

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

May 2016, issued July 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

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.

Complaint regarding filming near the Cenotaph for Top Gear

Two complainants appealed to the Trust on this matter. They had contacted the BBC about filming that had taken place near to the Cenotaph in London for the forthcoming series of *Top Gear*. They considered that the nature of the activity being filmed was inappropriate, given the sensitivity of the location, and they raised the following points:

- It was unacceptable to film near the Cenotaph.
- The person who had authorised the filming ought to be sacked.
- The footage should be deleted and never shown.
- Chris Evans was not a suitable presenter for *Top Gear* and should not have been given the role.
- The filming at the Cenotaph was wrong and was further evidence that Mr Evans was an unsuitable choice.

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

"Top Gear has been on location around central London over the past few days. Ahead of filming, the production team worked closely with the Metropolitan Police Film Unit and the Special Events Unit of Westminster Council. This was a large-scale, complex shoot, prepared over a period of four months, which required numerous road closures, health and safety regulations to be in place, and also included full disclosure to local residents, including the Treasury and Foreign Office.

"The Cenotaph was at no point intended to feature in the programme and therefore will not appear in the final film. However, we are acutely aware of how some of the images in the press look via the angle and distance they were taken and for which, as Chris Evans has already said, we sincerely apologise.

"The driver of the car was briefed by production prior to filming as to where to drive and to not do any manoeuvres close to the monument, an instruction to which he fully adhered.

"We would like to make it absolutely clear that the Top Gear team has the utmost respect for the Cenotaph, what it stands for, and those heroic individuals whose memory it serves so fittingly."

The two complainants remained dissatisfied. They made the following points in response:

- The BBC had not responded to the statement that the individual who had authorised the filming ought to be sacked.
- The whole area around Whitehall was “religious ground”.
- The fact that Mr Evans had said he was shocked at the filming indicated that the person responsible for it had not consulted the team properly.
- One complainant found the answer offensive personally and noted that his family was also offended – including his grandfathers who had fought in the war.
- He considered the matter was a waste of his TV licence fee.
- A senior executive who had been involved with the programme – and who had initially welcomed Chris Evans’s appointment as presenter – had subsequently left the programme. Newspaper reports had stated that she was “terrified” following Mr Evans’s appointment; however, this was inconsistent with the earlier comments.
- The BBC stated that it had not intended to feature the Cenotaph in its programme – in which case, why was the filming carried out and how much had it cost.
- It was a waste of money that the stunt had been filmed but now could not be shown.
- One controversial presenter had been replaced with another one.
- People had suffered disruption as a result of the filming – yet which BBC executives were going to pay as a result of the mistake.

At Stage 2, Audience Services sent a response which included information from senior editorial figures within BBC Television. It included the following point:

- The senior executive referred to had left the BBC, but it was not appropriate to comment on external speculation as to the reasons why she had left.

It also gave the following standard response to both complainants:

“We hoped it was clear from our first response we accept that the manoeuvres performed in this particular location were misjudged.

“We would like to amplify the assurance already offered, that the BBC would never knowingly disrespect any war heroes.

“We hoped it was abundantly clear from presenter Chris Evans’s immediate response to this incident how seriously our presenters and the BBC treated this matter.

“We hope you can accept our fulsome apologies and our further reassurances that we will be mindful of our filming locations henceforth.”

The complainants were informed that they could appeal to the Trust if they remained dissatisfied.

Appeal

The complainants raised the following points on appeal:

- The apologies that had been given – in writing by the BBC and in an announcement from Chris Evans – were not accepted.
- A letter from Westminster Council stated that permission for filming did not cover the events that had taken place, but instead noted that:

“In this specific location, the Top Gear car was to drive down one side of Whitehall and then return, before heading off to their next location.”

- The Trust’s consideration of the complaint should be understood in terms of a vote of no confidence in the planning, financing, filming and organising of the activity, which had involved “...a stunt car plastering all the religious monuments along Whitehall with burnt rubber”.
- The incident showed that someone was not fit to do the job they were employed for and this had to be in breach of BBC guidelines.
- The “cut and paste” responses were insulting and amateurish and indicated that the BBC was attempting to “shrug off” the mistakes.

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 acknowledged the significance of the Cenotaph to the British public and the sacrifice it represented. She also noted that the grandfathers of one complainant had fought in the war and that he and his family had found the suggestion that filming had taken place near to the Cenotaph deeply offensive.

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 direction of the BBC’s editorial and creative output” and “the operational management of the BBC” were defined as duties that were the responsibility of the Executive Board under article 38, (1)(b) and (1)(c) of the Charter.

She noted that all BBC output was required to meet the standards set out in the Editorial Guidelines; however, the complaints did not relate to broadcast output, but to events during the preparation of a forthcoming series. She considered that these were editorial and operational decisions that rested with the BBC.

She noted that the BBC had published an apology for the filming that had taken place and that the presenter had also apologised and indicated his own concern.

She noted that the complaints system was funded through the licence fee and that it was required to be efficient – in the interests of all licence fee payers. She appreciated that the complainants had been unhappy at being sent standardised responses and that they had felt they were insincere and glib. However, she noted that the use of consolidated responses was in line with the Complaints Framework for reasons of efficiency and she considered that there was no indication the responses were not sincere.

The Adviser noted that one complainant considered that the executive who had authorised the filming ought to be sacked, while the other complainant considered that Chris Evans was not an appropriate choice to present *Top Gear*. She noted that decisions about who should be employed in which roles were operational ones that rested with the BBC.

The Adviser also noted that one complainant had been unhappy that he did not have a telephone number for the Trust. She noted that he had been sent the standard acknowledgement letter which included information about how his complaint would be considered and the timescale for that. She noted that it was a formal complaints process

and that complaints and appeals were normally taken in writing in order to ensure that they fully and accurately captured the complaint that was being made.

The Adviser considered that the main points of complaint were operational and editorial matters that rested with the BBC and were not matters for the Trust. She therefore did not consider it was appropriate, proportionate or cost-effective to proceed with the appeals as they did not have a reasonable prospect of success. The Adviser did not propose to put them 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 additional points:

- The letter he had received from the Senior Editorial Adviser was a “cut and paste” response.
- The apology that Chris Evans had made was not an appropriate response; the much older generation of the public would not necessarily know Chris Evans.
- There had been a lack of communication between the BBC and the local authority in terms of the filming.

The Panel’s decision

A panel of the Complaints and Appeals Board 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 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 direction of the BBC’s editorial and creative output” and “the operational management of the BBC” were defined as duties that are the responsibility of the Executive Board under article 38, (1)(b) and (1)(c) of the Royal Charter.
- The Royal Charter also explains that “the Trust must not exercise or seek to exercise the functions of the Executive Board”. (Article 9(3))
- Decisions about what staff to employ, the organisation of filming and the appropriate permissions and whether to use the resulting material were editorial and operational matters. These were therefore matters that rested with the BBC programme makers who reported to the Executive Board rather than the BBC Trust.

Trustees noted that the complainant was dissatisfied with the consolidated responses he had received, but noted that the use of consolidated replies was in line with the Complaints Framework and reflected the need for efficiency, in the interests of all licence fee payers.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 refurbishment works at BBC South West

The complaint concerned refurbishment works being carried out at BBC South West's Plymouth premises. The complainant made the following points:

- Construction work had been taking place for over a year. The complainant was concerned that her property on the other side of the road had been devalued. It was like living opposite a factory and there were now problems with mobile and broadband coverage.
- There were spotlights installed on the outside of the BBC building that were extremely intrusive. This was a continuing problem despite the adjustments made by the construction company.
- The car park for the BBC building was not big enough and staff parked illegally along the street, which was a hazard, and there was often noise at antisocial times of day.
- She had complained to reception staff on several occasions about the illegal parking but they were unapologetic and dismissive.
- She had also complained to the construction company directly but felt that their response indicated she was not a high priority.
- She disagreed that residents had been contacted by the construction company.
- She felt that her complaint has been dismissed by both the BBC and the construction company and that there was a certain element of snobbery in the way they engaged with her. She was taken aback by Audience Services' response which she found very patronising in tone.
- She said she was tempted to take legal action.

BBC Audience Services made the following points:

- The works on the BBC building were temporary and due for completion around the end of March. Renovations and refurbishments were a normal part of a building's lifecycle and were subject to Planning Approval.
- The spotlights installed on the building the previous year were put up incorrectly so they were shining outwards. These had now been adjusted. Additional lighting had been added on-site to illuminate the vehicle parking area. These were needed temporarily to replace the main lights which had been broken. They had been adjusted to ensure they were directed more towards the ground, but were low level, low-power lights situated some distance from the complainant's property.
- In terms of vehicle parking in surrounding streets, the City Council's Parking Enforcement Officer confirmed that there were no parking restrictions in the area, so it was perfectly acceptable for people to park there. The BBC reminded staff about the need to be considerate, but any views about vehicle parking generally or associated noise issues were matters for the Council.
- Regarding on-site noise generally, the BBC had worked within Council guidance as part of the works' approval. Whenever the BBC had undertaken particular work that might create a noise issue (for example overnight or at weekends) the team had attempted to warn the neighbours – and to the BBC's knowledge no issues had been raised on that basis during the project.
- The project manager of the construction company had advised the BBC that he had spoken to the complainant and then followed up with a voicemail to let her know that he needed to visit the site to see for himself the spotlights concerned

before he could respond to the complaint. The lights in question were adjusted to point in the right direction very quickly.

- The project team had contacted all neighbouring residents prior to the works commencing and invited everyone in to see the plans in late 2013. In October 2015, a further letter-drop was undertaken to explain that the project had suffered some delay and would continue until the spring of 2016.
- They did not know what the complainant meant when she referred to “snobbery” in this area.

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 her complaint. She said she found the response from Audience Services “hugely insulting”.

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 noted that the complaint related to long-term construction and refurbishment works at BBC South West and that it had been addressed by staff at BBC South West and the construction company concerned. She noted that the complainant was not happy with the responses she had received, or the action taken by the construction company to mitigate the issues raised, and wished the Trust to intervene.

The Adviser was sorry to learn that the complainant had experienced so much inconvenience, but she noted that building works were part of the operational management of the BBC. Under the terms of the Royal Charter and accompanying agreement the Trust did not have a role in the operational running of the BBC. It was not within the scope of the Trust to intervene in a dispute between the complainant and the BBC senior management team responsible for commissioning the works, or the construction company carrying them out.

The Adviser also noted that the complainant found the responses from Audience Services “hugely insulting”.

The Adviser noted that the building work had gone on for more than a year and appreciated that living near to any building work was likely to be disruptive. She also noted that the BBC’s initial response had informed the complainant that the building work was “merely temporary” and sympathised that this did not acknowledge the degree of aggravation that ongoing building work could cause.

However, she did not consider the BBC’s responses were “hugely insulting”; she noted that Audience Services had issued a full response to the complainant’s points, detailing action that had been taken to try to address her concerns. She noted too that Audience Services’ second response had included an apology that the complainant had been dissatisfied with the first. The Adviser appreciated that the BBC had not resolved the complainant’s concerns to her satisfaction, but the Adviser considered that the BBC had responded to the issues appropriately in an informative and reasoned manner.

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 her appeal. She made the following points and emphasised the importance and severity of her concerns:

- Since the renovations it now felt and looked as if she was living opposite a 24 hour factory with glaring lights on constantly and no consideration was given to home owners, such as herself, either before the planning stage or afterwards.
- Local residents were worried that property values had been affected and she felt that the renovations were aesthetically very displeasing and obtrusive.

The Panel's decision

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

Trustees noted that, now the renovations were complete the complainant had raised fresh issues. The Agreement between the Secretary of State for Culture, Media and Sport and the BBC says that the Trust should not have a role in handling or determining individual complaints in the first instance (Clause 90(3)). Therefore the Trust was unable to consider fresh matters at this stage of the complaints process.

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 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). Operational decisions about how to manage BBC building renovations projects were matters for the Executive, not the Trust. The Charter also explains that "The Trust must not exercise or seek to exercise the functions of the Executive Board". (Article 9(3)).
- Additionally :
 - Renovations were subject to Council planning approval, which had been granted before the work went ahead.
 - The City Council's Parking Enforcement Officer confirmed that there were no parking restrictions in the area, so it was acceptable for people to park there.
 - The BBC had endeavoured to warn neighbours of noise in advance and work within Council guidance.
- There was no evidence that a significant matter of general importance had been raised.

- It was not within the scope of the Trust to intervene in a dispute between the complainant and the BBC senior management team responsible for commissioning the works, or the construction company carrying them out.
- Trustees agreed that the BBC had responded to the complainant's concerns appropriately in an informative and reasoned manner. They were sorry that the complainant had been dissatisfied by the BBC's responses but the Trustees did not consider the tone of the stage 1 responses to be patronising or insulting.

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 BBC coverage of the EU Referendum debate in Wales

The complaint concerned a debate held at Cardiff University between the Welsh First Minister Carwyn Jones and the UKIP leader Nigel Farage. The complainant alleged that a lack of news coverage of the debate by the BBC suggested bias against UKIP/Nigel Farage. The complainant made the following points:

- He had watched this debate online and considered that the First Minister had not covered himself in glory.
- The public need information from discussions like this one in order to make up their own minds.
- The BBC had a duty to the licence fee-paying public to disseminate as much information as possible.
- The debate was not organised by one political party for its own benefit, but by Cardiff University to help clarify the issues.
- As far as he could tell, the BBC had not even mentioned this debate. He thought this was perhaps because of bias against UKIP/Nigel Farage.
- The debate concerned the entire country and should have been available across the UK, at least on *This Week* and *Daily Politics*.

BBC Audience Services made the following points:

- The BBC had reported on the debate in online news coverage as illustrated in the following articles :
<http://www.bbc.co.uk/news/uk-wales-politics-35101401>
<http://www.bbc.co.uk/news/uk-wales-35285192>
<http://www.bbc.co.uk/news/uk-wales-politics-35277063>
<http://www.bbc.co.uk/news/uk-wales-politics-35288599>
<http://www.bbc.co.uk/news/uk-wales-politics-35292163>
- The BBC believed it had reported on the debate sufficiently, but noted the complainant's concerns.
- The long campaign period leading up to the Referendum would undoubtedly include debates which BBC News would cover.

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 made the following points:

- He did not believe that the BBC had given sufficient prominence to the debate.
- It was not satisfactory that the debate was covered in BBC Wales' output as the EU Referendum was an issue for the whole of the UK.
- The debate at Cardiff University would have helped to inform the general public throughout the whole of the UK.
- He believed that Nigel Farage's involvement might have encouraged the BBC's decision not to broadcast the debate in order to limit publicity, but it was not for the BBC to ration such an important debate.
- He believed his complaint did raise a significant issue of general (public) importance.

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 view that the debate held at Cardiff University should have been covered more widely. She agreed that the BBC had a responsibility to inform the public impartially during the run-up to the EU Referendum and noted that the BBC issued specific guidelines which could be found online at: <http://www.bbc.co.uk/editorialguidelines/guidelines/appendix8>.

She noted that the complainant considered it was a possibility that the reason the BBC had chosen not to report on the debate throughout the whole of the UK was because the BBC did not want to give publicity to Nigel Farage and the campaign for Britain to leave the European Union.

The Adviser noted that all BBC output had to meet the standards set out in the BBC's Editorial Guidelines – including the requirement for "due impartiality":

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

The Adviser noted that in this case, the complainant was not alleging a lack of impartiality within a specific piece of BBC output, but was suggesting that by not including reporting on the debate in its UK-wide news coverage, the BBC was demonstrating partiality by omission. The Adviser noted that decisions about which stories to cover and how to cover them were matters of editorial judgement. The Trust would only have a role if output did not meet the standards set out in the Editorial Guidelines. She noted the BBC's editorial commitment to reflecting a wide range of opinion across the output as a whole and over an appropriate timeframe so that no significant strand of thought was knowingly unreflected or under-represented.

The Adviser noted that there was no area of its output where the BBC's commitment to due impartiality and independence from political influence was more closely scrutinised than in reporting election and referendum campaigns. For the EU Referendum campaign in particular, that scrutiny would be intense and high profile. Content producers were made aware of the importance of being sensitive to the need for particular care during the run-up to the Referendum even before the formal campaign period had begun.

She noted that Audience Services had explained that over the course of the 16 week long campaign period the BBC would undoubtedly include different sides of the debate in its coverage to meet the editorial requirement for all significant strands of debate to be reflected over time. The Adviser had not seen evidence that she believed would be likely to lead Trustees to conclude that there had been a breach of the Editorial Guidelines in this instance.

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 direction of the BBC's editorial and creative output" was defined as a duty that was the responsibility of the Executive. In this instance, the Adviser believed Trustees would be of the view that the responsibility for editorial decisions concerning the content of BBC News output during the EU Referendum campaign rested with BBC News editorial teams.

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 that his complaint was that the BBC should have given more prominence to the debate in its national news output and made the following points:

- The debate was relegated to the voters of Wales.
- There appears to be a "left wing liberal bias, especially on Europe" within the BBC.
- The subject of his complaint (the debate) is now over three months old.
- The BBC's failure to explain why the debate was not given more prominence can only lead one to believe that it was because one of the persons involved was from UKIP.

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 which stories to cover and the prominence to be given to them are matters of editorial judgment for the BBC Executive. As the Royal Charter (article 38 (1) (b)) sets out, "the direction of the BBC's editorial and creative output" is specifically defined as a duty of the Executive Board and one in which the Trust does not get involved.
- Audience Services had explained to the complainant that different sides of the EU Referendum debate would receive coverage in the weeks leading up to the Referendum in order to meet the BBC's requirement for impartiality over time.
- There was no evidence to support the allegation that the BBC had decided not to cover the debate outside Wales because it had a participant from UKIP.

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

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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 a lack of BBC News coverage given to a Veterans for Peace protest in Downing Street

The complainant felt that the BBC had ignored a significant news item by not covering a Veterans for Peace protest in its output. She made the following points:

- She had read press reports about veterans throwing away their medals in protest against air strikes in Syria during a Veterans for Peace protest in Downing Street.
- She wondered why the BBC had not covered such a significant event. This omission showed disrespect to veterans and an absence of appreciation of the sacrifices made by men and women of the armed forces.
- She suggested that the BBC include the story in a news review of the year, and that this would “accord with the BBC’s aim for balance and interest”.
- She said she was speaking as the main family support for a serving member of the armed forces, and therefore had an understanding of the integrity and courage of the veterans who made their protest in a hugely personal and impressive way.
- She said she had followed the web links given by Audience Services but there was no mention of the issue she had raised about the Veterans for Peace protest.
- She felt that Audience Services had wrongly understood that she was complaining about the amount of coverage given to the protest, when she was complaining that there had been no coverage at all.
- In a follow-up complaint she introduced an additional concern that no coverage had been given to the Leader of the Opposition’s visit to the floods in Cumbria. She felt the item was unusual because she had never seen a politician asked to sing Happy Birthday to a citizen before and join in with the singing. She thought it was also interesting because the citizen was a supporter of Jeremy Corbyn and her view contradicted media assertions that ordinary people would not elect him.

BBC Audience Services made the following points:

- The BBC had given extensive coverage to the debate on the bombing of Syria. Links to recent BBC News Online reports on this subject were given.
- Decisions about what stories to cover and how much coverage to give them were made by BBC news editors and were subjective. The BBC accepted that not everyone would think those decisions were correct on every occasion.
- Feedback from audiences when they felt a story had been overlooked or marginalised was appreciated. Such feedback was sent to senior management and news teams every morning and helped to inform decisions about current and future reporting.
- They apologised in their stage 1b response that they had not acknowledged that there was no BBC coverage of the event at all. They explained that in any given week there could be many protests and demonstrations on different issues around the country and it was not possible to cover them all.
- They acknowledged her feedback concerning Mr Corbyn’s visit to Cumbria being another story which should have received BBC news coverage.
-

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 her complaint. She reiterated her concerns that the lack of news coverage given by the BBC to the Veterans for Peace protest showed poor editorial judgement.

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 ignored a significant issue of public interest by not reporting on the protest by armed forces veterans in Downing Street and also, by not covering Jeremy Corbyn's visit to Cumbria where he spoke to flood victims. She noted that Audience Services had responded to both issues explaining that decisions about which news stories to cover and how to cover them were matters of editorial judgement, and the BBC accepted that not everyone would agree with the decisions taken by its news editors.

The Adviser appreciated that the complainant did not feel the web links included in Audience Services' response were helpful, as they did not make any reference to the issue which concerned her. However, she considered that they had been included as examples of coverage of the wider issue concerning the war in Syria.

The Adviser acknowledged that the complainant did not agree with the BBC's editorial decisions on these two issues. However, since decisions on news reporting were part of the editorial and creative management of the BBC, the Trust would only have a role if the output did not meet the standards set out in the BBC's editorial guidelines. The Adviser had not seen evidence to suggest that was the case here.

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 her appeal. She reiterated her concern that the BBC showed a lack of respect for the UK's armed forces by not covering the protest and added these points:

- The BBC breached the fundamental British value of respect, and respect ought also to be one of the BBC's values.
- The BBC breached its requirement for political impartiality as the complainant believed that by not reporting on the protest the BBC gave an advantage to the opposing political stance and therefore the BBC was in breach of the Editorial Guidelines.

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 which stories should be reported on are matters of editorial judgement and for the BBC Executive. As the Royal Charter (article 38 (1) (b)) sets out, “the direction of the BBC’s editorial and creative output” is specifically defined as a duty of the Executive Board and one in which the Trust does not get involved. The decision whether or not to cover the protest was a matter for the Executive and not the Trust.
- Omitting coverage of the protest did not amount to giving support to an opposing view. Nor did it indicate a lack of respect for veterans.
- Audience Services had demonstrated to the complainant that the BBC had given extensive coverage to different stances on the wider debate surrounding the war in Syria.

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

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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, 1 February 2016

The complaint concerned the scheduling of *Eggheads* repeats. The complainant made the following points:

- Inappropriate scheduling of an out-of-sequence repeat of *Eggheads* meant that a large rollover amount of money was not seen to be won.
- The programme planners had decided that it was time to “artificially bring the *Eggheads*’ winning streak to an end by broadcasting an old episode”.
- This was serious deception; it was virtually fraudulent and showed contempt for viewers.

BBC Audience Services made the following points:

- The BBC had not set out to deceive viewers by broadcasting this repeat episode.
- The episode broadcast on 1 February 2016 was highlighted in listings with R as a repeat and the new series would continue from 29 February 2016 with the next episode (episode 7 from series 17).

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 concern. He disagreed that the programme had been billed as a repeat.

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 that the complainant believed the BBC’s decision to broadcast a repeat episode of *Eggheads*, instead of the next programme in the current series in which a huge rollover total of £16,000 was set to be won, was “tantamount to fraud”. She also noted that the complainant did not believe the BBC had been transparent about the fact that it was a repeat.

The Adviser noted that Audience Services had explained in their response that the current run would recommence on 29 February and pick up where it left off with the next episode in the series. She appreciated that this was frustrating for regular *Eggheads* viewers, especially when a rollover of prize money over several weeks had built up anticipation of a big win.

However, she had not seen evidence that the BBC was attempting to deceive viewers and she understood that programme planners had attempted to inform the audience about the repeat status of episodes which interrupted the current *Eggheads* series. She acknowledged the complainant’s view that it was not acceptable to broadcast a repeat episode of a quiz show where prize money was “rolling over”, but she noted that programme planners were entitled to make changes to the schedule for a number of reasons. Since 29 February, the new episodes from series 17 had been broadcast.

The Adviser 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.

The Adviser noted the complainant's further concern that he considered the responses from Audience Services had been curt and arrogant. However, after reviewing the correspondence she did not agree that they were impolite. She appreciated that the term "listings" was not clearly defined, but understood this to be an umbrella term for print publications, online information services and electronic programme guides. She noted that the BBC did try to inform viewers of late changes to the schedule by way of on-air announcements.

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 and reiterated his concerns. He objected to the use of the template paragraph which ends letters from the Trust Unit which conclude that an appeal is inadmissible.

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 Royal Charter and accompanying Agreement between the Secretary of State and the BBC draw a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" 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 responsibility for scheduling programmes and informing audiences of changes to the schedule rested with the relevant programme-makers and planners. This was not a matter for the Trust.

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 BBC News output

The complaint concerned the BBC's news output which the complainant believed was an outlet for lies and propaganda. The complainant made the following points:

- The BBC portrayed President Assad as evil, but said nothing about Israel.
- The BBC programmed and manipulated its viewers prior to important votes.
- The BBC was involved in the 7/7 and 9/11 terror attacks. The BBC was covering up paedophilia at the top of society.
- The BBC pretended the UK was a democracy when all political leaders were groomed to be controlled by the same elite that controlled the BBC.
- The BBC was evil, controlled by evil and run by evil. It was becoming more obvious every day and more ordinary people were catching on to its lies.
- Why was the BBC portraying Russia as evil?

BBC Audience Services made the following points:

- They understood that the complainant believed the BBC was controlled by establishment elite who used BBC news output to promote their own world view.
- They were sorry the complainant believed BBC News was biased but did not believe it was so. Editors were responsible for ensuring programmes were balanced and met the BBC's standards of impartiality.

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 said he would hold back payment of his licence fee until all the points he had made were addressed, especially his points about the BBC's involvement in the 9/11 "lie" and its reporting of building 7 coming down before it happened.

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 noted that all BBC output was required to meet the standard of "due impartiality" and "due accuracy" which, under the Editorial Guidelines, meant that the accuracy and impartiality must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation.

The Adviser noted the complainant's view that BBC News was being used as a tool for propaganda, and that it portrayed a slanted view on almost everything in order to back an agenda that went against the interests of the British people. She noted his belief that the BBC's news scripts, especially during its reporting of the events of 9/11, provided evidence of this. However, she noted that his allegations were of a wide-ranging and general nature and he had not supplied any detail of specific broadcasts or other evidence in support of his allegations. She noted that the complaints framework asked complainants to submit as much specific information as possible about the particular piece

of output they were complaining about, and to make their complaint within 30 days of the broadcast, or, for online content, within 30 days of the date when the content first appeared online.

As explained by Audience Services, BBC News Editors were responsible for ensuring that the output met requirements for due accuracy and due impartiality. The Trust would not have a role unless there was evidence to suggest that editorial standards were not being met. The Adviser had not seen evidence that would be likely to lead Trustees to conclude that was the case here.

Finally, the Adviser noted that the complainant intended to withhold his licence fee. She noted that the UK's TV licensing regulations stipulated that if watching or recording television programmes as they were broadcast on TV, viewers must, by law, be covered by a TV Licence.

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:

- The response from the BBC was pathetic.
- The BBC was a propaganda tool and had an agenda against Labour Party Leader Jeremy Corbyn.
- BBC's *Question Time* programme was being used to prepare the way for another face in this pretend democracy.

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:

- Trustees noted that the complainant had not made a complaint about specific items of output but had made generalised assertions. On this basis the Executive would have been correct to close down this complaint given that the Editorial Complaints and Appeals Procedure says that:
Your complaint should include:
 - the name / title of the broadcast or publication you are complaining about;
 - the date and time of the broadcast or publication;
 - the channel or service on which it was broadcast, or the web address on which it was published;

- the nature of the complaint (giving reasons why you are dissatisfied with the BBC) and (where possible) the particular parts of the programme or publication you are complaining about;
- your name and/or contact details (anonymous complaints will not normally be considered)

...The inclusion of these details (or as many of them as possible) is very important. A failure to provide them may mean that the BBC is not able to look into your complaint.

- There was no evidence to support the assertions made by the complainant.
- 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 BBC News

The complaint concerned the decision by BBC News not to cover the story suggested by the complainant which related to the loss of his house. He felt that the BBC was discriminating against him by not reporting on his case. He made the following points:

- BBC News had declined to cover his story about his house being stolen by a bank and he felt the BBC was discriminating against him by not covering the story and noted that BBC News had covered a similar story involving a white individual.
- He said he had been rudely treated by BBC news staff on the telephone. Two members of BBC News staff had terminated his phone calls, with one advising that he would get a call back but this did not happen.
- He referred to a statement broadcast by Nick Robinson about the law on sexuality being subject to a reversal at any stage. He requested a copy of this statement and asked for Nick Robinson to explain what he meant by that interpretation.
- The BBC had failed to listen to him or comprehend the desperate situation he was in.
- He was a victim of serious crime and he felt the BBC, as a news organisation, should report the story for the benefit of others in a similar situation.
- When responding to his complaint, he believed Audience Services had made a prejudicial case against him and had not properly considered anything he had said.
- He requested a Reasonable Adjustment

BBC Audience Services made the following points during phone calls with the complainant:

- They had spoken with the BBC News planning desk about the complainant's story and understood that he had been told that BBC News could not assist with his predicament, or cover the story involving his house, his bank and government departments. They suggested that the complainant approach the relevant Ombudsman service or take recourse to the judicial system.
- Because of the enormous time pressures on members of the BBC News planning desk team, they were unable to discuss the matter further with the complainant on the telephone.
- They explained that with so little information the BBC would find it difficult to investigate the complainant's concerns and they would not take any further action regarding comments made by Nick Robinson unless the complainant could supply further information about when and where he had heard the report.

Audience Services said they had nothing further to add and 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 in a telephone conversation with the BBC Trust Complaints Adviser on 3 May 2016:

- He believed there was an element of white supremacy to the BBC and he felt he was being socially discriminated against.

- One person in BBC News had shown initial interest in his story but this was not followed up. He had spoken to two senior people in the BBC and they did not listen to him or address his concerns. He said the experience had made him physically ill and he should be shown more understanding.
- He did not feel he should have to go through a long appeals process. He said the bank had stolen his house, but the BBC had refused to report this significant story and he thought the BBC should take action to reverse this decision straight away. He said that journalism should be about prevention rather than reporting, and he thought the BBC's reporting was at the expense of victims.
- This was a significant story

Decision of the Head of Editorial Standards

The Head of Editorial Standards, BBC Trust 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.

In a telephone conversation with the complainant on 3 May 2016, the Head of Editorial Standards, BBC Trust, explained her decision. She made the following points:

- The BBC had editorial discretion about which stories they wanted to run.
- She did not believe the Trustees would uphold the appeal. Audience Services had explained that BBC News had told him they could not take his story and it was reasonable that, once this decision was taken, other people in BBC News would not talk to him about his story as they were very busy chasing up other stories.
- She read an extract from the Audience Services Advisor's written response to the complainant explaining that he had spoken to the senior team on the BBC News planning desk who had explained to the complainant on the phone that BBC News could not assist with his predicament or cover his story involving his house, his bank and government departments. That being the case, the Audience Services Advisor explained that other colleagues on the BBC News planning desk were also unable to assist the complainant, and due to the enormous time pressures they were under in terms of rushing to research and prepare countless stories and programmes each and every day, they were unable to discuss matters further.
- She felt that the written response from the Audience Services Adviser was reasonable.
- In response to his query about how he could get the decision by BBC News reversed, she explained that he could not do so, but he could contact the BBC via the website to send them information about his story, but there was no guarantee of a reply.

Request for review by Trustees

During his phone call with the Head of Editorial Standards, BBC Trust, on 3 May 2016, the complainant requested that the Trustees review her decision not to proceed with his appeal.

The Panel's decision

Trustees noted the points made by the complainant, the BBC and the Head of Editorial Standards, BBC Trust.

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 sets out a division of responsibility between the BBC Executive and the BBC Trust. "The editorial and creative direction of the BBC" was defined as a duty that was the responsibility of the Executive Board under article 38,(1)(b)
- Editorial decisions about the content of BBC News output were matters for the programme makers who report to the Executive Board and not the Trust.
- This meant that BBC News Editors had editorial discretion to decide which stories they wanted to run in BBC News output.
- The Trust could not interfere with this decision or ask the BBC to keep answering the complaint's calls once that decision had been taken.
- Trustees agreed that the BBC had replied to the complainant's concerns reasonably and they had not seen evidence to suggest that the complainant was being discriminated against.

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 the BBC's treatment of Tony Blackburn

The complaint concerned the departure from the BBC of radio presenter Tony Blackburn.

Mr Blackburn issued a statement on 24 February 2016 in which he said that the BBC had terminated its relationship with him with immediate effect. He said that:

- in 1971 allegations were made by the mother of a 15-year-old girl that her daughter's diary contained suggestions that she had been seduced by celebrities, including Mr Blackburn
- sadly in the same year the girl took her own life
- Mr Blackburn had been told that the mother had informed the BBC that her daughter had withdrawn the allegation against him
- according to records seen by Dame Janet Smith (who was conducting a review of the culture and practices of the BBC during the years that Jimmy Savile worked there), he was allegedly interviewed about the girl's diary before her death by a senior figure at the BBC, and also by Brian Neill QC
- Mr Blackburn denied being interviewed by either man in this context and said he was not guilty of any inappropriate conduct
- he intended to take legal action against the BBC.

The complainant made the following points:

- Mr Blackburn had been sacked over a disagreement as to whether or not he took part in some sort of investigation many decades ago, and these were insufficient grounds for his dismissal
- the complainant was concerned about the impact of the decision on Mr Blackburn's finances, reputation and health
- the decision had resulted in the loss from the airwaves of a competent, popular and entertaining presenter
- it also risked creating unpopularity for the BBC and deflecting public attention from the important issues highlighted in the Savile report.

BBC Audience Services made the following points:

- this matter was potentially subject to a legal process, so the BBC could only reiterate Director-General Tony Hall's explanation which he gave in answer to a journalist's question, in which he said:
 - the Dame Janet Smith Review was one of the most important inquiries in the BBC's history and that put an even greater responsibility on everyone in that inquiry to co-operate fully and to be open
 - many survivors and witnesses had honestly and openly co-operated fully, at great personal cost
 - Dame Janet had rejected Mr Blackburn's evidence and Mr Hall had to take that extremely seriously
 - Mr Hall was making no accusations about past events or behaviours, but his interpretation was that Mr Blackburn fell short of the standards of evidence that such an inquiry demanded.

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.

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 noted that the Royal Charter and accompanying Agreement between the Secretary of State and the BBC draw a distinction between the role of the BBC Trust and that of the BBC Executive Board, led by the Director-General. "The direction of the BBC's editorial and creative output" 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.

This distinction means the BBC is entitled to make operational decisions without interference and the Trust would only have a role if the BBC was potentially in breach of any of its other commitments – for example, if one of the licence-fee funded services has not operated within the terms set out in its Service Licence, or if a complaint raised a matter that was a potential breach of the BBC's editorial standards (as set out in the Editorial Guidelines).

The Adviser noted that this was not a first party complaint by Mr Blackburn, nor did it relate to an editorial matter, nor to a breach of the BBC's editorial guidelines. She understood that the complainant felt strongly about the case, but she decided that Trustees would be likely to consider this an operational matter and one that was outside their remit.

Taking this into account the Adviser considered that 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.

Request for review by Trustees

The complainant requested that the Trustees review the decision not to proceed with his appeal. He said he felt strongly about the case in point because it brought into focus "an increasingly cavalier attitude of management towards employees".

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 point of complaint did not engage the BBC's editorial guidelines
- the complaint concerned an operational matter
- "the operational management of the BBC" is defined as a duty that is the responsibility of the Executive Board (Article 38 (1)(c) of the Royal Charter)
- the Royal Charter also explains that "the Trust must not exercise or seek to exercise the functions of the Executive Board". (Article 9(3) of the Royal Charter)

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

Trustees decided not to take the appeal, on the basis that it would not be appropriate, proportionate or cost-effective since there was no reasonable prospect of the appeal succeeding.

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