

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. 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 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

Rejected Appeals

Appeals rejected by the CAB as being out of remit or because the complaints had not raised a matter of substance and there was no reasonable prospect of success.

BBC Asian Network

The complainant asked the Trustees to review the decision of the Trust Unit not to accept the complainant's appeal against the decision at stage 1b of the BBC's complaints process that the BBC would not engage in any further correspondence on the same issue.

The complaint

The complainant contacted the BBC to complain that his song requests for the BBC Asian Network were not being played. The complainant said that presenters should not continue to solicit song requests from audiences if there were too many to be accommodated on any particular programme. The complainant said it was a waste of money to contact a show with a request if there was no chance of it being played.

BBC Audience Services replied. They explained that radio shows always receive far more song requests than it is possible to play and that it was not possible for each request to be played. Audience Services said that requests submitted are not played on a first come first served basis but chosen randomly. Audience Services went on to explain that it is usual practice at the end of a show for unplayed requests to be discarded, so that future shows can then consider requests for that particular show, rather than historical ones. Audience Services explained that there was nothing further they could add to this.

Appeal to the Trust

The complainant appealed to the Trust, adding that he felt unused requests should be rolled over to the next show, rather than discarded. The Senior Editorial Strategy Adviser replied. The Senior Editorial Strategy Adviser said that it was not possible for the programme to play all requests and that most listeners who made requests understood that this would be the case. The Senior Editorial Strategy Adviser said that Audience Services had addressed the complainant's point about rolling requests over and that it would be impractical to do so as a backlog of comments and requests would quickly mount up. The Senior Editorial Adviser said that in her view Audience Services had explained the process of requests clearly and that it was reasonable for them not to answer any further correspondence on this issue.

The Senior Editorial Strategy Adviser added that decisions such as those relating to how comments and requests are selected for transmission are day to day operational matters and therefore the responsibility of the BBC Executive rather than the Trust. The Senior Editorial Strategy Adviser explained that in her view the Trustees would be unlikely to find that the Asian Network was operating outside of its Service Licence and that the substance of the complaint should not be placed before Trustees on the CAB.

The Panel's decision

The Panel was given the complainant's appeal to the Trust, the reply from the Senior Editorial Strategy Adviser and also the complainant's previous correspondence with the BBC.

The Panel noted that the BBC had explained that the number of requests received each week made it impossible for them all to be played in a two hour slot. The Panel agreed that the BBC had provided explanations to the complainant with regards to the process

behind requests. The Panel agreed that decisions about what requests are played are a matter for programme-makers and not the Trust. The Panel noted that the BBC considered they were unable to add anything further to the points they had made and so had closed the correspondence. The Panel agreed that there was no reasonable prospect of success for the appeal against the ending of the correspondence by the BBC.

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

Strictly Come Dancing

The complainant asked the Trustees to review the decision of the Trust Unit not to accept the complainant's appeal against the decision at stage 1b of the BBC's complaints process that the BBC would not engage in any further correspondence on the same issue.

The complaint

The complainant contacted the BBC to complain that in his view the programme 'Strictly Come Dancing' was not compliant with the Equality Act 2010 in the selection of its dancers. The complainant noted that there were equal numbers of male and female dancers on the programme. The complainant argued that in the UK there were more female dancers than male and that meant the selection of dancers must have been on the basis of a dancer's sex, rather than dancing ability.

Audience Services replied to say that the selection of dance partners on Strictly Come Dancing did not breach the Equality Act 2010 and that there was nothing further that they could add.

Appeal to the Trust

The complainant appealed to the Trust reiterating his view that the BBC was failing to comply with the Equality Act because dancers were chosen on the basis of gender rather than ability. The Senior Editorial Strategy Adviser responded to say that she could see no evidence that the selection of dancers on Strictly Come Dancing was in breach of equality legislation. The Senior Editorial Strategy Adviser also explained that responsibility for ensuring compliance with equality legislation in day to day issues was the responsibility of the BBC's management and not the Trust. The Senior Editorial Strategy Adviser explained that in her view the BBC had provided a reasonable response to the complaint and that there was no reasonable prospect of success on appeal.

The Panel's decision

The Panel was given the complainant's appeal to the Trust, the reply from the Senior Editorial Strategy Adviser and also the complainant's previous correspondence with the BBC.

The Panel noted that the complainant had been assured by the BBC that the selection of dancers was compliant with equality legislation. The Panel agreed that in the absence of any evidence that there had been a breach of legislation, day to day issues such as the selection of dancers for Strictly Come Dancing was the responsibility of the BBC's management and not the Trust. The Panel noted that the BBC considered they were unable to add anything further to the points they had made and so had closed the correspondence. The Panel agreed that there was no reasonable prospect of success for the appeal against the ending of the correspondence by the BBC.

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

Excessive coverage of cricket, poor presentation and poor grammar

The complainant asked the Trustees to review the decision of the Trust Unit not to accept the complainant's appeal against the decision at stage 1b of the BBC's complaints process that the BBC would not engage in any further correspondence on the same issue.

The complaint

The complainant contacted the BBC to complain that coverage of cricket was given undue prominence in news reports and that news presenters' diction and grammar were often of a poor standard.

Audience Services responded to say that the choice of items to include in news bulletins is a subjective matter and one which they appreciated nor every viewer or listener will agree with. Audience Services explained that factors such as how unusual a story is and how much national interest there is in the subject matter will play a part in deciding the level of coverage and where an item may fall in a bulletin.

Audience Services also explained that BBC News presenters are expected to have a good command of standard English but that it is important that presenters come across as approachable and easy for viewers to identify with. Audience Services explained that in such contexts it may be considered appropriate for presenters to speak colloquially rather than formally. Audience services explained that there was nothing further they could add in response to the complaint.

Appeal to the Trust

The complainant appealed to the Trust reiterating his view that coverage of cricket was given undue prominence in news reports and that news presenters' diction and grammar were often of a poor standard.

The Senior Editorial Strategy Adviser responded to say that while she appreciated some people may be irritated by a more colloquial use of language, it does not constitute a breach of editorial standards. The Senior Editorial Strategy Adviser said that she agreed with Audience Services' response that what stories to cover in news bulletins and what order they should run depended on news judgements and to a great extent were objective. The Senior Editorial Strategy Adviser added that decisions such as those relating to diction and grammar are day to day operational matters and therefore the responsibility of the BBC Executive rather than the Trust. The Senior Editorial Strategy Adviser explained that in her view Audience Services had provided a reasonable response to the complaint and that there was no basis for the CAB to intervene.

The Panel's decision

The Panel was given the complainant's appeal to the Trust, the reply from the Senior Editorial Strategy Adviser and also the complainant's previous correspondence with the BBC.

The Panel agreed that the complainant had been provided with a reasonable reply from the BBC and that decisions on the content of news bulletins were in their nature subjective. The panel also agreed that Audience Services had explained why presenters may use colloquial rather than formal language. The Panel agreed that in the absence of any evidence that there had been a breach of editorial guidelines, day to day issues such as the selection of items for inclusion in news bulletins and the style of presentation of newsreaders was the responsibility of the BBC's management and not the Trust. The Panel noted that the BBC considered they were unable to add anything further to the

points they had made and so had closed the correspondence The Panel agreed that there was no reasonable prospect of success for the appeal against the ending of the correspondence by the BBC.

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

Scheduling of Sunday Half Hour, BBC Radio 2

The complainant appealed to the Complaints and Appeals Board following the decision of the BBC Trust's Senior Editorial Strategy Adviser that the complainant's appeal did not qualify to proceed for consideration by the CAB.

The complaint

The complainant contacted the BBC to complain about the decision to move Sunday Half Hour from its evening slot to one in the morning.

The BBC responded to say that over the past decade the number of people listening to the programme had declined and that the BBC had decided to refresh its Sunday evening music offer. The BBC explained that they hoped the new slot would reach a greater number of listeners and that there was a range of other Christian programming available across the BBC's output.

Appeal

The complainant escalated his complaint to the BBC Trust and made the following points:

- As a listener for more than sixty years, he had been personally affected and had suffered detriment by the move of the programme from Sunday evening to 6.00 am on Sunday morning and the change reduced his Sunday evening enjoyment.
- One of the elements he enjoyed about the programme was the knowledge that many thousands of other people were also listening at the same time.
- The complainant queried what consultation had taken place before the move.
- The complainant said the move was made with "undue haste" in that it was announced one week and moved the following week.
- The complainant felt the move showed "disrespect and disregard for its licence payers".
- The complainant felt the move represented "the marginalisation of Christian programming from prime time radio to the early hours of the morning".
- The complainant requested information about the audience figures for the programme but the BBC had declined to provide them.

Decision of the Senior Editorial Strategy Adviser

The relevant correspondence was reviewed by the Trust Unit.

The Senior Editorial Strategy Adviser decided that the complainant's appeal did not have a reasonable prospect of success. While she fully understood that a change of scheduling of this nature, particularly for a programme which had been in place and enjoyed for a considerable length of time, could be very upsetting, she noted that under the Royal Charter and the accompanying Agreement between the Secretary of State and the BBC a distinction was drawn 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" was specifically defined in the Charter (paragraph 38, (1) (b)) as a duty that was the responsibility of the Executive Board, and one in which the Trust did not get involved unless, for example, it related to a breach of the Service Licence.

The Adviser noted that the Service Licence is set by the BBC Trust, Radio 2's Service Licence was reissued in November 2012, and can be found in full here: http://www.bbc.co.uk/bbctrust/our_work/services/radio/service_licences/bbc_radio_2.htm

In terms of religious output, it states:

The remit of Radio 2 is to be a distinctive mixed music and speech service, targeted at a broad audience, appealing to all age groups over 35. It should offer entertaining popular music programmes and speech-based content including news, current affairs, documentaries, religion, arts, comedy, readings and social action output.

... The schedule should also include accurate, impartial and independent news and current affairs, arts programmes, social action output and religious broadcasting reflecting different faiths and beliefs and marking key events in the religious calendar.

... Radio 2 should:

- Broadcast at least 170 hours of religious output each year covering a broad range of faiths

The Senior Editorial Strategy Adviser considered there was no evidence that Radio 2's Service Licence had been breached by the Executive's decision to reschedule Sunday Half Hour. Therefore, the decision was part of the editorial and creative process that was the responsibility of the BBC Executive.

On the point that this rescheduling decision represented the marginalisation of Christian programming, the Senior Editorial Strategy Adviser noted the response from the Controller of Radio 2 of 8 January which stated that this was: "a good time to move 'Sunday Half Hour' alongside our other weekly faith programme 'Good Morning Sunday'. The move will enable us to expand the airtime to an hour and broadcast it at a time when there are both more people listening and an expectation to hear faith-related output."

The Senior Editorial Strategy Adviser noted that the BBC had pointed out that the number of people listening to Sunday Half Hour and to Radio 2 on Sunday evening in general had declined significantly. Moving the programme to Sunday morning would enable Radio 2 to expand the programme to an hour and to broadcast it at a time when there were both more people available to listen and an expectation to hear faith related output.

The Senior Editorial Strategy Adviser also noted the information provided by BBC Audience Services about the audience figures for the relevant slots:

We believe that The Sunday Hour will reach a greater number of listeners in its new - and longer - slot. 521,000 listeners currently tune in to Radio 2 every week, between 6-7am. Sunday Half Hour, on the other hand, reaches only 246,000 listeners in its 8.30pm slot - half the number that were tuning in ten years ago.

The Senior Editorial Strategy Adviser felt that the BBC had responded appropriately and that it was reasonable for them to say that they could not engage in further correspondence with the complainant on this issue.

While the Senior Editorial Strategy Adviser regretted the dismay felt by the complainant and acknowledged his feelings that his Sunday evening's enjoyment had been reduced, she considered that the decision to move the programme was not one the BBC Trust would intervene in and it was therefore not appropriate to place his appeal before the Trustees. She also considered the BBC had responded reasonably to his request for

information about audience figures for the programme and that while she noted he felt the move had been made in 'haste' and queried whether consultation had been carried out, she considered that these were all matters that related to the creative and editorial output of the BBC and were therefore areas that the Trust would not become involved in.

The Panel's decision

The Panel was given the complainant's appeal to the Trust, the reply from the Senior Editorial Strategy Adviser and also the complainant's previous correspondence with the BBC.

The Panel noted that the complainant was unhappy with the decision to reschedule the programme. The Panel understood the concerns of loyal listeners when a programme moved to a different part of the schedule – in this case to the early morning when not all audience members would be able to listen. However, the Panel agreed that decisions on scheduling clearly fell within the direction of the editorial and creative output of the BBC which is specifically defined in the Charter (paragraph 38(1)(b)) as a duty of the Executive Board, and is one in which the Trust does not get involved. The Trust agreed that the decision was therefore outside the remit of the Trust.

For this reason, the Panel concluded that the appeal did not have a reasonable prospect of success.

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