

Analysis of complaints

From 1 April to 30 September 2020 the Unit reached findings on 255 complaints. 10 complaints (about 10 items) were wholly or partly upheld. 56 complaints (about 10 items) were resolved. The bulletin includes summaries of these cases.

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 (43 in this period) which require longer or more complex investigation. During the period 1 April to 30 September 2020, 87% of replies were sent within their target time.

Summaries of upheld/resolved complaints

Panorama: Britain's Killer Motorways?, BBC One, 27 January 2020

Complaint

The programme included several pieces to camera by the presenter, recorded while he was driving on a motorway. A viewer complained that he was setting a bad example by taking his eyes off the road and, at one point, removing both hands from the steering wheel.

Outcome

The presenter's brief glances at the camera were consistent with the Guidance on filming while driving, but removing both hands from the wheel was not.

Partly upheld

Further action

Reporters and producers have been reminded to drive carefully at all times, and exercise particular caution if any filming is in progress.

The Andrew Marr Show, BBC One, 1 December 2019

Complaint

A viewer complained that, as well as conducting his interview with the Prime Minister in a biased and offensive manner, Andrew Marr had given a misleading impression of the

record of the Conservatives in relation to the legislative issues highlighted by the case of the London Bridge attacker Usman Khan.

Outcome

The general conduct of the interview was in keeping with the BBC's normal editorial standards as they apply to interviews of this kind. However, in the course of an exchange which was often less than clear about a complex legal issue, Andrew Marr made comments which viewers would have taken to imply that the Government could have prevented Usman Khan's early release, and that it had done nothing since 2010 to tighten the rules on sentencing for terrorist offences. As it was accepted at the time that Usman Khan's release date could have been altered only by retrospective legislation, and as the Government had lengthened the minimum early release from a half to two thirds of the original sentence, both implications were misleading.

Partly upheld

Further action

The programme team has been reminded of the need to confirm the full legislative background of cases that span different governments.

Tweet by Laura Kuenssberg, 24 September 2019

Complaint

Following an interview with Rebecca Long-Bailey in that morning's **Today** on Radio 4, Laura Kuenssberg tweeted that she had said "*she voted for the plan to abolish Tom Watson's position because she didn't want to 'stifle democracy'*". A reader of the tweet complained that this was inaccurate.

Outcome

Ms Long-Bailey said on **Today** that she had supported the right of the proposer to bring forward a motion for a vote. Although that action was widely taken to imply support for the aim of abolishing Tom Watson's position, it was inaccurate to report her as having voted for a plan to do so. Independently of the ECU's investigation, however, BBC News posted an appropriate clarification on the Corrections and Clarifications page of bbc.co.uk which sufficed to resolve the issues of complaint.

Resolved

Politics Live, BBC Two, 11 December 2019

Complaint

Speaking on the day before polling day, Laura Kuenssberg reported that, according to both Conservative and Labour sources, the postal vote was “*looking pretty grim for Labour in a lot of parts of the country*”. Seven viewers complained that this breached electoral law and/or the BBC’s standards of due impartiality. Three of them argued, in addition, that it was out of keeping with the spirit, if not the letter, of the BBC’s guidelines on election coverage, which (like the law) imposed a ban on reporting how votes had been cast on polling day until the polls had closed.

Outcome

There was no breach of impartiality in reporting information on which both main parties were agreed and, to the best of the ECU’s understanding, there was no breach of electoral law. Neither was there a direct breach of the election guidelines, which contained no provisions about reporting on the postal vote. However, reporting on the outcome of the postal vote on the eve of the poll appeared to some extent analogous to reporting on votes cast while voting was taking place on polling day. Before complaints were escalated to the ECU, BBC News removed the programme from iPlayer and acknowledged in correspondence that it would have been better to have exercised more caution in relation to the topic. In the ECU’s judgement, these steps sufficed to resolve any issue of editorial standards arising from Ms Kuenssberg’s report.

Resolved

Broadcasting House, BBC Radio 4, 26 April 2020

Complaint

The guests in the newspaper review section of the programme included Trevor Philips, who was himself in the news because of protests against his appointment to conduct an inquiry into disproportionate death rates from Covid-19 among BAME people. In the course of commenting on the stories, Mr Philips named the Muslim Council of Britain (MCB) as “*The people who are making a big deal of this*” and went on to say they were aligning themselves with a group which had named President Obama as an Islamophobe and attacked the staff of Charlie Hebdo in similar terms in the weeks after 12 of them had been killed. The MCB complained that both statements were inaccurate, and that Mr Philips had been inappropriately presented as a dispassionate expert when in fact he was a controversial figure in relation to the topic under discussion.

Outcome

It would have been clear to listeners that Mr Philips was not speaking as a dispassionate expert but as the subject of a current controversy. Although the MCB were not the only

source of criticism of Mr Philips' appointment, he was entitled to express his view that they were the main instigators, and the presenter included a quote setting out the MCB's own view on the matter. The BBC was not in a position to substantiate the statement that the MCB were aligned with the group described by Mr Philips but, independently of the ECU's enquiries, BBC News made a posting on the Corrections and Clarifications page of bbc.co.uk to make clear that the MCB said they were not aligned with the group in question and did not support its comments. In the ECU's judgement, this sufficed to resolve the issues of complaint.

Resolved

BBC News (10pm), BBC One, 16 April 2020

NHS boss: 'I need gowns, can I call Burberry?', bbc.co.uk

Today, Radio 4, News (10am), Radio 4, news bulletins (6-11am), Radio 5 Live, Breakfast, BBC One, 17 April 2020

Complaint

These items included information from an unnamed source described as the head or boss of an NHS trust, to the effect that he had asked a BBC correspondent for help in contacting Barbour and Burberry with a view to remedying an acute shortage of personal protective equipment (PPE) in his trust. It emerged in the afternoon of 17 April that the source was not in charge of an NHS trust, but was Chief Operating Officer of Oxford Academic Health Science Network. Four people complained to the ECU that, irrespective of the identity of the source, the story was indicative of bias against the Government in relation to its efforts to ensure the availability of appropriate PPE in the NHS, some of them arguing that it was so implausible that a source holding a position of seniority would need to approach the BBC for such information that a political motive had to be suspected. Three of them also stressed the seriousness of the inaccuracy. The ECU considered the complaints raised potential issues under the BBC's Editorial Guidelines concerning impartiality and accuracy.

Outcome

Impartiality

Having investigated the circumstances in detail, the ECU concluded there were no grounds for suspecting a political motive. The reporter concerned is a member of the Business and Economics Unit of BBC News, and had been tasked since early on in the Covid-19 outbreak with monitoring and reporting on issues around the supply of PPE to health care workers, bringing to the task extensive previous expertise in the clothing industry. An organisation which promotes UK manufacture, which he had dealt with often before, suggested he contacted the source in connection with a shortage of PPE in a particular area of the NHS. He did so about a week before the story broke on 16 April and they had several phone conversations subsequently. In the course of these conversations the source became aware, by reading an item on the BBC website, that

Barbour and Burberry were making protective gowns. The business reporter had been working concurrently on an item about Barbour and their involvement in PPE production. So, although the source could undoubtedly have obtained information about contacting those companies elsewhere, it was entirely natural in the circumstances that he should have asked the business reporter. Although it transpired that the source was not in fact the head of an NHS trust, he did have a concern with PPE availability in the NHS (see below), so the ECU saw no grounds for doubting the genuineness of his enquiry or adducing a political motive. Consequently the ECU found no breach of the BBC's standards of impartiality in this respect.

Not upheld

Accuracy

It was not in dispute that the items which described the source as the head of an NHS trust were inaccurate in that respect. The ECU's investigation established that the inaccuracy originally arose when the organisation which contacted the business reporter spoke of a source who "*oversees an NHS trust*", which the business reporter took to mean that he was the head of a trust. He recalls that the source referred to "*my trust*" on several occasions during their conversations, which reinforced his original misapprehension. The erroneous information entered the public domain via a series of tweets posted by the business reporter from about 5.30pm onwards on 16 April. The tweets came to the attention of a health correspondent who was working on a report for that evening's 10pm News on BBC One about shortages of PPE based on information from a number of NHS sources. After conversations involving the output editor of that night's bulletin, the health correspondent and the business reporter, it was decided to incorporate information from the tweets into the report. During these conversations, the business reporter did not name his source, for fear of jeopardising an agreement with him to provide an on-the-record interview the following day, and the description of him as the head of an NHS trust passed into the news agenda without further verification. There was then nothing to prevent the error being replicated when the story was picked up on Radio 4, Radio 5 Live and BBC One the following morning (concurrently the business reporter had written a more detailed piece for BBC News Online which was posted around midnight).

On the morning of 17 April the source gave an on-the-record interview for use in an item in that day's edition of the 1pm News on BBC One. Shortly before transmission of the item it emerged (from a discussion about how he should be captioned on screen) that the source was not the head of an NHS trust but the Chief Operating Officer of Oxford Academic Health Science Network. The fact that he had been erroneously described in previous reports was drawn to the attention of the senior management of BBC News shortly after transmission of the item. After establishing the precise facts, BBC News took the view that, although not the head of an NHS trust, the source was credible in relation to supplies of PPE, and was speaking from expertise in that area and first-hand knowledge of the situation in a particular trust¹; that what he said was

¹ Hence the ECU's conclusion, above, that "*he did have a concern with PPE availability in the NHS*".

consistent with an array of information, much of it from NHS sources, about shortage of PPE (protective gowns in particular), concerns in that area having been acknowledged by the Health Secretary that morning; and that his information would probably have featured in News outlets even if his role had been accurately described at the outset. BBC News also acknowledged, however, that the erroneous description of him was a serious inaccuracy which required proportionate corrective action. As a result, a revised version of the online article, incorporating a correction, was posted at 6.43pm on 17 April; a separate online article, under the headline “*BBC correction on Burberry coronavirus plea*”, was posted at 9pm on 17 April; corrections were also broadcast in that evening’s edition of the 10pm News and, on the morning of 18 April, in all the other outlets which had broadcast the original inaccuracy; and, finally, a correction was posted on the Corrections and Clarifications page of bbc.co.uk on 20 April.

In the light of these points, the ECU agreed that the error complained of represented a serious breach of the BBC’s standards of accuracy, though not one which would have misled audiences materially in relation to their understanding of the issue of PPE availability in the NHS. In view of this, the ECU judged that the corrective action taken by BBC News was proportionate, and sufficient for it to conclude that the issue of complaint in relation to accuracy had been resolved.

Resolved

Midnight News, Radio 4, 30 September 2019

Complaint

This news bulletin included an item prompted by remarks made by Cardinal Vincent Nichols on the **Sunday** programme on Radio 4 expressing concern about the tone of the debate in Parliament over Brexit, which he feared could encourage violent extremists. In the item, the reporter said:

Unlike the Anglican Church, it’s unusual for Britain’s Catholic hierarchy to speak publicly on social or political issues

and:

in the face of declining church attendance, some Catholic parishes, particularly in London, have been boosted by immigration, and it may be that parishioners’ concerns about the possible impact of abrasive language on their lives has now reached the very top of the Church.

A listener complained that the first statement was refuted by evidence showing that the leaders of the Catholic Church have made frequent public pronouncements on such matters, and that the second misleadingly suggested the Cardinal had an ulterior motive beyond a concern for the common good, thus undermining his message.

The ECU considered the complaint raised potential issues under the BBC's Editorial Guidelines concerning due accuracy, which require that the level of accuracy should 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”*.

Outcome

In relation to the first statement, the ECU noted that the position of the Catholic Church on such social issues as contraception and abortion had often been re-stated, that the complainant had provided recent examples of statements by the English and Welsh hierarchy on other issues of public concern, and that BBC News had already conceded an element of inaccuracy in correspondence with the complainant. On that basis it judged that the item did not meet the standard of due accuracy which applies to news bulletins of this kind, and that this element of the complaint should be upheld.

In relation to the second statement, there was no inaccuracy in the observation about Catholic parishes being *“being boosted by immigration”*, and his suggestion of a link between this and the concern expressed by the Cardinal was the kind of professional judgement which listeners might expect from a reporter with extensive experience of covering religious affairs. In the ECU's view, it did not imply an ulterior motive (as distinct from the legitimate motive of taking account of the concerns of the laity) and would not have been likely to undermine the Cardinal's message in the minds of listeners. This element of the complaint was not upheld.

Partly upheld

Further action

The finding was reported to the Divisional Board of BBC News and discussed with members of the programme team.

Outside Source, BBC News Channel, 14 April 2020

Complaint

The programme included an item on two recently-published studies, from the US and Italy which, in the words of the presenter, *“are suggesting that air pollution can affect the severity of Covid-19”*. The item consisted of an introduction by the presenter followed by an interview with a scientist, Dr Gretchen Goldman, introduced as being *“from the Union of Concerned Scientists which advocates for science-based policy”*. A viewer complained that the item was biased, both in its selection of the interviewee (whom he termed *“an environmentalist”*) and in its treatment of the topic, and *“probably misleading”* in giving the impression that the correlation between air pollution and death rates from Covid-19 found by the studies demonstrated a causal relationship.

The ECU considered the complaint in relation to the BBC Editorial Guidelines on Impartiality and Accuracy.

Outcome

The ECU noted that, as a scientist, Dr Goldman was competent to give a view on the studies under consideration, and found no breach of impartiality in her selection as an interviewee. As to the content of the interview, the ECU noted that there is normally scope for more than one view on recently published scientific studies, and that the issues raised by the studies in question were best regarded as part of the normal exchange of expert views which accompanies emerging science, rather than the kind of controversy to which considerations of due impartiality apply. The ECU therefore found no breach of impartiality in the content of the item.

In relation to accuracy, however, the ECU noted that the Union of Concerned Scientists' advocacy extended beyond "*science-based policy*" and encompassed campaigning stances on a number of issues, climate change and environmental degradation being prominent among them. It concluded that information to that effect would have been helpful to viewers in evaluating what Dr Goldman had to say about research which suggested the possibility of a link between Covid-19 and the environmental issue of air pollution. It also noted that the presenter, having summarised the studies' findings on correlation, began the interview by asking "*But can we know for sure if there is a link?*" to which Dr Goldman replied that the studies were "*compelling evidence that suggests air pollution may be playing a role in what makes Covid more deadly*". Nowhere in the item was there reference to other factors, such as population density, which would have to be evaluated before conclusions as to a causal relationship could be drawn. In the ECU's judgement, viewers were not given sufficient information about the interviewee or about other possible interpretations of the research to make an informed judgement about what they were hearing, and the item fell short of the BBC's standards of accuracy in that respect.

Partly upheld

Further action

The finding was reported to the Divisional Board of BBC News and discussed with members of the programme team.

Round the Horne, Radio 4 Extra, 18 February 2020

Complaint

The programme, originally broadcast in 1967, included an extended sketch entitled "Young Horne with a Man" (parodying the title of the 1950 film "Young Man with a Horn", and telling the story of a young white man who aspired to be a jazz musician). A listener complained that the portrayal of 1920s black jazz musicians by white actors using comically exaggerated accents was likely to be offensive to many, and rendered

the material inappropriate for re-broadcasting. The ECU considered the complaint in relation to the BBC's guidelines on Harm and Offence, with particular reference to those dealing with portrayal, which say BBC output may reflect, but should not perpetuate, the prejudice that exists in society, and the guidelines on Re-use, Reversioning and Permanent Availability, which say:

When archive content would not normally be broadcast by the BBC today because standards or attitudes have changed, there may be reasons to make it available now including if it is of historical or cultural interest or if it is otherwise editorially justified in the public interest. However, the content should be appropriately scheduled and/or signposted.

Outcome

The ECU noted that **Round the Horne** was widely regarded as a comedy classic and had recently been voted best radio comedy of all time in a Radio Times poll of experts. This provided strong editorial justification for re-broadcasting it on Radio 4 Extra, which is well established as an archive-based service, for the most part broadcasting material as it was originally heard. In the ECU's judgement, it was the stereotypes often encountered in biopics of the era which were the target of the sketch's humour, and the use of exaggerated accents (for white southern characters as well as black ones) would have been more likely, in the programme's original context, to undercut prejudice than to perpetuate it. However, the ECU recognised that the portrayal of the black characters by white actors was outdated and, in today's context, potentially offensive. While it did not agree that it was simply inappropriate to re-broadcast the material, it accepted that, as recommended by the guidelines on Re-use, Reversioning and Permanent Availability, it should have been accompanied by appropriate signposting, giving context and a clear indication of what listeners could expect.

The ECU therefore agreed that the broadcast had been in breach of the BBC's editorial standards, but took account of the fact that the listener had already received a reply from the BBC apologising for the lack of appropriate signposting and that the editorial management of BBC Radio were clear that the material in question should not be further broadcast without such contextualisation. In the ECU's judgement, this sufficed to resolve the issue of complaint.

Resolved

John Hillcock for Shaun Keaveny, 6 Music, 21 February 2020

Complaint

The programme included an interview with the musician Roger Waters about Julian Assange, who was at the time held in remand pending extradition to the USA. A listener complained that Mr Waters made a number of "controversial points" about Mr Assange's case, with "neither any challenge to his position, or contrasting points of view

being raised". The ECU considered the complaint in relation to the BBC's guidelines on Impartiality, which require that an appropriate range of views on controversial matters should be reflected in BBC output.

Outcome

Mr Waters' interview was preceded by an introduction by the reporter who had interviewed him, in which she explained that he was promoting a Free Assange rally in London the following day. She said that Mr Assange had been imprisoned in London since April 2019 for "*publishing classified documents about US war crimes in Iraq and Afghanistan*". She went on to explain that he had been charged in the United States with "*hacking*" and breaches of the Espionage Act. In the interview Mr Rogers was critical of the motives of the US government which he maintained was "*trying to kill*" Mr Assange by sentencing him for long periods if found guilty. He stated that Mr Assange was guilty of no crime and was in his view a journalist attempting to speak truth to power. His views were not challenged by the reporter. In the ECU's view, the item amounted to a strong statement of one viewpoint in what was self-evidently a controversial matter. A previous reply from the BBC had suggested that, being devoted primarily to news about the music industry, the programme was not subject to the requirements which would apply to mainstream news and current affairs programmes, but the ECU noted that the guidelines expressed the BBC's commitment to achieving due impartiality "*in all its output*", taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation. The ECU saw nothing in the expectations attaching to a programme about music industry news, or in the nature of its content, which would warrant presenting only one view on a matter of current controversy without appropriate challenge, and agreed that the item had been in breach of the BBC's editorial standards.

Upheld

Further action

The finding was reported to the Board of BBC Radio and the producer of the programme was asked to listen again to the item in the light of feedback from the management of Radio 6 Music.

Panorama: Has the Government Failed the NHS? BBC One, 27 April 2020

Complaint

The programme investigated the planning for, and provision of, personal protective equipment (PPE) for workers in the NHS. Seven viewers complained to the ECU that a number of the programme's contributors had left-of-centre political affiliations which were not made clear to the audience. The ECU considered the complaints in the light of the BBC guideline on Impartiality which says "*Appropriate information about*

[contributors'] *affiliations, funding and particular viewpoints should be made available to the audience, when relevant to the context*".

Outcome

As the guideline's reference to relevance to context suggests, the principal consideration is whether the audience's ability to evaluate contributions to the topic of the broadcast would be materially affected by the absence of information about contributors' affiliations. With this in mind, the ECU considered the contributions of the six contributors named or identified by the complainants - Dr Sonia Adesara, Dr Irial Eno, Dr Asif Munaf, Dr Abhi Mantagni, Libby Nolan and Professor John Ashton.

Professor Ashton spoke from the perspective of a former Regional Director of Public Health for the Department of Health, and his contribution was critical of the decisions made by the Government in relation to preparations for a pandemic. As stated by some of the complainants, he had for a long time been a member of the Labour Party, and had campaigned against privatisation in the health service. The ECU noted, however, that privatisation was not at issue in the programme, and that Professor Ashton had resigned his party membership in 2019. It took the view that the programme's description of him as a "*public health expert and long-standing critic of the government*" gave the audience the information relevant to an evaluation of his views.

The other contributors focused on the practical implications of shortages of personal protective equipment and their personal reactions to them. Three of them – Dr Munaf, Dr Mantagni and Ms Nolan – made no direct criticism of the Government, and the ECU saw nothing in the contributions of the first two to which information about their political affiliations would be relevant in relation to the audience's evaluation of what they said. Ms Nolan was introduced as a senior nurse and union representative, which the ECU considered appropriate information in the relation to the particular concern she expressed about the welfare of NHS staff and the responsibility she felt to represent them ("*I feel incredibly passionate that no more people should suffer, that no more health workers should come to harm or for some reason that they can't speak out, that I will do it for them*").

Dr Eno's contribution included the following criticism of the Government:

I feel really angry at the Government that they, they had all this time. We had the luxury of time. We saw it coming. We should have used that time to prepare and they keep saying this unprecedented thing – this is completely unprecedented – it is unprecedented but it, it wasn't unexpected.

As to her affiliations, Dr Eno is a member of a pressure group, Docs not Cops, which lists its aims as "*Fighting xenophobia, racism & borders in the NHS that restrict access*" (a reference to the Home Office "*hostile environment measures*" as they apply to access to services in the NHS). This subject was not mentioned in the programme and, as far as the ECU could ascertain, neither the group nor Dr Eno

herself has formal links to any political party. In the ECU's view her opinion was such as might have been expressed by any doctor who felt inadequately protected for working in hospital with Covid-19, and her role as a campaigner on different NHS-related issues was not relevant in the context.

Dr Adesara made this criticism of the government:

It doesn't seem to be fair to me that healthcare professionals who feel at risk, who may be at risk, are not being given that full PPE equipment because the Government failed to prepare and failed to do the stockpiling that was needed for this equipment in advance.

Dr Adesara is not only a Labour Party member but also a former Labour candidate, and she had appeared in an election broadcast for the party in 2019. On 14 May, BBC News published a statement on the Corrections and Clarifications page of bbc.co.uk summarising the situation and saying:

We acknowledge that mentioning this would have helped viewers make their own assessment about her comments, although we do not consider it cast doubt on the validity of her concerns.

The ECU agreed that the nature and extent of Dr Adesara's political affiliation was such that it might have been relevant to the audience's evaluation of her contribution insofar as it was critical of the Government, and that it was a breach of the BBC's editorial standards not to have given viewers appropriate information about it. The ECU also judged, however, that her criticism of the Government was in keeping with what might be expected from a doctor with experience of inadequate PPE provision, and that information about her political affiliations would not have called the validity of her concerns into doubt in the minds of viewers. It therefore concluded that the terms of the public acknowledgement by BBC News were such as to resolve the issue of editorial standards raised by the complaints.

Resolved

BBC News (10pm), BBC One, 18 May 2020

Complaint

In an interview about lockdown in Scotland the BBC's Scotland Editor, Sarah Smith, said:

It's been obvious that Nicola Sturgeon has enjoyed the opportunity to make her own different lockdown rules and not have to follow what's being done in England and other parts of the UK

12 viewers complained to the ECU that the use of the phrase “*enjoyed the opportunity*” represented an inappropriate expression of opinion, indicative of bias against the First Minister of Scotland. The ECU considered the complaints in the light of the BBC’s guidelines on Impartiality, which say:

Our audiences should not be able to tell from BBC output the personal opinions of our journalists or news and current affairs presenters on matters of public policy, political or industrial controversy, or on ‘controversial subjects’ in any other area.

Outcome

The ECU agreed that viewers of the 10pm bulletin might well have formed the impression that Ms Smith was expressing an opinion about Ms Sturgeon’s motives, and that giving such an impression was out of keeping with the BBC’s standards of due impartiality. However, it noted the following sequence of events.

Shortly after the broadcast the First Minister posted a tweet in which she objected to the wording concerned. She said:

Never in my entire political career have I ‘enjoyed’ anything less than this.

In a reply via her BBC Twitter account @BBCSarahsmith Ms Smith offered an explanation and an apology to the First Minister.

I do not believe that @NicolaSturgeon is enjoying this crisis. I had meant to say on the 10 o’clock news that she has ‘embraced’ the opportunity to make a policy unique to Scotland. I said ‘enjoyed’ by mistake. Not suggesting she is enjoying crisis but embracing devolution.

In a further post the following day, she said:

On last night’s News at Ten I said @NicolaSturgeon had ‘enjoyed the opportunity to set her own lockdown rules’. I should have said she was ‘embracing’ the opportunity to set a separate policy for Scotland. I never meant to suggest she is enjoying this crisis. Of course she is not.

Then in a third tweet, she said:

For the avoidance of any doubt. I am sorry that by mistake I said on the news last night that @NicolaSturgeon was ‘enjoying the opportunity’ to set lockdown policy in Scotland. That was not what I meant to say and I apologise to her for my error.

A spokesperson for the BBC said in a statement to the press:

Following complaints received on remarks by Sarah Smith, Sarah has since clarified her remarks, acknowledged where there were errors and has apologised to the First

Minister, who has accepted those clarifications and has indicated that she regards the matter as now closed.

The ECU also noted that, in a similar interview in the 6pm BBC One bulletin on 18 May, Ms Smith had said:

It's been obvious how Nicola Sturgeon has embraced the opportunity to make her own different lockdown rules and not have to follow what's being done in England the other UK nations.

The ECU regarded the word “*embraced*” as a term which described the First Minister’s approach without imputing motive, and viewed its use in this earlier bulletin as corroborating Ms Smith’s statement that she had simply misspoken in her later interview, rather than offering an opinion on the First Minister’s state of mind. The ECU agreed that it had been appropriate to issue apologies and that, although it would be more usual for apologies for an error on air to be broadcast rather than offered via Twitter, the fact that the First Minister had registered her objection in a tweet made a BBC Twitter account (supplemented as it was by a press statement) a more appropriate medium in this instance. The ECU therefore found that the action taken was sufficient to resolve the issue of editorial standards raised by the complaints.

Resolved

Cardiff Half Marathon, BBC One Wales, 6 October 2019

Complaint

A viewer complained that a statement by the commentator on this live event that the regeneration of the Cardiff Bay area had been “*financed in a large part by European money*” was both inaccurate and intended to influence viewers in relation to the controversial issue of Brexit. The ECU considered the complaint in the light of the BBC’s editorial standards of accuracy and impartiality.

Outcome

As BBC Wales had already acknowledged in correspondence with the complainant, the statement was inaccurate, the regeneration of Cardiff Bay, which began in 1987, having been funded by the UK Government and private sector investment. As the statement was materially misleading to viewers, the ECU agreed that it did not meet the BBC’s standards of due accuracy.

As to impartiality, the ECU considered the explanation, provided by BBC Wales after discussion with the commentator and the production team, that the statement in question was simply an error, arising from the commentator having read, in the course of compiling background information for his commentary, that substantial EU funds had been invested in South Wales, and failing to realise that the regeneration of Cardiff

Bay was not a case in point. The ECU also considered the complainant's arguments that simple error was not a credible explanation in the case of a BBC broadcaster of 37 years' experience, and that his remark that his statement "*might be controversial*" indicated that he knew it was not factually accurate. The ECU took the view that no amount of experience rendered broadcasters immune from error, and that the complainant's understanding of the commentator's reference to controversy was implausible, in that it implied that, having knowingly attempted to mislead his audience, he had immediately gone on to signal that his statement might have been misleading. If his intention had indeed been political, he could as easily, and more accurately, have referred to EU investment in the wider South Wales area, and a more natural understanding of his remarks was that he had alluded to controversy because he was aware that his statement could be construed as touching on a currently controversial issue. The ECU therefore did not accept that the remarks represented a deliberate and politically-motivated attempt to mislead viewers; and, as the context was not one in which the question of Brexit was at issue, and as the remarks in question expressed no attitude to the controversy, the ECU saw no grounds for upholding the complaint in relation to impartiality.

In the absence of a breach of standards in relation to impartiality, the ECU judged that the apology and acknowledgement of error already made by BBC Wales was sufficient for it to regard the issue of accuracy as being resolved.

Impartiality: not upheld

Accuracy: resolved

Coronavirus: What this crisis reveals about US - and its president, bbc.co.uk

Complaint

A reader of this online article complained that it reflected bias against President Trump on the part of its author (Nick Bryant, the BBC's New York Correspondent). The ECU considered the complaint in the light of the BBC's Editorial Guidelines on Impartiality in connection with News, Current Affairs and Factual Output, which say:

News in whatever form must be treated with due impartiality, giving due weight to events, opinion and main strands of argument. The approach and tone of news stories must always reflect our editorial values, including our commitment to impartiality.

And:

Presenters, reporters and correspondents are the public face and voice of the BBC – they can have a significant impact on perceptions of whether due impartiality has been achieved. Our audiences should not be able to tell from BBC output the personal opinions of our journalists or news and current affairs presenters on matters of public policy, political or industrial controversy, or on 'controversial

subjects' in any other area. They may provide professional judgements, rooted in evidence, but may not express personal views on such matters publicly, including in any BBC-branded output or on personal blogs and social media.

Outcome

The Guidelines provide for BBC journalists to offer “*professional judgements*” on matters of political controversy, and the ECU regarded the article primarily as an instance of a specialist correspondent using his knowledge and experience to provide informed and considered analysis in his areas of expertise. The ECU also agreed that Mr Bryant had sought to support his assessment of President Trump’s handling of the coronavirus crisis with evidence, much of which had been cited in previous correspondence with the complainant. However, it accepted that there were issues with the “*approach and tone*” of the item at certain points, and that phrasing such as “*Ridiculous boasts*”, “*mind-bending truth twisting*”, “*particularly vicious assault*”, “*pettiness and peevishness*”, “*narcissistic hunger for adoration*” and “*the tricks of an illusionist*”, when not attributed to sources other than the author of the piece, was closer to the language of “*personal views*” than that of “*professional judgement*” and, in terms of impartiality, was not offset by the limited, and relatively restrained, criticism of the Democrats, Joe Biden and Congress. In the ECU’s judgement, the article could have been brought into alignment with the BBC’s editorial standards without a great deal of alteration, as would normally have happened as a result of the process of editorial oversight applied to such pieces. As it stood, however, and whether or not Mr Bryant was in fact expressing a personal view of President Trump, some of his observations were couched in terms which might well have led readers to conclude that he was, resulting in a departure from the BBC’s standards of impartiality.

Upheld

Further action

The finding was discussed with those responsible for the article and reported to the Board of BBC News, and the article itself was amended in the light of the finding.

3pm News Bulletin, BBC Radio Ulster, 25 May 2020

Complaint

Part of this bulletin was overlaid with sound from another studio, when the presenter Nuala McKeever was heard to say (in connection with Dominic Cummings) “*I was thinking he was such a dick I had written his name down as Richard Cummings. Freudian slip or what?*”. A listener complained that there had been no apology on air or online for the inappropriate language, or for the breach of impartiality which he regarded the remark as constituting. The ECU considered the complaint in the light of the BBC’s Editorial Guidelines on Harm and Offence, which say “*The use of strong language must*

be editorially justified, and signposted if appropriate, to ensure it meets audience expectations”, and on Impartiality.

Outcome

The comments came to be broadcast because, unknown to those occupying it, a microphone in a studio previously in use had been left open. As the broadcast was entirely unintentional, there was no question of editorial justification or signposting, and the ECU agreed that language was not in keeping with the expectations of the audience at that time of day. It therefore accepted that there had been a breach of editorial standards in relation to Harm and Offence.

In relation to impartiality, the ECU noted that the remarks in question coincided with the bulletin’s report of the latest developments in the story of Mr Cummings’ trip to Durham, which, though unintended, was particularly unfortunate. It also noted, however, that, though disparaging of Mr Cummings personally, they did not reflect directly on the controversy provoked by his actions; that the obviously inadvertent nature of the episode made it unlikely to affect listeners’ general perception of the BBC’s impartiality on the topic; and that the remarks were not such as to compromise Ms McKeever in her role as a presenter of a general interest programme unrelated to politics. The ECU therefore found no breach of editorial standards in relation to Impartiality.

Although a broadcast apology would be usual in such circumstances, the ECU recognised that the question is always a matter of editorial judgement. In this instance, the management of BBC Northern Ireland had considered broadcasting an apology, but judged that this would carry a risk of repeating or even amplifying the original offence, and that the already febrile atmosphere surrounding Mr Cummings’ planned statement later that afternoon was such that the risk was best avoided. They also took account of the fact that the episode had prompted very few complaints in the aftermath of transmission, and decided that the best course of action was to respond to press enquiries received during the afternoon with a statement making clear that the remarks should not have been broadcast and apologising for the upset caused – a decision made in the expectation that the story would be widely reported in Northern Ireland, which proved to be the case. BBC Northern Ireland had already removed the bulletin from BBC Sounds, and subsequently, in correspondence with the complainant, outlined a set of measures designed to guard against any repetition. In the ECU’s view these actions, taken together, were sufficient to resolve the issue of complaint in relation to Harm and Offence.

Harm and Offence: resolved
Impartiality: not upheld

Tweet by Katya Adler, 28 April 2020

Complaint

A reader complained about a tweet published by the BBC's Europe Editor Katya Adler in which she used the word "*delusional*" in connection with Michael Gove. The complainant argued this was inappropriate, as the word was loaded and that it indicated her bias on matters concerning the EU. The ECU assessed the complaint against the requirements of due impartiality set out in the BBC's published Editorial Guidelines.

Outcome

The tweet was prompted by remarks made by Mr Gove to the Commons Committee on the Future Relationship with the European Union in which he stated:

I think the Covid crisis, in some respects, should concentrate the minds of EU negotiators, enforcing the vital importance of coming to a conclusion.

In response Ms Adler offered a detailed critique of his argument in a series of tweets, beginning with the following remark:

Am not first to comment on this today but below observation by Michael Gove that #coronavirus will focus EU minds on post #Brexit trade deal is delusional. It distracts EU leaders all the more from something which was not top of in-tray even before COVID-19

The BBC's Europe Editor is expected to offer audiences informed analysis on long-running stories such as Brexit, and in the ECU's view Ms Adler did so in these tweets. The detail she marshalled in support of her initial assertion shed light on the complexity of the story in a measured and balanced way; and she acknowledged the economic dimension of the argument, while pointing out the political imperatives driving the EU towards focusing on Covid-19. The ECU therefore did not agree that these tweets, taken as a connected series, raised questions about the overall impartiality of the BBC or Ms Adler.

The ECU did have concerns, however, about the terms of Ms Adler's judgement on what Mr Gove had said. The ECU noted that she did not quote him entirely accurately, substituting "*will*" for his "*should*", thus changing a statement which might or might not be understood as a prediction to one which could only be understood in that sense, and it was as a prediction that Ms Adler went on to judge it. Understood in that sense, we believe Ms Adler made a strong, evidence-based case for regarding it as most unlikely to be borne out and – subject to the qualification about allowing for other interpretations – was fully entitled to say so in those or similar terms. The word "*delusional*", however, was more a term of evaluation than of objective description (outside a psychiatric context) and, when applied to a statement, was necessarily to some extent an adverse reflection on the person making it. To that extent this

particular tweet in our view went beyond the Guidelines' licence for "*professional judgements, rooted in evidence*", and we upheld this aspect of the complaint.

Partly upheld

Further action

The finding was reported to the Board of BBC News and discussed with the relevant editorial management.

Newsnight, BBC Two, 26 May 2020

Complaint

A number of viewers complained that the opening section of the programme showed bias against the Government, and/or its Chief Advisor Dominic Cummings and that the programme was inaccurate to state that Mr Cummings had broken the rules on lockdown. The ECU considered the complaint in the light of the BBC's editorial standards of impartiality and accuracy.

Outcome

This edition of **Newsnight** was broadcast at the height of the controversy over a journey taken by Mr Cummings with his family to Durham, and a subsequent trip to the nearby town of Barnard Castle. It sought to examine in detail the available evidence and assess the political fall-out from the decision by the Prime Minister to defend his Chief Advisor. The opening remarks, by the presenter Emily Maitlis, set the scene.

At the beginning of the programme:

Tonight, the public can see that Dominic Cummings broke the rules, so why is the Government tying itself in knots to defend him?

Introduction to the item in question:

Dominic Cummings broke the rules. The country can see that and it's shocked the Government cannot. The longer ministers and the PM tell us he worked within them, the more angry the response to the scandal is likely to be. He was the man, you may remember, who always "got" the public mood who tagged the lazy label of "elite" on those who disagreed. He should understand that public mood now; one of fury, contempt and anguish. He made those who struggle to keep to the rules feel like fools and has allowed many more to assume that they can flout them. The Prime Minister knows all this, but despite the resignation of one minister, growing unease from his backbenchers, and dramatic early warning from the polls and a deep national disquiet, Boris Johnson has chosen to ignore it. Tonight we consider what

this blind loyalty tells us about the workings of Number 10. We do not expect to be joined by a Government minister but that won't stop us asking the questions.

Section 4 of the Editorial Guidelines demand due, rather than absolute impartiality, defined as “*adequate and appropriate to the output, taking account of the subject and nature of the content*”. Presenters may not give their opinion on controversial subjects but are allowed to offer their professional judgements, provided they are rooted in evidence. It is against this guideline that the complaints have been assessed.

Some complainants have also argued that it was inaccurate to state Mr Cummings had broken the rules. To the extent that Ms Maitlis offered this as a statement of fact it would potentially engage Section 3 of the guidelines on accuracy. However in the ECU's view, given the question of accuracy is in this case inextricably intertwined with that of impartiality, the latter is the pre-eminent test against which this broadcast must be judged.

In the ECU's view there was clear evidence at the time to support the assertion that many, though not all, voters felt anger at Mr Cummings' behaviour. The story had run prominently in the media for several days, and a petition calling on him to resign had gathered a large number of signatures - reaching one million shortly after the **Newsnight** broadcast. A number of Conservative MPs had also expressed disquiet, and the unhappy mood on the back benches was reflected in a later contribution from the programme's Political Editor Nick Watt. To that extent Emily Maitlis's opening remarks in relation to the public and political mood of the country were rooted in evidence and a legitimate professional, rather than personal, opinion. The ECU also took into account the fact that a programme like **Newsnight** is designed to provoke debate and discussion. Viewers expect presenters to ask difficult and challenging questions on their behalf and there is more latitude to play “devil's advocate” under such circumstances than in a conventional news bulletin.

BBC News say that the remarks were intended to explain the questions **Newsnight** planned to raise about Mr Cummings' trips. In the ECU's view however they went beyond an attempt to set out the programme agenda. The definitive and at times critical nature of the language – asserting without qualification that Mr Cummings broke the rules, that “*the country could see that*”, and that the Prime Minister was guilty of “*blind loyalty*” in refusing to sack him, placed the presenter closer to one side of the debate over his behaviour. At the time of broadcast a statement from Durham Police had yet to be published and arguments over Mr Cummings' behaviour were largely based on varying interpretation of rules which lacked an agreed arbiter, and concerned laws yet to be tested in the Courts. In the ECU's view the opening remarks did not sufficiently acknowledge such uncertainties.

BBC News has conceded that the introduction did not meet the required standards on accuracy or impartiality. In earlier responses it accepted that more should have been done to explain the purpose of the piece, and that the script risked giving the perception that the BBC was taking sides and voicing an opinion on a controversial matter. Whilst some complainants believe BBC News should have gone further, in the

ECU's view this is sufficient to judge the editorial matter resolved. This means that although a breach of standards has been identified, no further action is required.

Some complainants also expressed concern at the managerial response to the breach of standards. However the ECU's remit does not extend to judging whether disciplinary action against individual members of staff is warranted or what it should consist of, as that is a matter for BBC News and not the complaints process.

Resolved

Life and Birth, BBC One

This series of observational documentaries followed events in Birmingham's maternity units. A member of staff at one of the units complained that they had been filmed and shown in one of the programmes despite making clear that they consented to neither. The ECU considered the complaint in relation to the BBC's Editorial Guidelines on Privacy. In order to safeguard the complainant's privacy, their gender and the transmission date of the programme are not given in this published version of the ECU's finding.

Outcome

The Editorial Guidelines make clear that people in sensitive places such as hospitals have a reasonable expectation of privacy and that consent should be sought before filming them and including them in programmes. In this instance, the independent production company involved maintained in response to the complaint that they had no record of the complainant having withheld consent. In the course of the ECU's investigation they discovered that such a record had been made but, as a result of human error, it had not been included in the master-list of consents. The shot of the complainant in the programme would not have rendered them identifiable to viewers in general, and there was nothing inherently private in the activity they were engaged in. Nevertheless, the filming and broadcasting of the complainant without their consent constituted an unwarranted infringement of their privacy.

Upheld

Further action

The finding was reported to the board of BBC Content and discussed with the independent production company. The programme was removed from BBC iPlayer and the shot in question will be removed before it is re-shown. BBC Content is undertaking further investigation into the circumstances which allowed the error to occur.