

# **BBC protocol E3 – Complaints framework**

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# 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.

## The Charter and Agreement

The Royal Charter is the constitutional basis for the BBC. It sets out the public purposes of the BBC, guarantees its independence, and outlines the duties of the BBC Trust and the BBC Executive Board.

The Agreement sits alongside the BBC's Royal Charter. It provides detail on many of the topics outlined in the Charter and also covers the BBC's funding and its regulatory duties.

## 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 in respect of various areas of the BBC's operations. These procedures are:

1. Editorial complaints and appeals procedures
2. Fair trading complaints and appeals procedures
3. Digital switchover help scheme complaints and appeals procedures
4. Television Licensing complaints and appeals procedures
5. General complaints and appeals procedures
6. Procedures for complaints about the BBC Trust
7. Party Election Broadcast allocation complaints and appeals procedures

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# Complaints framework

## The role of the Trust in complaints

- 1.1 Under the Charter and Agreement (July 2006) the BBC Trust is required to: 'set and publish one or more frameworks within which the BBC and the commercial arm must handle complaints, and the procedures that are to apply to complaints...The Trust must consult publicly on any framework and its associated procedures before setting them.'<sup>1</sup>
- 1.2 The Charter also states that: 'The framework must provide for the Trust to play a role as final arbiter in appropriate cases.'<sup>2</sup>
- 1.3 The Trust is the sovereign body within the BBC and exists to represent the interests of licence fee payers.<sup>3</sup> As such, we are always keen to hear your views and find out as much as possible about what you like, dislike and expect from the BBC. We achieve this through public meetings and visits; work with our Audience Councils in England, Scotland, Wales and Northern Ireland; correspondence; and consultations such as the one we carried out on this complaints framework and procedures. When a person contacts the Trust with a specific complaint it is important that it is dealt with in an accountable and systematic manner. This means that, in most cases, the Trust must pass the complaint on to the BBC's Executive, which has day-to-day responsibility for the operations of the BBC, for an initial response. The Executive will then arrange a response, either from BBC Information or from the relevant department.
- 1.4 In setting the framework and procedures, the Trust has considered its obligations under the Charter and Agreement, specifically its obligations regarding complaints as set out in Article 24(2)(g) of the Charter and Clauses 89 and 90 of the Agreement. The Trust has also considered its wider duties including those under Article 23 of the Charter.
- 1.5 The Charter and Agreement requires that: 'The Trust should not have a role in handling or determining individual complaints in the first instance, except where the complaint relates to any act or omission of the Trust itself or of the Trust Unit.'<sup>4</sup> The Executive will therefore consider complaints in the first instance.
- 1.6 The BBC Executive Board, chaired by the Director-General, takes ultimate responsibility for the Executive's actions and decisions. If a complainant is still unhappy once they have been through the complaints procedure on the Executive side, they may have a right to appeal to the BBC Trust, the BBC's sovereign body. This complaints framework sets out that the Trust will consider a far greater range of complaints than it has done in the past, thus strengthening our role in safeguarding licence fee payers' interests.

<sup>1</sup> BBC Agreement Clause 89 (1) & (3)

<sup>2</sup> BBC Charter Article 24 (2) (g))

<sup>3</sup> BBC Charter Article 9

<sup>4</sup> BBC Agreement Clause 90 (3). Note The Trust Unit provides independent advice and support to the BBC Trust.

- 1.7 The Charter states that the functions of the Trust include 'setting the framework within which the BBC should handle complaints (and the framework must provide for the Trust to play a role as final arbiter in appropriate cases).'<sup>5</sup>
- 1.8 The Agreement states that 'all appeals that raise matters of substance are subject to a right of appeal to the Trust, and that the Trust is the final arbiter if any question arises as to whether an appeal is for the Trust to determine or not.'<sup>6</sup>
- 1.9 In accordance with this, the Trust will take appropriate complaints on appeal. Examples of appropriate complaints include:
- (a) fair trading complaints
  - (b) editorial complaints that raise a matter of substance
  - (c) TV licensing complaints alleging a breakdown in BBC procedures combined with a poor response to such breakdown
  - (d) complaints alleging a serious failure of standards in matters of financial probity.
- 1.10 Given the distinct roles and responsibilities of the Trust and the Executive, the Trust does not ordinarily expect to take appeals on day-to-day operational issues but will do so if the complaint is judged by the Trust to be of such significance that it is appropriate that the Trust consider it.

## Introduction to the framework

- 2.1 The complaints framework applies to all complaints handling within the BBC. The framework sets the principles to which complaints procedures and participants in those procedures must adhere.
- 2.2 The principles are detailed below and reflect the principles set out in the Agreement. Within the framework of these principles, specific complaints procedures will vary. For example, the principles require complaints to be dealt with in a timely manner; however, the individual complaints procedures will each have their own appropriate time frames and some procedures may be longer than others. Adherence to the principles of the framework should ensure that BBC complaints handling:
- (a) is clear, fair, open and efficient
  - (b) enables the public to hold the BBC to account
  - (c) treats all parties with respect.
- 2.3 All complaints handling procedures within the BBC must adhere to the complaints framework principles set out below.
- 2.4 Also listed below are points of procedure in dealing with complaints. These points of procedure are part of the complaints framework and will also apply to all BBC complaints handling.

<sup>5</sup> BBC Charter Article 24(2)(g)

<sup>6</sup> BBC Agreement Clause 89(4)(b)

- 2.5 The handling of complaints is scrutinised by the Trust at the time of the Annual Report (May) and at mid-year (October/November) as well as through the work of the Trust's committees.

## **Complaints framework: principles set out in the Charter and Agreement**

- 3.1 All BBC complaints handling must adhere to the principles set down in the BBC's Charter and Agreement and reproduced below.
- (a) There must be a clear division of responsibilities between the Trust and the Executive Board.
  - (b) The Trust must ensure that, so far as practicable, the published framework and procedures place a complainant on an equal footing with the BBC, the Trust, the Executive Board or the commercial arm (as the case may require).
  - (c) The Trust should not have a role in handling or determining individual complaints in the first instance, except where the complaint relates to any act or omission of the Trust itself or of the Trust Unit.
  - (d) The published framework and procedures must give detailed information on how complainants can expect to be treated (including, for example, in terms of timescales).
  - (e) The published framework and procedures must provide for complainants and prospective complainants to be given, ad hoc, clear guidance explaining (a) how the complaints system (including appeals) works; and (b) where relevant, the availability of other methods by which redress might be pursued in relation to the type of issues raised by the complainant or prospective complainant.
  - (f) Whenever the Trust determines a complaint or an appeal, adequate reasons must be given.
- 3.2 The Charter and Agreement contain additional requirements for the handling of fair trading complaints.

## **Complaints framework: principles set by the BBC Trust**

- 4.1 In addition to the requirements of the Charter and Agreement, the Trust has set out further principles to apply to all complaints handling within and on behalf of the BBC.

### **The BBC**

- 4.2
- (a) Complainants should be treated politely and with respect.
  - (b) The stages of all procedures will be published on the BBC website so that information about complaints procedures is clear and readily available to the complainant and will be provided on request.

- (c) A complainant/member of the audience who contacts the BBC at stage 1 with a comment or complaint should be informed in the reply that there is a complaints process and that there may also be a way of pursuing a complaint outside the BBC.
- (d) Any response to a complaint should inform the complainant of the next step in the process for taking the complaint further (if applicable) and where, if applicable, to pursue the complaint outside the BBC.
- (e) Complaints should be responded to in a timely manner.
- (f) Reasonable provision must be made to ensure that complaints procedures are accessible to all. Assistance will be provided to those who are unable to make their complaint in the usual format and contact details will be provided.
- (g) There should be a presumption that Executive and Trust decisions to uphold a complaint will be reported on. Exceptions to this will be where information is provided in confidence or publication would be inappropriate: for example, details of an upheld first party editorial complaint where there has been a breach of privacy or a commercially sensitive complaint. Details about complainants and complaints will be anonymous unless otherwise discussed with the complainant.
- (h) When considering complaints on substantive matters the BBC must provide adequate reasoning for its decision, setting this reasoning within the context of any relevant BBC guidelines.

#### **The BBC Trust specifically**

- 4.3 The BBC Trust is independent of the Executive and will act accordingly when handling appeals.

#### **The complainant**

- 4.4 When making complaints, complainants should be clear, concise, polite and adhere to any word limits and time limits set down in the outline procedures.

## **Complaints framework: procedures**

- 5.1 In addition to the principles making up the framework, points of procedure have been set out for the BBC's complaints handling. These points of procedure apply to all BBC complaints handling within and on behalf of the BBC.

#### **The BBC**

- 5.2 (a) On receipt of a complaint the BBC will decide which complaint category an individual complaint best fits into and route the complaint through the appropriate complaints procedure accordingly. Certain categories of complaint are outside the scope of the complaints framework, see Annex A.
- (b) If a complaint raises issues which fall under more than one complaints procedure, the BBC may vary the complaints handling process in order to ensure that the complaint is dealt with in an efficient and effective way. In these circumstances the complainant will be contacted by the BBC.

- (c) If a large number of complainants complain about a specific action, the BBC's Executive may compile a summary of the range of issues raised by the complaints. The complaints will then be considered together across the full range of issues identified.
- (d) Complaint outcomes and handling must be systematically monitored by the Executive.
- (e) The Executive must publish key performance indicators (KPIs) in order to assess complaints handling.
- (f) Performance against KPIs and significant complaints upheld, resolved and not upheld at stage 2 must be published annually.

#### **The BBC Trust specifically**

- 5.3
- (a) The Trust will decide which complaint category an individual complaint best fits into and route the complaint through the appropriate complaints procedure accordingly. This applies to both initial complaints that come into the Trust and are referred to the BBC's Executive for a response and complaints and appeals for the Trust to consider. The Trust cannot handle individual complaints in the first instance, except where these relate to any act or omission of the Trust itself or of the Trust Unit, and will refer complaints on as appropriate. For example, if a complaint is sent to the Trust that should be handled in the first instance by the Executive then the Trust Unit will pass the complaint to the Executive. The Trust is the final arbiter if any question arises as to whether an appeal is for the Trust to determine or not.
  - (b) In considering whether or not to take a complaint/appeal, the Trust may decide that it is appropriate to take only part of a complaint/appeal and so accept a complaint/appeal on this aspect of the complaint/appeal alone.
  - (c) When considering a complaint/appeal the Trust can ask both the complainant and BBC Executive to supply further information relating to the complaint/appeal.
  - (d) The Trust can refer complaints back to the Executive if it concludes that a complaint has not been investigated sufficiently or at an appropriately senior level or if the Trust considers additional investigation would be of assistance in clarifying matters before Trust consideration. The complainant will still have the right to request an appeal to the Trust following this further investigation by the Executive.
  - (e) If a large number of complainants appeal against a specific decision by the BBC's Executive, the Trust may compile a summary of the range of issues raised by the complaints. The appeals will then be considered together across the full range of issues identified.
  - (f) Complaints and complaints/appeals handling must be systematically monitored and assessed by the Trust.
  - (g) The Trust must publish KPIs in order to assess its complaints/appeals handling.



- (h) Performance against KPIs and the number of complaints/appeals upheld, resolved and not upheld must be published annually.

#### **The complainant**

- 5.4 (a) Complaints should usually be made to the BBC promptly and within the period set out in specific complaints procedures
- (b) If a complainant becomes vexatious with regards to a specific complaint or makes repeated complaints which are without substance or repetitive, the BBC may operate an expedited complaints procedure. This procedure modifies the extent to which complaints are investigated and removes the need to send a response to a complainant in every case. The procedure is published and, in such cases, the BBC must inform the complainant of the decision to apply the expedited complaints procedure and the reasons for this decision (see Annex B).
- (c) In the case of the BBC's Executive deciding to institute an expedited complaints procedure, the complainant affected may request an appeal to the Trust against this decision: the Trust's decision at appeal will be final.

# 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 are legal remedies available to complainants. The Trust's position is that the BBC Executive should attempt to resolve the complaint with the complainant. However, if the complainant does decide to pursue the complaint through the courts both the Trust and the BBC Executive may stop the complaints handling procedure. If the complainant resubmits their complaint to the BBC once a legal case has ended the BBC will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a court.

## Complaints where there is recourse to other outside authorities

- 2 Similarly, complainants may have the opportunity to pursue their complaint via external authorities other than the courts (for example, the Information Commissioner or the Office of Fair Trading). If a complainant takes their complaint to these authorities both the Trust and the BBC Executive may stop the complaints handling procedure. If the complainant resubmits their complaint to the BBC once external investigation has ended, the BBC will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by an external authority.

## 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's Executive is the employer of BBC staff, the Trust will not be including these complaints within the scope of this Framework.
- 4 It should be noted that, in respect of all the above, the Trust does have 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 handling procedure

- 1 The expedited complaints handling procedure is set out below.

## Expedited complaints handling procedure

### *Regular or repeated complaints*

- 2 The BBC has a duty under its Charter and the Agreement with the relevant Secretary of State to ensure that it has proper procedures in place to deal with complaints, and to ensure that it gives due consideration to complaints. However, within this framework the BBC needs to be able to ensure that its complaints procedures are not abused by vexatious complainants or otherwise by persons making repeated complaints which are without substance.
- 3 An expedited complaints handling procedure can be used in certain circumstances, as set out below. All complaints will still need to be considered. However, the expedited procedure modifies the extent to which complaint recipients are required to investigate certain complaints and removes the need for complaint recipients to send a response to a complainant in every case.
- 4 'Complaint recipients' refers to: those who handle complaints in BBC Information or in the departments responsible for the content about which you are complaining; the Editorial Complaints Unit (ECU); or the BBC Trust.

### *The expedited procedure*

- 5 The complaint recipients should consider whether to make use of the expedited procedure where a complainant has a history of persistently and/or repeatedly making complaints which:
- (a) are repetitions of substantively identical complaints that have already been resolved; and/or
  - (b) although within their remit, are shown on investigation to have no reasonable prospect of success; and/or
  - (c) in the case of the ECU, fall outside its remit; and/or
  - (d) after rejection by the ECU or the department concerned, are persistently and repeatedly appealed unsuccessfully to the BBC Trust or the BBC Trust's Editorial Standards Committee (ESC).
- 6 If a complainant falls within these criteria, a complaint recipient has discretion to determine that the complainant shall for a specified period of time be subject, in respect of some or all of that person's future complaints, to the following, expedited procedure:
- (a) The complainant's complaints (or complaints on a particular subject, in accordance with (c) below) shall continue to be read and considered. But they should be investigated only if they appear to raise a substantive issue or disclose a serious prima facie case of a breach of the Editorial Guidelines

where there is a significant prospect that the complaint might be upheld ('a substantive complaint').

- (b) Where a complaint to which the expedited procedure applies is not considered to be a substantive complaint, then it may be rejected without provision of reasons to the complainant and without notification to the complainant. If asked to do so, the complaint recipient should confirm to the complainant (where this is the case) that the expedited procedure has been followed in respect of the complaint. Where a complaint is found to be or include a substantive complaint, then the ordinary complaints procedure should be applied in full.
- (c) Where the expedited procedure is to be imposed upon a complainant in respect of some or all of that person's complaints, the complainant must be told that the BBC will continue to consider their complaints according to the expedited procedure, but will no longer (save where a complaint is found to be a substantive complaint) be responding to them for the specified period. The reason why should be given.
- (d) Where appropriate, and in every case where the reason for expedition is ground (a) (i.e. para 5(a) above), the expedited procedure may (or, in the case of ground (a) complaints, must) be confined to complaints relating to a particular subject matter.
- (e) There should be a time limit imposed for the application of the expedited procedure, which should be no longer than two years.
- (f) At the point that a complainant is informed that the expedited procedure will be imposed s/he will also be informed that s/he has the right to request an appeal to the BBC Trust, within 20 working days. The Trust will give adequate reasoning for a decision it makes on an appeal. In relation to complaints that are considered under the expedited procedure, the BBC Trust will only consider appeals in relation to complaints that it has determined to be substantive complaints.

***Clarification of when to use the expedited procedure***

- 7 The procedure is not appropriate for use on a complaint-by-complaint basis. Where correspondence needs to be brought to a close in relation to a specific complaint, for example because a full response has already been given, usual practice, as set out in the complaints procedures, should continue to be followed. The expedited procedure is only to be used in relation to individual complainants who have a history of persistently and/or repeatedly making complaints falling within the categories identified.
- 8 A decision to use the expedited procedure can only be made in relation to complaints which are not already in the process of being investigated. The decision to adopt the expedited procedure can, however, be taken immediately after a complaint has been resolved. It can then be applied (insofar as applicable) to other complaints from the same complainant which have been received but not yet investigated. For example, person A has made persistent and repeated complaints which have been shown on investigation to have no reasonable prospect of success. He makes another complaint. That complaint must be handled in the usual way. Once a decision on that complaint has been taken, the

complaint recipient can then decide that future complaints from that complainant be handled pursuant to the expedited procedure.

- 9 A decision to use the expedited procedure will only cover complaints received by the complaint recipient taking that decision. For example, if BBC Information takes a decision to use the expedited procedure for person B, this decision will not affect the operations of the ECU.

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.