

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

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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://www.bbc.co.uk/bbctrust/assets/files/pdf/about/how_we_operate/committees/2011/cab_tor.pdf

All Trustees are members of the Board; Richard Ayre is Chairman and Mehmuda Mian is Vice Chairman. The duties of the CAB are conducted by Panels of the Board consisting of at least three Trustees, including either the Chairman of the CAB or the Vice 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 and Digital Switchover Help Scheme 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

Appeal Findings

Television Licensing

Summary of complaint

This complaint was about the BBC's policy for setting the renewal dates for new TV licences. Under current arrangements, a new licence is dated to expire 12 months from the first day of the month in which the licence is purchased, for example a licence purchased on 14 February 2012 will expire on 31 January 2013. The complainant raised two key assertions about the BBC's policy:

- new licence fee payers are charged more than existing customers for receiving the same service
- new licences are mis-sold as covering a period of one year, when most new licences cover less than one year.

The individual escalated his complaint in line with the BBC's TV licensing complaints and appeals procedures, but was not satisfied with the responses given. The complainant appealed to the BBC Trust on 19 October 2011. The appeal was accepted by the Trust and considered by a panel of the Complaints & Appeals Board on 29 February 2012.

The Panel's decision

The Panel was provided with:

- the complainant's appeal to the Trust, dated 19 October 2011
- a paper summarising the Trust Unit's investigation into the appeal
- the complainant's comments on the above draft investigation paper.

The Panel noted the following points from the Trust Unit's investigation:

- the BBC's policy for setting monthly renewal dates helps the BBC to minimise costs to licence fee payers as a whole (as weekly or daily renewal dates would be more costly to introduce and administer)
- when the BBC became the Licensing Authority in 1991, it decided to adopt the previous Licensing Authority's practice regarding the dating of new TV licences
- the approach taken by the BBC is consistent with a comparable licensing organisation
- the BBC's policy is in line with the requirements of The Communications (Television Licensing) Regulations 2004. The TV licence is required to watch 'live' content and the fee is fixed – it is not linked to the amount of service a customer receives.

On the basis of this evidence, the Panel concluded that the BBC's policy for setting the renewal dates for new TV licences and for setting monthly renewal dates complies with the relevant regulations and is consistent with the approach taken to licensing elsewhere (for example, the road tax system). The Panel also concluded that incurring the additional cost of changing this policy would not be in the interests of licence fee payers as a whole. The Panel agreed therefore, that it would not uphold this element of the appeal.

However, the Panel agreed that the BBC should make its policy clearer to customers purchasing a new TV licence. It noted that some changes had been made to the TV Licensing website and that the BBC Executive was considering possible changes to TV Licensing correspondence, but the Panel emphasised the importance of the BBC being transparent about its policy.

Based on the above, the Panel decided to partially uphold the appeal to the Trust.

Rejected Appeals

Doctor Who Confidential

The complainant appealed to the Complaints and Appeals Board (CAB) of the BBC Trust following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

The complainant contacted BBC Audience Services on 28 September 2011 to express his concern that the BBC would not be commissioning any further series of Doctor Who Confidential. The complainant said that it was one of BBC Three's best programmes, inspiring children to become more creative and helping them 'to understand the magic of television'.

BBC Audience Services replied to the complainant the same day, stating that whilst the decision would undoubtedly be unpopular with some sections of the audience, the priority for BBC Three in the future was to build on original British commissions which would be unique to the channel.

The complainant replied on 29 September 2011 attaching links to a recently created Twitter page concerning Doctor Who Confidential and to a website which contained a petition to save the programme. The complainant stated that both of these had attracted a large number of followers and signatures respectively. The complainant stressed his view that the programme was original and had reached into primary schools through the Doctor Who Confidential – Script to Screen competition, inspiring young writers to take part. The complainant said that many viewers had been genuinely shocked to hear that the programme would be coming to an end, and felt they had had no say.

The complainant received a further reply from BBC Audience Services on 11 October 2011 containing a statement from the Controller, BBC Three. The Controller, BBC Three explained that programme commissioning was an often complicated, drawn out process involving discussions at various levels between channel controllers, commissioners and the programme-makers themselves. He could not go into detail about the full decision-making process due to commercial sensitivities but he assured the complainant that BBC Three was prioritising unique, original programming in prime time over extension shows in pre-watershed.

Appeal to the BBC Trust

The complainant contacted the BBC Trust on 11 October 2011, saying that many writers and actors had also expressed their disappointment at BBC Three's decision and including quotes from some of them. The complainant again highlighted the Doctor Who Confidential – Script to Screen competition and described the many jobs and roles which featured in the programme that he felt were inspiring for future workers in the entertainment industry. He explained that he believed that many people bought DVDs of Doctor Who for the additional information that Confidential provided.

The Head of Editorial Standards replied to the complainant. She explained that decisions relating to the decommissioning of programmes – in this instance, the decommissioning of Doctor Who Confidential – fell within the category of editorial and creative output and were editorial choices ultimately for the BBC Executive. The Head of Editorial Standards concluded that there was no reasonable prospect of success for the appeal and that it was not appropriate that the appeal should proceed to the Trust for consideration.

The complainant replied with a request that the Trustees review the decision of the Head of Editorial Standards not to proceed with his appeal. He stated that he did not view the response from the Head of Editorial Standards as satisfactory, since he believed that the information he had supplied regarding the petition was sufficient to suggest that the appeal would have a reasonable prospect of success. The complainant reiterated that he and others had found it difficult to have their voices heard on this matter and put forward arguments as to why Doctor Who Confidential was, in his view, original programming (thereby qualifying for continuation by BBC Three, in accordance with the criteria set out by the responses from the BBC). The complainant complained about the length of time taken to inform him about the Trust's remit in such matters. He requested that the BBC seek a compromise of cutting the programme's budget, rather than cancelling the show altogether, and emphasized again the positive aspects of the programme, in comparison with other examples of programming which the complainant also supplied.

The Board's decision

The Board was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Board was also provided with the final reply to the complainant from BBC Audience Services.

The Board agreed with the Head of Editorial Standards that decisions relating to the decommissioning of programmes fell within the category of editorial and creative output and were editorial choices ultimately for the BBC Executive. The Board noted the complainant's frustration that he had been required to engage with the full complaints process over a considerable length of time, when decisions on the decommissioning of programmes were not within the remit of the Trust. Nevertheless, the Board also noted that the complainant had been informed by the Executive of the Trust's remit, and the fact that the prospect of a successful appeal on the basis of a decision to decommission was unlikely, before pursuing his complaint to the Trust. The Board was satisfied that there was no reasonable prospect of success for the appeal regarding this decision of the BBC Executive and it would not be appropriate for it to proceed to the Trust for consideration.

The Board was therefore satisfied that the decision not to proceed with the appeal was correct.

Shankhill Butchers

The complainant appealed to the Complaints and Appeals Board following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal.

The complaint

The complainant wrote to the BBC Trust on 4 April 2011 complaining that the programme had "little merit beyond poisoning the minds and attitudes of the younger generation". He was of the view that programmes in Northern Ireland should "support and encourage the peace process".

On 15 April 2011 the BBC Trust Unit wrote to the complainant explaining that the Trust had no role in day to day editorial matters which were the remit of BBC Management and advising the complainant about the complaints process. The BBC Trust forwarded the complainant's letter to BBC Audience Services.

On 5 May 2011 the Head of Corporate and Community Affairs, BBC Northern Ireland (BBC NI) wrote to the complainant confirming that a response would be sent in due course. The Executive Producer of the programme subsequently wrote to the complainant on 18 May 2011, stating that:

"The documentary makers made every effort to ensure that this difficult subject matter was presented in a factual and sensitive manner, making use of contributions from people with different community backgrounds. The suggestion that the documentary was somehow undermining of the peace process is not something which we can accept."

The Executive Producer also stated that the presenter of the programme was "a talented presenter with a proven ability to connect/engage with BBC audiences" and added that he was very familiar with the experiences of communities in north and west Belfast and was "well-placed to guide viewers through a complex, and still relevant story".

The complainant replied on 23 May 2011 stating that in his view the letter was "arrogant" and stating:

"The BBC NI does not have a given right to broadcast programmes which have the effect of continuing to sully a new generation of young people under the guise of 'debate and enquiry'."

The complainant commented that the recent visit by the Queen had "forcibly" indicated that a line should be drawn under past events.

The complainant corresponded again with the Trust concerning the fact that he felt the complaint raised an issue under the BBC Editorial Guidelines. On 7 June 2011 the Trust Unit wrote to the complainant again explaining about the complaints process and the fact that they could not deal with the complaint until the first the two stages had been completed. Further liaison with the Trust Unit continued concerning a lack of response from BBC NI and BBC Audience Services.

On 1 July BBC Corporate and Community Affairs, BBC NI wrote to explain that a second stage letter would be sent shortly. The Head of Corporate and Community Affairs, BBC NI then wrote to the complainant on 6 July 2011. He explained that the purpose of the documentary was to describe a series of related killings which took place during the Troubles period. He stated that the events have a "continuing resonance for many people, including those most directly affected by what happened." The Head of Corporate and Community Affairs, BBC NI also stated that he was satisfied that this subject matter remained an appropriate area of enquiry and investigation for the BBC. He said:

“The BBC does not have any role (statutory, editorial or otherwise) in relation to the advancement of the “peace process”. We do seek to reflect political and other developments and to facilitate understanding of the past as a means of informing present understanding and debate about our region’s future”.

He then explained that if the complainant believed the programme had breached specific editorial guidelines he could complain to the BBC’s Editorial Complaints Unit (ECU) and included their contact details.

Appeal to the BBC Trust

On 15 August 2011 the complainant wrote to the Trust Unit regarding a lack of acknowledgement to a letter he wrote on 19 July, of which the Trust Unit has no record. Following further correspondence, the Trust Unit agreed to forward the complaint to the ECU. The complainant wrote again to the Trust on 21 November complaining that although he had received confirmation on 6 October that the correspondence had been forwarded to the ECU, he had not heard anything from them. The Trust Unit liaised with ECU, who confirmed to the Trust Unit that this was not a complaint they would consider and that therefore the Trust would be the next step in the escalation process.

The Head of Editorial Standards replied to the complainant. She explained that the decision by the BBC to cover an aspect of the Troubles in Northern Ireland fell within the category of editorial and creative output and was an editorial choice ultimately for the BBC Executive, unless a breach of a specific editorial guideline was alleged. The Head of Editorial Standards concluded that there was no reasonable prospect of success for the appeal and that it was not appropriate that the appeal should proceed to the Trust for consideration.

The complainant replied with a request that the Trustees review the decision of the Head of Editorial Standards not to proceed with his appeal. The complainant stated that he considered that the statement by the Head of Corporate and Community Affairs, BBC NI in his letter of 6 July that “the BBC does not have any role (statutory, editorial or otherwise) in relation to the advancement of the “peace process”” was of “fundamental significance” and should be addressed.

The Board’s Decision

The Board was provided with the complainant’s letter to the Trust of 21 November (which constituted his appeal), the response from the Trust’s Head of Editorial Standards, and the complainant’s appeal against the Head of Editorial Standards’ decision. The Board was also provided with the final reply to the complainant from the Head of Corporate and Community Affairs, BBC NI.

The Board agreed with the Head of Editorial Standards that the decision by the BBC to cover an aspect of the Troubles in Northern Ireland fell within the category of editorial and creative output and was an editorial choice ultimately for the BBC Executive. The Board noted that the complainant’s view was not uncommon, in their experience of engagement with audiences in Northern Ireland. Nevertheless, the Board was satisfied that there was no reasonable prospect of success for the appeal regarding this decision of the BBC Executive and it would not be appropriate for it to proceed to the Trust for consideration.

The Board was therefore satisfied that the decision not to proceed with the appeal was correct.

Online 9/11 timeline

The complainant appealed to the Complaints and Appeals Board following the decision of the Head of Editorial Standards, BBC Trust, not to accept his complaint on appeal regarding the omission of the collapse of World Trade Center Tower 7 (WTC7) from a timeline in an online article featured on BBC News online on 4 September 2011.

The complaint

The complainant first contacted BBC Audience Services on 5 September 2011, complaining that the timeline in question had omitted the collapse of WTC7, which he regarded as “one of the most important events of 9/11”. The complainant contended that this implied that WTC7’s collapse was not significant, which was in his view inaccurate and misleading.

In subsequent correspondence with the BBC News website team, the following points of dispute arose:

- the BBC News website team stated that the timeline had not sought to provide an exhaustive record and had focused on the targets of the attacks, of which WTC7 was not one. In response, the complainant noted that the timeline included events that in his view were not directly associated with those targets.
- the BBC News website team stated that no casualties had been involved in the collapse of WTC7. The complainant disputed this, quoting from a House of Representatives debate that mentioned Master Special Officer Craig Miller, who may have died in WTC7. In response, the BBC News website team quoted what it considered to be a contradictory statement from the same source, and asserted that its editorial judgement did not hinge on where Mr Miller had died.
- the BBC News website team stated the main source for the timeline had been the 9/11 Memorial Museum, which stated that no casualties had occurred in WTC7.

The complainant escalated the complaint to the Editorial Complaints Unit (ECU) on 22 September 2011 and also complained about the handling of the complaint, arguing that the BBC News website team had deliberately misinterpreted both the complaint and the feature in question.

The ECU replied on 4 October 2011 that the decision to omit the collapse of WTC7 from the timeline was a legitimate exercise of editorial judgement that did not engage any of the Editorial Guidelines. Both the substantive and the complaint-handling complaints were therefore the responsibility of the Head of Editorial Compliance and Accountability, BBC News.

On 6 October 2011, the complainant addressed his complaint to the Head of Editorial Compliance and Accountability, BBC News and made additional allegations concerning the timing of the BBC’s contemporaneous reporting of the collapse of WTC7.

The Head of Editorial Compliance and Accountability, BBC News, responded on 7 November 2011. In her view, the timeline concerned the key events of the day and — whether there had been a single death as a result of the collapse of WTC7 or none— in terms of fatalities, there was no comparison between WTC7 and the events on which the online article had focused.

She explained that the article’s length was limited by readers’ willingness to engage with such a feature, for which reason facts such as the deaths of 411 emergency workers had also been omitted. With reference to the BBC’s sources, although all journalists had to take information from public bodies, this did not mean that the BBC had failed to test that information. The BBC had broadcast a number of documentaries about 9/11, including an investigation in *The Conspiracy Files*.

The Head of Editorial Compliance and Accountability, BBC News, concluded by citing a blog by the then Head of News, BBC World in support of the proposition that the BBC's reporting on the collapse of WTC7 was a reflection of the nature of live broadcasting.

Appeal to the BBC Trust

The complainant appealed to the BBC Trust on 14 November 2011 stating that, in his view, younger readers would assume that the main events of the day were included in the feature, from which they would infer that nothing significant had happened on the afternoon in question, when WTC7 had collapsed. The feature could not therefore, in his opinion, properly be referred to as "The story of the day".

The complainant argued that the Head of Editorial Compliance and Accountability, BBC News had failed to grasp the full breadth of his argument about the inclusion in the timeline of events that were not directly associated with the targets of the attacks. The complainant stated that the BBC had not sought to test the information contained in the 9/11 Commission's reports and disputed that The Conspiracy Files amounted to an investigation, properly so called. The complainant cited several sources in support of his assertion that the 9/11 Commission Report was false.

The complainant dismissed the BBC's citation of the blog by the former Head of News, BBC World as "standard operating procedure", stating that the BBC was hiding behind restrictions in the Freedom of Information Act 2000. In the complainant's view, the case fell within the ECU's remit because the Executive's editorial judgement had resulted in a clear misrepresentation of factual events. The complainant repeated his argument that the Executive had deliberately misrepresented some of the complainant's comments in order to make it easier to dismiss the complaint.

The Head of Editorial Standards replied to the complainant. She explained that her role, as Head of Editorial Standards, was, first, to determine whether the appeal raised a matter of substance, and in particular whether there was sufficient evidence to suggest that it had a reasonable prospect of success. In reaching her decision, the Head of Editorial Standards had to give consideration to whether it was appropriate, proportionate and cost-effective for the Trust to address the appeal. She emphasised that it was not her role to decide whether or not the appeal should be upheld, as that was the function of the CAB.

With regard to the substantive complaint, the Head of Editorial Standards explained that she could not agree with the complainant's argument that the omission of the collapse of WTC7 from the timeline of key events amounted to a misrepresentation of the facts, as the timeline did not purport to be all-encompassing. The feature's title, "The story of the day", did not, in her view, necessarily imply that a complete account of all events associated with the attacks was on offer. In her view, readers—irrespective of age—would have approached the feature expecting to view a summary of salient events, not an exhaustive account. For these reasons, this case did not engage any of the BBC's Editorial Guidelines on Accuracy.

The Head of Editorial Standards had therefore decided that there was insufficient evidence to suggest that the appeal has a reasonable prospect of success and that it would not be appropriate, proportionate and cost-effective for the CAB to address the appeal.

The Head of Editorial Standards also explained that decisions regarding what to include in – and conversely, exclude from – an online feature such as the timeline in question fell within the category of editorial and creative output and were an editorial choice ultimately for the BBC Executive.

In relation to the complaints-handling aspect of the appeal, the Head of Editorial Standards did not agree with the complainant's assertion that the Executive had distorted

or misrepresented his arguments—deliberately or otherwise—in order to dismiss the complaint more easily. It appeared to the Head of Editorial Standards that, where the Executive had sought to address particular aspects of the case, it had done so with implicit acknowledgement, and without distortion, of the complainant's broader arguments. In her view, the Executive had adopted a reasonable stance in relation to the complaint, and its responses were posited on a full and nuanced appreciation of the depth and breadth of the complainant's case.

With regard to the delay in responding to the complainant at stage 2, the Head of Editorial Standards noted that this was relatively minor and was acknowledged, explained and apologised for by the Head of Editorial Compliance and Accountability, BBC News. She therefore considered this matter resolved.

Finally, the Head of Editorial Standards explained that she had found no evidence to support the complainant's allegations of lying or deceit on the part of the Executive. It seems to her that the mere fact that the Executive disagreed with the complainant's opinions did not amount to evidence of dishonesty on its part. The Head of Editorial Standards noted that paragraph 4.4 of the BBC's Complaints Framework states:

"When making complaints, complainants should be ... polite."

Additionally, the Guide to the BBC General and Editorial Complaints Process, published on the BBC Complaints Website, states:

"We aim to treat every complainant with respect and in return expect equal consideration to be shown to our staff who handle complaints."

In the Head of Editorial Standards' view, the complainant's unsubstantiated allegations were in breach of these provisions, and she requested that he bear them in mind when making any future complaint to the BBC.

The complainant replied with a request that the Trustees review the decision of the Head of Editorial Standards not to proceed with his appeal. The complainant stated that he had acknowledged in his first correspondence with the BBC the fact that the feature was "clearly a summary of events" and could not understand why the response from the Head of Editorial Standards had referred to an "exhaustive record of events." He saw this as an intentional injection of an entirely different meaning to his complaint which had led to a distortion of it. In response to the Head of Editorial Standards' view that readers would have approached the feature expecting to view a summary of salient events, the complainant provided a definition of "salient" ("prominent, important, noticeable, conspicuous") and stated that, according to this definition, the collapse of WTC7 should have featured. He reiterated that the title of the article ("9/11: a timeline of events") was therefore misleading and also deceitful. The complainant asked to be informed as to whether it was the Trust's position that the collapse of one of the three skyscrapers on 9/11 was not a "salient" event. The complainant also asked for a response to specific questions he raised in his reply. In relation to the complaints-handling aspect of the appeal, the complainant was offended by the Head of Editorial Standards' reference to his "unsubstantiated allegations" and offered to provide evidence to support his assertions.

The Board's Decision

The Board was provided with the complainant's appeal to the Trust, the response from the Trust's Head of Editorial Standards, and the complainant's appeal against the Head of Editorial Standards' decision. The Board was also provided with the final reply to the complainant from the Head of Editorial Compliance and Accountability, BBC News, BBC NI.

The Board agreed with the Head of Editorial Standards that decisions regarding what to include in and exclude from online features such as the timeline in question fell within the category of editorial and creative output and were an editorial choice ultimately for the BBC Executive. The Board noted the complainant's request for a response to specific

questions he raised in his appeal to the Trust. The Board was satisfied that there was no reasonable prospect of success for the appeal regarding this decision of the BBC Executive and it would not be appropriate for it to proceed to the Trust for consideration.

The Board was therefore satisfied that the decision not to proceed with the appeal was correct.

Formula One Rights

Background

Following the announcement of the BBC's decision to share Formula One broadcasting rights with Sky Sports, a large number of people complained to BBC Audience Services raising a wide range of issues and advancing a variety of arguments. Because of the volume of complaints and the breadth of issues raised, the BBC responded by directing most people to the published response on the BBC's Complaints website and the BBC Sport Editor's blog.

A large number of complainants then escalated their complaints to Stage 2 and, for the same reason, the Chief Adviser and Business Manager, BBC Sport, provided a consolidated response to the complainants covering the key issues that had been raised.

The Trust Unit received 16 appeals regarding the Formula One decision, raising a number of issues, including fair trading issues. For reasons of administrative and cost efficiency, and in accordance with paragraph 5.3(e) of the Complaints Framework¹, the Trustees decided at a meeting of the Complaints and Appeals Board on 30 November 2011 that it was appropriate for the appeals to be consolidated and for the Head of Editorial Standards to consider the requests for appeal together across the full range of issues identified.

Decision of the Trust's Head of Editorial Standards

The Head of Editorial Standards apologised for the delay in providing her decision and explained that this was because she had decided that the complaints regarding fair trading should be passed back to the BBC Controller of Fair Trading for clarification, and that the appeals should then be consolidated.

The Head of Editorial Standards explained that the Trust does not adjudicate on every appeal that is brought to it, and it is part of her role (and the Head of Business Strategy's role in respect of appeals regarding fair trading) to check that appeals qualify for consideration by the Trust, or one of its complaints committees, under the Complaints Framework.

The Head of Editorial Standards noted the issues that had been raised by the 16 complainants and summarised them under the following 13 headings:

- Respective roles of the BBC Executive and the BBC Trust
- Decision to share live broadcast rights with a pay-TV provider
- Licence fee payers' best interests
- Consultation
- Alternative decisions the BBC could have taken
- The Trust's general duties under the Royal Charter
- Commercial and financial considerations
- Role of Head of F1 Coverage
- Effect on F1
- Quality and popularity of F1 coverage
- Adequacy of shared coverage
- Future programme content
- Complaint handling

¹ http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/2010/e3_complaints_fr_work.pdf.

The Head of Editorial Standards noted that none of the complainants had responded to the Controller of Fair Trading's letter, or written to the Trust to raise any further fair trading issues. She therefore did not consider that the fair trading issues formed part of the appeal. Nevertheless, she said that the Trust's Head of Business Strategy had considered the points raised and the Controller of Fair Trading's response and could see no reason to depart from the conclusions of the Controller, and said that it did not appear that there was any case for the Executive to answer in this respect.

The Head of Editorial Standards summarised each of the issues raised on appeal (other than the fair trading issues), and explained why she did not think they had a reasonable prospect of success. The Head of Editorial Standards also explained the process for asking the Trustees to review her decision.

One of the 16 complainants included in the consolidated appeal requested that the Trustees review the decision of the Head of Editorial Standards not to proceed with the appeal. The complainant raised three key issues in his challenge to the Head of Editorial Standards' decision:

- "1. It has come to light that the BBC could have kept Formula 1 free to air by sharing the coverage with Channel 4 or ITV - a much better result for all the license fee payers.
2. SKY has been advertising their dedicated F1 channel during the original complaint process I don't think any of the complaints have been given a fair hearing as it was already a done deal.
3. As we live in a democratic society I think the BBC could have polled its viewers on what programs they cut back on had F1 been voted off so to speak by a majority in favour of say keeping BBC3"

The Panel's decision

The Panel was provided with the complainant's letter of appeal to the BBC Trust, the response from the Head of Editorial Standards and the complainant's appeal against the decision of the Head of Editorial Standards not to proceed with the consolidated appeal.

The Panel noted that the Head of Editorial Standards has addressed the range of points raised in the consolidated appeal and it noted in particular the Head of Editorial Standards response in the areas raised by the complainant.

With regard to the complainant's statement that the BBC "could have kept Formula 1 free to air by sharing the coverage with Channel 4 or ITV", the Panel noted the Head of Editorial Standards' general response to complaints about coverage being shared with a pay-TV provider:

"The fundamental concern of the complainants (and one that was common to all complaints) was that live Free To Air (FTA) coverage of F1 should continue to be available, whether it be provided by the BBC or another FTA broadcaster such as ITV or Channel 4. The crux of the complaint for most complainants was not the sharing of live broadcast rights as such, but rather the BBC's decision to share those rights with a pay-TV provider, which effectively limited the availability of live FTA coverage.

Some complainants objected to the choice of Sky as broadcast partner, by reason of its association with News International and the Murdoch family. This, they felt,

raised conscientious objections to their taking out Sky subscriptions. Objection was also raised to alleged sharp commercial practice on the part of Sky, in that it allegedly allowed other broadcasters to build audiences, before buying the broadcast rights in order to recruit subscribers. Complaint was made about the intrusion of Sky Sports' advertisements into broadcasts, to the quality and style of its sports coverage, and for reception problems arising with Sky during thunderstorms. Some complainants referred to the cost and affordability of a Sky subscription, and the alleged unreasonableness of having to take out a full year's Sky subscription in order to watch half the F1 season (one complainant observing that one could not buy half a Sky Sports package)."

The Panel agreed with the Head of Editorial Standards that, as the Executive's choice of broadcast partner was a decision that concerned the operational management of the BBC, this decision is not one on which the Trust should encroach.

With regard to the complainant's statement that complaints had not been given a fair hearing by the BBC as the deal had already been done, the Panel noted that the BBC had replied comprehensively to complainants, explaining as far as commercial sensitivity would allow the reasons for its position in the negotiation of the Formula One rights contract. The Panel did not consider that the Sky advertising cited by the complainant was evidence to show that the BBC had not considered complaints in an appropriate manner.

The Panel noted the complainant's suggestion that the BBC could have polled its viewers to establish which programmes were "voted off". The Panel noted the response the Head of Editorial Standards had given to the general complaint about the lack of a consultation:

"A number of complainants argued that, before making the F1 Decision, the BBC should have consulted licence fee payers in general, and viewers who were F1 fans in particular. There is no requirement for the Executive to publicly consult on the F1 Decision."

The Panel agreed that this aspect of the complaint did not raise an issue for the Trust to consider.

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

Television Licensing

Summary of complaint

This complaint was about the content of a TV Licensing reminder letter sent to the complainant's address in May 2011. TV Licensing had sent five previous enquiries between November 2010 and May 2011 which were not answered. The complainant felt that the May reminder letter implied that she was guilty of licence fee evasion and that she would be fined, without TV Licensing considering the possibility that she did not require a TV licence.

The complainant argued that TV Licensing, in its May reminder letter, directly stated that there would be impending court action following its previous unanswered enquires, and that the only way of avoiding this was to contact it to purchase a TV licence or tell it that she does not need one. The complainant pointed out that she has no legal obligation to contact TV Licensing and that it had not actually pursued legal action against her. She stated that TV Licensing actions were a clear case of harassment which has caused her much anxiety.

In March 2009, the Trust reviewed the BBC's licence fee collection process and, as a result, recommended revising some of the protocols around contacting people who do not require a licence fee. The complainant did not believe that the reminder letter she received in May complied with the Trust's recommendations that "TV Licensing should ensure that its early reminder letters are polite, informative and non-accusatory and that consideration should be given to ensuring the prominence of messages about what people should do if they if they do not own a TV".

Appeal to BBC Trust

The complainant appealed to the BBC Trust on 23 November 2011. She said that TVL has consistently dismissed her complaint by insisting its letter was simply an "enquiry" designed to inform people when and how to purchase a TV Licence. The complainant stated that she felt harassed by TV Licensing's actions and that she is seeking to have her stress, time and effort compensated under the Protection from Harassment Act 1997 and for all further TV Licensing actions to be permanently ceased.

Chief Financial Adviser's decision

On review of the correspondence between the complainant, TV Licensing and the BBC Executive, the Trust's Chief Financial Adviser decided there were no grounds to accept the appeal for Trust consideration as the appeal did not raise a matter of substance. He set out the reasons for this decision in a letter to the complainant (see decision below).

The complainant requested that the Trustees review the Chief Financial Adviser's decision not to proceed with the appeal.

The Panel's decision

The Panel was provided with:

- A sample TV Licensing reminder letter that the complainant had raised concerns about
- The complainant's appeal to the BBC Trust, dated 23 Nov 2011

- The Chief Financial Adviser's decision letter, dated 21 Dec 2011
- The complainant's appeal against the Chief Financial Adviser's decision, dated 9 Jan 2012

The Panel noted that the Chief Financial Adviser had reviewed the correspondence between the complainant, TV Licensing and the BBC Executive and had concluded that there were no grounds to accept the appeal for Trust consideration as the appeal did not raise a matter of substance.

The Panel noted that the key reasons for the Chief Financial Adviser's decision were:

- TV Licensing and the BBC Executive explained to the complainant that TV Licensing had written to her several times to ask about the situation at the her address, but had not received a response, before sending the letter in May 2011
- TV Licensing and the BBC Executive explained that the May letter was more strongly worded than earlier letters to encourage a response
- TV Licensing and the BBC Executive assured the complainant that TV Licensing letters are regularly reviewed and that feedback from members of the public is used to inform these reviews
- the Chief Financial Adviser apologised for the fact that the complainant felt she had been harassed by the actions of TV Licensing, but he emphasised that TV Licensing has a responsibility to ensure that everyone who needs a TV licence has purchased one.

The Panel noted that the Trust reviewed the BBC's licence fee collection in March 2009 and, as a result, recommended that the Executive should ensure TV Licensing's dealings with the public and the tone of its correspondence are not accusatory and should aim to be polite, firm and informative. At that time the Trust also recommended that the Executive should improve the tone of the early stages of TV Licensing's correspondence with the public. The Executive implemented all recommendations from the review and progress was reported to the Trust. Revised first and second reminder letters were implemented by April 2010. The Panel noted that in this case, the complainant's concerns were about the wording of a later stage reminder letter.

On the basis of this evidence, the Panel agreed that this complaint did not have a reasonable prospect of success on appeal.

The Panel, therefore, decided that the complaint should not proceed to be considered on appeal by the Complaints and Appeals Board of the BBC Trust.

Television Licensing

Summary of complaint

The appeal is a complaint about the content of a TV Licensing reminder letter sent to the complainant's sister-in-law's address in November 2010. This was the third reminder letter sent by TV Licensing.

The complainant considers that the statements included in the reminder letter heading (e.g. 'under investigation' and 'you are hereby given official notice: your property is now under investigation') are deliberately designed to worry and frighten recipients, especially the elderly and vulnerable. The complainant feels that his complaints to TV Licensing and the BBC Executive have not been adequately addressed.

The complainant is also concerned that his suggested alternative wording for the TV Licensing reminder letter will not be considered by TV Licensing or the BBC Executive.

Appeal to BBC Trust

The complainant set out his appeal in a letter dated 14 September 2011, repeating his complaint that the statements included in the reminder letter were deliberately designed to worry and frighten recipients, especially the elderly and vulnerable, and that his complaints to TV Licensing and the BBC Executive had not been adequately addressed.

Chief Financial Adviser's decision

On review of the correspondence between the complainant, TV Licensing and the BBC Executive, the Trust's Chief Financial Adviser decided there were no grounds to accept the appeal for Trust consideration as the appeal did not raise a matter of substance. He set out the reasons for this decision in a letter to the complainant. (see decision below).

The complainant requested that the Trustees review the Chief Financial Adviser's decision not to proceed with the appeal.

The Panel's decision

The Panel was provided with:

- A sample TV Licensing reminder letter that the complainant had raised concerns about
- The complainant's appeal to the BBC Trust, dated 14 September 2011
- The Chief Financial Adviser's decision letter, dated 8 December 2011
- The complainant's appeal against the Chief Financial Adviser's decision, dated 14 December 2011

The Panel noted that the Chief Financial Adviser had reviewed the correspondence between the complainant, TV Licensing and the BBC Executive and had concluded that there were no grounds to accept the appeal for Trust consideration as the appeal did not raise a matter of substance.

The Panel noted that the key reasons for the Chief Financial Adviser's decision were:

- TV Licensing and the BBC Executive clearly explained to the complainant that the letter was the third reminder sent to the address and it was therefore more strongly worded than first and second reminder letters.
- He disagreed with the complainant's assertion that the reminder letter was "deliberately designed to worry and frighten recipients, especially the elderly and vulnerable".
- TV Licensing and the BBC Executive explained to the complainant the reasons for using the specific terms the complainant referred to in his letter.
- TV Licensing and the BBC Executive assured the complainant that they review all complaints about TV Licensing matters when reviewing correspondence relating to TV Licensing and that this would include the complainant's concerns about the reminder letter and his suggested alternative wording.

The Panel noted that the Trust reviewed the BBC's licence fee collection in March 2009 and, as a result, recommended that the Executive should ensure TV Licensing's dealings with the public and the tone of its correspondence are not accusatory and should aim to be polite, firm and informative. At that time the Trust also recommended that the Executive should improve the tone of the early stages of TV Licensing's correspondence with the public. The Executive implemented all recommendations from the review and progress was reported on to the Trust. Revised first and second reminder letters were implemented by April 2010. The Panel noted that in this case, the complainant's concerns were about the wording of a later stage reminder letter.

On the basis of this evidence, the Panel agreed that this complaint did not have a reasonable prospect of success on appeal.

The Panel, therefore, decided that the complaint should not proceed to be considered on appeal by the Complaints and Appeals Board of the BBC Trust.