

BBC protocol

E3 – Complaints

Framework

November 2016

[Operational from January 1 2017]

Complaints Framework

What is a protocol?

'Protocols' are formal documents which set out how the BBC Trust will carry out its functions as required by the BBC's Royal Charter and Framework Agreement. Protocols set out the Trust's processes, and the respective roles and responsibilities of the BBC Trust and the BBC Executive Board.

What this protocol is about

This protocol sets out the BBC's complaints framework. It consists of the overarching framework, and associated procedures for handling complaints (which includes appeals to the BBC Trust) in respect of various areas of the BBC's operations. These procedures are:

1. Editorial Complaints procedures
2. Fair trading complaints and appeals procedures
3. Television Licensing complaints procedures
4. General complaints procedures (including procedures for handling complaints about procurement or the independent commissioning process; about the moderation of message boards and blogs; and about reception interference to television and radio services)
5. Complaints about the application of allocation criteria to party political broadcasts, party election broadcasts and referendum campaign broadcasts
6. Digital switchover help scheme complaints procedures – *This procedure has been removed as digital switchover is complete. The reference is left here for completeness.*
7. Complaints about Handling and Complaints about the Trust, Trustees or the Trust Unit

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Complaints

This protocol is about the framework within which the BBC and its commercial arm will handle complaints.¹ It has been amended to reflect arrangements for the transition to a new system of governance and regulation for the BBC under the new Royal Charter and Agreement (which takes effect on the 1 January 2017). Broadly, the existing functions of the Trust and the Executive Board will continue until the new system comes into effect on the 3 April 2017.² As from that date, the Trust and the Executive Board are abolished. References in this protocol to those bodies and their functions must be read accordingly.

Introduction to the complaints framework

- 1.1 This Protocol makes clear the respective responsibilities of the BBC Trust and the BBC Executive³. It also sets out a high-level statement of the criteria which all BBC procedures for resolving complaints should meet in the way they are both drawn up and operated. Finally, it sets principles which apply to all complaints, and which apply both to the BBC and to people making complaints. However, after the 31 December 2016 this protocol will not apply to complaints about the criteria for the allocation of party political broadcasts, party election broadcasts and referendum campaign broadcasts, and about the application of those criteria. These will be a matter for the BBC Executive Board from the 1 January 2017 under the transitional arrangements of the BBC Charter which comes into force on the 1 January 2017.
- 1.2 The complaints framework contains rules and principles according to which different kinds of complaint will be handled and resolved. It comprises seven "Procedures", each of which contains the steps to be followed for bringing, and determining, each particular kind of complaint. These are—
 - 1.2.1 editorial complaints
 - 1.2.2 fair trading complaints
 - 1.2.3 television licensing complaints
 - 1.2.4 general complaints
 - 1.2.5 complaints about party election, party political and referendum campaign broadcasts (not appealable to the Trust from the 1 January 2017)
 - 1.2.6 Digital Switchover Help Scheme complaints (not operational)

¹ The BBC's Royal Charter requires the Trust to set and publish such a framework: article 24(2)(g). The Framework Agreement also contains specific obligations regarding complaints, in clauses 89 and 90.

² Or such later date as may be determined by the Secretary of State with the agreement of the BBC and (if appointed) the Chair of the new Board.

³ The BBC Trust is part of the BBC and is its governing body. The BBC Trust sets the overall strategic direction of the BBC and has general oversight of its work. The BBC Executive is responsible for delivering the BBC's services in accordance with the priorities set by the Trust and is responsible for all aspects of operational management except that of the Trust's resources.

- 1.2.7 complaints about handling and complaints about the Trust, Trustees or the Trust Unit.
- 1.3 The complaints framework also contains further provisions in two annexes to this Protocol:
 - 1.3.1 Annex A outlines which categories of complaints fall outside the scope of the complaints framework.
 - 1.3.2 Annex B sets out the BBC's Expedited Complaints Procedure which may be used by the BBC when dealing with complainants who complain repeatedly and persistently.

What is a complaint?

- 1.4 The BBC receives comments and appreciations about many issues but generally considers a complaint to be a criticism which expects a reply and would ideally like things changed, even if we are unable to respond as the complainant might wish. It isn't possible to define the difference precisely, but the BBC reserves the right to treat correspondence as a comment rather than a complaint where appropriate.

The role of the Trust and the Executive in complaints

- 2.1 The Trust is responsible for setting and publishing one or more frameworks within which the BBC and the commercial arm will handle complaints, and the procedures that are to apply. This is with the exception of complaints about the criteria for the allocation of party political broadcasts, party election broadcasts and referendum campaign broadcasts, and the application of those criteria which will be a matter for the BBC Executive Board from the 1 January 2017.
- 2.2 The Executive will consider complaints in the first instance.⁴
- 2.3 If the BBC Trust receives a complaint that has not been considered by the Executive, it will either return it to the person who has made a complaint ("the complainant") with an explanation that it cannot determine complaints in the first instance, or pass it to the Executive for handling, and inform the complainant. This does not apply to complaints that relate to anything the Trust itself or the Trust Unit has or has not done.
- 2.4 If a complainant wishes to take the matter further once they have been through the Executive's complaints procedure, the Trust may agree to consider the complaint as an appeal.⁵ The appeal will not be considered unless it raises a matter of substance. In the event that the Trust upholds an appeal the Executive will usually apologise to the complainant.
- 2.5 The Trust is the final arbiter if any question arises as to whether an appeal is for the Trust to determine or not.

⁴ BBC Agreement, clause 89.

⁵ The BBC Agreement states that 'all appeals that raise matters of substance are subject to a right of appeal to the Trust, and... the Trust is the final arbiter if any question arises as to whether an appeal is for the Trust to determine or not.' Under the transitional arrangements of the BBC's Charter commencing the 1 January 2017, the authority to decide whether an editorial appeal is for the Trust to determine or not may be delegated to Trust Unit staff after the 31 December 2016.

Complaints framework: general criteria and principles

3.1 All BBC Procedures for resolving complaints should meet the following criteria in the way they are both drawn up and operated—

- **Clarity:** Procedures should—
 - be readily available and easy to understand;
 - give detailed information on how complainants can expect to be treated (including, for example, timescales);
 - if a complainant requires it, give guidance explaining how the complaints system works, and about any other methods for resolving a dispute with or complaint about the BBC (e.g. through other bodies such as Ofcom);
 - require the BBC to give an explanation for any decision about a complaint or appeal;
 - make provision for reasonable adjustments to be made so that the BBC complaints procedures are accessible, in accordance with the Diversity Strategy.⁶
- **Fairness:** complaints are dealt with in an open-minded and impartial way; all sides of the story are considered; so far as practicable, a complainant should be on an equal footing with the BBC, the Trust, the Executive Board or the commercial arm.
- **Openness:** the Procedures are consistent with the Charter and Agreement; they are transparent and are monitored effectively by the Executive and the Trust.
- **Efficiency:** the process must be appropriate, proportionate and cost effective, balancing the interests of all licence fee payers with the rights of individual complainants and the BBC. This includes empowering staff to manage difficult behaviour by complainants.
- **Timeliness of response:** the complaints process should be quick and simple.

3.2 In addition, special requirements apply to the handling of fair trading complaints, including: where any advice is provided to the Trust that it is provided by independent advisers; being clear about sanctions and remedies; and maintaining appropriate non-disclosure commitments in respect of confidential information received from complainants.

⁶ <http://www.bbc.co.uk/diversity/strategy.shtml>. And, where applicable, the Equality Act 2010.

Annex A – Complaints outside the scope of the complaints framework

Complaints where there is recourse to the law

- 1 For some categories of complaint there may be legal remedies available to complainants. If a complainant makes a legal complaint against the BBC (including its employees and commercial subsidiaries) at the same time as making a complaint via the Complaints Framework, both the BBC Executive and the Trust may decline to accept the complaint via the Complaints Framework or may stop the complaints handling procedure.

If a complainant resubmits a complaint to the BBC after a legal complaint has been responded to by the BBC's Legal Department or legal proceedings have concluded, the BBC will not generally reconsider any aspects of complaints that have already been considered or adjudicated upon (including but not limited to by a Court or tribunal).

Complaints where there is recourse to other outside authorities

- 2 Complainants may have the opportunity to pursue their complaint via external authorities (for example, Ofcom or the Office of Fair Trading). If a complainant makes a complaint to an external authority at the same time as making a complaint via the Complaints Framework, both the Trust and the BBC Executive may decline to accept the complaint via the Complaints Framework or stop the complaints handling procedure.

If a complainant resubmits a complaint to the BBC after it has been responded to by an external authority or an external investigation has concluded, the BBC will not generally reconsider any aspects of complaints that have already been considered or adjudicated upon.

Human resources complaints

- 3 The BBC has appeals and grievance procedures for dealing with complaints relating to personnel issues (for example, employee and job applicant grievances). Given the existence of these procedures, and the fact that the BBC Executive is the employer of BBC staff, these complaints are not included within the scope of this Framework.

Complaints and compliance monitoring by the Trust

- 4 In respect of the categories of complaints set out above, the Trust has a responsibility to ensure that BBC conduct and processes comply with both the standards the BBC sets itself as well as those imposed by the law and other outside authorities. Therefore if the Trust, in the course of its complaints and compliance monitoring, identifies any pattern of behaviour which runs contrary to this, it may require a report from the BBC Executive or investigate the matter itself.

Annex B – Expedited Complaints Procedure

- 1 The Expedited Complaints Procedure may be used at any stage of the BBC's Complaints Procedures, whether by BBC Audience Services or the relevant BBC department responding to a complaint; the Editorial Complaints Unit (ECU) or the relevant BBC Division; or the BBC Trust.
- 2 The BBC Executive and the Trust may use this Procedure only where a complainant has a history of persistently or repeatedly making content or handling complaints which:
 - (a) are trivial, misconceived, hypothetical, repetitious or otherwise vexatious;
 - (b) fail to raise an issue of breach of any relevant Guidelines or Policies (eg in the case of an editorial complaint, the Editorial Guidelines; in the case of a fair trading complaint, the Fair Trading Policies and Framework);
 - (c) use gratuitously abusive or offensive language;
 - (d) are shown on investigation to have no reasonable prospect of success; or
 - (e) after rejection of the complaint at an earlier stage (eg Stage 1), are persistently and repeatedly appealed unsuccessfully to the next stage (eg Stage 2).
- 3 If one of the conditions in paragraph 2 above is met, the BBC Executive or the Trust may determine that the complainant should, for a specified period of time, be subject to the following Procedure:
 - (a) The complainant should be notified in writing that the Expedited Complaints Procedure will be applied to their future complaints. This notice must include the following information:
 - (i) a copy of this Procedure (via a web link or in hard copy);
 - (ii) the reasons why this Procedure is being applied;
 - (iii) for how long this Procedure will be imposed (the maximum limit is two years); and
 - (iv) that the complainant may request an appeal - over the decision to apply this Procedure - to the BBC Trust within 20 working days of being informed of that decision.
 - (b) After the complainant is notified that this Procedure will apply, his/her future complaints must continue to be read and treated in the following way:

- (i) If a future complaint meets any of the conditions in paragraph 2 above, the complaint does not require acknowledgement and it may be rejected without notifying the complainant or providing any reasons; or
- (ii) If a future complaint does not meet any of the conditions in paragraph 2 above, and in fact raises an issue of breach of any relevant Guidelines or Policies, that complaint should be investigated in accordance with the usual Complaints Procedure that applies.

| Version | Date of publication | Approved by the Trust | Summary of changes since previous version |
|----------------|----------------------------|------------------------------|--|
| 1.0 | August 2008 | 22 May 2008 | n/a |
| 1.1 | May 2010 | 18 February 2010 | This document was previously known as the 'BBC complaints framework'. It has been updated to fit in the new protocol format and to fix minor typographical points. |
| 1.2 | 26 June 2012 | 24 May 2012 | <p>Following a review and period of consultation, the Complaints framework has been revised to make the process faster, simpler and easier to understand.</p> <p>For a detailed explanation of the changes we have made to the Complaints framework and associated procedures as a result of this, please see our response document: http://www.bbc.co.uk/bbctrust/governance/complaints_framework/framework_review.html</p> <p>This procedure will apply to any new complaints received from 26 June 2012 at any stage of the process (e.g. a complaint which is escalated to stage 2 after 26 June 2012 will be treated under the new procedures).</p> <p>As part of this review, the associated procedures have been renumbered.</p> |
| 1.3 | October 2014 | 22 July 2014 | A minor change has been made to clarify when the Expedited Complaints Procedure in Annex B may be used. A change was also added to make it clear that in the event that the Trust upholds an appeal the Executive will usually apologise to the complainant. |
| 1.4 | October 2015 | 23 & 24 September 2015 | This document has been updated to explain why the Digital switchover help scheme complaints procedures have been removed. |
| 1.5 | November 2016 | 15 November 2016 | This document has been updated to reflect transitional arrangements under the BBC Charter which comes into force on the 1 January 2017 |