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## Analysis of complaints

From 1 October to 31 December 2007 the Unit reached findings on 71 complaints concerning 61 items (normally a single broadcast or webpage, but sometimes a broadcast series or a set of related webpages). Topics of complaint were as follows:

**Table 1**

<b>Topics of Complaint</b>	<b>Number of Complaints</b>	<b>Number of Items</b>
Harm to individual/organisation (victim complaint)	2	2
Harm to individual/organisation (3 <sup>rd</sup> party complaint)	4	3
Party political bias	5	5
Other bias	16	15
Factual inaccuracy	13	13
Offence to public taste	10	6
Violence	4	4
Sexual conduct	2	2
Sensitivity and portrayal	2	2
Racism	6	2
Bad example (children)	2	2
Offence to religious feeling	1	1
Commercial concerns	1	1
Other	3	3
<b>Total</b>	<b>71</b>	<b>61</b>

In the period 1 October – 31 December, 10 complaints were upheld (five of them partly) – 13% of the total. Of the items investigated in the quarter, complaints were upheld against 10 items (16.5% of the total). A further two complaints (about 2 items) were resolved. This report contains summaries of the findings in those cases (one of which incorporates findings on related complaints which were reached during the previous quarter). It also contains summaries of one finding reached in the previous quarter where appropriate further action had not been decided at the time of the publication of the relevant bulletin, and one finding which results from review of a finding reached in an earlier quarter.

## Standards of service

The Unit's target is to deal with most complaints within 20 working days of receiving them. A target of 35 days applies to a minority of cases (6 in this quarter) which require longer or more complex investigation. During the period 1 October – 31 December, 92% of replies were sent within their target time.

## Summaries of upheld complaints

### Scotland's last witch, [bbc.co.uk](http://bbc.co.uk)

#### Complaint

The article is about Helen Duncan, who practiced as a medium until the 1950s and was one of the last people to be convicted under the Witchcraft Act of 1735. A reader complained of inaccuracies (about the date of the sinking of HMS Barham and about the gravity of other charges brought against her) and of phrasing which suggested that alleged psychic phenomena were established fact.

#### Ruling

HMS Barham was sunk in 1941, not 1943 as stated in the article, and the statement that the spirit of a sailor had *"appeared, announcing that he had just gone down"* on the vessel gave undue credence to a claim which, at the least, must be regarded as contestable.

#### Further action

The article was amended in the light of the complainant's points.

### Celibacy "obligatory" for priests & Cardinal moots celibacy rethink, [bbc.co.uk](http://bbc.co.uk)

#### Complaint

A reader of these reports about priestly celibacy in the Catholic Church had challenged their statement that *"many popes had wives"*, and, as a result, the sentence in question was changed to read *"In fact many priests and even some popes in the early Christian Church had wives, including the 9th Century Pope Hadrian II"*. The complainant wrote to the Editorial Complaints Unit, objecting to the revised wording on the basis that *"on any reasonable view there are at best only two generally recognised cases"* of men who were in the married state while in occupation of the Papacy (Hadrian II being one of them), while the word *"some"* suggested a rather higher number. The ECU acknowledged that the original statement had been inaccurate and misleading, but took the view that the change was sufficient to address the issues raised by the complainant. The complainant challenged this conclusion on the basis that *"of only one pope can it be asserted without dispute that he had a wife"*. He also drew attention to the fact that his complaint to the ECU had questioned the statements *"Roughly 150,000 men worldwide have left the priesthood to marry. The Church considers them outcasts"* and *"in the Middle Ages there was no formal ban on marriage for the clergy"*, and he made the further point that the revised wording introduced a contradiction because the pontificate of Hadrian II lay outside the period of the Church's history normally designated "early".

#### Ruling

On reviewing the complainant's points, the ECU agreed that the revised wording was unsatisfactory, and that the statement about 150,000 having left the priesthood to marry was ill-founded. These aspects of the complaint were upheld. However, it took the view that the references to the Middle Ages and the early Church, though perhaps imprecise from a scholarly point of view, were acceptable for a general readership.

#### Further action

The webpages in question have been altered to reflect the finding.

## **Supergrass, BBC2, 13 May 2007**

### **Complaint**

The programme chronicled the rise and fall of the “Supergrass” system, which played a major part in combating the wave of armed bank robberies in the 1970s, but which suffered a loss of credibility amid allegations of corruption and abuse in the mid-1980s. The complaint was from Tony Lundy who, as a Detective Chief Inspector in the 1980s, had been nicknamed the Supergrass Master, and whose integrity came under question along with that of the Supergrass system.

Mr Lundy took part in the programme, but complained that he would not have done so if he had known that it would include a contribution from a particular journalist whom he regarded as hostile. Being unaware of this contribution, he had not had the opportunity of responding to the journalist’s reference to *“policemen who were far too close to criminals”* (insofar as it applied to him). He also complained that an error over the location of his retirement home in Spain had created a misleading implication of improper association with former criminals, and that the programme had wrongly stated that his career had been *“concluded”* by the aftermath of an investigation which gave rise to allegations that he had acted corruptly.

### **Ruling**

The programme-makers had made clear to Mr Lundy that the programme would reflect criticisms of him with which he was already familiar but had not told him that they would be expressed by the journalist in question, because they wished to guard against the possibility of his responses becoming personalised. While this was a legitimate aim, the BBC expects programme-makers to provide potential contributors to programmes with such information as will enable them to give informed consent (except where there is sufficient public interest justification for withholding it), and the Editorial Guidelines relating to informed consent say *“the more significant their contribution, the more detail we should provide”*. Mr Lundy was a highly significant contributor to the programme, and the wish to avoid over-personalised responses was not sufficient justification for withholding information which was clearly relevant to his willingness to take part. This aspect of Mr Lundy’s complaint was upheld.

In the context of the programme, viewers would have been likely to take the journalist’s remark about *“policemen who were far too close to criminals”* as applying to Mr Lundy, and the point should have been put to him for comment. The suggestion of inappropriate association with criminals was reinforced when the programme, describing Mr Lundy’s retirement from the police, said *“Lundy then moved to the Costa del Sol, his former criminals’ old haunt, where he remains to this day”*. In fact Mr Lundy had retired to the Costa Blanca. When he pointed this out to the programme-makers after transmission, they acknowledged the error and offered to publish a correction. Mr Lundy accepted the initial apology, but the proposed correction did not fully address his concern that the error wrongly connected him with an area so strongly linked in the public mind to retired criminals as to be dubbed *“the Costa del Crime”*. These aspects of his complaint were upheld.

However, the programme did not say Mr Lundy’s career had been *“concluded”* by the events it chronicled. It said he had been cleared of all wrongdoing, despite being *“the most investigated police officer in British history”*, and promoted to Detective Chief Superintendent, but also that he nevertheless remained the subject of suspicion at a high level in the Metropolitan Police. The programme gave a fair impression of the latter stages of his career, and this aspect of his complaint was not upheld.

### **Further action**

The programme team were reminded of the BBC’s expectations about the kind of information which should be given to significant contributors such as Mr Lundy. The programme will not be transmitted again without removing the factual inaccuracy identified

by the complainant and the reference to "*policemen who were far too close to criminals*". It will not be rebroadcast without obtaining consent from its key contributors.

**Whistleblower, BBC1, 22 May 2007; Breakfast & News (1.00pm), BBC1, 22 May 2007; related material on [bbc.co.uk](http://bbc.co.uk)**

### **Complaint**

This edition of **Whistleblower** explored concerns about food safety expressed by employees of Britain's major supermarkets, using undercover filming in branches of Sainsbury's and Tesco. Sainsbury's complained about the programme under 11 heads.

1. The use of secret filming had been unjustified.
2. The programme-makers had not given Sainsbury's sufficient and timely information before transmission.
3. Early communications from the programme-makers had wrongly alleged "*breaches of health and safety regulations*", which was tantamount to an accusation of illegality.
4. The programme-makers went ahead despite finding no evidence of "*serious anti-social or criminal behaviour*" at Sainsbury's, but only breaches of company policy.
5. The distinction between "*display until*" and "*use by*" dates was not adequately explained.
6. It was constantly implied, without evidence, that food safety had been jeopardised.
7. The programme wrongly alleged that Sainsbury's stocked TV dinners from a food supplier in whose premises the programme had discovered insanitary conditions.
8. It was not explained that a chicken farm where the programme discovered insanitary conditions supplied only 19 Sainsbury's branches.
9. The programme conflated material relating to Tesco with material relating to Sainsbury's, thus unfairly associating Sainsbury's with the more serious allegations pertaining only to Tesco.
10. A reference to food "*unfit for human consumption*", which applied only to Tesco, was made while footage of a Sainsbury's store was shown.
11. The programme made no attempt to put its findings into a wider industry context of massive improvements in food safety standards in recent years.

Sainsbury's also complained that news reports on the morning of **Whistleblower's** transmission which referred to breaches of "*food hygiene regulations*" (**Breakfast**) or "food hygiene rules" (**News**, 1.00pm) wrongly implied illegality, and that the related BBC News Online material had been similarly faulty.

### **Ruling**

In relation to **Whistleblower**, the ECU found as follows.

1. The use of secret filming was justified by prima facie evidence from Sainsbury's employees of unhygienic practices and customers being misled.
2. Having reviewed the pre-transmission correspondence, the ECU concluded that the information provided to Sainsbury's by the programme-makers had been timely, and sufficient to give a fair opportunity for response.
3. The programme-makers' reference to "*breaches of health and safety regulations*" was warranted by evidence that food past its "*use by*" date had been illegally sold at one Sainsbury's store. However, the programme did not feature this evidence, and did not imply illegality on Sainsbury's part.
4. Although the programme included no evidence of criminal behaviour by Sainsbury's, it uncovered concerns relating to food safety which it was in the public interest to explore.
5. The distinction between "*display until*" and "*use by*" dates was clearly explained.

6. The programme showed practices which were contrary to Sainsbury's own food hygiene policy, and which tended to jeopardise food safety.
7. The claim that the company in question supplied Sainsbury's with "TV dinners" was based on the relevant undercover reporter's own observations and conversations with co-workers. However, Sainsbury's statement to the programme-makers prior to transmission that it did not take "ready meals" from this supplier was in effect a denial of the claim, and Sainsbury's denial should have been reported. This aspect of the complaint was upheld.
8. The conditions at the chicken farm were such that the programme was justified in exposing them and relating them to Sainsbury's, regardless of the number of branches supplied by the farm.
9. The programme made clear which allegations applied to both supermarkets and which applied only to Tesco.
10. The programme made clear that the "unfit for human consumption" allegation applied to Tesco, and viewers would have had no reason to associate it with Sainsbury's.
11. The practices uncovered at Sainsbury's were a matter of legitimate public concern, irrespective of the industry context.

In relation to the news reports on the morning of 22 May, the ECU considered that viewers would have been likely to take "regulations" as a reference to conditions imposed by an outside body, with legally binding effect. It therefore concluded that the references to breaches of "food hygiene regulations" in the **Breakfast** news reports implied that **Whistleblower** had presented evidence of illegality on Sainsbury's part, and that this implication was incorrect. This aspect of the complaint was upheld. However, the report in the 1pm **News** referred to "rules", rather than "regulations" – a term which suggests requirements which, while important, are not necessarily a matter of law. In the light of the breaches of Sainsbury's own food hygiene rules shown in **Whistleblower**, the ECU did not uphold this aspect of the complaint.

The ECU was unable to consider the related material on [bbc.co.uk](http://bbc.co.uk) in its original form because it had been amended in response to a phone call from Sainsbury's on 22 May. It took the view that the material as amended was fair and accurate, and regarded this aspect of the complaint as having been resolved.

### **Further action**

In response to Sainsbury's concerns about television news reports on the morning of 22 May, changes were made to the scripts of subsequent reports to avoid the implication of illegality on Sainsbury's part. The **Whistleblower** team were reminded of the need to ensure that the positions of organisations which are the subject of serious criticism in programmes are fairly reflected.

### **Andrew Marr's History of Modern Britain, BBC2, 12 June 2007**

#### **Complaint**

Describing the Community Charge ("Poll Tax") introduced by the Thatcher government, Andrew Marr said "*Unlike the old rates, it would be payable by everyone, not just homeowners*". A viewer complained that this gave the misleading impression that, prior to the introduction of the tax, householders who were tenants had not been liable for domestic rates, and had not contributed towards the cost of local government services.

#### **Ruling**

As most recently stated in the General Rate Act of 1967, domestic rates were payable by tenants as well as homeowners, and the programme was inaccurate in this respect.

**Further action**

The error will be corrected before any re-broadcast.

**Wales: Power and the People, BBC2 Wales, 23 July 2007****Complaint**

The programme was the last in a four-part series charting the movement towards self-government in Wales, originally broadcast before the elections for the Welsh Assembly in May 2007. It set out to explain the events which led to the referendum of 1997 and the formation of the Welsh Assembly. A viewer complained that the programme portrayed Mrs Thatcher and her government in a biased manner, through its selection of speakers and the presenter's comments, and that the presenter had inappropriately "*canvassed people to go out and vote in the Assembly Elections*".

**Ruling**

The programme explored the extent to which the Thatcher government's unpopularity in Wales led to growth in support for devolution, and it was legitimate to reflect this in the selection of speakers and the presenter's script. However, a number of speakers expressed themselves in terms which were explicitly or implicitly critical of the Thatcher government, while only one could be regarded as speaking in its defence. This introduced an element of imbalance, which was accentuated by some features of the script and by illustrative footage from the Welsh Assembly in which the Conservatives were the only party identified as the target of criticism.

In his closing comments, the presenter said (of the Welsh Assembly) "*to achieve its full potential it needs even greater support from the people of Wales than it's received so far*", and continued "*the more people that take part, the stronger and the healthier our democracy in Wales will be*". Taken in the context of the programme, it was clear that these comments were not simply an observation about the likely impact of low turnout on the credibility of an elected body, but an encouragement to viewers to vote. While the BBC seeks to inform and support the operation of democracy in the UK, it is not the role of BBC presenters to encourage audiences to exercise their right to vote on particular occasions.

**Further action**

The Commissioning Editor at BBC Wales has had extended discussions with the independent producers of the series about the issues arising from the finding. The finding will also be fully considered in any future commissioning and production of programmes in this area.

**Would I Lie to You?, BBC1, 28 July 2007****Complaint**

A viewer complained that the presenter's jokes about Sir Jimmy Savile had exceeded the bounds of acceptability.

**Ruling**

The scripted remarks, which focussed on Sir Jimmy's age and stories which had been current at the time of his mother's death more than 25 years ago, were out of keeping with the tone of the preceding material and more pungently personal than warranted by his position in the public eye.

**Further action**

The issues arising from the finding were discussed with the programme team and the programme will not be repeated in its present form.



## **News (10.00pm), BBC1, 14 August 2007**

### **Complaint**

Introducing a report on that day's launch by Alex Salmond of the Scottish Executive's referendum White Paper, the reporter said: "*A decade ago, Scots opted in a referendum to stick to the Union. Now, however, a Nationalist government says it wants another referendum, this time asking Scots to go for independence*". A viewer complained that the implication that the option of independence had been put and rejected in the 1997 referendum on Scottish devolution amounted to "*misrepresentation of a key political issue*".

### **Ruling**

The reporter, in response to the original complaint, had acknowledged that the introduction had been poorly-worded. However, the misleading impression was remote from the focus of the story which followed, and unlikely to have affected viewers' understanding of it. In the light of this, the reporter's acknowledgement and the fact that a summary of the complaint would be published on [bbc.co.uk](http://bbc.co.uk) in the event of a resolved finding, the Unit took the view that the complaint should be regarded as resolved.

## **Traffic Cops, BBC1, 5 September 2007**

### **Complaint**

The Director of Children's Services for Grimsby complained about the inclusion of footage of two 16 year-old girls in the care of his department who had evidently been drinking. No appropriate consent had been given for them to be filmed or shown in the programme, and the steps taken to conceal their identities had been inadequate. The programme had also given inaccurate information about the court proceedings arising from the girls' behaviour.

### **Ruling**

The Editorial Guidelines on anonymity say that children involved in criminal or anti-social behaviour should not normally be identified unless there is clear editorial justification. As there was no such justification in this instance, the issue of consent was superseded by the issue of identifiability. The light blobbing of the girls' faces was not sufficient to disguise their identities from those who knew them, and the sequence included verbal information which would have facilitated identification. However, the information in the programme about subsequent court proceedings was supported by the court records.

### **Further action**

The programme will not be re-broadcast in its current form. The issue of blobbing has been discussed with the production company concerned, which has also been reminded of the relevant guidelines. In future, the Executive Producer will view such programmes before transmission and after blobbing has been applied, in order to ensure that it serves its intended purpose.

## **Liz Green Live, BBC Radio Leeds, 5 September 2007**

### **Complaint**

The programme included a debate on the case of Katherine Jennings, who had been prosecuted for putting her feet on a train seat. A listener complained that the presenter's description of the case as having been thrown out of court was inaccurate and misleading. He also complained that the presenter had misleadingly and inappropriately linked ASBOs with the killing of Rhys Jones under the general umbrella of antisocial behaviour.

### **Ruling**

The prosecution resulted in an absolute discharge. As an absolute discharge can only follow upon a finding of guilt, it was inaccurate to say the case had been thrown out of court (though the magistrates expressed regret that the prosecution had been brought). On the second point of the complaint, although the presenter had expressed herself somewhat imprecisely, it would have been clear to listeners in general that she was trying to encourage a discussion which ranged across a wide span of criminal behaviours, from the most serious to the arguably trivial, rather than to equate killing with the kind of behaviour which might lead to an ASBO.

### **Further action**

The Managing Editor of Radio Leeds ensured that the legal significance of an absolute discharge was made clear to the programme team and reminded staff of the importance of accuracy in such matters.

## **Questions, Questions, Radio 4, 4 October 2007**

### **Complaint**

A listener complained that an item on dowsing had proceeded entirely on the disputable premise that dowsing worked.

### **Ruling**

Four of the five contributors took the view that dowsing worked, and could be explained scientifically. The fifth contributor expressed doubts about whether a scientific explanation could be given, but didn't directly question the efficacy of dowsing. Independently of the ECU investigation, however, the programme-makers had decided that the item had been unbalanced and made plans to return to the topic in a subsequent edition of the programme (which they have now done). The ECU considered that this, together with publication of a summary of the matter, was sufficient to resolve the complaint.

## **Gardeners' Question Time, Radio 4, 7 October 2007**

### **Complaint**

Two listeners complained about a sequence in the programme which began with a questioner presenting the panel with a flower he said was "*commonly known as the BMW: the Black Man's Willy*". On the basis of an internet search which yielded no independent confirmation, they challenged the claim that this was a common name for the plant in question (*Rhodochiton Volubilis*). They complained that, in any event, the use of the name was unacceptable, and that the racial and sexual references in the discussion which followed were inappropriate at a time when large numbers of children might be listening.

### **Ruling**

The plant in question is itself uncommon, so the term "*commonly known*" in this context is best understood as referring to a colloquial name rather than a name in widespread use. Taking this along with the fact that the name was not of a kind likely to be used in reference sources, the result of the complainants' internet search was not entirely surprising, and not decisive on the question of accuracy. As members of the panel have confirmed that they have heard the name used on other occasions, the ECU did not uphold the complaint of inaccuracy.

The producer of the programme referred the sequence in which the name was used to senior colleagues in Radio 4 for advice, and the view was taken that the name and the exchanges it prompted (in which the phallic, not the racial, connotations of the name were in

play) was not likely to give unjustified offence. However, having reviewed the matter in the light of the complaint, the management of Radio 4 said this:

*Potential for racial offence is not always an easy thing to gauge. In this case, there was nothing derogatory of black people in the language used. There is no evidence that any of the participants were exploiting, or even had in mind, the "outdated and patronising stereotype" about black males to which the complainant refers.*

*Nevertheless, it is clear that some listeners did infer a derogatory intention in the words used, and did feel offended. We regret this. With hindsight, we believe it would have been preferable to omit the item from the programme, because of the risk that it could be misconstrued in this way.*

The ECU endorsed the view that, even though innocently intended, the use of the name was potentially offensive in ways not fully appreciated when the matter was first considered. To that extent, this aspect of the complaint was upheld.

On the question of suitability for children, the BBC's Editorial Guidelines call for particular care in relation to radio programmes broadcast at times when children are particularly likely to be in the audience. However, **Gardeners' Question Time** is not broadcast at such a time, and children form only a very small proportion of its audience. This aspect of the complaint was not upheld.

#### **Further action**

The complaint and the reflections of Radio 4 management on it have been discussed among senior Radio 4 staff. Radio 4 will be alert to the possibility of such offence in future broadcasts and will weigh its editorial judgements in light of this experience.

### **News Bulletins, BBC1 and BBC News 24, 12 October 2007**

#### **Complaint**

A viewer complained of reports which suggested that the Millennium Commission had turned down an application from the Armed Forces Trust for a grant towards a memorial the Queen was to open that day, and had changed its mind two days later as a result of protests. A previous reply from the BBC had acknowledged an error in this respect, but the complainant considered it should be corrected publicly.

#### **Ruling**

In fact, the Armed Forces Trust had not approached the Millennium Commission, as they believed the project to lie outside the Commission's criteria for awarding grants, so it was incorrect to say that the Commission had either refused an application or changed its mind. The ECU agreed that the matter was not resolved by acknowledging the error in the previous reply, and that public correction (in the form of a summary on the complaints webpages) was appropriate.

#### **Further action**

The Editor of **BBC News** (1.00pm & 6.00pm) has taken his production team through the issues arising from the finding, and reminded staff of the importance of checking their facts carefully.

## **BBC News (1.00pm), BBC1, 23 October 2007**

### **Complaint**

A viewer complained that a report on the shortlist for the People's Lottery competition gave disproportionate attention to the Sherwood Forest bid.

### **Ruling**

The report (from Sherwood Forest) concentrated disproportionately on the Sherwood Forest bid, and gave little attention to the other finalists. A report earlier in the day from the site of another contender wasn't sufficient to offset the imbalance, and, as there was no planned attempt to achieve balance over time, nor did the likelihood that other finalists would feature in subsequent reports.

### **Further action**

The Editor of **BBC News** (1.00pm) has discussed the issues arising from the finding with his programme team and main presenter. As the issues in this case related to a story which concerned a number of projects, and was likely to require illustrations of each, he stressed the importance of assessing whether there is enough space (in the report or in the running order as a whole) to achieve balanced coverage within the bulletin, or whether balance should be achieved over time, by means of items in subsequent bulletins. In the latter case, he reminded the team of the need for appropriate signposting in scripts and cue material.