

*Championing
excellence and diversity
in broadcasting*

Founded in 1983 by Jocelyn Hay CBE



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RESPONSE BY THE VOICE OF THE LISTENER & VIEWER TO THE BBC CONSULTATION ON AMENDMENTS TO THE BBC'S COMPLAINTS FRAMEWORK AND PROCEDURES

April 2020

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INFORMATION ABOUT THE VLV

Voice of the Listener & Viewer Limited (VLV) represents the citizen and consumer interests in broadcasting and speaks for listeners and viewers on the full range of broadcasting issues. It uses its independent expertise to champion quality and diversity in public service broadcasting, to respond to consultations, to produce policy briefings and to conduct research. VLV has no political, commercial or sectarian affiliations and is concerned with the issues, structures, institutions and regulations that underpin the British broadcasting system. VLV supports the principles of public service in broadcasting. It is a charitable company limited by guarantee (registered in England No 4407712 - Charity No 1152136).

INTRODUCTION

1. VLV welcomes the opportunity to respond to the consultation on proposed amendments to the BBC Complaints Framework.
2. VLV notes that The Charter requires that the framework should provide 'transparent, accessible, timely and proportionate methods of securing that the BBC complies with its obligations...'.¹
3. VLV generally welcomes the proposed amendments to the BBC Complaints Framework, however we have concerns about two of the proposed changes which we outline below.
4. When VLV responded to the draft Complaints Framework consultation in 2017 we were concerned that the BBC complaints site was not accessible enough. We still consider this to be the case and take this opportunity to again highlight our concerns. There is no direct link to the BBC Complaints site on the BBC home page. When 'complaints' is typed into the search engine on the site, the BBC Complaints page is listed as fifth in the search results. VLV would prefer for the Complaints page to be first result on the page when 'complaints' is typed into the search box, ensuring easier access to the page for those who wish to make a complaint. We would also recommend for there to be a direct link from the BBC home page to the Complaints page, as recommended in our submission in 2017.

¹ 56 (3), BBC Charter, 2016

Question 1: Do you agree that the ECU should publish a note of the action only in circumstances where a specific action has been taken and it is appropriate to do so?

5. VLV is concerned that the proposal to only publish a note of the ‘action taken’ in summaries of findings when it considers it *appropriate* to do so is likely to lead to less transparency and clarity. We do not believe that this change will lead to *greater* clarity for complainants; we believe that in fact it will lead to *less* clarity for complainants and the general public.
6. Publishing a ‘general statement’ on the BBC complaints website *about how the BBC learns from its mistakes and findings* could be considered as ‘white-washing’ and will provide less detail on actions taken in relation to specific complaints. VLV believes this will provide less transparency and clarity for the public.
7. The consultation document says *The ECU findings should only refer to action when it is appropriate and relevant to do so*. We agree that information about complaints and ‘action taken’ should only be published if it is relevant to the complaint in question, however we do not support the use of the word ‘appropriate’ in this context because the ‘appropriateness’ of an action is subjective. The appropriateness, or not, of including information for the benefit of the general public is a matter of personal judgement and VLV therefore opposes this proposal. VLV believes that the mandatory requirement to publish a note of the ‘action taken’ in all summaries of findings (i.e. upheld, partly upheld and resolved) should remain in place.

Question 2: Do you agree that the timeframe for complaints about BBC iPlayer and BBC Sounds should be extended [up to 1 year and 30 working days] to reflect the longer availability of programmes on both platforms? If you do not agree with this proposal, what are your reasons for this view?

8. VLV supports the amendment to insert the following sentence into paragraph 1 on the timing of complaints to reflect the greater availability of material on BBC iPlayer and BBC Sounds for a longer time period: *Complaints about BBC iPlayer and BBC Sounds should be made within 30 working days of the content ceasing to be available*.
9. Our reasoning is that now programmes are being made available for a longer period on BBC online platforms viewers are more likely to consume content after it has been broadcast live. Therefore it is appropriate to extend the period during which audiences can make complaints so that it applies to content available on online platforms.

Question 3: Do you agree that the ECU should be able to consider complaints at all stages of the process, including both Stage 1a and 1b?

10. VLV supports the amendment to allow the ECU the power to assess whether the complaint has been adequately answered at Stage 1a and Stage 1b in respect of editorial matters.
11. Our reasoning is that this approach will ensure that once complaints reach the ECU they are dealt with more comprehensively and the ECU will be able to assess the complaint as a whole.
12. We agree that if it is evident that the complainant is satisfied that an issue has been dealt with, then the ECU should not reinvestigate.

Question 4: Do you agree that representations should only be invited on findings for first-party complaints? If you do not agree, please explain your view?

13. VLV largely agrees with this proposed change to the complaints process whereby the ECU would no longer routinely invite representations on unpublished findings from complainants except in first-party complaints over unfair treatment or infringement of privacy, however we urge the BBC to continue to highlight that complainants are able to take their complaint to Ofcom if they are still unhappy.
14. VLV suggests the following wording is retained from the current version of the complaints framework: ***The finding will include information about how to contact Ofcom if you wish to take your concerns further.***
15. Therefore the final wording in 'Investigations by the ECU' which VLV proposes would be *'The ECU's findings will normally be the BBC's final response to your complaint, except for first-party complaints of unfair treatment and infringement of privacy, where you will be invited to comment on the finding. In such cases, the ECU will consider your comments so long as they are received within 10 working days of the date on which the finding was sent to you. If you wish to comment but are unable to do so within that time limit, please give the ECU your reasons for requesting an extension. The finding will include information about how to contact Ofcom if you wish to take your concerns further.'*

Question 5: Do you agree with the proposal to publish one consolidated fortnightly report which includes all reasoned findings as opposed to only summaries of findings?

16. VLV agrees with the proposal that the ECU should publish a combined fortnightly complaints report which includes reasoned findings on all complaints where a breach of editorial standards has been acknowledged (i.e. upheld, partially upheld and resolved findings) in line with Ofcom's recommendation; this report will also include not upheld findings when there are appropriate reasons for publishing them.

17. Our reasoning is that this will ensure that there is no difference between the reasons given to the complainant for its decision and those published on the complaints website.

Question 6: Do you agree with our proposal to bring the BBC's procedures in line with Ofcom's guidelines on handling Fairness and Privacy complaints?

18. VLV agrees with the proposal to insert the following clause into the first paragraph under *'Complaints where there is recourse to the law'*: *'The BBC may likewise decline to accept, or cease consideration of, a complaint whose subject matter is, or appears likely to be, the subject of legal action by another party.'*
19. Our reasoning is that VLV considers that the approach of not allowing editorial and legal complaints to be pursued simultaneously is appropriate and that the current wording is illogical and insufficient in order to achieve this end.