. The purpose of the award is to let the public decide who is their Sports Personality of the Year – and last year the public decided that Andy Murray was the worthy winner, not Tyson Fury.

The BBC’s commitment to impartiality is sacrosanct – it has always been, and hopefully always will be, one of the key principles by which we operate. That can lead to issues such as these that create anger and even disbelief amongst some licence fee payers. But we have to be true to the underlying purposes of the BBC and not make moral judgements on behalf of licence fee payers, no matter how challenging or uncomfortable the situation.”

Appeal

The complainants appealed to the BBC Trust. In the main, complainants reiterated points that had already been made. They also made the following additional points:

- One complainant had not had a response to his query about whether Tyson Fury would have been included on the list if he had made similarly offensive comments about disabled people or comments which were racist.
- He was querying whether the BBC was treating one group which suffered discrimination differently to other groups which also suffered discrimination.
- Despite the BBC’s statements that the inclusion of Tyson Fury on the list was not an endorsement of his views, many people felt that the inclusion of Tyson Fury on the list was disgraceful.
- It would have been better for the public to have had a free vote, rather than the public vote being from a shortlist of 12 nominees.
- In the event, Tyson Fury had come fourth in the poll – the BBC had acted to promote homophobia and to send the message that it was acceptable.

- The BBC should issue a public apology for promoting homophobia by including Tyson Fury on the list.
- The BBC should understand how the decision it had reached had been wrong and should also consider how, having reached a wrong decision, it had maintained its position.
- It remained the case that sports men and women were role models, this was part of the “personality” that was being recognised and was at odds with Tyson Fury’s position on the list.
- The complainant who had not received a Stage 1 response noted the
- reference to lobbying and stated that, irrespective of an online campaign, his concerns were legitimate.
- The members of staff involved in this should be disciplined.
- Tyson Fury should be retrospectively withdrawn from the list of nominees.
- Complainants queried whether they would continue to support the BBC and would investigate how they might legitimately not have a television licence.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) carefully read the correspondence between all of the complainants and the BBC and was in no doubt about the sincerity and strength of the complainants’ feelings. She noted that one complainant had expressed great personal distress – and that, because of the use of standardised responses, this had not been addressed by the BBC in any of its replies to him. While she was aware that the BBC had received a large volume of correspondence on this subject and had to have mechanisms that allowed it to respond efficiently, she thought it would be of concern to Trustees that, where a complainant raised such a significant point, it had not been acknowledged or addressed. She considered Trustees would wish to be aware of this so that they might take it up separately with Audience Services.

However, the Adviser noted that the Royal Charter and accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. “The operational management of the BBC” is defined as a duty that is the responsibility of the Executive Board under paragraph 38, (1)(c).

She considered that Trustees would be likely to conclude that the mechanism by which the shortlist for the BBC Sports Personality of the Year award was drawn up and then voted for was an operational matter for the BBC. It would therefore not be appropriate for Trustees to consider whether it was right for Tyson Fury to be included in the shortlist.

By extension, nor would it be appropriate for them to consider the other points of appeal that related to this matter, including whether there should have been a free vote, whether the BBC should now apologise for his inclusion or whether Tyson Fury’s name should be removed retrospectively.

The Adviser noted the concerns that had been expressed about the candidates being role models and how an individual’s personality was considered alongside sporting achievement. She accepted there was a good degree of subjectivity in terms of what drove individuals to vote for any nominee – but believed that individual voters would each reach their own conclusion when weighing up the sporting achievement and personality of any nominee – and that was part of the operational process behind the Sports Personality of the Year award.

She noted that the BBC had repeatedly stated that the inclusion of Tyson Fury on the shortlist did not amount to an endorsement of his views. While she was aware the

complainants disputed this – and considered it sent a different message about the BBC’s position – she noted that the BBC had widely reported on the controversy and that Mr Fury had been directly challenged on his views on BBC output.

The Adviser agreed that the BBC had not responded directly to a query as to whether racist comments or comments about disabled people would be treated in the same way. While she appreciated the point that was being made, she noted it was a hypothetical question and believed that it was reasonable for the BBC to respond to criticisms about the situation in question, rather than alternative scenarios.

She appreciated that several complainants had expressed their profound dismay at the situation and noted that they had previously admired the BBC. She noted that TV licences were a legal requirement for people who watched or recorded live television. Information about when TV licences were not required could be found at this link:

<http://www.tvlicensing.co.uk/check-if-you-need-one>

The Adviser considered that the principal point of complaint was an operational matter that rested with the BBC and was not a matter for the Trust. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

One complainant requested that the Trustees review the decision not to proceed with his appeal. He made the following points:

- The Trust Adviser had appreciated the point that if it had been a racist comment Tyson Fury would not have been included but like everyone else she had refused to comment on it. Taking that into account, the complainant felt that the BBC was being hypocritical in stating that the BBC remained impartial.
- If the BBC would refuse to put someone up for an award who made a racist comment but was happy to do so for someone who made homophobic comments, the BBC was not being impartial, but was making moral judgements as to what type of prejudice was acceptable.
- There was a further reason to take the complaint forward in light of recent comments made by another boxer who said that gay people were animals and should be killed. The complainant asked whether the BBC would put him forward for a SPOTY based on his sporting achievement.
- In addition, if a sportsperson did make a racist comment in the future and the BBC refuses to give him/her a SPOTY, how would they defend this decision?

The Panel’s decision

Trustees noted the points made by the complainant, the BBC and the Adviser.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- The Royal Charter sets out a division of responsibility between the BBC Executive and the BBC Trust. “The operational management of the BBC” was defined as a duty that was the responsibility of the Executive Board under article 38, (1)(c). The responsibility for drawing up the short list of SPOTY nominees, choosing not to alter the short list in the light of events and the mechanism by which the winners were voted for was an operational matter for the programme makers.

- The BBC had not endorsed views expressed by Tyson Fury.
- Recent comments made by another boxer did not relate to the substantive complaint under review.
- The question posed by the complainant about differences between racist and homophobic views related to a hypothetical situation rather than the specific context of the complaint under review.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Access to BBC Radio 2 events – Proms in the Park and Radio 2 Live in Hyde Park – 12 & 13 September 2015, for visually impaired people

Background

The complaint concerned the support available to disabled people seeking to attend BBC Radio 2 events: *Proms in the Park* and *Radio 2 Live in Hyde Park* in September 2015.

The complainant and his wife are both visually impaired. The complainant considered the BBC had not made sufficient reasonable adjustments to allow them to have access to these two events. He made the following points:

- When the complainant booked tickets for these events, the online information stated there would be: “dedicated staff and a dedicated check in for disabled people and travel assistance to and from the disabled drop off point”.
- The complainant and his wife were registered blind and required assistance to and from their positions, and assistance during the event to access toilets and eating/drinking facilities. The complainant stated that it would also be helpful to have a contact number for a staff member, so that if they required assistance, they would be able to contact someone during the event.
- The complainant considered that the online information suggested his and his wife's needs could be met by the support staff already available on site.
- The complainant was offered two free tickets to the event – to allow carers to attend with the complainant and his wife – however, there was no-one they could ask to accompany them.
- He stated that if he and his wife had each provided a carer to accompany them, they would have to meet the extra cost of two return train journeys and hotel accommodation in London – and this was prohibitive.
- Despite the original statement on the website referring to “dedicated staff” who could offer support, he was later told that the member of staff at the disabled check-in would not be able to leave their post and nor would members of security staff in the disabled area be free to accompany the complainant or his wife to the bar or toilet.
- The complainant did not consider the degree of assistance he and his wife required amounted to “personal assistance” and nor did they consider it unreasonable; he stated that they had previously been to concerts where stewards had taken them to and from their seats and to and from toilets during the interval.
- Reluctantly, the complainant cancelled his tickets and received a full refund.
- The complainant was advised that the offer to provide two free tickets complied with the requirements of the Equality Act 2010; however, he considered that the provision of the support that he and his wife needed could be regarded as an “Auxiliary Aid or Service” without which they were at a “substantial disadvantage”.
- He noted that the events' organisers, Festival Republic, had been advised by Attitude is Everything, a company which specialises in enabling disabled people to attend events. While the company considered that the offer of free additional tickets was adequate because it allowed disabled people to access an event at no extra cost to themselves, it did not take account of the additional cost of the train journeys and hotel accommodation he would have had to meet.
- He also noted that Attitude is Everything's website encouraged organisers to “go beyond the legal obligations set out in the Equality Act” in order to provide a fair and equal service. He considered that he and his wife had not been treated fairly or equally.

- The complainant sought an apology and information about how live events would be made more accessible in future.
- He referred to a number of times that he had contacted the BBC and not received a response and had also contacted BBC programmes – including In Touch, The Jeremy Vine Show and You and Yours – none of whom responded. He wished to complain too about the way his complaint had been handled.
- He included information produced by the RNIB about the requirements of the Equality Act.

The BBC's responses included the following points:

- They apologised for the misunderstanding over the information on the website. Although the website stated "that 'dedicated staff' would be available" this was not intended to mean that personal assistance could be provided.
- Although similar wording had been used in the past without confusion, it would now be reviewed to make it clearer.
- The BBC offered an extra free ticket to the complainant and his wife to allow each of them to have a carer accompany them to the events.
- There were 450 disabled people registered to attend the Proms in the Park – each was offered a free "carer ticket" in line with this policy.
- The BBC had consulted the specialist access company Attitude is Everything and also the BBC's own Diversity team and were confident that the processes in place and the actions that were taken met the requirements of the Equality Act 2010.
- They noted that the complainant considered he would only need "occasional assistance"; however, they had understood him to mean they were requesting "personal assistance" – and this was not something that was offered and it was not a reasonable requirement.
- The team working at the event provided a "bespoke service" to people with access requirements; most of their work related to arranging tickets and access to the event, being on hand during the day to meet and greet people and dealing with any urgent matters that arose.
- The BBC accepted that the complainant had understood the words differently and that he felt they should have had additional assistance, for example, been escorted to and from the toilet and to get food and drink.
- It was unfortunate that the complainant was not able to arrange his own support; however, the BBC continued to believe that it was not a reasonable expectation to provide the degree of support the complainant requested.
- The BBC noted that the kind of support requested could, in some circumstances, mean the provision of "highly specialised areas of care" and this was why complimentary carer tickets were offered.
- In terms of how well information was communicated to the complainant, the BBC noted that the team had thought the matter had been resolved by the refund of the ticket value and apologised for the confusion.
- The complainant was offered, as a goodwill gesture, free tickets for himself and his wife for the following year's event, in addition to a carer ticket.

Appeal

The complainant appealed to the BBC Trust on the substance of his complaint.

The complainant noted that the decision would hinge on the interpretation of legal definitions and he accepted that he might have to seek legal advice as to whether it could be taken further if the appeal was not upheld.

The complainant considered he and his wife required only “low level support requirements to attend without personal assistants”. He appreciated that the BBC would reconsider the wording on its website to ensure greater clarity in future.

Separately, the complainant complained about the way his complaint had been handled; he considered there had been a failure to respond to telephone calls he had made in the days running up to the live events.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) considered that the complainant's appeal should not be put before Trustees because it did not have a reasonable prospect of success.

She noted that the key point was whether the offer of an additional free ticket to each disabled person to enable them to bring a carer to the events was a sufficient “reasonable adjustment” or not. She noted that the complainant had indicated that a legal route might be the best way to clarify this point as it was a matter of interpretation of the law – and the complainant acknowledged the BBC had taken advice on how to meet legal requirements.

She noted that the complainant had considered he and his wife would have required someone to meet them who could show them to the area where they would remain for the event; who could, when needed, guide them to and from the toilet facilities and bar/food provision and that they would also have liked to have had a contact number so that they could call someone if they needed assistance at a specific point during the event.

She noted that, to meet the requirements of the Equality Act, the service provider had a duty to take “reasonable” steps to ensure that a disabled person was not “substantially disadvantaged”.

She noted that the Equality Act 2010 did not set out a list of factors that should be considered when determining whether an adjustment is reasonable. However, the Equality and Human Rights Commission published a Statutory Code of Practice for Services, Public Functions and Associations: (http://www.equalityhumanrights.com/sites/default/files/publication_pdf/servicescode_0.pdf). She noted that it included a list of factors that might be taken into account when considering whether or not an adjustment was “reasonable”:

- whether taking any particular steps would be effective in overcoming the substantial disadvantage that disabled people face in accessing the services in question;
- the extent to which it is practicable for the service provider to take the steps;
- the financial and other costs of making the adjustment;
- the extent of any disruption which taking the steps would cause;
- the extent of the service provider's financial and other resources;
- the amount of any resources already spent on making adjustments; and
- the availability of financial or other assistance.

The Adviser noted that there were 450 disabled people who had registered to attend the *Proms in the Park* event and considered that, were the BBC required to supply those who requested it with the degree of support outlined by the complainant, this would be a significant additional requirement that would raise issues both of cost and practicability. She also noted the point made by the BBC; namely, that to offer the level of individual

support suggested by the complainant could involve the BBC in a higher level of personal care than might be considered reasonable.

The Adviser noted that the BBC had been advised by the charity Attitude is Everything which specialised in advising about access for disabled people to live music events. She noted that the charity's other clients included the Glastonbury festival, the O2 Arena and the Leeds Festival and that its view was that the offer of a free ticket, so that each disabled person could bring an assistant with them, met the requirements of the Equality Act. She confirmed with Attitude is Everything that they did consider the provisions made by the BBC had been reasonable and had been in line with provisions made at other large, outdoor music events.

She noted from the RNIB's website that it described how some venues offered concessionary ticket prices for people with visual impairments and stated that this: "...in some cases may be half price or a third of the ticket price and in many cases the same rate is available for a sighted companion".

The Adviser considered she had seen no indication that the practice followed by the BBC had not met the requirements of the Equality Act. She therefore did not consider the appeal had a reasonable prospect of success on this substantive point.

Turning to the matter of complaints handling, the Adviser noted the complainant had raised the following points on appeal:

- The BBC complaints team had failed to respond to several phone calls by the complainant. The complainant only requested a refund, a few days before the planned events, "when it became clear that no support was going to be offered for us to attend the events".
- The complainant had rung the Complaints Helpline four times prior to seeking a refund, but had not been called back.
- It had been very distressing to be kept waiting for a response when the complainant and his wife did not know if they would be able to attend.
- It was inaccurate to state that the complaint had been resolved by the refund because the BBC would have been aware that they had not returned his calls prior to the refund being given.

The Adviser noted the complaints correspondence. She also noted the internal correspondence that had passed between the BBC and the event organiser, Festival Republic. The correspondence and phone conversations with Festival Republic had been handled by their specialist in access for disabled people. She considered that, before the live events, the exchanges were not all dealt with as part of the complaints process, but some of them were dealt with as general correspondence.

She noted that the event organiser had first contacted the complainant on 3 August to confirm his access requirements.

On 9 August, the complainant had emailed the event organiser. The complainant stated that he and his wife were: "currently attempting to find PAs to accompany us to the two Hyde Park events"; however, he stated he felt "very aggrieved" at the situation, and pointed to the wording on the website which he considered indicated there would be staff who could provide the assistance he and his wife required.

She considered that this indicated that, by 9 August, the complainant had been informed it would not be possible to provide individual assistance of the kind he requested to him

and his wife – although it was not clear if this was as a result of a phone conversation or email exchange.

On 10 August, the event organiser forwarded his concerns to the BBC and stated that there had been a lengthy conversation with the complainant about what support was offered during the live events.

The Adviser noted that a further telephone call was logged from the complainant on 11 August, reiterating the substance of the complaint. The summary of the call included a reference to the complainant's request for an assistant to help him and his wife during their visit to the event. The call summary reported that he said:

“We got told they don't provide this service and that we had to bring our own support. I was told they would get back to me but they didn't ... we cannot arrange our own help.”

On 26 August, BBC Complaints had forwarded the summary of the telephone complaint to the BBC team that was involved in the event. The complaint was “red flagged” for immediate attention. On the same day, the BBC team had sought additional information from the event organiser about the provision that was being made.

The event organiser's specialist in access for disabled people sent a substantive response to the BBC. This noted that he had previously been emailed by the complainant and had previously responded to the complaint. It repeated the provision which was available through the offer of the additional free tickets (2-4-1 tickets). The event organiser's specialist in access for disabled people had noted that the complainant had not wanted to bring a carer with him. The email stated:

“I also explained that we didn't provide staff at these events to act as carers and again explained why we do the 2-4-1 scheme.”

On 9 September, there was a further email from the event organiser's specialist in access for disabled people to the BBC. This noted that the complainant had rung him again, requesting that a carer be provided for the event. The complainant was advised that this was not a service that was provided and that instead 2-4-1 tickets were offered in order that he could bring a carer with him. The event organiser's specialist in access for disabled people noted that he had previously replied to this complaint but was concerned that the BBC should also be aware that the complaint had been renewed.

The next item within the complaints correspondence was a letter to the BBC from the complainant on 28 September setting out the complaint in detail. The BBC sent a substantive response to this on 14 November which thanked the complainant for his patience and stated that time had been needed to raise his concerns with the organisers. The response included an apology for the misunderstanding over the wording used on the website. The response also included information about how the complainant could escalate his complaint to stage 2 of the process. The Adviser noted the complainant had escalated his complaint on 11 December and had received a substantive response at stage 2 on 21 December.

The Adviser noted that Audience Services had a target of responding within ten working days, but that more complex complaints could take longer.

The Adviser noted that the time period which the complainant was particularly concerned about was in the days and weeks before the concerts rather than the BBC responses afterwards. She noted that he said he had made a number of telephone calls which had

not been responded to. She noted he had also explained the distress he and his wife had felt at not knowing what provision would be available at the concert and that, to his mind, the refund of the tickets had not resolved the complaint.

The Adviser noted, however, that from the first contact with the event organiser, the complainant had been advised that it was not possible to provide an assistant for him and his wife at the event. She noted that this had been repeatedly raised by the complainant; however, it appeared that he had repeatedly been advised that the degree of assistance he had requested would not be provided.

She noted that the complainant had set out his complaint in detail on 28 September and that, in the substantive response, the BBC had apologised for erroneously believing his complaint had been resolved by the refund of his tickets and had offered free tickets to the following year's events.

She considered that, from the internal correspondence that she had seen, there had been several occasions when the complainant's concerns had been raised within the BBC and assurances had been sought about the support that was being provided. She considered that it appeared the subject of access for disabled people had been taken seriously by the event organisers and by the BBC. She considered that, prior to the live events taking place, it was not unreasonable that the event organisers should respond to the specific queries about access arrangements.

She noted that the BBC had apologised for the confusion over the wording on the website and for misunderstanding that the complaint had not been resolved and had offered the complainant free tickets to the following year's events as a goodwill gesture. She considered that Trustees would be likely to consider the complaint was resolved by the BBC's actions.

Taking this into account the Adviser considered Trustees would be likely to conclude that the BBC had given a reasoned and reasonable response to the complaint. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

In further correspondence, the complainant stated he appreciated the thorough response he had been sent, but considered that, nonetheless, the central points of his complaint still stood:

- The additional cost that he and his wife would have faced in bringing carers with them for the two events would have put them at a "substantial disadvantage".
- He considered the degree of support they required could be regarded as an "auxiliary aid or service" in terms of the legal provisions of the Equality Act.
- He disputed that it was relevant to consider the cost and practicability of providing the level of care he was seeking to the rest of the 450 disabled people attending the event. He considered only a small number of people would wish to have the support he and his wife sought, because most would prefer to bring a carer with them. He also considered that a member of staff could support a number of disabled people who required the same level of assistance that he and his wife had sought.
- The degree of support he and his wife required did not amount to "personal care" and would not lead to the BBC providing "highly specialised areas of care". He considered that the BBC was resisting his request for support out of anxiety that it

would “open the flood gates” and lead to a situation in which the BBC took on significantly more responsibilities and costs. He considered that, far from this, the kind of support he and his wife required could be taught to a non-specialist carer in less than ten minutes.

- He did not consider it was relevant to refer to provision that was made for disabled people attending other events such as Glastonbury (which also offers a free carer’s ticket to each disabled person). He noted that Glastonbury involved a far larger venue, took place over a longer period and would require a far greater degree of assistance than he believed would be “reasonable”.
- The complainant considered that venues such as the Royal Albert Hall and the O2 Arena probably would try to give him the assistance he sought – even though their stated policies only extended to providing a free carer’s ticket to disabled people.
- The complainant agreed that he had been informed on 9 August that it would not be possible to provide the level of support he sought and that this had been repeated on each occasion he had contacted them. However, he pursued the matter because he wished to hear from the BBC whether they also considered this was reasonable and he had hoped the BBC would take this up for the complainant with Festival Republic.
- The complainant had not been informed whether or not the BBC considered Festival Republic’s actions were reasonable – and this was why he continued to pursue the complaint.
- His calls were not returned. The reason he called on 9 September was not to renew his complaint but because the BBC had not returned his calls and he wanted to know if any arrangements had been made for him and his wife to be supported.
- The complainant accepted that the BBC had taken his concerns seriously but said that this had not been communicated to him until he had complained in writing, after the concerts had taken place.
- The complainant accepted that he had received an apology for the confusing wording on the website and also for there being a misunderstanding about whether his complaint had been resolved by the cost of the tickets being refunded. He appreciated that he had been offered free tickets for the following year’s events.

The Panel’s decision

Trustees noted the points made by the complainant, the BBC and the Adviser.

Trustees regretted the disappointment suffered by the complainant and his wife as they were not able to attend the events they had booked tickets for. They also noted there had been some confusion about the level of support offered at the events and they noted that this too was unfortunate.

Trustees noted that the complainant accepted the BBC had taken the advice of a company which specialised in accessibility arrangements for disabled people at outside events and that the company considered the BBC’s provisions met the requirements of the Equality Act. They noted that the complainant considered a different legal interpretation of the Act was possible and also noted his point that the BBC was not limited to only meeting the requirements of the Act but could choose to go beyond its legal obligations.

The Trustees considered that it was properly a matter for the court if the complainant wished to seek a different legal interpretation.

Trustees agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- The Royal Charter sets out a division of responsibility between the BBC Executive and the BBC Trust. The “operational management of the BBC” was defined as a duty that was the responsibility of the Executive Board under article 38(1)(c).
- Trustees considered that ensuring proper provision was made for disabled people accessing a BBC event was an operational matter that rested with the BBC. It would only be appropriate for the Trust to be involved if it was clear that the BBC had failed to make the kind of provision envisaged by the Equality Act.
- Trustees understood the complainant’s position that he and his wife did not require “personal care” or “highly specialised areas of care” but would only require sporadic assistance during the event from an individual who could be quickly trained to give the necessary level of support.
- However, Trustees also noted paragraph 7.19 of the EHRC Statutory Code of Practice for Services, Public Functions and Associations, which states that:

“In relation to services and public functions, the duty to make reasonable adjustments is owed to disabled people generally. It is not simply a duty that is weighed in relation to each individual disabled person who wants to access a service provider’s services or who is affected by the exercise of a public function”.

- Trustees considered that, as the BBC’s duty was “owed to disabled people generally” it was appropriate that the BBC should consider whether offering bespoke levels of support was a reasonable adjustment – or whether it could place an unreasonable additional burden on the BBC or lead to the BBC becoming involved in offering “highly specialised areas of care”.
- Trustees were not persuaded that the BBC had failed to make the required provision and therefore considered this was an operational matter that rested with the BBC.
- Trustees noted that, while it was open to the BBC to go beyond the requirements of the Equality Act, this would be an operational decision and, therefore, was not a matter for them to consider.
- Trustees regretted there had been confusion over the wording on the website which had led the complainant to understand there would be more support available during the event than in fact was the case.
- Trustees noted – and welcomed – that the wording would be reconsidered in future to guard against further misunderstandings.
- Trustees noted that the complainant accepted he had been informed by the event organiser’s specialist in access for disabled people that it would not be possible to provide the degree of assistance he and his wife required. They noted the complainant accepted this had been made clear in the first phone conversation he had had with the Festival Republic specialist and repeated in subsequent phone conversations. They noted that the complainant had wanted separate information from the BBC, in case the BBC overrode that advice and decided it could provide the assistance needed.
- Trustees considered that the complainant had been given clear information to inform him that it was not possible to provide the degree of support he needed.
- Trustees noted that the BBC had apologised for the confusion regarding the handling of the complaint and had offered the complainant and his wife free tickets for the following year’s events.
- Trustees regretted the disappointment suffered by the complainant and his wife but considered the BBC’s actions resolved this element of complaint.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Appeals against the decision of BBC Audience Services not to correspond further with the complainant

The BBC's General Complaints and Appeals Procedure has three stages: the first two stages with the BBC; the third and final stage an appeal to the Trust.

Complaints are answered at Stage 1 by the BBC – usually by BBC Audience Services but sometimes directly by a content area. Where complainants remain dissatisfied after a Stage 1 response, they can request a further response at Stage 1. If they are still dissatisfied they may escalate their complaint to Stage 2. Complaints at Stage 2 are considered by a senior manager in the BBC Division responsible for the matter being complained about.

However, under the Complaints Framework, it is open to the BBC to close down correspondence – this means the BBC notifies the complainant that it does not wish to respond further. The complainant can appeal to the Trust if they consider the BBC is wrong to close down the correspondence. This is the procedure the BBC followed in the following cases. Where a complainant appeals to the Trust in these circumstances, if Trustees uphold the appeal, the complaint is sent back to the BBC for a further response.

The General Complaints and Appeals Procedure explains that, at all stages of this procedure, a complaint may not be investigated if it "is trivial, misconceived, hypothetical, repetitious or otherwise vexatious".

In the following cases the correspondence was reviewed by a senior member of the Trust Unit who advises Trustees on Editorial Standards. The complainants had appealed on the substance of their complaints but as the BBC had ceased handling the complaints at Stage 1 the point the Adviser considered was whether an appeal against the decision of the BBC not to correspond further with the complainants had a reasonable prospect of success.

Decision of BBC Audience Services not to respond further to a complaint about Boy George being chosen to be a presenter of *The Voice*

The complaint concerned the decision about Boy George being chosen as a member of the presenting team on *The Voice*. The complainant made the following points:

- The BBC was promoting Boy George as a gay icon/national treasure. This was not the view of the wider gay community.
- He has never shown repentance or apologised to a man he was convicted of assaulting and the BBC should have advised him to apologise to the victim and the gay community.
- If the assault had been against a heterosexual female rather than a gay man the BBC would not have hired him or be promoting him, especially for a high profile family-orientated show.
- The decision to hire him shows the BBC does not think that violence against a gay man matters.
- This is an offensive decision to the gay community.

BBC Audience Services responded and made the following points:

- Boy George is an icon of British pop music and an appropriate and exciting choice for *The Voice*.
- A criminal conviction did not automatically prevent someone from contributing to a BBC programme but such matters are always given careful consideration.
- Programme contributors were appointed on the basis of their experience and knowledge and there was no doubt that Boy George was well qualified in this regard.
- Some viewers would consider this an inappropriate choice because of Boy George's conviction but he had served his prison sentence and the BBC did not believe that this should prevent him working on *The Voice*.

With regard to complaints handling the complainant said:

- The first reply from BBC Audience Services had ignored the full content of his letter.
- Ex-convicts should be given a chance and there was no need for the BBC to tell him that.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal

The complainant appealed to the BBC Trust. He complained that he had not been given answers to his reasons and he felt he had been given a mini-lecture.

He also appealed on the substance of his complaint.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) read the correspondence that had passed between the complainant and the BBC. 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. She decided that it did not.

The Adviser acknowledged the complainant's concerns and noted the responses provided by Audience Services. She explained that the Trustees had considered a similar complaint in October 2015 and decided that it should not be heard on appeal because it did not have a reasonable prospect of success. This was because they decided the issue was a matter of editorial judgment which rested with the BBC.

The complainant was sent a copy of the Adviser's decision from October 2015 which stated:

"The Trust Adviser (the Adviser) 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 Adviser acknowledged his views and appreciated that he had sought to raise his genuine concerns with the BBC' however, she decided that his appeal did not have a reasonable prospect of success.

She noted that the Royal Charter and accompanying Agreement between the Secretary of State and the BBC drew a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. In broad terms, the BBC is free to make editorial decisions as long as its output meets the standards set out in the Editorial Guidelines. The BBC is also entitled to make operational decisions as long as they are in keeping with the other guidelines (such as fair trading guidelines) that the BBC works within.

The Adviser considered that decisions about who should be a contributor to a programme were editorial judgments that rested with the BBC. While she noted the points made by the complainant, she noted Audience Services had responded that having a criminal conviction did not prevent someone being a contributor to the BBC and that Boy George was qualified for the role by his very successful music career...

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success."

The Adviser also explained that his concern that the BBC would not employ someone who had been convicted of a similar offence against a woman or girl was a hypothetical question and was therefore not something that could be answered.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He referred to his original complaint and following emails and letters. He said:

- He had complained about the poor response of the BBC with the reference to Boy George being an “icon” and the “mini-lecture” that ex-convicts should still be employed.
- His complaint was more serious than that of the complainant whose October 2015 finding he had been sent. He did not want his complaint linked with ones raising different issues.
- The BBC would not have employed someone who had been convicted of a similar offence against a woman or a girl. He acknowledged this was a hypothetical point but stated that it was a valid one.
- As a responsible employer the BBC should have advised Boy George to publicly express his remorse and apologise to his victim but it did not do this.
- The BBC has shown contempt to the victim and those within the gay community who have been affected by similar violence.

The Panel’s decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser in this case and a previous case.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- decisions concerning who can contribute to a programme are editorial ones that rest with the BBC. In general, the BBC is free to make editorial decisions as long as its output meets the standards set out in the Editorial Guidelines. As the Royal Charter (article 38, (1) (b) and article 38, (1) (c)) set out, “the direction of the BBC’s editorial and creative output” and its “operational management” are specifically defined as duties of the Executive Board and ones in which the Trust does not get involved.
- people are not prevented from being contributors to BBC programmes because they have a criminal conviction.
- the proposition that the BBC would not employ someone with a similar conviction against a woman or a girl was hypothetical and therefore not something the Trust could consider.
- BBC Audience Services had given a reasoned and reasonable response to the complaint.

With regard to complaints handling Trustees agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- whether Boy George was a pop icon was a subjective matter and the BBC was entitled to express its view. It had also acknowledged that some would feel he was not an appropriate choice for The Voice.
- the BBC was entitled to explain its view that a criminal conviction did not automatically prevent someone from contributing to a BBC programme but such matters are always given careful consideration.

- the argument that the BBC would not employ someone with a similar conviction against a woman had not been directly addressed by Audience Services. Notwithstanding, the reasons for the employment of Boy George had been explained and the complainant had received a reasoned and reasonable reply from Audience Services.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint about Antiques Roadshow, BBC One

The complainant had wanted to contact both an expert from *Antiques Roadshow* and two members of the public who had appeared on the show. Members of the *Antiques Roadshow* production team responded to the original query on 17 February 2015 making the following points:

- They had done an extensive search for an item called “ship’s biscuit” and the Eastbourne location concerned but had found nothing matching the information provided. They asked whether the complainant could supply any more details, and if so, the programme would forward the query to the person who appeared in the programme with that item. However, whether or not the owner of the item chose to respond was up to them.

Following a further letter from the complainant, an assistant producer responded on 2 June 2015, explaining that:

- She had forwarded the complainant’s details to the person who appeared on the programme but it was not possible for the BBC to give out any personal details of contributors. It was up to them whether they chose to get in contact.
- She was not at liberty to pass on details of an expert who had appeared on the programme.
- She apologised if this was disappointing, but explained that it was BBC policy.

The query then became a complaint in August 2015. The complainant made the following points in letters addressed to BBC Bristol, the Director-General and the BBC Trust up to December 2015:

- He had written a letter of complaint to the Head of BBC Bristol but had had no reply and suspected it was because it was with the producer he had complained about.
- He was unable to obtain the details he wanted.
- He felt that the responses he had received from the BBC suggested that he was being discriminated against and that his complaint was being covered up.
- He believed the BBC had misrepresented the nature of his complaint.

BBC Audience Services made the following points regarding the complaint:

- They were sorry that the complainant had reason to complain about a BBC producer. The main role of the production team was to make programmes and not to correspond with viewers.
- A reply to a complaint was only guaranteed if the formal complaints procedure was used.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised a significant issue of general importance that justified further investigation.

Appeal

The complainant appealed to the BBC Trust on the substance and handling of his complaint. His appeal letter, sent from Australia, was dated 16 October 2015 but was also

addressed to the Director-General and the letter was delivered to his office, from where it was forwarded to Audience Services for response. The appeal was therefore delayed in reaching the Trust. The complainant made the following points:

- The BBC had covered up his complaint and refused to communicate with him about his concerns.
- The BBC had deliberately created a horrible situation in order to discriminate against him.
- He requested the postal address of the ombudsman.
- He wished to add the BBC Trust to his complaint.
- He said he had never asked for anyone's private details as responses sent at Stage 1 had suggested.
- He felt the BBC had been very unhelpful.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) 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. She decided it did not.

The Adviser could not see any evidence that the complainant had been lied to, discriminated against or ignored. She considered that the programme team had tried hard to respond to the queries that had been put to them.

She noted that the complainant had submitted a query to the *Antiques Roadshow* team a year ago and it appeared that they had not been able to locate a particular edition of the programme about which the complainant wished to have further details. She noted that the production team had explained that they were not able to supply personal details of contributors and had apologised for any disappointment caused to the complainant by this policy. As far as the Adviser could determine from the complainant's correspondence, he felt discriminated against and lied to as a result of this response. She noted that in his appeal he said he had never requested anyone's personal details. She was not clear about the exact nature of the complaint, or what the allegations were against the BBC producer concerned. As the complainant had not provided clear details of his concerns, she was unable to determine whether his concerns had been misrepresented or misunderstood by either the *Antiques Roadshow* team or Audience Services.

The Adviser also noted that the complainant had not followed the BBC's published complaints procedure which requests people to complain to BBC Audience Services in the first instance. This procedure was designed as a way of ensuring that complaints are handled centrally and can be directed to the most appropriate department as efficiently as possible. The Adviser noted that there had been delays in progressing the complaint and she believed that these were due, in part, to the way in which the complainant had addressed his letters to more than one area of the BBC. The Adviser had not seen evidence of any covering up of the complainant's concerns, or any mishandling of his complaint. However, she acknowledged that he was very unhappy about the BBC's response to his concerns and she was sorry that he felt he had been unable to reach a satisfactory resolution.

She noted that the complainant wished to take his concerns to an external regulator as he was unhappy with the BBC Executive and the BBC Trust, and had requested the address of the ombudsman. She noted that the broadcasting regulator Ofcom dealt with certain types of complaints. She did not think it was likely that this complaint would be within Ofcom's remit, but provided its postal address.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated his concerns about the handling of his complaint and the belief that he was being discriminated against. The complainant added the following points:

- He had already set out the nature of his complaint clearly.
- The Trust had not provided him with the contact details for the ombudsman.
- He had not asked for private details; he had asked for postal addresses or for the programme to act as an intermediary.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees were aware that the Trust is the final arbiter of appeals in the BBC and that there was no external ombudsman in relation to an operational/complaints handling complaint of this nature.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

Trustees agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- Decisions concerning the provision of contributor information to members of the public who had written in were operational decisions (which had to be taken in line with the BBC's duties under the Data Protection Act). The operational management of the BBC was specifically defined in the Royal Charter (article 38, (1)(c)) as a duty of the Executive Board and one in which the Trust did not get involved.
- The complainant had, in any event, received reasonable replies to his query from the programme.
- The general complaints procedure explained that:
 - All complaints should be made to BBC Audience Services, [through the BBC website, by telephone or by post] If you do not direct your complaint to one of the above, the BBC cannot guarantee that your complaint will be replied to.
- Trustees did not consider there was evidence to suggest the complaint had been misrepresented or covered up by the *Antiques Roadshow* team, Audience Services or the Trust. Nor did Trustees consider there was any evidence to suggest that the complainant had been discriminated against at any stage of his complaint.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint regarding the BBC's attitude to homosexuality

The complainant initially contacted the BBC about the possible repeat broadcast of a radio play that had first been transmitted in 1981. He subsequently corresponded about the BBC's attitude to homosexuality. He made the following points:

- He sought information about the adaptation of James Hilton's book *Lost Horizon* which had been broadcast as a radio play in 1981.
- He considered the BBC was biased in favour of homosexuality and considered that a report on BBC News was biased against the position in Northern Ireland regarding homosexuality. He also considered that, a radio presenter showed a "totally unjustified sympathy for homosexual equality".
- He was aware of changes to the laws regarding equality and considered they were a big mistake.
- He submitted his own information charts for the BBC's use which compared heterosexual and homosexual couples and set out which relationships were likely to lead to the production of children and which were not, and which also assessed which relationships were "sane" and which were "insane".

BBC Audience Services made the following points:

- The radio play was not commercially available and, while the play had been rebroadcast on Radio 4 Extra in 2014, there were no plans currently to retransmit it.
- The complainant was sent details of an online site which carried further information about forthcoming programmes.
- The complainant was informed that for example independent companies which produced output for the BBC made their own arrangements about post-transmission distribution.
- The complainant was thanked for his feedback and informed that his letters had been read.
- The BBC was committed to impartial reporting.
- The BBC was not biased towards any particular lifestyle, but was committed to making output that reflected the diversity of its audience.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal

The complainant appealed to the BBC Trust and made the following points:

- He considered the BBC "have been deceived by current legislation regarding homosexuality and same sex (gender unbalanced relationships) and as a result of this are mentally ill". He considered the BBC was suffering from a delusion which was symptomatic of mental illness.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) 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. She decided it did not.

She noted that Audience Services had provided the complainant with helpful information about the rebroadcast of archive programmes in response to his initial complaint. She considered that Audience Services had given a reasonable assurance that the BBC was committed to impartial reporting and transmitting output that reflected the lives of its audience. She noted the complainant's own strong views regarding homosexuality and also noted that the BBC had thanked him for his feedback on the subject, and assured him his letters had been read.

The Adviser noted that the appeal did not refer to any BBC output. She noted that decisions about what programmes to make and which news stories to cover, and the way in which they were covered, were made by the BBC – and the Trust did not have a role in these decisions unless they involved a breach of Editorial Standards. She had seen no evidence that suggested there was a breach of editorial standards in this instance.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He referred to his original complaint and following emails, letters and other material he had submitted. He asked a number of questions. He said that:

- The information charts he had submitted showed much more than had been stated in the original Trust Unit decision.
- He thought the Adviser had not mentioned most of his input to the Trustees and that this suggested she had not carefully studied the information he had submitted.
- The Adviser had not distinguished between matters of opinion and fact.
- The Adviser had failed to evaluate "sexuality" or concepts like sexual orientation, gender identity, equality and lifestyle.

He said his questions regarding the radio adaptation of James Hilton's play were irrelevant and had nothing to do with his complaint regarding the BBC's attitude to sexuality.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees were provided with the complainant's past paperwork in the case. They agreed that it was not necessary for the Adviser to refer to the detail of the 'information charts' when proving the complainant with her decision.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- The complainant's concerns about equality legislation were a matter for the Government and not the Trust.
- The BBC was entitled to broadcast and publish output which reflected the lives of their audiences.
- Decisions about what programmes should cover are editorial decisions which are the responsibility of the programme-makers and ultimately the BBC Executive Board, rather than the Trust. (Royal Charter, Article 38 (1)(b))

Trustees agreed that the complainant had received a reasoned and reasonable answer from Audience Services which, amongst other points, had explained that:

- The BBC was committed to impartial reporting.
- The BBC was not biased towards any particular lifestyle, but was committed to making output that reflected the diversity of its audience.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint about footage recorded for BBC Spotlight and Look North, September 2015

The complaint concerned a copy of news event footage recorded by the BBC which was requested by the complainant but not delivered to his satisfaction. The complainant made the following points:

- The BBC had promised to send him a copy of a recording of the re-dedication of his relative's grave, but despite several reminders, there was a long delay in receiving it, and when he did receive it, it was not the full event recording which he had been expecting.
- He was told that someone had destroyed the full recording of the ceremony because of storage space. He did not think this could be the case when everything was now stored digitally, and he requested written confirmation of whether the recording did still exist in its entirety or not.
- He received a DVD of clips from the ceremony but was not satisfied as he said he had been promised a recording of the whole ceremony.
- In his follow-up complaint, he said that saying he could not receive a full version of the event due to consent restrictions by people who attended the event was an excuse for incompetence. He did not believe that any of the material could have been sensitive in nature and said that everyone at the ceremony had no secrets from each other.

BBC Audience Services made the following points:

- The complainant had been sent a DVD of footage that was broadcast, and it also included extra footage of the event that had been requested by the complainant. It did not include footage that was sensitive in nature or that was not consented to by other people who attended the ceremony.
- The BBC journalist who arranged for the DVD to be sent to the complainant had taken a great deal of care in ensuring that as much footage as possible was included for the complainant.
- In their stage 1b response, they explained that it was not enough to assume that there were "no secrets" amongst the attendees, and that it would not be ethical for the BBC to share footage with the complainant without obtaining consent from others featured in it.
- They said they were sorry that the complainant was disappointed with the DVD he had been sent. They assured him the production team had done everything possible to help.

Audience Services said they had nothing further to add 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 and handling of his complaint. He made the following points:

- He understood that sensitive material could not be made available to him, but he believed that in this case the BBC was trying to use data protection to avoid doing any more to meet his request for footage of the entire ceremony.
- If necessary, he would write to everyone who attended to ask their permission.

- He had apparently received two versions of the footage: the first was as broadcast and was a much edited version; the second was also edited and did not contain broadcast footage. He did not see why he should have to splice the two together himself when both sets of footage were in the public domain and once existed as one piece of footage.
- He felt that sending him recordings that were different in content made the data protection claims amusing.
- He felt his family had been treated shabbily. The BBC reporter concerned had ignored his emails, went on holiday for five weeks, was always out on a job and never rang him back. He said he would like someone external to investigate his complaint; it was obvious to him that all the replies he had received had come from a "complaint deflection department".
- He said the BBC complaints procedure was unhelpful and insulting. It appeared to have been designed to put people off complaining.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) 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. She decided it did not.

The Adviser acknowledged the complainant's disappointment with the two DVDs he had received which contained footage of the re-dedication ceremony of his relative's grave. She also acknowledged his dissatisfaction with the BBC complaints procedure.

The Adviser noted that Audience Services had explained that the BBC was unable to send the complainant the recording of the full ceremony, but had sent him as much footage as possible, given the restrictions outlined in the Stage 1 responses. She understood that the BBC believed it had agreed to send him a dub of the BBC news feature as broadcast and did not agree that anyone from the production team had promised to send him the unedited footage of the entire ceremony. The Adviser also understood that, as a result of the complaint, the journalist who had arranged for the DVD to be made and sent to the complainant, reviewed all the footage from the ceremony to make sure there was nothing in it to which anyone included in it might object to being shared. The journalist then arranged for a second DVD to be made and sent to the complainant. The Adviser believed that the complainant did not feel this resolved his complaint because he felt there was footage on each DVD that needed to be edited together to make a cohesive version of the whole event which he could watch with his family.

The Adviser appreciated that the complainant believed the BBC's understanding, as conveyed by Audience Services, fell short of the original promise that had been made to him by a BBC journalist, but she noted that this was a matter between the complainant and the BBC, and it was not possible for the Adviser to know exactly what was promised to him. However, the Adviser noted that any special arrangement to send a DVD of a recording to a contributor would be part of the operational management of the BBC. The Trust did not have a role in these matters unless they involved a breach of Editorial Standards, and the Adviser had not seen any evidence to suggest there was a breach of editorial standards in this instance.

She noted that it was not customary practice to send unedited footage on request to contributors or members of BBC audiences. She understood that in this case the BBC had sent material to the complainant, but this was not a service the BBC was under any obligation to provide, and she understood it had taken the journalist a considerable amount of time to prepare. She noted that Audience Services had apologised for the

complainant's disappointment but the BBC felt it had done all it reasonably could to accommodate his request.

With regard to the complaints procedure, the Adviser acknowledged the difficulty the complainant had experienced when making his complaint online. The Adviser noted that in the last review of the complaints procedure in 2012, the majority of people who contacted the BBC via the webform were satisfied with it as a means of communicating their concerns, but complaints handling was something the Trust kept under review, and she thanked him for his feedback.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He referred to his original complaint and following emails and letters. He said:

- His complaint had not been investigated independently and none of the points he had raised were being answered.
- He had been told untruths, and the requirements of the Data Protection Act had been misquoted which was "bordering on illegal".
- He felt he had been badly messed about by the BBC.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- The provision of unedited footage in response to a request from a member of the public was an operational decision. Such decisions are the responsibility of the programme-makers and ultimately the BBC Executive Board, rather than the Trust. (Royal Charter, Article 38 (1)(c))
- The BBC had apologised that the complainant was disappointed with the material that had been sent to him. However, it was not obliged to provide film footage on request.
- The reply from the BBC had been reasoned and reasonable.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint about poor grammar in BBC output

The complaint concerned the use of poor grammar in BBC output, and also meaningless phrases such as “you know” and “I mean”. The complainant made the following points:

- He gave examples of poor grammar including: wrong constructions such as “the reason is because”; singular verb forms when the plural should be used; past tense form for the extant; wrong pronominal forms for the subjects: “me/her/him”; “kind/sort” used wrongly in singular form.
- In a follow-up complaint, he urged Audience Services not to evade the matter by referring to style, preference and views.
- He was appealing to grammar, logic and the need to state the thought clearly.

BBC Audience Services made the following points:

- The BBC was conscious of the need to maintain a high standard of spoken English and pronunciation throughout all its broadcasts.
- It was inevitable that some viewers would dislike or disapprove of certain presenters and their presenting style.
- The BBC did not engage any presenter unless it believed they were competent and could meet the specific demands required of them.
- They acknowledged that the complainant felt the BBC had made mistakes and assured him that they valued his feedback which would be included in the overnight report seen by senior management teams. These reports were among the most widely read sources of feedback in the BBC and ensured that complaints were seen by the right people quickly.
- Audience feedback helped to inform decisions about current and future BBC output.
- Audience Services said they had nothing further to add 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 and handling of his complaint. He made the following points:

- He felt that Audience Services had hidden from the truth in their response to his complaint, and had not bothered to look up references he had provided from New Fowler’s Modern English Usage.
- The BBC should set an example by using good English, which would particularly help young people and foreigners.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) decided that the complainant’s appeal did not have a reasonable prospect of success.

The Adviser 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.

She acknowledged the complainant's concerns about the BBC's use of grammar, and his view that the BBC should lead by example and ensure that its presenters always followed the rules of good grammar, as set out in New Fowler's Modern English Usage.

She noted that Audience Services had explained that the BBC was conscious of the need to maintain a high standard of good spoken English in its output, and that presenters were not engaged unless the BBC believed they were competent. She acknowledged that the complainant felt that high standards of grammar were not always being achieved, but she noted that the direction of the BBC's editorial and creative output was defined in the Royal Charter as a duty that was the responsibility of the BBC Executive Board. She also noted that a lot of BBC output was broadcast live and that live broadcasting created additional pressures for presenters which could contribute to grammatical errors despite the best endeavours of the editorial teams.

The Adviser acknowledged the complainant's dissatisfaction with the responses he had received from Audience Services. She noted that the complainant would have preferred Audience Services to respond in greater detail to the points he made – and with reference to New Fowler's Modern English Usage. However, she noted that the complaints system was funded by the licence fee and that responses had to be proportionate, in the interests of all licence fee payers. She considered Trustees would be likely to conclude that Audience Services had sought to respond in a helpful and reasonable way and were not required to respond in the level of detail the complainant outlined.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal and made the following points:

- He believed that the use of poor grammar was a habit that should be corrected and to make reference to the "live-ness" of broadcasts was not a valid excuse.
- He was only requesting that presenters and other staff be "informed of their errors".
- The decision had omitted some usages of English he had complained about.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- Decisions about English usage in output and how to train staff in grammatical English are operational ones which are the responsibility of the programme-makers and ultimately the BBC Executive Board, rather than the Trust. (Royal Charter, Article 38 (1)(c))
- The reply from the BBC had been reasoned and reasonable.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint about Eggheads, BBC Two

The complaint concerned the scheduling of repeat episodes of *Eggheads* in place of new *Eggheads* episodes and two episodes of *Great British Railway Journeys*. The complainant made the following points:

- He queried the need to run old episodes of *Eggheads* instead of scheduled output and noted that Jeremy Vine had stated he had recorded 60 new episodes.
- The two missing episodes of *Great British Railway Journeys* had not been re-scheduled.
- It was a misuse of the TV licence fee.

BBC Audience Services made the following points:

- They initially sent a general response acknowledging that late schedule changes were annoying to the audience, especially when a programme had been extensively trailed, or was of particular interest to an individual viewer.
- The BBC tried to keep schedule changes to a minimum and when it did happen, tried to inform the audience what was happening.
- There were many possible reasons for schedule changes, and the BBC tried to give an on-air announcement explaining the reason for the change.
- In a later response, they noted that sometimes programmes had to be postponed for editorial reasons – and this had been why *Great British Railway Journeys* had not been broadcast as planned.
- They noted that there were a range of reasons why output could not be transmitted as planned – for example, legal matters.
- They noted that the two editions of *Great British Railway Journeys* had now been broadcast.
- They contacted the scheduling department about the current run of *Eggheads* and established that there had been no recent disruption to the planned run of *Eggheads*. Some repeats were substituted for new episodes at the end of January, but since then, they had been showing the new series.
- They appreciated the complainant's feedback which had been circulated to senior management and programme makers.

Audience Services said they had nothing further to add 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 and handling of his complaint. He said the BBC had claimed to be showing the latest series of *Eggheads* when they were showing repeats.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) 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. She decided it did not.

The Adviser acknowledged the complainant's concern that the BBC had shown old episodes of *Eggheads* when a new series was available, and had denied swapping new scheduled episodes for repeats. The Adviser noted that *Eggheads* was generally billed in a

regular weekday slot, Monday to Friday, at 1800 on BBC Two. She noted that since the beginning of 2016, episodes from the following three series had been broadcast:

1-21 January	Series 16
22-29 January	Series 17
1-26 February	Series 13
29 February-17 March	Series 17

The Adviser noted that at the time of the original complaint, 3 February, the BBC had shown eight episodes from the latest series before showing repeats of episodes from series 13. She noted that on the date of the response from Audience Services, 10 February, giving further details of episodes recently scheduled, the Scheduling Department had stated that at the end of January they had shown some older episodes, but were now showing the new series. The Adviser noted that it did seem to be the case that the latest series (17) was broken off in mid-run, as pointed out by the complainant, and during February several episodes were shown from Series 13. However, since 29 February, episodes from series 17 were being broadcast.

The Adviser appreciated the reasons for the complainant's dissatisfaction with the responses he received, but noted that Audience Services had explained that changes to the schedule could be made for a number of reasons and the BBC did try to inform viewers of changes by way of an on-air announcement. She noted that Audience Services had said the BBC would make appropriate improvements in terms of providing better information about schedule changes when they occurred. She also noted that Audience Services had explained that the two postponed episodes of *Great British Railway Journeys* had now been broadcast.

She noted that programme scheduling was part of the operational management of the BBC and, as such, was the responsibility of the BBC Executive Board. Operational decisions about changes to the programme schedule, and how viewers were informed of those changes, were the responsibility of the programme-makers rather than the Trust. She had not seen evidence of a deliberate policy by the BBC of trying to convince the audience that new episodes were being broadcast when they were repeats, but she appreciated the complainant bringing this matter to the BBC's attention.

Taking this into account the Adviser considered Trustees would be likely to conclude that BBC Audience Services had given a reasoned and reasonable response to the complaint and had acted appropriately in declining to enter into further correspondence. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success. The Adviser did not propose to put it before Trustees.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He referred to his original complaint and following emails and letters. He said:

- He wanted the decision reviewed because at the time he emailed his appeal on 8 April 2016 repeats of *Eggheads* were being shown again.
- The audience deserved to be shown new editions of a quiz show when they are available as those that had already been broadcast held no attraction.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- Decisions about changes to the programme schedules and the way viewers are informed are operational ones which are the responsibility of the programme-makers and ultimately the BBC Executive Board, rather than the Trust. (Royal Charter, Article 38 (1)(c))

Trustees agreed that the complainant had received a reasoned and reasonable reply from Audience Services.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Decision of BBC Audience Services not to respond further to a complaint about standards of pronunciation in BBC output

The complaint concerned the accents and pronunciation of BBC news reporters and presenters across the output as whole. The complainant made the following points:

- There was a growing tendency for presenters to 'doctor' their accents to form a grey amalgam representative of nowhere.
- This group of presenters, by copying each other, have had a significant, spreading and questionable effect on the way people speak in Britain.
- The BBC should consider its unique position of influence and refrain from social engineering (conscious or unconscious) that could only deplete the regional diversity the BBC has always maintained it respects and supports.
- He gave a number of examples, such as the use of the long 'A' and the short 'A'.
- The BBC had the power to influence, advise or at least set some limits on the ways presenters spoke.
- He requested that his long and closely argued letter be answered in detail.
- He had demonstrated he was not complaining on a trivial matter.

BBC Audience Services made the following points:

- They apologised for the delay in replying.
- The BBC was aware of the issues he had raised.
- The BBC felt it was important to reflect the diversity of the UK and tried to provide something for everyone across its output. That included hearing different accents, including those of Southern England, but they noted the complainant might continue to disagree.
- They were sorry to hear of instances where listeners or viewers had not been able to hear every word clearly. The BBC always aimed for the highest standards which included clear and easily understood English.
- They apologised if the complainant felt they were issuing a formulaic reply, but they had noted his concerns, which were sent to programme makers, as well as editors, producers, and senior BBC management via the BBC's overnight report.

Audience Services said they had nothing further to add 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 reiterated his concerns and said that he had painstakingly gathered evidence of the issues he had raised concerning the potential destruction of crucial elements of regional identity through the tendency of presenters in recent years to distort southern British, estuarine and received pronunciation accents by inserting various northernisms (particularly a short flat 'a') which clashed jarringly, sounded phoney and could sometimes even lead to genuine confusion.

Decision of the Trust Adviser

The Trust Adviser (the Adviser) carefully reviewed the correspondence that had passed between the complainant and the BBC and decided that the complainant's appeal did not have a reasonable prospect of success.

The Adviser 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,

She acknowledged the complainant's concern that standards of pronunciation and the diversity of regional accents across the BBC's output were threatened by presenters who had a tendency to 'doctor' their accents in a way he found most unappealing. She noted too his concern that this had a significant impact on the standard of English spoken across the UK and that it undermined authentic regional accents.

She noted that Audience Services had explained that the BBC aimed for the highest standards and that it was committed to reflecting the diversity of the UK. She appreciated that the complainant had put a great deal of time and effort into gathering examples to support his complaint and that he had requested a detailed response addressing all his concerns, which he had acknowledged were set out at some length. However, she noted that the complaints system was funded by the licence fee and that responses had to be proportionate, in the interests of all licence fee payers. She considered that Trustees would be likely to conclude that Audience Services had sought to respond in a helpful and reasonable way, and were not required to respond in the level of detail the complainant would have preferred.

The Adviser noted that the direction of the BBC's editorial and creative output was defined in the Royal Charter as a duty that was the responsibility of the BBC Executive Board. Decisions about which presenters to engage, and how much influence the BBC should have over the way they spoke, were the responsibility of programme-makers and senior management teams rather than the Trust. The Adviser noted that Audience Services had explained that the complainant's feedback had been passed to those teams and that feedback helped to inform their decisions about future output, although the BBC could not promise to act on every piece of audience feedback it received.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He reiterated his concerns and added the following points:

- The advisor had not given any reason to show why his complaint is not a valid one, which in the complainant's view is unacceptable.
- It would not have been disproportionate for Audience Services to correspond further because 'clarity should be paramount'.

The Panel's decision

A panel of the Complaint and Appeals Board noted the points made by the complainant, the BBC and the Adviser.

Trustees noted that the issue in front of them was whether the decision by Audience Services not to correspond further with the complainant was correct.

They agreed that if they took this matter on appeal they would be likely not to uphold this complaint given that:

- The Royal Charter and accompanying Agreement 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" and "The operational management of the BBC" are defined as duties that are the responsibility of the Executive Board under paragraph 38, (1)(b) and (1)(c). The responsibility for engaging presenters about the standard and clarity of pronunciation lies with the BBC's senior management teams and not the Trust.

- The complainant had received a reasoned and reasonable reply from Audience Services.

Trustees concluded that it was not appropriate, proportionate or cost-effective to proceed with the appeal as it did not have a reasonable prospect of success.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.

Admissibility decisions

The BBC's general complaints system has three stages. During the first two stages complaints are considered and replied to by the BBC. At the third stage the Complaints and Appeals Board of the BBC Trust may consider an appeal against a decision by the BBC.

Complaints are answered at Stage 1 by BBC Audience Services. Where complainants remain dissatisfied after a Stage 1 response, they can request a further response at Stage 1. If they are still dissatisfied they may escalate their complaint to Stage 2. Complaints at Stage 2 are answered either by a senior manager within the BBC.

However, under the Complaints Framework, it is open to the BBC to close down correspondence at any stage – this means the BBC notifies the complainant that it does not wish to respond further. The complainant can appeal to the Trust if they consider the BBC was wrong to close down the correspondence. Where a complainant appeals to the Trust in these circumstances, and Trustees uphold the appeal, the complaint is sent back to the BBC for a further response.

The General Complaints and Appeals Procedure⁵ explains that:

At all stages of this Procedure, your complaint may not be investigated if it:

- is trivial, misconceived, hypothetical, repetitious or otherwise vexatious.

In the cases where BBC Audience Services had ceased handling the complaints at Stage 1, the complainants appealed to the Trustees on the substance of their complaints. However, the point put to the Trustees was whether an appeal against the decision of BBC Audience Services not to correspond further with the complainant had a reasonable prospect of success.

In the cases which progressed to Stage 2 the decision for the Trustees was whether to take the complaint as an appeal or whether it had no reasonable prospect of success and was not admissible.

The BBC's television licensing complaints procedure has four main stages⁶. During the first stage, complaints are considered by Television Licensing. At the second stage, complaints are considered and replied to by the BBC Executive. Stage 3 is handled by the BBC's Executive Board member responsible for licence fee collection. At the fourth stage, the Complaints and Appeals Board of the BBC Trust may consider an appeal against a decision by the BBC.

A fair trading complaint may proceed through up to two stages⁷. The BBC's Fair Trading complaints panel which is appointed by the Executive Fair Trading Committee (EFTC) will respond at Stage 1. If the complaint qualifies for an appeal, the BBC Trust will respond at Stage 2.

⁵http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/complaints_fr_work_general.pdf

⁶http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2016/complaints_fr_work_tv_licensing.pdf

⁷http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2014/complaints_fr_work_fair_trading.pdf

In each of the following cases the Panel was provided with the complainant's correspondence with the BBC and the complainant's appeal/s to the Trust. The Committee was also provided with any relevant output or published content.

BBC Weather reporting

The complaint concerned the accuracy of the BBC's online weather reporting.

The complainant made the following points:

- The BBC's weather forecasts were often completely wrong. The complainant said he had made about 20 separate complaints detailing the inaccuracies of daily weather reports.

BBC Audience Services and BBC Weather made the following points at Stage 1:

- They acknowledged the complainant's view that the accuracy of BBC weather forecasts was poor, and BBC Weather said they could see why he might be irritated by incorrect information in the forecast.
- The problem was usually because there was a lag between updating the different types of data.
- The daily symbol showed the predominant or most significant weather for that day or night.
- The hourly or three hourly symbol gave the weather expected at or around that location around the time indicated.
- Weather maps are produced by the Met every six hours and the text data refreshes hourly.
- The nature of weather forecasting meant that there were times when the weather did not behave in the way forecast. The BBC purchased forecast data from the Met Office and did feed back to them concerns about forecast accuracy.
- The complainant was given an email address for the Met Office.
- The complainant's feedback about "BBC Weather" was valued. All complaints were sent to senior management every morning and the complainant's points were included in this overnight report. Those reports were among the most widely read sources of feedback in the BBC and ensured that complaints were seen by the right people quickly. Audience feedback helped inform decisions about current and future BBC output.

Audience Services said they had nothing further to add and that they did not believe the complaint had raised an issue that justified further investigation.

Appeal

The complainant escalated his complaint to the BBC Trust and reiterated his concern that the BBC online weather reporting was insufficiently accurate.

The Panel's decision

A panel of the Complaints and Appeals Board noted the points made by the complainant and the BBC.

Trustees noted that the issue in front of them was whether the decision by Audience Services to decline to enter into further correspondence was correct.

Trustees agreed that the matter was not admissible having concluded that:

- The Royal Charter set out a division of responsibility between the BBC Executive and the BBC Trust and drew 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” and “the operational management” of the BBC were specifically defined in Article 38, (1) (b) and (c) as duties which were the responsibility of the Executive Board. The Royal Charter also explained that the Trust must not exercise or seek to exercise the functions of the Executive Board. (Article 9, (3)).
- Trustees considered that decisions about what to include in the BBC’s weather forecasts were part of the editorial and operational responsibilities of the BBC Weather team.
- The complainant had received a reasoned and reasonable reply. BBC Weather had explained to the complainant that they purchased their forecast data from the Met Office. Audience Services and BBC Weather had explained that weather forecasting was not an exact science.

The Panel therefore decided that this appeal did not qualify to proceed for consideration.