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Programme Complaints: Appeals to the Governors

The Board of Governors is responsible for overseeing the running of the BBC, to ensure that the BBC serves the public interest. We do this in a range of ways, such as setting key objectives and approving strategy and policy. Most importantly for this bulletin, we are responsible for monitoring the effectiveness of complaints handling by the BBC, including hearing appeals from complainants who are not happy with the responses they have received from management to serious programme complaints.

The Governors' Programme Complaints Committee is a subcommittee of five members drawn from the full Board of Governors. For a full account of our remit, please see the back page of this bulletin.

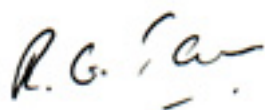
Foreword by the Chairman of the Governors' Programme Complaints Committee

The Governors' Programme Complaints Committee (GPCC) is responsible for ensuring that complaints are properly handled by the BBC. The Committee therefore welcomed the launch by BBC management of a new process for handling complaints on 1 February 2005. (Details of the new arrangements can be found at bbc.co.uk/complaints.) We report on our review of the new system in the GPCC bulletin for April–June 2005.

This audit is just one of a range of ways in which the GPCC maintains its oversight of BBC complaints handling. The Committee also takes appeals from individuals who have made an editorial complaint to the BBC Editorial Complaints Unit or a Divisional Director, and who are not satisfied with the response they have received. In the first three months of this year, the Committee published findings on 22 appeals: 20 related to matters of impartiality and accuracy, and two related to matters of taste and decency. The Committee upheld three in full or in part (see findings beginning on pages 31 and 32).

In this period, the Committee considered complaints about the broadcast of *Jerry Springer – the Opera* as part of *Jerry Springer Night* on BBC Two (Saturday 8 January 2005). It did not uphold the complaints and, given the level of public controversy surrounding its transmission, this decision was published immediately. The finding is available online at www.bbcgovernors.co.uk.

The Committee continued to receive a proportionately high volume of appeals concerning alleged breaches of impartiality in the BBC's Middle East coverage. A small number of complaints, whilst not being upheld, highlighted the need for extreme care over the choice of words used in news reports about the Middle East. The Committee stressed the need for constant vigilance and sensitivity to the nuances and connotations of individual words and phrases.



Richard Tait
Chairman of the Governors' Programme Complaints Committee

Summary of appeals

Matters of impartiality and accuracy

Kenyon Confronts

BBC One, 15 October 2003

Kenyon Confronts: Secrets and Confessions featured the stories of four adults who claimed that as children they had been abused by Catholic priests. The core of the programme was the previously untold and unpublicised story of Father James Robinson, from the Archdiocese of Birmingham. Two of the men featured in the programme claimed that Father Robinson had abused them as children. All four individuals felt that, in dealing with their allegations (made when they were adults), the Church's concern to protect its public reputation had been placed before the needs of the victims of child abuse. This attitude was, they claimed, making their suffering worse.

The current Archbishop of Birmingham, who was not in post at the time of the alleged incidents of child abuse, is responsible for implementing the Church's new policy on dealing with accusations of child abuse, adopted following a report by Lord Nolan. Significantly, this policy commits the Church to treating past complaints as if they were new.

The formal complaint made after transmission to the Head of Programme Complaints

As the complainant subsequently stated in his letter of appeal that he was "content to let go" several of the matters originally raised with the BBC's Programme Complaints Unit (PCU), this section focuses only on those complaints dealt with by the PCU which were the subject of appeal to the Governors' Programme Complaints Committee. Other than references to Father Robinson – who was featured in the programme – references to individual members of the clergy have been anonymised, and they are accordingly referred to as 'Father' irrespective of their true rank.

The Archbishop complained to PCU that:

- 1 *Kenyon Confronts* was not a suitable vehicle for this subject matter.
- 2 The overall approach taken by the programme team had been unacceptable. The programme team had failed to respond to invitations to pursue their enquiries through official channels.
- 3 The behaviour of BBC reporters towards a number of current and former priests had been unacceptable. Specifically:
 - 3.1 On 15 August 2003 a priest (Father A) received a telephone call from a man who introduced himself as 'Mark' from the BBC. Despite Father A telling him he had nothing to say, that he had recently left hospital and was convalescing, 'Mark' continued to press for an interview. On 2 September 2003, Father A's housekeeper told him that someone called Mark had arrived to visit him. Father A refused to see him.
 - 3.2 A reporter from the BBC – Paul Kenyon – gained entry to a residential care home by purporting to be "a Catholic and a friend". This reporter confronted a retired elderly priest recovering from a stroke (Father B) and "cornered" him in his room. The reporter continued to question the priest for sensitive information. When told to route his enquiries through the formal diocesan channels, the reporter attempted to enter the home a second time, later the same day, to interview another elderly priest. On that occasion he was turned away.

- 3.3 A priest (Father C), who was convalescing from lung disease, was approached by a man who wanted to question him on child protection matters. Father C explained that he was sick and referred him to the Vicar General. Despite this, two weeks later the priest found the same man waiting for him outside his house. Father C felt he had no option but to engage with him in an interview.
- 3.4 On a Sunday evening while waiting for a hearse to bring a body to church, a man who identified himself as David Baxter from the BBC approached a priest (Father D), on the steps of the church with mourners all around, to ask questions. The following morning after the funeral, Mr Baxter called at the presbytery to speak about Father Robinson. It was an unarranged meeting when Mr Baxter could, in fact, have easily requested a further meeting, thereby giving the priest the option of whether to accept or refuse.

The Head of Programme Complaints did not uphold these specific complaints on the following grounds:

- 1 *Kenyon Confronts* is governed by the same set of guidelines as other BBC news and current affairs programming, and the same journalistic standards and rigour are required of its production team. A programme with the aim and scope of the *Kenyon Confronts* series was not an inherently unsuitable vehicle for a topic such as sexual abuse of children by Catholic priests, and the way the Church has dealt with it.

The definitive statement of the nature and purpose of the programme is outlined on bbc.co.uk as follows: *“Our intention is to bring complicated but important issues to a wide public. We want to make BBC Current Affairs more accessible and more popular. The facts and the journalism are the same, the way we present it is not.”*

The reactions of all the victims who took part in the programme were positive and the 498 calls to the helpline following the programme did not suggest the topic had been handled insensitively.

- 2 When journalists are investigating criticisms of an organisation, they are under no obligation to confine their approaches to the official channels of that organisation, and any such obligation would clearly be against the public interest. BBC journalists are under an obligation to give organisations due opportunity to respond to criticisms, and that was done in this instance.
- 3 The Head of Programme Complaints commented on the individual cases involving priests contacted by the programme’s reporters as follows:
 - 3.1 The call from the Assistant Producer, Mark Williams-Thomas, to Father A: the parties differed in their account of the conversation. In the absence of corroboration for either account, the Programme Complaints Unit (PCU) felt unable to adjudicate on the points in question. However, the Head of Programme Complaints noted that Mr Williams-Thomas could not have known of Father A’s medical condition before contacting him. Mr Williams-Thomas accepted the priest’s refusal to see him when he attempted to follow up the phone call in person. In the view of the Head of Programme Complaints, such actions did not go beyond the bounds of decency and propriety.
 - 3.2 The statements of two Roman Catholic Religious Sisters (Sister F and Sister G) did not verify that Father B was upset by the meeting with Paul Kenyon (and Mark Williams-Thomas). The only evidence in Sister F’s statement which supported the contention that Father B had, in fact, been distressed by the visit was third-hand, and not reconcilable with her account of her conversation with him.
 - 3.3 In view of the fact that Father C’s recollection of the meeting with another assistant producer, David Baxter, did not tally in important respects with a recording that Mr Baxter had made of the meeting, the Head of Programme Complaints concluded that not much reliance could be placed on the priest’s recollection of the phone call which preceded the meeting. In particular, the Head of Programme Complaints did not believe it was possible to rely on Father C’s assertion that he had specifically told

Mr Baxter that he was ill and did not wish to see or speak to him. This did not square with what the recording disclosed the priest had said and done when Mr Baxter visited him.

3.4 The visual record of Mr Baxter's visit to the church on 10 August did not support the suggestion that it was an inconvenient and upsetting distraction to Father D, who appeared relaxed and unhurried throughout the conversation. Mr Baxter's visit to the presbytery the next morning was "unarranged" only in the sense that he had made no specific arrangement to call at that time. Father D had twice made it clear in the previous evening's conversation that he was willing to see and talk to him at a later date. On opening the door to Mr Baxter, the priest gave no indication that his visit was inconvenient or unwanted, but invited him in. Therefore, the recordings of the two encounters between Mr Baxter and Father D gave no grounds for concluding that Mr Baxter employed an unacceptable style of interviewing. The Head of Programme Complaints noted that Mr Baxter's use of a hidden camera to record the meeting was somewhat irregular as he had not cleared in advance the use of this surreptitious filming at the appropriate editorial level.

The Head of Programme Complaints concluded that the incidents he had investigated did not amount to unacceptable practice. Nor, in his view, were they an infringement of privacy.

The complainant was not satisfied with the response from the Head of Programme Complaints and wrote to the Chairman. The Chairman referred the matter to the Governors' Programme Complaints Committee.

The Committee's decision

The Committee noted that it was not being asked to consider the entirety of the original complaint nor was it being asked to adjudicate on programme content. Rather, the complainant's complaint was about the suitability of the programme format for the subject, and the production process.

In particular:

- A key aspect of the Archbishop's complaint concerned the suitability of the *Kenyon Confronts* programme strand to deal with the issues addressed in this edition. According to the complainant, the programme format lacked the seriousness to do so.
- The second matter for the Committee concerned a series of individual acts relating to the programme's research process.

Complaints 1 and 2

The Committee began by considering the issue of whether the programme format was a suitable vehicle for this type of investigation. The Committee noted that the complainant had argued that the BBC was approaching this issue with inappropriate investigative techniques. Had the production team approached the appropriate authorities, they would have been provided with the material they required.

The Committee agreed that the issue here was whether the production team believed they could achieve what they wanted by approaching the Church authorities openly. Because the programme was about allegations of child abuse and a cover-up, as well as all the other issues, the production team felt, reasonably in the Committee's view, that they could not pursue the normal channels. This was a programme which was investigating allegations of serious crime and, as such, a matter of public interest. In such circumstances it was not reasonable to say that a programme format such as *Kenyon Confronts* was not a suitable vehicle for investigating this type of subject matter. The Committee was unanimous in its belief that the programme had the right to investigate the story.

The Committee did not uphold these aspects of the appeal.

Complaint 3

The Committee considered the complaint concerning unfair treatment of interviewees. The Chairman observed that, in part, the complaint was that correct procedure had not been observed in the secret filming and taping of two priests without obtaining consent. The Committee noted that the complaint was not primarily about a failure to seek permission, but about a “betrayal” of the priests being interviewed. Was it in fact a breach of trust and a betrayal of the priests interviewed, and should permission have been sought?

In addressing these questions, a key issue to be considered was whether *Kenyon Confronts* had been justified in undertaking secret recording by the seriousness of the offence under investigation, and by what it knew about the relationship between Father D and Father Robinson. It was clear that the production team suspected that Father D might have been involved in child abuse. The reporter, David Baxter, had asked Father D directly whether he had “taken children away”. (Father D denied this.) Father D had also attended a police interview with Father Robinson’s mother about Father Robinson’s departure to America. These points were relevant in that they raised the question as to whether there was an editorial justification for secretly recording the interview with Father D.

The reporter, David Baxter, had died since the secret recordings were made. It was, therefore, not possible to be certain about his initial motivation in undertaking the clandestine recording of Father D. The Committee agreed, however, that it was possible that the reporter had felt that there was more to be uncovered than might at first have appeared to be the case, and that the only way this could be uncovered was to use secret filming. Arguably, in this case it had not added much to the sum of information concerning the investigation: the reporter had thought something would come of the secret filming but, in fact, it had not.

The Committee considered the content of the secretly filmed interviews in more detail. A key issue was whether the clandestine recordings had been for future transmission or for the purposes of journalistic note-taking.

3.1 The attempts to interview Father A

The Committee agreed that there were two issues to be considered in the case of Father A:

- Was the journalist’s behaviour in accordance with BBC guidelines?
- What did the production team believe about Father A?

The complainant argued that it was wrong for the BBC reporter to call uninvited at Father A’s home when the priest had made it clear in an earlier phone call that he did not want further contact. The complainant argued that this was a form of “harassment” and wholly inappropriate.

Father A said in his witness statement that when the BBC reporter phoned him he was very persistent. He was, he said, “very angry and upset that he should contact me ‘out of the blue’”. The priest said he had made clear that he did not wish to meet the reporter and had ended the call by putting down the phone. He said he could not remember, however, whether he had told the BBC reporter that he had just had a major operation.

A fortnight later the BBC reporter called at Father A’s house in person; the housekeeper made clear that the priest did not wish to see him. After this no further attempts were made to contact Father A.

In considering the behaviour of the BBC reporter, the Committee noted that the editorial justification for wanting to speak with Father A was that he had been a colleague of two priests who had been the subject of allegations concerning child sexual abuse. The Committee considered that there had been a degree of inappropriate behaviour in the approach to Father A, but it did not conclude that the journalist’s actions could be described as seriously improper or, as described by the complainant, “wholly inappropriate”. The approaches had, after all, been via a telephone call and a knock at the door.

3.2 The interviewing of Father B

The Committee considered the complainant's argument that it was inappropriate for the two *Kenyon Confronts* reporters to enter a home for sick priests.

The Committee noted the sequence of events that afternoon. The receptionist had informed Sister G that two men were waiting to see Father B. The Sister had asked the receptionist to decide whether Father B wanted to see his visitors, and if so, where. This course of action by Sister G suggests that the Father was perceived by staff at the home to be capable of judging for himself whether to receive visitors or not. Later that day, Sister F proved that she was capable of being a barrier to entry when she refused Paul Kenyon and another reporter from the programme access to another priest at the home, Father E. The Committee judged that the reporters visiting the Father might quite reasonably have assumed that staff in the home would have established whether residents could be seen by visitors.

The Committee noted that Father B had made no complaint in his witness statement. He said he felt "uncomfortable" at times, but that "they were not unpleasant or malicious in the way they spoke to me". There was nothing in his testimony to suggest that the journalists had put a sick man under pressure.

The Committee concluded that it was not inappropriate *per se* for the two *Kenyon Confronts* reporters to enquire whether they might speak to one of the residents. The Committee felt that the reporters could reasonably have assumed that if it was not appropriate for Father B to receive visitors, this would have been made clear to them at reception by the staff, as happened when they returned to see if they might speak to Father E.

3.3 The interview with Father C, secretly taped by David Baxter

In his witness statement Father C stated that seeing David Baxter made him feel "stressed, agitated and angry". The Committee considered whether it was reasonable for David Baxter to attempt to obtain a second interview by approaching Father C in person. Was the interviewer being legitimately persistent, or was the approach inappropriate? Could it be argued that David Baxter was unaware of the priest's stress, anger and agitation, and so did not realise that he was intruding?

The Committee felt that, given Father C's position within the Diocese of Birmingham, it had been perfectly reasonable for the BBC interviewer to approach him by phone. The Committee also felt that David Baxter had been right to pursue an interview with Father C a second time, and that he would have been failing in his duty as an investigative journalist had he not done so.

The Committee judged that there was, however, a difference between the two interviews. In his interview with Father D, David Baxter had been hoping to prompt a revelation that would not have been made had the priest been aware of the secret filming. Father C, however, was being interviewed because he had a function and a responsibility within the diocese, and not because he was an individual whom the reporter had thought might possibly have been party to a crime.

The Committee felt that the secret recording of Father C was a more marginal case than Father D. Arguably, David Baxter had thought that this approach was the only way he would be able to obtain the information he was seeking from Father C. A central thrust behind the programme was that the Diocese of Birmingham had been involved in covering up the guilt of priests involved in child sexual abuse. It was clear that, as far as the reporter was concerned, Father C might have had information that was relevant to the investigation of whether or not there had been a cover-up.

Again, there was a discrepancy between the witness statement and the material on the filmed record. In his witness statement Father C said: "I was quite forceful in what I said to him, i.e. that I didn't want to see or speak to him because of my illness."

In the recording, however, while the priest makes it clear he is in a hurry, he says: “I will talk to you when I get back.”

At the end of the interview David Baxter says: “Enjoy your holiday... thanks very much.” Father C replies: “It’s OK, sorry I have to rush.”

The Committee noted the complainant’s comments in his letter of appeal that, as an experienced priest, Father C was a man capable of maintaining a calm and measured approach. Nevertheless, even allowing for this observation, the Committee did not agree that Father C’s exchanges with David Baxter suggested someone who was “stressed, agitated and angry” at being interviewed.

3.4 The interview with Father D, secretly filmed by David Baxter

The Committee noted that in his sworn witness statement – the relevant section is underlined – Father D said:

“Mr Baxter’s visit on Sunday 10 August was very inconvenient and was very upsetting done in front of family mourners. It actually took my concentration off from what I should be concerned with at that time.”

In the filmed interview of their conversation, however, David Baxter says to Father D at a point approximately two minutes into the conversation:

INT: Well it’s probably not appropriate for me to talk to you now about it. Could I speak to you later?

The priest then continues to talk to the reporter for a further ten minutes.

Towards the end of this first conversation David Baxter says:

INT: Well I’m sorry to have taken up your time...

The priest replies:

FATHER D: Oh no, it’s no trouble at all. It’s just...

The first interview with Father D lasted approximately 10 minutes; the second, 37 minutes. The Committee felt that, had the first interview at the church been as distressing as Father D’s witness statement suggested, it is unlikely that the priest would have invited the reporter into his home for a further conversation lasting 37 minutes.

In considering these exchanges, the Committee judged that had the priest been distressed it would have been difficult for the interviewer to gauge this from Father D’s demeanour and responses. The Committee agreed that the filmed record did not support the assertion that the priest was upset.

The Committee noted a number of discrepancies between the witness statements (written four months later) and the filmed record. In his witness statement Father D stated the following about his conversation with David Baxter:

“He said, ‘I bet you rang Jim Robinson last night,’ to which I replied ‘No.’ He said ‘Are you sure?’ I said, ‘No, I’m positive, I’m certain.’ I have not, even to the date of this statement, telephoned or contacted Jim Robinson in any way.”

Father D said that he added the words “Bet you rang him” to his original diary note of the meeting on 13 November, the date of the witness statement. This was three months after the diary note which was written on Monday 11 August or Tuesday 12 August.

The filmed interview reveals that what David Baxter actually said was as follows:

INT: Have you spoken to him recently?

FATHER D: *I'd say about twice this year I'd say he rang up.*

INT: *And you haven't spoken to him last night because...*

FATHER D: *Oh no, no, no. No, never had ... No, no, I wouldn't dream of it. Yes, because then that ... you have to go to [location specified] St Chad's and that's where the documentation is on whatever they were...*

The witness statement claimed that David Baxter asked Father D "if Jim Robinson was a favourite of Couve de Murville". The priest claimed his reply to this was "No, the Archbishop does not have favourites; each priest is treated the same."

In fact, the taped record shows that what David Baxter actually said was:
"Do you know was he respected by Archbishop Couve de Murville?"

Towards the end of the second filmed interview David Baxter says to Father D:

INT: *You've been very helpful.*

FATHER D: *You know if you want to come back again, you're welcome ... come back again...*

Nothing in the exchange points to Father D indicating to David Baxter that he wanted him to finish the interview and to leave. All the evidence points to Father D being a willing participant in the discussion. Had the priest wanted to terminate the first interview he could quite easily have used the fact that he was about to conduct a funeral as an excuse. He did not, however, do this and, in fact, gave David Baxter the option of coming back:

INT: *...well anyway, thank you very much.*

FATHER D: *No, no that's fine, if you want to come back again, yes.*

Given this analysis of the taped interview and, in particular, that within the first few minutes David Baxter provided Father D with an opportunity to terminate the interview if he wished, the Committee did not uphold the complaint that David Baxter had acted wrongly in approaching the priest as he was standing in the church porch preparing to celebrate Mass.

Considerations concerning the unauthorised filming of Father C and Father D

The Chairman said the Committee should consider the following:

- Was there editorial justification in this case for secret filming?
- The filming had not been authorised. What did the BBC Producers' Guidelines have to say on the subject of unauthorised filming?

In terms of the editorial justification for the secret filming, the programme clearly felt that there was evidence to suggest that Father D had been closely connected with Father Robinson, the priest at the centre of the investigation.

In the case of Father C, the programme had wanted to interview someone in their official capacity within the diocese. This was because the programme involved allegations that elements within the diocesan hierarchy at the time had been involved in a cover-up involving paedophile priests.

Surreptitious recording: a view from Editorial Policy

The committee asked the Chief Advisor, Editorial Policy, to comment on the issues raised by the secret filming.

The Chief Advisor, Editorial Policy, confirmed there was a formal process for authorising secret filming. This involved obtaining consent from the Head of Department.

There was, however, a distinction to be made between recording for transmission and recording for the purposes of journalistic note-taking. The Chief Advisor, Editorial Policy, referred the Committee to page 73 of the existing BBC Producers' Guidelines on Recording Telephone Calls as being the section most relevant to the matter under discussion.

This states:

"It is permissible without prior referral for programme makers to record their own telephone conversations for note-taking purposes, or to gather evidence to defend the BBC against legal action. Such recordings should not be broadcast. Only Controller Editorial Policy can give retrospective permission to broadcast material recorded in this way, and permission will be given only in exceptional circumstances."

The Chief Advisor, Editorial Policy, said the guidance had been written with surreptitious telephone recording in mind as this had been the only technology that realistically applied to this kind of activity at the time. Since then, other electronic devices had emerged to which the guidance could reasonably apply. The BBC Producers' Guidelines were in the process of being revised; it was likely that the guidelines on surreptitious recording would be broadened to include other devices, particularly in the case of recordings undertaken for evidential purposes.

The Committee also noted that in the section on Note Taking, the Neil Report, which had examined the implications for BBC journalism of the Hutton Report, had recommended that: "Whenever practicable, interviews with sources should be recorded or taped."

As a result, there was now a trend among BBC journalists towards greater use of recording for the purposes of evidential note-taking. The Chief Advisor, Editorial Policy, said that in his experience as a senior Current Affairs Editor it was common practice, and, indeed, had proved highly advisable in a number of sensitive investigative cases, to undertake surreptitious recordings for the purposes of journalistic note-taking.

As David Baxter had died since making the surreptitious recordings of the two priests, it was not possible to confirm definitively whether his primary intention had been to undertake the recordings for the purposes of journalistic note-taking. The Committee concluded, however, that as there had been no subsequent approach to the Controller, Editorial Policy, for any of the recordings to be used for transmission purposes, it was reasonable to assume that the purpose of the recordings was evidential.

The Committee, therefore, did not uphold the complaint that David Baxter had acted wrongly in filming the interviews with Father C and Father D without consent.

The appeal overall was not upheld.

Broadcasting House

Radio 4, 7 November 2004

Writing to the Head of Programme Complaints, the complainant alleged that the BBC had been biased in its reporting of the Israeli–Palestinian conflict. In particular he complained that a review of the papers by reporter Hugh Sykes from Jerusalem on Radio 4's *Broadcasting House* shortly before Yasser Arafat's death had described the Israeli newspaper *Ha'aretz* as "moderate". He also complained that the report described the *Jerusalem Post* in extremist terms, and that the BBC chose to take a distorted view of the situation and classified it as the norm.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- Although some Israelis regard *Ha'aretz* as a left-wing newspaper, describing it as "moderate" cannot be interpreted as taking one side in the Israeli–Palestinian conflict.
- The Israeli Government's official website www.mfa.org.il describes *Ha'aretz* as "the country's leading newspaper".
- When it came to the *Jerusalem Post*, Hugh Sykes read out a section of its article on the impending death of Arafat and continued: "The *Jerusalem Post*'s main editorial is the most telling one: 'Destructive legacy' is the headline." As neither he nor the main presenter of the programme, Fi Glover, made any other comment about the *Jerusalem Post* this could not be interpreted as describing it in "extremist terms".

The complainant appealed to the Governors' Programme Complaints Committee.

The Committee's decision

The Committee considered there was no evidence of bias in Hugh Sykes's report. In using the word "moderate", Hugh Sykes was not using the word in any approbatory sense. He was simply describing the paper as having a 'middling' position in the spectrum of Israeli newspapers.

The complainant maintained that Hugh Sykes had described the *Jerusalem Post* in extremist terms. In the broadcast Hugh Sykes quoted the newspaper's headline "Destructive legacy", and went on: "... and part of the article read: 'When Joseph Stalin died millions of Russians mourned the man who had murdered millions of their countrymen – such is the legacy of Yasser Arafat. He is responsible for the deaths of countless more Palestinians than Israelis.'"

Having listened to a recording of the broadcast, the Committee agreed with the view arrived at by the Head of Programme Complaints, namely that all Hugh Sykes had done was quote from the paper.

The appeal was not upheld.

BBC News, 7.35pm and 10pm

BBC One, 3 October 2004

The complainant alleged a lack of impartiality in reporting by Orla Guerin on Israel's military response to the rocket attacks by Palestinian terrorists in Gaza. In particular he stated that:

- Orla Guerin "complained" that international journalists were prevented from filming the incursion into Gaza, thereby intending to imply that Israel wanted to cover up its actions.
- Orla Guerin gave a completely biased report on the funeral of Palestinian terrorists. She stated that the Israelis killed "mostly militants" in such a way that it sounded as if she was disappointed, or that this was unusual.

- Orla Guerin focused on a “story” – one that sounded invented – of a deaf mute. She said the man was “killed only for looking”. This, the complainant maintained, was a clear accusation that the Israeli army had killed a civilian just for watching their operation: in other words, Ms Guerin was accusing the Israelis of murder.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- The BBC has a responsibility to report all aspects of the conflict.
- In this case the Israeli army was mounting a significant military operation in the Gaza Strip. It was legitimate, therefore, for the BBC to send a correspondent to report on what was happening inside Gaza.
- The introduction to the item made it clear that the Israeli Government was taking action to stop rocket attacks on Israeli towns.
- The report properly placed events in context. Whatever the reason the international media were denied access to Gaza, it was right to make clear to viewers that the images they were seeing were filmed by an Israeli crew, allowed in by the Israeli army.
- In reporting the death of a man who was unable to hear or speak and who had been at a window, Orla Guerin said: “It seems he was shot dead just for looking. An Israeli military source admits he wasn’t armed but says he was watching the troops.”
- Rather than this being a definite statement, the use of the word “seems” introduces a qualification that raises questions about what happened. The report was reflecting the assessment of an experienced reporter on the spot.

The complainant was not satisfied with this adjudication and appealed to the Governors’ Programme Complaints Committee.

- The complainant’s appeal to the Governors’ Programme Complaints Committee focused on one particular aspect of the finding by the Head of the PCU. This was his claim that Orla Guerin had said in her report: “An Israeli military source admits he wasn’t armed but says he was watching the troops.”
- The complainant stated that he neither heard these words broadcast nor did he believe they were broadcast in this way. He asked that the Governors’ Programme Complaints Committee should examine the “actual edited broadcast” alongside the response of the Head of Programme Complaints to his complaint.

The 7.35pm and 10pm broadcasts

The following are the relevant verbatim sections of the transcripts of both broadcasts. These have been checked against the output as transmitted, and the transcriptions are accurate. The key sections are underlined.

7.35pm

ORLA GUERIN: This is a close-up look at Operation Days of Repentance. The first detailed images of Israel’s troops in action. These pictures, filmed by Israeli television, which was given access to the soldiers. For now, Gaza remains sealed. The international media denied entry: Israel limiting what the world can see. But vowing this massive attack will continue and will expand.

LT GEN MOSHE YAALON – ISRAELI ARMY CHIEF OF STAFF: We intend to go on with this operation until the Palestinian side will be convinced to stop their rocket launches and terror attacks in this part of Israel.

ORLA GUERIN: As he spoke, more Palestinian funerals. Mostly militants killed today, but among the dead, a man unable to hear or speak. It seems he was shot dead just for looking. An Israeli military source admits he wasn’t armed but says he was watching the troops. Trapped in the wreckage, Palestinians are wondering when the world will take notice. Waiting for an international outcry that has not come. The world is more worried about Iraq.

10pm

ORLA GUERIN: *This is the first close-up look at Operation Days of Repentance. These pictures filmed by Israeli television which was given access to the troops. Since the offensive began, Israel has kept the international media out. For now, Gaza remains sealed, Israel vowing this massive attack will continue and will expand.*

LT GEN MOSHE YAALON: *We intend to go on with this operation, until the Palestinian side will be convinced to stop their rocket launches and terror attacks in this part of Israel.*

ORLA GUERIN: *As he spoke, another round of funerals, filling the angry streets of Gaza. Mostly militants killed today, but an innocent civilian joined the long list of the dead. A man who could neither hear nor speak, and who it seems was shot dead just for looking. An Israeli military source admits he wasn't armed but says he was watching the troops.*

The Committee's decision

The Committee did not agree with the complainant's assertion that the Head of the PCU had been "less than honest in his reply". The transcriptions clearly indicate that the words the complainant disputed as having been broadcast were, in fact, included in both bulletins.

The appeal was not upheld.

Yasser Arafat – The Struggle for Palestine

BBC Two, 13 November 2004

Writing to the Head of Programme Complaints, the complainant maintained that "this biased anti-Israeli documentary by Jeremy Bowen was exceptionally evil". In highlighting three complaints in particular, the complainant described them as a "deliberate distortion, and malicious slander".

They were that:

- Jeremy Bowen's reference to Jenin had nothing to do with the life of Arafat. It was inserted in order to make an unjust attack on Israel, in particular to use the term "war crime" in his description of the event.
- Bowen's description of the start of the second Intifada misrepresented Ariel Sharon as being the instigator of the revolt. This lie was rejected by the Mitchell Report of April 2001 and even refuted by the Palestinians themselves.
- Bowen's accusation that, during the period immediately after Oslo, Israel controlled Arafat was "absurd".

The Head of Programme Complaints did not uphold the complaints on the grounds that:

- The Israeli attack on Jenin in April 2002 represented a step-change in its response to the second Palestinian Intifada. It was an important historic event, regardless of the numbers killed.
- The programme did not say that Ariel Sharon was the instigator of the second Intifada. Jeremy Bowen simply reported Palestinian feelings about the visit, and recounted the sequence of events, without attaching blame to anyone. He pointed viewers to key paragraphs of the Mitchell Report, which describe Mr Sharon's visit as "poorly timed" and "provocative".
- The programme did not say "Israel controlled Arafat". In fact what it said was:
COMMENTARY: It was soon clear that Israel, not Arafat, was really in charge: he didn't help. Arafat was not a man for delegation and institution building. He gave plum jobs to friends and used patronage and payoffs to stifle dissent. He ruled like a medieval potentate.
- When interviewed by the Programme Complaints Unit (PCU), Jeremy Bowen provided the following

response to the complainant's specific point about this aspect of his commentary:

This was a reference to the fact that the autonomy granted under Oslo was limited. In no sense was it proper sovereignty. Israel controlled the airspace, and who went in and went out. There were three classifications of occupied territory:

Area A – areas controlled by the Palestinian Authority

Area B – administered by the PA but under security control of Israel

Area C – areas under total Israeli control

Israel was “really in charge” because its troops controlled access to Area A. It was also in charge because it was able to expand its settlements in the occupied territories Yes, Arafat’s PA had security responsibilities ... but they were never sovereign actors, a fact that Israel during those years would have been the first to state.

The complainant appealed to the Governors' Programme Complaints Committee. In his letter to the Committee, in addition to the complaints raised with the PCU, he claimed that the Head of PCU had “failed to answer several points” in his complaint, and that the opening paragraph of his letter to the complainant highlighted his personal opinions as the complainant himself had not referred to Arafat's position in the Middle East conflict.

The Committee's decision

The Committee considered the three complaints in turn.

Complaint 1

Jeremy Bowen's reference to Jenin had nothing to do with the life of Arafat. It was inserted in order to make an unjust attack on Israel, in particular to use the term “war crime” in his description of the event.

The Committee noted that in his commentary Jeremy Bowen said the following:

BOWEN: The Israeli army was soon moving into Palestinian lands at will – destroying the last pretence of self-rule. Tanks and troops attacked Arafat's headquarters at Ramallah.

ARAFAT: I am appealing to the whole international world to stop this aggression.

BOWEN: But the fighting continued. The Israeli attack on Jenin reduced the refugee camp to rubble and left many dead. The Palestinians – and international observers – called it a war crime. But to the US and Israel, it was Arafat who was the war criminal.

In considering this aspect of the complaint, the Committee also reviewed some brief extracts from BBC online coverage of the Jenin events in April 2002. A typical example is the extract below:

A United Nations envoy has said that the devastation left by Israeli forces in a Palestinian refugee camp in the West Bank is “horrific beyond belief”. Terje Roed-Larsen, who toured the Jenin refugee camp on Thursday, said it was “morally repugnant” that Israel had not allowed emergency workers in for 11 days to provide humanitarian relief. ... Mr Roed-Larsen, who is the UN's Special Co-ordinator for the occupied Palestinian territories, was visiting the camp with Red Cross and UN workers.

The Committee considered it reasonable that Jeremy Bowen had referred to Jenin briefly in his chronology of events, and that the reference was justified in the context of the subject matter.

The complainant argued that Jeremy Bowen's purpose in using the Jenin sequence was “simply to make Israel look bad”. In calling the event a “war crime”, Jeremy Bowen had committed a gross distortion of the truth.

This is what Jeremy Bowen said in his commentary:

BOWEN: The Palestinians – and international observers – called it a war crime. But to the US and Israel, it was Arafat who was the war criminal.

The Committee noted that Jeremy Bowen in this passage was reflecting different perspectives on what had happened in Jenin. He had attributed the use of the term “war crime” to Palestinians, and to international observers. The Committee did not regard the reference as an unjust attack on Israel or a “gross distortion of the truth”. Jeremy Bowen had balanced a Palestinian allegation – that Jenin was a war crime – with an Israeli one, that Arafat was a war criminal. He was clearly reporting, accurately, the allegations which others had made at the time and was not taking sides in the war of words between the two opposing camps.

This aspect of the appeal was not upheld.

Complaint 2

The complainant stated that Jeremy Bowen’s description of the start of the second Intifada misrepresented Ariel Sharon as being the instigator of the revolt. This was rejected by the Mitchell Report of April 2001, and even refuted by the Palestinians themselves.

In his commentary, Jeremy Bowen said the following:

Against the advice of his intelligence agencies, Barak allowed Arafat’s old enemy, Ariel Sharon, to make a symbolic visit to the most hallowed ground in Jerusalem. For Palestinians it was deliberately provocative. A day later six Palestinians were shot dead in Jerusalem – the second uprising had begun. Mass protest gave way to drive-by shootings and suicide bombings. Israel blamed Arafat and his policemen for failing to stop the violence. As the fighting continued, the Israeli people looked to Sharon to put a stop to it. They voted him in as the new Prime Minister – and he played tough.

The Committee did not agree that in this passage Jeremy Bowen presented Ariel Sharon as the instigator of the second Intifada. Rather, Jeremy Bowen simply presented, without comment, the sequence of events leading up to the Intifada.

The Committee noted that the complainant was correct in saying that the Mitchell Report concludes that “Ariel Sharon’s visit did not cause the Al Aqsa Intifada”. The Committee, however, also noted that Mitchell goes on to say of Ariel Sharon’s visit to the Temple Mount: “But it was poorly timed and the provocative effect should have been foreseen...”

The Committee did not uphold this aspect of the appeal.

Complaint 3

The complainant stated that Jeremy Bowen’s accusation that, during the period immediately after Oslo, Israel controlled Arafat was “absurd”.

The programme did not say “Israel controlled Arafat”. The following is what was actually said. The relevant section is underlined:

BOWEN: It was soon clear that Israel, not Arafat, was really in charge: he didn’t help. Arafat was not a man for delegation and institution building. He gave plum jobs to friends and used patronage and payoffs to stifle dissent. He ruled like a medieval potentate.

The Committee considered Jeremy Bowen’s explanation, quoted earlier, as to why he used the words “Israel, not Arafat, was really in charge”. It concluded that in this part of his commentary Jeremy Bowen was rightly making a distinction between the actual powers of the various authorities during this period.

This aspect of the appeal was not upheld.

In considering the appeal as a whole, the Committee noted that the complainant described the programme as “exceptionally evil” and “a biased anti-Israeli documentary”. However, the Committee judged the programme not only against the complainant’s description of it, but against the BBC’s obligations to be accurate and impartial. The Committee felt neither that the programme was evil, nor that it was a breach of the BBC’s editorial guidelines and standards. Far from being a “biased anti-Israeli documentary”, it had clearly and accurately presented Israeli suffering as a result of Palestinian terrorism, and had held Yasser Arafat accountable for the indiscriminate murders of Israelis.

The complaint overall was not upheld.

Breakfast News

Radio Five Live, 26 October 2004

The complaint to the Head of Programme Complaints concerned allegations of bias in a report on Radio Five Live on the Israeli–Palestinian conflict. The segment complained about was a two-way conversation between the presenter, Nicky Campbell, and the correspondent in Jerusalem, Barbara Plett. The story centred around a vote to be taken in the Knesset that day about Ariel Sharon’s proposal to withdraw Jewish settlers from Gaza so that all the Israeli settlements in the Gaza Strip would be dismantled by the end of the following year. The report looked at opposition to the plan, from within Ariel Sharon’s own party and from Palestinians, as well as at the reasons behind the proposal. This was followed by the two-way with Plett, who was asked about Ariel Sharon’s motives.

In particular, the complainant stated that:

- The reporter’s comment that “Sharon can always go in to provoke the Palestinians” was an “appalling” accusation, and the presenter’s expression of agreement showed that bias against Israel was widespread in the BBC.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- He could not find a reporter saying “Sharon can always go in to provoke the Palestinians”.
- Barbara Plett was reporting what others were saying. Her use of the phrase “in fact, critics have pointed out” made this clear.
- Her comments were made in the context of a discussion of possible future developments, rather than as part of an analysis assigning motives for past events.
- It was, therefore, legitimate for this examination of Mr Sharon’s policies to include what his critics were saying.

The complainant appealed to the Governors’ Programme Complaints Committee.

The key paragraph in Barbara Plett’s two-way discussion is transcribed below with the relevant section underlined:

PLETT: ...I think what gives these [Israeli] officials confidence is that they have American support on two key issues. First of all that no political process will start unless the Palestinians stop the violence. Mr Sharon himself has said he doesn’t expect that to happen, that the Palestinians will stop their violence, and, in fact, critics have pointed out he has the means to make sure it doesn’t happen because he can launch a military raid and there will be a Palestinian response. [Sound of “Mmm”.] Secondly, the Americans have said to Mr Sharon that they don’t expect Israel to fully withdraw from the West Bank, they don’t think it’s reasonable to expect Israel to fully withdraw from the West Bank, which effectively recognises that the large settlement blocks will remain part of Israel in any future peace deal. So given those American assurances, which Mr Bush gave to Mr Sharon last spring, that seems to be what’s behind this confidence. Now I should say that the Israeli peace camp says this is just a view, this is wishful thinking. Once you start to dismantle Jewish settlements in the Gaza Strip it will release a dynamic that no Israeli

government will be able to control because you will be showing the world “Look we can take them down, this is how you do it,” and the world will say “OK, so go ahead and do it in the West Bank.”

The Committee’s decision

In coming to a view on this appeal, the Committee considered whether Barbara Plett was opining on the situation, or whether she was reporting the view of those opposed to the plan. The Committee concluded that the use of the phrase “in fact, critics have pointed out” made clear that Barbara Plett was referring to the views of a third party. In fact, in her two-way conversation with the studio presenter she represented a number of viewpoints, including those of the Israeli peace camp, the Likud Party, and some Palestinians.

The appeal was not upheld.

BBC News

BBC News 24, 23 October 2004

Writing to the Head of Programme Complaints, the complainant alleged the misuse of film footage on BBC News 24. A scene of Israelis dancing and rejoicing was used in part of a news report explaining that Israelis were divided over Sharon’s plans to withdraw settlers from the Gaza Strip. Earlier in the same bulletin there was a report on the funeral of a Hamas leader.

In particular, the complainant stated that:

- Because the funeral of a Palestinian terrorist was shown in the same bulletin, the footage of the dancing was used to make a link between Israelis rejoicing and the death of a Palestinian. According to the complainant, the dancing footage was taken from a celebration commemorating the Jewish Festival of the Rejoicing of the Law. This was neither a “fair” nor an accurate account of events.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- The report was looking at two events – the funeral of a Hamas leader, and the imminent vote by the Israeli parliament on Ariel Sharon’s plan to withdraw settlers from the Gaza Strip.
- Both topics were mentioned in the introduction and were separated in the report with the line: “Now the Israeli leader is free of one dangerous enemy but he has others to worry about much closer to home.”
- The footage of people apparently dancing appeared in the context of an analysis suggesting there was political tension behind everyday life with increased concern about a possible threat to the Prime Minister’s life.
- Although there was no direct explanation of what the pictures were, the Head of Programme Complaints did not believe that they carried the implication that the Israelis in the footage of people celebrating were rejoicing over the death of the Hamas leader.

The complainant was not satisfied with this judgement and appealed to the Governors’ Programme Complaints Committee. She also asked that once the Committee had reviewed her complaint, it should also investigate the Head of Programme Complaints’ “total lack of independence regarding any complaint against the BBC’s reporting on Israel”.

The Committee’s decision

The Committee considered the three complaints in turn.

Complaint 1

In considering whether the use of footage of people apparently dancing in the street misled viewers into thinking that Jews were celebrating the death of a Hamas leader (reported in the earlier report), the

Committee concluded that the statement “Now the Israeli leader is free of one dangerous enemy but he has others to worry about much closer to home” provided clear signposting of the transition from one story to the next.

Complaint 2

The second element of the complaint was that the footage used in the second report was of a Jewish celebration event – the festival known as Simchat Torah – and not of the peaceful protesting described by the commentary.

The Committee’s Editorial Advisor said he had checked the provenance of the footage complained about with the reporter, Orla Guerin, and with BBC News management. The reporter explained that the footage in question depicted a protest by Jewish settlers, opposed to Ariel Sharon’s plan to disengage from Gaza. The protest took place near his residence in Jerusalem. The footage included images of orange flags: these are the flags of protest carried by settlers opposed to the disengagement plan. In the background there is a banner which can be read if the picture is frozen. It says “We have our faith and that will win.” The voice-over made it clear that what viewers were seeing was a protest. It stated: “Others are not ready to give in yet. Protests are continuing – peacefully so far, but there has been talk of violent resistance.” BBC management explained that the pictures had been filmed by the news agency RTV a day or two before the piece was broadcast on the BBC, and this protest was one of a number taking place around that time – hence the script says “Protests are continuing.”

The appeal was not upheld.

Complaint 3

The complainant accused the Head of Programme Complaints of “constantly using devious methods, twisted interpretations and irrelevant political statements to defend BBC reports that have misled the public”. She went on to say that the Head of Programme Complaints displayed “a total lack of independence regarding any complaint against the BBC’s reporting on Israel”. His personal bias was described as “obvious” and, she argued, rendered him totally unsuitable for this key position within the BBC. There was a demand that he be replaced.

The Committee considered that these were very serious charges made against the integrity of the Head of Programme Complaints.

The Committee stated that whether or not the Head of Programme Complaints was fulfilling his responsibilities in relation to the complaints process was for it to judge. The Committee was unanimous in agreeing that there was nothing to support these allegations and was unanimous in refuting them. The Committee wished to put on record that the Head of Programme Complaints worked extremely hard in the public interest. In particular, he made painstaking efforts to investigate the historical background of the complaints with which he had to deal.

This aspect of the appeal was not upheld.

Overall, the appeal was not upheld.

BBC News

Radio 4, 22 October 2004

The complaint to the Head of Programme Complaints concerned allegations of biased and offensive choice of language in a report on Radio 4's midnight news on 20 October 2004. The reporter, Matthew Price, was explaining that security precautions around Ariel Sharon had been strengthened because of concerns about an assassination attempt against him by Jewish extremists. In his report he referred to Ariel Sharon's "gang" of bodyguards.

In particular, the complainant stated that:

- The word "gang" was pejorative. It was a term that would be used in the context of talking about criminal organisations as in a "gang of thugs"; it was not the language that would be used to describe the security arrangements of a democratically elected prime minister, such as Ariel Sharon.
- More neutral words such as "team" or "group" could have been used in this context.
- The complainant challenged the Programme Complaints Unit to provide him with examples of the word being used to describe the security arrangements of Tony Blair, other statesmen and politicians, or, indeed, of the Queen. If no such examples existed he queried why Ariel Sharon's security arrangements had been singled out and described so pejoratively.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- The word "gang" was used colloquially in the report and reflected the fact that when Ariel Sharon now appears in public he is surrounded closely by a large group of bodyguards.
- The word "gang" does not exclusively suggest criminal organisations and thuggery: among the dictionary definitions is "an organised group of workmen".
- There was nothing in the tone of the delivery to suggest the report was intended to convey the meaning the complainant suggests.
- The level of security and closeness of security men around Mr Sharon differs from the images we see of Tony Blair and the Queen.

The complainant was not satisfied with this judgement and appealed to the Governors' Programme Complaints Committee.

The Committee's decision

In considering the complaint, the Committee reviewed what Matthew Price had said in the report:

STUDIO INTRO: The leader of Israel's opposition party Shimon Peres has said he fears that there could be an attempt to assassinate the Prime Minister, Ariel Sharon. He told an Israeli newspaper he was concerned by the mounting incitement from the far right in Israel against Mr Sharon's plans to dismantle settlements in the Gaza Strip. He said he hoped the security forces were prepared to prevent a repeat of the assassination of Mr Sharon's predecessor, Yitzhak Rabin, nine years ago. From Jerusalem, Matthew Price:

PRICE: The gang of personal bodyguards which protects the Israeli prime minister is now not just looking out for Palestinian attackers. They have boosted Ariel Sharon's security following a series of warnings that Jewish extremists may try to kill their own leader. It's happened before. In 1995 the Prime Minister Yitzhak Rabin was gunned down by a Jewish assassin...

The Committee acknowledged that in this context "gang" was a less than perfect word to use. It was not, however, a word that was automatically pejorative. For example, it could be used in a phrase such as "a gang of workmen", or in a political context as a term applied to any group of people who were outspoken in their advocacy of a particular policy or who took a minority view on an issue, as in "Gang of Four". It could be used in relation to law-abiding people without any pejorative overtones.

The Committee noted that this was a piece of reporting that said nothing negative about Ariel Sharon. It was, in fact, highlighting the increased danger he now faced. It was, nevertheless, a poor choice of word in the context of a description of a group of law-abiding security men. "Squad", "unit" or "group" would have been preferable.

The Committee did not uphold the appeal in so far as it did not agree with the complainant that the choice of the word "gang" had impacted on the BBC's duty to impartiality and fairness. The Chairman said he would, however, write to the Director of News and draw her attention to what had been an imperfect choice of word in the context of the report.

The appeal was not upheld.

BBC News

BBC One, 27 October 2004

Writing to the Head of Programme Complaints, the complainant maintained that, during a news report on the *Six O'Clock News*, Andrew Marr had incorrectly referred to the European Parliament as the "legislature". The report was about the row in the EU over the appointment of the new team of Commissioners, and the refusal of the Parliament to accept the Italian nominee because of his views on homosexuality and single mothers. The refusal was described in the report as the European Parliament exercising its authority to unprecedented effect over the EU Executive.

In his letter to the PCU the complainant argued that new directives were introduced by the European Commission, whereas the European Parliament could only suggest amendments which might or might not be accepted by the European Commission.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- In the context of this report, it was not misleading to use the word "legislature" when referring to the European Parliament.
- Andrew Marr was trying to give a general audience an insight into the political clash between two parties: those responsible for choosing Commission officials, and those elected to scrutinise the Commission's actions and to adopt new legislation. In doing so, he classified the European Parliament as the "legislature" and the Commission as the "executive". He was commenting on reaction at Westminster to the story, and reporting on the extent to which this was seen as a constitutional crisis.
- The European Union's internet site explains one of the Parliament's principal roles as "To examine and adopt European legislation. Under the co-decision procedure, Parliament shares this power equally with the Council of Ministers." This confirms that, although the final say might not rest with the Parliament, it is certainly seen as part of the legislative process.

The complainant was not satisfied with this judgement and appealed to the Governors' Programme Complaints Committee.

In his letter to the Committee, the complainant quoted the dictionary definition of "legislature" on which he is relying: "body of persons with powers to make, amend and repeal laws". Under this definition, he maintained, the EU Parliament is not a legislature as it cannot make or repeal laws; it can only suggest amendments which may or may not be adopted by the European Commission. The complainant argued that Andrew Marr's misuse of the word "legislature" could only be attributed to one of the following reasons:

- Andrew Marr is not aware of the dictionary definition. This, he stated, would be "amazing" for the BBC's Political Editor.
- He was guilty of sloppy reporting, being careless of the exact description.

- It was part of the ongoing BBC programme of misinformation to mislead the British public about the undemocratic nature of the EU.

In his two-way at the end of the interview Andrew Marr said the following:

I think everybody also at Westminster is watching this as an absolutely crucial constitutional crisis of a kind that we haven't seen in the EU before ... it's not simply about the legislature ... the Parliament on the one hand and the executive ... the Commission on the other ... a kind of classic clash there ... but it's also about national pride ... in this case Italian national pride and if anyone can resolve it, it may well be Tony Blair.

The Committee's decision

In considering the appeal the Committee concluded that what was being described by Andrew Marr was not an exact parallel with the British model of government. The European Commission undoubtedly had the greater authority. On the other hand, the Committee considered that, given that the European Parliament was made up of directly elected representatives, that its assent was needed for the formation of the Commission as well as for the EU budget, and that it was also an essential part of the law-making process, the use of the term "legislature" was not perfect but was reasonable in the context of a brief news report.

The Committee acknowledged that Andrew Marr's description of the Parliament as the "legislature" and the Commission as the "executive" was a simplification, but it was not one that seriously confused the true purposes of each body.

The appeal was not upheld.

Ten O'Clock News

BBC One, 28 January 2004

The complainant maintained there was a lack of balance in a report by Orla Guerin describing the impact of an Israeli military operation against Palestinian militants in the streets of Gaza.

In particular the complainant stated that Orla Guerin:

- "Forcibly expressed her opinion that the operation was likely to encourage further terrorism."
- Did not mention that such operations had previously prevented "numerous" terrorist attacks. The complainant cited a number of other perspectives which Orla Guerin's report failed to provide: for example, that not carrying out such operations against terrorists would allow them to carry out more terrorist attacks, or that Palestinian terrorists should be criticised for operating in civilian areas.
- Failed to put the criticisms she made of the operation, or the policy behind it, to any representative of the Israeli Government.
- Mentioned Israel's justification for such operations only very briefly, in a sceptical tone of voice, and without any supporting material.

The Head of Programme Complaints did not uphold the complaint for the following reasons:

- There was nothing in the report to suggest that Orla Guerin had "forcibly expressed her opinion that the operation was likely to encourage further terrorism".
- There was nothing in the report to support the complainant's suggestion that the Israelis were subject to criticism, while others who might have been criticised were spared.
- Orla Guerin simply reported the event, summarising the Israeli rationale and the Palestinian reaction to it.

The Committee's decision

The Committee concluded that this report was a factual reflection of the violence which is suffered by

people on both sides of the conflict, and as such the images in the report spoke for themselves. There was no evidence that Orla Guerin “forcibly expressed her opinion that the operation was likely to encourage further terrorism”.

The Committee also noted that this was a report of around one minute in duration and, as such, the amount of background material and context that the report could provide was limited. It was reasonable therefore to include the information that was in the report and no more.

The complainant also felt that Orla Guerin “did not put the criticism she made of the Israeli operation ... to any representative of the Israeli Government”. The Committee concluded that this report was entirely factual and did not include any criticisms of the operation, and so it was not necessary to seek comment from the Israeli Government. The Committee could not find any evidence of “a sceptical tone of voice” in this purely factual report.

The appeal was not upheld.

Ten O’Clock News

BBC One, 3 February 2004 and 9 February 2004

The complainant objected to the reference, in a report by Orla Guerin on 3 February 2004, to Jewish settlements in the Gaza Strip being on “occupied Palestinian land”. Orla Guerin’s report was prompted by Ariel Sharon’s announcement that he intended to proceed with the dismantling of 17 Jewish settlements in the Gaza Strip.

In particular:

- The complainant stated that the land used by the Jewish settlements belongs to Palestinians. In fact, the Jewish settlement of Kfar Darom in the Gaza Strip was created on lawfully acquired land in 1946. According to the complainant, the residents were either killed or driven out by the Egyptian army in 1948. The settlement was re-established in 1970 after the 1967 war.
- Other Jewish settlements in the Gaza Strip were, he claimed, created after 1967 on previously unoccupied, barren land.
- The complainant argued that the international status of the Gaza Strip had not been resolved (it was part of the territory entrusted by the League of Nations mandate to the UK for the purpose of creating a Jewish National Home). Israel, therefore, had a legitimate territorial claim to it, even though it was one which Israel was likely to renounce in any overall future settlement.

The complainant maintained that there was bias in a report by Orla Guerin on 9 February 2004 about Israel’s West Bank security barrier and in the use of the term “Palestinian territory” – as in the phrase “where it eats into Palestinian territory”.

In particular the complainant said:

- It was misleading to describe the West Bank as “Palestinian territory”, given that the final status of this land had not yet been resolved. Some Jewish settlements on the West Bank were created on land acquired lawfully under the League of Nations mandate to the UK for the purpose of creating a Jewish National Home.

In response, the Head of Programme Complaints rejected the general complaint and quoted that same conclusion in subsequent correspondence with the complainant about the specific complaints. In his letter the Head of Programme Complaints concluded that:

- International legal experts, including those who advise the US and UK governments, together with the UN and EU, have long regarded the West Bank, the Gaza Strip and East Jerusalem as occupied territory where the Fourth Geneva Convention applies.

- It was in these territories that Palestinians aspired to create a sovereign state. The Israeli Government accepted the aspiration under the 'Road Map' to peace on 25 May 2003. This meant acceptance of the two-state solution and, at the very least, parts of the territory that Israel occupied in 1967 were properly described as Palestinian land.
- The International Court of Justice Advisory Opinion concluded that Israeli settlements of the Occupied Palestinian Territory (including East Jerusalem) had been established in breach of international law, and that the Fourth Geneva Convention did apply in this case. This had established the position in law.

In his appeal, rejecting the Head of Programme Complaints' arguments, the complainant argued among other points that:

- Since the final status of the West Bank and Gaza Strip had not yet been determined, referring to them as "Palestinian territory" and "Arab territory" could not be done without bias.
- While the Road Map contemplated that part of the territory occupied in 1967 would become "Palestinian Land", this did not justify statements that all of the "West Bank" and "Gaza Strip" were already "Palestinian Land".
- The US Government (a party to the Road Map) had already agreed that areas of major Jewish settlements in the West Bank should not become "Palestinian Land".
- The Advisory Opinion of the International Court of Justice was not final, was not binding on Israel, and was prepared without hearing Israel's arguments on the substantive issues and in apparent ignorance of some of the key facts. Some of the judges had been from neighbouring Arab countries who for many years had insisted that Israel had no right to exist at all.

The Committee's decision

The Committee recognised the complexity of this issue, and understood that, in the Middle East conflict, both sides attempted to impose their own vocabulary on the reporting of the issues. The United Nations, the European Union and the International Court of Justice in its interim decision all believed the terms to which the complainant objected to be appropriate, and so it was similarly appropriate and reasonable for them to be used by the BBC in this context.

This complaint was one which had been entertained by the Committee previously and not upheld, in a finding published in July 2004.

The appeal was not upheld.

BBC News, 8.30am

Radio 4, 4 August 2003

This complaint concerned what the complainant described as a "false equivalence" in an attempt by the BBC to achieve balance between two news stories reported in the news headlines at 8.30am on the *Today* programme on 4 August 2003. One headline referred to the shooting of an Israeli woman and her children for which the Al-Aqsa Martyrs' Brigade claimed responsibility. The other referred to the killing of a Palestinian man by Israeli troops.

The complainant made the following points:

- Whereas the circumstances regarding the former story were "satisfactorily summarised", the lack of detail surrounding the second story (the killing of the Palestinian man) was "misleading". The complainant felt further information should have been included in this report, including the fact that the Palestinian killed had been identified by the Israeli Defence Forces (IDF) as a member of the PFLP terrorist organisation. He had been killed while attempting to pass a roadblock without stopping.

The Head of Programme Complaints did not uphold the complaint. In doing so he quoted the news summary in question:

The Palestinian militant group Al-Aqsa Martyrs' Brigade has said it carried out an attack yesterday in which four Israelis were injured. This morning a Palestinian man is reported to have been killed by Israeli troops near the city of Tulkarem.

- The Head of Programme Complaints pointed out that the news concerning the attack on the four Israelis had been covered the previous day, when the event had occurred. The news summary was simply reporting the statement by Al-Aqsa claiming responsibility.
- As news headlines generally refer to recent events, the bulletin referred to the other event that had taken place "this morning".
- The Head of Programme Complaints said he did not believe it was necessary to add anything further in the summary, particularly as longer bulletins on the hour often carried further information.

The Committee's decision

The Committee noted that this was a short news summary, and the item in question was a 15-second story. The report constituted a straightforward description of two acts of violence and did not raise any issues of bias or imbalance.

The appeal was not upheld.

What the World Thinks About America

BBC Two, 17 June 2003

The programme surveyed attitudes to America, within America itself and in ten other countries. It covered a range of topics, including the impact of the Iraq War, American military power, American economic pre-eminence and American culture. The complainant said that the programme was an example of "the BBC's pervasive bias against Israel".

In particular he complained that:

- There was a lack of impartiality in including the Chief Palestinian Negotiator, Saeb Erekat, as well as other speakers hostile to Israel, without any balancing Israeli speaker or supporter on the panel.
- Mr Erekat expressed the view that most of the world "was against the US because of its support for Israel and Israel's attacks on Palestinians".
- The complainant argued that "no one was invited to say or did say that many people have disliked and will continue to dislike the US for completely different reasons; nor that the US is right to support Israel's efforts to defend its citizens, nor that hatred of Israel and the US is whipped up in many countries by false propaganda".
- In his original letter of complaint to the Programme Complaints Unit, the complainant also stated that "the dissemination of unchallenged allegations of this nature constitutes an incitement to racial hatred".

The complainant subsequently raised the following points for consideration:

- Mr Erekat did not make any wider contribution to the debate.
- He made "thoroughly misleading statements".
- "Misleading and un rebutted attacks on Israel" were made by the panellists on at least four occasions. Although much of the programme covered other areas such as culture and food, this in no way justified these comments being broadcast without affording the Israeli Government or its supporters an opportunity to rebut anti-Israel comments.

The Head of Programme Complaints responded to these points:

- Mr Erekat did contribute to the wider debate. The Head of Programme Complaints quoted in his letter of 3 November Mr Erekat's comments on American culture.
- Nowhere did he identify misleading comments by Mr Erekat.
- Panellists were more "expert witnesses" than participants in a debate. An argument between Mr Erekat and another panellist would have changed the character of the programme.
- It was untrue to say there were no supporters of Israel on the programme: the American neo-Conservative and strong supporter of Israel, Robert Kagan, was on the programme.

The Head of Programme Complaints did not uphold the complaint against the programme.

In his letter of appeal the complainant rebutted some of these points. In particular, he adduced examples of "misleading" points made by Mr Erekat. These included:

- Mr Erekat's statement that as a resident of Jericho he had lived under Israeli occupation for 36 years. The complainant stated that Jericho had been a Palestinian autonomous area since 1944.
- Mr Erekat's equation of Israel's occupation of the West Bank and Gaza Strip with Iraq's occupation of Kuwait was misleading because the West Bank had been occupied by Israel after it was attacked by Jordan in 1967. The Gaza Strip was occupied by Israel when it fought a war of self-defence against Egypt. Kuwait, on the other hand, had been invaded by Iraq without justification. Iraq had no legitimate claim on Kuwait. Israel, by contrast, had a legitimate claim to part or all of the West Bank and Gaza Strip.
- The truth of Mr Erekat's statement "We have all recognised Israel's right to exist" was not borne out by the fact that the Palestinian National Covenant had not been amended to remove the provisions that reject Israel's right to exist.
- The complainant also noted that Mr Kagan was not invited by the moderator to express his support for Israel on the programme. He was more than balanced by other panellists hostile to Israel. Had Mr Erekat been omitted, the panel would still have been unbalanced but not seriously so. Mr Erekat's presence and the failure of the moderator to ensure he was only asked about issues that did not bear on the "Israel/Arab" conflict compounded the lack of balance.

The Committee's decision

Overall, the Committee noted that this was not a programme about Israel, but about the US and its relationship with the rest of the world on a range of issues. Comments about Israel were made in the context of US policy. The Committee therefore did not agree that the programme breached the required editorial standards.

The complainant objected to Mr Erekat expressing the view that most of the world "was against the US because of its support for Israel and Israel's attacks on Palestinians". The Committee found that Mr Erekat did not express that view.

Although there was no Israeli spokesman on the panel, the Committee noted the presence of Robert Kagan, a strong supporter of Israel. He would certainly be expected to hold many of the views which the complainant would like to have been included on the programme – but, the Committee concluded, he chose not to express them. They also noted that no programme can ever be expected to make all the points that each viewer would like to hear.

Other participants, the poll and the interpretation of the poll offered different criticisms of the US over a wide range of topics. The Committee also noted that the views of Israeli citizens were included in the programme through the poll.

The complainant also argued that parts of Mr Erekat's contribution were misleading. However, the Committee felt Mr Erekat's contributions were an expression of his position and his views. He was entitled to make known his own views on the programme, which was intended to be a wide-ranging and free discussion about the US and its role in the world.

The appeal was not upheld.

From Our Own Correspondent

Radio 4, 23 October 2004

The complainant wrote to the Head of Programme Complaints about a report from Tanzania which was featured on the Radio 4 programme *From Our Own Correspondent*. He complained that the item was “an unbalanced, hate-filled glorification of terrorism and of a fugitive from a charge of murder”.

In particular the complainant stated that:

- It amounted to a paean for the Black Panthers and the “black activism” of the 1960s and 70s.
- There was a narcissistic attitude towards the correspondent’s “right-on credentials”.
- The item was a “hymn of hate for America, for President Bush and indeed for all US politics over the past 30-odd years”.
- Listeners were asked “to admire the wisdom and insight of one of them [the Panthers], a fugitive from the US Courts where he is wanted for the murder of a policeman (or as an accessory)”.

In response, the Head of Programme Complaints first explained that the programme was a forum in which foreign correspondents had more opportunity for reflection and opinion and could give a more personal account of some aspect of the country to which they had been posted than was possible in a news report. The Head of Programme Complaints did not uphold the complaint on the grounds that:

- Listening to Tira Shubart’s chance encounter with Mr O’Neal (a former member of the Black Panthers), the interview did not glorify the Panthers in the way suggested. What Tira Shubart said was: “They were a militant black power group movement in the US who played a brief but important role in the civil rights movement and initiated armed patrols as they attempted to empower black Americans. Shoot-outs followed; one policeman and many Panthers died.”
- It was not evident that Tira Shubart invited the audience “to admire the wisdom and insight” of Mr O’Neal. The report painted a picture of a man, still in exile after 30 years, who was now completely remote from the contemporary American politics.
- Mr O’Neal’s offer to Tira Shubart of a pirated copy of the film *Fahrenheit 9/11* prompted her to reflect on the changes in the political climate in the US over the past three decades since she, and Mr O’Neal, had, for different reasons, left their native country.
- Tira Shubart did not express “a hymn of hate for America”. She talked about the disillusionment with politics of many of her friends and contemporaries from her student activist days, and the decline, at least until the recent elections, in the proportion of Americans voting. The film, in her mind, was an example of what many commentators saw as the increasing polarisation of American politics, and she wondered whether the impending elections would shake her generation out of their apathy.

The complainant appealed to the Governors’ Programme Complaints Committee making the following additional points:

- Ms Shubart left the US 30 years ago. She would therefore have been aware of the civil rights legislation passed between 1957 and 1968. She would also have known that the Black Panther manifesto published in 1967 advocated violence and armed force against the “white power structure”.

The complainant also asked about the editorial process applied to Ms Shubart’s essay.

The Committee’s decision

After listening to the report, the Committee concluded that there was a clear enthusiasm in the piece for Mr O’Neal. This was a very personal account, and one drawing parallels with the current political situation in the US when the correspondent had not resided in the US for some time.

Overall, the Committee concluded that this report did contain more personal reflection than would normally be expected, but it was not partial. Although it did stray outside the declared parameters of the

programme – “a forum in which foreign correspondents have more opportunity for reflection and opinion and can give more personal accounts” – this piece fell short of being “an unbalanced hate-filled glorification of terrorism and of a fugitive from a charge of murder” as the complainant suggested.

The Committee concluded that the piece did not breach the BBC’s obligation to be impartial.

The appeal was not upheld.

Inventions that Changed the World – Jet Engine

BBC Two, 29 January 2004 and 27 July 2004

The complainant wrote to the Head of Programme Complaints about the factual inaccuracy in the programme *Inventions that Changed the World – Jet Engine* (presented by Jeremy Clarkson). He claimed that the programme omitted the major role played by Britain in jet aviation development. He saw this as representing a pattern of failure by the BBC to give credit to British people for past achievements.

In particular the complainant stated that:

- Jeremy Clarkson failed to point out that following the crashes of 1953–4 the Comet was modified and flew again for many years; Jeremy Clarkson failed to give prominence to its achievements.
- The programme did not stress that the jet engine was the world’s first ever jet airliner, and the first jet airliner to cross the Atlantic at a time when the Americans had no such aeroplane.
- The programme failed to recognise that Britain produced many world-beating military jet aircraft, before and shortly after the Comet.
- Jeremy Clarkson criticised Rover for putting the jet engine into a car.
- The programme gave Rolls-Royce no credit for developing the jet engine.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- The programme had included the development and introduction of the first jet fighter, the Gloucester.
- Michael Mosley (Executive Producer) informed the Programme Complaints Unit that, after the crashes in the 1950s, the Comet’s impact on the future of aviation was very limited.
- At the start of the section on the Comet, Jeremy Clarkson said: “Introduced in 1952, the Comet was not only fast, quiet and comfortable; it was very, very cool. It symbolised the dawn of a new age in passenger aviation.” This, the Head of Programme Complaints maintained, did do justice to the ground-breaking nature of the Comet.
- The main focus of the programme was civil rather than military aviation: it was passenger jet aviation which had the greatest impact on the contemporary world.
- The programme’s criticism of Rover for putting the jet engine in a car was, according to Michael Mosley, meant to be a tongue-in-cheek way of highlighting Rover’s failure to mass-produce jet engines during the war. While, as the complainant pointed out, the engine used in the car was a gas turbine not a jet engine, the jet principle applied to both. However, the point here was the transfer of the technology to the car, rather than the precise mechanics of how it was used.
- Michael Mosley informed the Programme Complaints Unit that MG Rover had not complained about the programme. He had also received congratulations on the programme from Dr Andrew Nahum, Senior Curator, Aeronautics and Road Transport at the Science Museum, home of Jet 1.
- Although Rolls-Royce was not mentioned by name in the programme, Jeremy Clarkson described the principles of the jet engine while standing in front of a Rolls-Royce jet engine with its badge clearly in view. Rolls-Royce was happy with the programme and the Communications Manager, Civil Aerospace, Rolls-Royce plc, also wrote to Mr Mosley to congratulate him on it.

In response to the Head of Programme Complaints' decision, the complainant submitted a more detailed critique of the programme, citing the following:

- No mention of Rolls-Royce or its leading role in jet engine development, or that its engines were fitted to jet airliners world-wide, including many Boeings.
- No mention of Britain's developments between the prototype (ie the first ever British jet plane) and the Comet.
- No mention of the many world-beating British military jet aircraft such as the Gloucester Meteor, the Fairy Delta, the Canberra, V bombers, the Lightning fighter, the Harrier Jump Jet and the TSR2.
- No mention that the Comet was the world's first ever jet airliner.
- No mention that the Comet was the first jet airliner ever to cross the Atlantic.
- Mr Clarkson said that Rover did not know what it was doing and that it put a jet engine in a car.
- Pan Am's inaugurating transatlantic service was mentioned, but not the concurrent inauguration of a transatlantic service by Imperial Airways on 21 May 1937.

The Committee's decision

The Committee concluded that the programme was clearly designed as an entertaining way of putting over information about a technical topic to a mass audience, and although it may have been simplified and selective, it was not inaccurate.

In such programmes it is inevitable that some information will be omitted, and although the Committee accepted that there were many aspects of a fascinating story which could have been included, the selection of facts did not distort history.

Jeremy Clarkson is well known for his idiosyncratic style. The on-air introduction to the programme went: "And next Jeremy Clarkson is going global and giving his own opinion of an invention that changed the world", which, the Committee felt, gave a clear indication of the personal nature of the programme.

The appeal was not upheld.

Newsnight

BBC Two, 24 November 2004

The complainant wrote to the Head of Programme Complaints stating that the above programme breached the BBC's guidelines on impartiality during an interview with the Foreign Secretary, Jack Straw, and that *Newsnight* exhibited a consistent pattern of pro-establishment and pro-government bias.

In particular, the complainant stated that:

- In his introduction to the interview in relation to the Iraq and Palestinian elections, the interviewer Mark Urban used the phrase "the results that people are hoping for". The complainant stated that this made the assumption that everyone wanted moderate pro-Western groups to win.
- Mark Urban went on to ask: "Is the ball in the Palestinian court, in that there has to be a good outcome from the elections in January?", going on to explain that he meant the election of "someone who supports the Road Map". The complainant maintained that this was the British Government's view, but failed to acknowledge the possibility of a fairly widely held view that the Road Map "is in any case dead".

The Head of Programme Complaints did not uphold either element of the complaint. In coming to his finding, the Head of Programme Complaints first cited Mark Urban's introduction in full, with the first answer from the Foreign Secretary:

MARK URBAN: The Foreign Secretary arrived here tonight on the second leg of this Middle Eastern trip. And he's

pushing a message also here about democracy. Of course, the Palestinian elections will be in January, as will those ones he's been talking about in Iraq. But I think there are still lots of questions being raised about whether they'll deliver the results that people are hoping for.

JACK STRAW: It's in everybody's interests, particularly the Arab nations and the other neighbours of Iraq, Iran and Turkey, to see a stable Iraq, and the way to a stable Iraq is through a democratic Iraq.

The Head of Programme Complaints concluded that Mark Urban's introduction was intended to put the following interview with Jack Straw into perspective. It was not in itself intended to define what people were hoping for from the elections, but led into an answer which provided Jack Straw's interpretation.

On the Palestinian issue, the Head of Programme Complaints noted that Mark Urban's question to Jack Straw was: "You are obviously not going to either endorse or criticise any candidate in that Palestinian election. But you are not indifferent to the result and surely it's important to you that someone who supports the Road Map, for example, is elected?" He observed that Mark Urban then went on to seek to define more precisely what the Foreign Secretary wanted from the elections and the importance he currently placed on the Road Map. He concluded that this was a legitimate attempt to explore the British Government's current position on the issue.

The complainant appealed to the Governors' Programme Complaints Committee.

The Committee's decision

The Committee reviewed the item and the correspondence relating to this complaint.

The Committee discussed Mark Urban's introduction to the interview with Jack Straw, the reference to the Palestinian and Iraqi elections, and the phrase "whether they'll deliver the results that people are hoping for". The Committee noted that BBC News maintained that the phrase was intended to cover the issue of democratisation in the Middle East in a broad sense, and that "the results people are hoping for" referred to an absence of violence during the election campaigns, leading to a viable poll, stability and the marginalisation of militants.

The Committee recognised that Mark Urban's phrasing was deliberately vague, and was open to interpretation. It judged, however, that the phrase could reasonably be understood to refer to a lack of violence and clear election results, and that this impression was reinforced by the rest of the interview.

The Committee then discussed Mark Urban's question to Jack Straw: "Is the ball in the Palestinian court in that there has to be a good outcome to the elections in January?" It concluded that the question was being posed for the purposes of opening up a discussion with the Foreign Secretary, and was not a statement of Mark Urban's personal views. It noted that this was a legitimate tactic, designed to elicit information.

The Committee found overall that the interview had been appropriately framed, and was in line with the BBC's guidelines on impartiality.

The appeal was not upheld.

The World at One

BBC Radio 4, 10 November 2004

The complainant wrote to the Head of Programme Complaints stating that the above programme demonstrated a pro-American bias in its reporting of the US military operation in Fallujah. The programme featured an interview with the correspondent Jennifer Glasse based at the marine headquarters just outside Fallujah.

In particular, he complained that Jennifer Glasse referred to another military operation in Samarra saying that insurgents had returned and “dealt a devastating blow to the people of Samarra”. The complainant maintained that, in fact, insurgents had attacked the Mayor’s office and the police station, which were institutions regarded by most Iraqis as collaborating with the US/UK occupying forces.

The Head of Programme Complaints did not uphold the complaint on the grounds that, although it was true that insurgents attacked the Mayor’s office and the police station, victims did include civilian passers-by caught by the car-bomb blasts. There was therefore nothing inaccurate in Jennifer Glasse’s description.

The complainant appealed to the Governors’ Programme Complaints Committee.

The Committee’s decision

The Committee reviewed the item and the correspondence relating to this complaint.

The Committee noted that accounts of the incident on 6 November 2004 in Samarra varied on the precise numbers of police and civilians killed by the car bombs, although it seemed clear that the police station and the Mayor’s office had been a focal point for the attacks.

The Committee also noted the following transcript from the item:

And if you even just look at Samarra, which American commanders have been pointing to last week as a success story, over the weekend insurgents came in, set off four car bombs and killed more than thirty people in Samarra. Now that was a city that was supposed to be under control. Iraqis fought alongside Americans to take that city and now a month later the insurgents went back and dealt a devastating blow to the people of Samarra. I think that’s going to be a real concern here in Fallujah as well.

The Committee considered that the recent history of Samarra provided an important context for the report: in particular, that US and Iraqi forces had seized control of the town a month earlier and it had then been cited by the Iraqi Government as an example of how they had been able to restore order to areas formerly controlled by rebels. It was therefore reasonable to assume that if, after such reassurances, the town was subject to such attacks it would be “devastating” for people who had been led to believe that order had been restored.

The Committee recognised that the report could have made a distinction between civilian and official government targets. It decided that, irrespective of the fact that many of the dead were policemen, it was reasonable to suppose that many of them and their families would have been citizens of Samarra.

The Committee concluded that the report had been appropriately framed in relation to the BBC’s editorial guidelines on impartiality.

The appeal was not upheld.

Today

BBC Radio 4, 10 November 2004

This programme featured three items between 8am and 8.30am about the US military operation in Fallujah: a two-way with (embedded) correspondent Paul Wood; an interview by reporter Jon Manel with a man who claimed he was taking part in the resistance; and an interview with former Foreign Secretary Robin Cook. The complainant wrote to the Head of Programme Complaints stating that these items showed pro-American bias.

In particular, he complained that:

- In an interview with an Iraqi eyewitness, a BBC reporter (Jon Manel) asked: “Do you understand why the Americans are doing what they are doing? The Americans have to take the city from the insurgents [sic].” The complainant maintained that this was not objective reporting, but a parroting of US propaganda.
- Paul Wood’s report from Fallujah consisted of “breathless cheerleading for the marines”.
- John Humphrys (in an interview with Robin Cook) said incorrectly that Iyad Allawi ordered the attack on Fallujah. The complainant maintained that, in fact, Fallujah was an entirely US operation for which Allawi was a “fig leaf”.
- Towards the end of the interview, John Humphrys also made the “risible assertion that the allied forces have an exit strategy: namely having elections in January then leaving”.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- The second part of Jon Manel’s question actually said: “somehow they have to defeat the insurgents who are operating within your city”. This was not an endorsement of the action, rather a paraphrase of the US position, offered as a proposition for comment rather than a matter of fact.
- Paul Wood used the word “we” several times, designed to remind viewers that he was an embedded reporter, and that his vantage point was from among US troops. The account of the progress of the operation at that point appeared dispassionate.
- Referring to Mr Allawi as having ordered the action in Fallujah would be misleading in some contexts. However, on this occasion the overwhelmingly American character of the operation had already been made clear, so it was unlikely that listeners would have formed the view that it was happening at Mr Allawi’s behest.
- The notion of leaving immediately in the wake of elections was introduced by Robin Cook. John Humphrys mentioned elections in an attempt to bring him back to a question he had avoided at several points during the interview: if the planned elections were not to be disrupted, what was the alternative to military action against the insurgents?

The complainant appealed to the Governors’ Programme Complaints Committee.

The Committee’s decision

The Committee reviewed the section of the *Today* programme concerned, and the correspondence relating to this appeal.

The Committee first discussed the complaint concerning the reporter’s question: “Do you understand why the Americans are doing what they are doing? Somehow they have to defeat the insurgents who are operating within your city.” It took the view that the question was describing the task given to the US troops in order to elicit a response from an interviewee. The interviewee then gave a strong defence of the resistance the Americans were facing, and said he was taking part in the resistance against the Americans “to the last drop of my blood”. The Committee judged that the question was appropriately framed.

In considering the report by Paul Wood, the Committee did not concur with the complainant’s characterisation of the report as “breathless cheerleading for the marines”. It noted the need for care over

the use of language by embedded correspondents. It judged that the report had been a calm and measured account of the event in what were extremely difficult and volatile circumstances.

The Committee then discussed the complaint concerning the “tired distortion” repeated by John Humphrys that it was Prime Minister Iyad Allawi who ordered the attack on Fallujah. It noted that the presenter had said: “But the prime minister of Iraq himself, the interim prime minister admittedly, ordered this assault.” Robin Cook replied: “He was one of the voices in the government who said he’d done that but others such as the president have opposed it and he has lost the largest Sunni party.”

The Committee understood that there were many different accounts of the extent to which Allawi was exercising his own authority. In the context of this interview, the Committee judged that the question was designed to draw out the former Foreign Secretary, who could be expected to challenge the assertion. The presenter had thus been playing devil’s advocate and, as such, the question was appropriately phrased.

Finally, the Committee addressed the complaint about John Humphrys’ “risible assertion” that the allied forces had an exit strategy, namely having elections in January and then leaving. Again, the Committee took the view that the presenter had been playing devil’s advocate. The Committee judged that John Humphrys had made it clear that he was repeating “the stated strategy” of the US/UK in order to test Robin Cook’s response.

The appeal was not upheld.

Key Stage 3 Bitesize Revision: Science

BBC Two, 24 April 2003

The complainant wrote to the Head of Programme Complaints stating that the above programme contained a factual error.

In particular, he complained that:

- To demonstrate weathering, the presenter used what she described as a “weak” solution of hydrochloric acid on a piece of limestone. The complainant pointed out that the use of the word “weak” was a serious error, and the word “dilute” should have been used since in chemistry these terms are not synonymous. “Weak” and “strong” specifically refer to the degree of ionisation of a particular electrolyte in water solution; “dilute” and “concentrated” refer to the mass of substance in a given volume of solution.
- In the complainant’s experience as a lecturer, students who move on to A Level would encounter the terms and would lose marks for inaccuracy if they used the incorrect term.

The Editor, Programme Complaints, forwarded the letter to the Education team at BBC Information who responded directly to the complainant. BBC Information said:

- The programme was intended for pupils preparing for Key Stage 3 national tests.
- The complainant’s letter would be forwarded to the series producer.
- There were no plans to show the programme again in the foreseeable future.
- An expert at the Open University had concurred with the complainant’s scientific argument.

The complainant wrote again to the Head of Programme Complaints a year later, to complain that the programme was repeated on 22 April 2004 and contained the same error. In a subsequent reply, the Editor Programme Complaints said:

- Looking at previous correspondence, BBC Information had acknowledged the error, but had given no commitment to make a correction.
- BBC Information had checked with the production team, and the cost of making a correction could not be justified.

- Children at Key Stage 3 are not necessarily required to understand the difference between “weak” and “dilute”.
- If the complainant wanted to pursue the complaint, he would need to provide evidence that children at Key Stage 3 would be misled.

The complainant appealed to the Governors’ Programme Complaints Committee in relation to the finding and handling of his complaint by the Editorial Complaints Unit.

The Committee’s decision

The Committee reviewed the programme and related correspondence. It also received independent advice from the Chemical Health and Safety Adviser at the Department of Chemistry at the Open University. The Committee held that accuracy was a key requirement for all BBC programmes which had particular significance within BBC Education programming. It took the view that it was unacceptable for the programme to be rebroadcast containing an error of this sort, and that the claim that the resources were not available to make the correction was not an acceptable defence.

The Committee also expressed concern about the handling of the complaint by the then Programme Complaints Unit following an initial response from BBC Information, including the tone of responses; the time taken to respond to the complainant; and the inappropriate request that, if he wished to pursue the complaint, the complainant should supply evidence that the inaccuracy mattered in the context of education at Key Stage 3.

The Committee instructed that the programme should not be retransmitted until corrected, and considered that the complainant should receive an apology from the BBC. The GPCC asked management to review this matter, and to provide an assessment of the handling of the complaint and any further action required.

The appeal was upheld.

Good Morning Scotland and The Lesley Riddoch Show

BBC Radio Scotland, 9 September 2004

The complainant wrote to the Head of Programme Complaints stating that the two programmes on BBC Scotland had mishandled the debate about euthanasia. She felt the programmes had put forward a biased and irresponsible view of the subject.

There were five aspects to the complaint. These are summarised below, along with the response from the Head of Programme Complaints, and subsequent correspondence.

Reporting by *Good Morning Scotland*

The complainant stated that *Good Morning Scotland* had reported on an opinion poll commissioned by the Voluntary Euthanasia Society which was “misleading and irresponsible” in that the poll surveyed fewer than 800 people.

The Head of Programme Complaints held that it was not unreasonable for news bulletins to report the results of the poll; most opinion polls questioned around 800 people, and, if selected randomly, this was enough to give a statistically valid ‘snapshot’ of public opinion.

He noted further that the case study included on *Good Morning Scotland* (Andrew Graham) gave a unique insight into the issues surrounding euthanasia. Apart from this contribution, the programme’s coverage focused on whether the Scottish Parliament should have a debate on euthanasia, not on the pros and cons of euthanasia.

In subsequent correspondence, the complainant maintained that Andrew Graham's story could have been balanced with someone who had found a way of dealing with any fears about their future.

Description of the poll

The complainant said that *The Lesley Riddoch Show* had reported the poll by saying that a large proportion of the population (in fact 39% of 800 people) would help a relative to die, without stating that the poll was commissioned by the Voluntary Euthanasia Society.

In his initial reply, the Head of Programme Complaints cited the response from the programme editor, which maintained that the programme had reported the poll by the Voluntary Euthanasia Society as "claiming" that 39% of people would break the law to help a relative die, but had not reported the results as fact.

In subsequent correspondence, the Head of Programme Complaints accepted that the programme had not said that the poll was commissioned by the Voluntary Euthanasia Society. He maintained that, in the context of *The Lesley Riddoch Show*, it was not necessary to do this. He said that the poll was carried out by "a highly responsible polling organisation, NOP," and it was not inappropriate to rely on its expertise and reputation.

Balance of views

The complainant said that *The Lesley Riddoch Show* had been unfair in that it featured two studio guests who were in favour of euthanasia, but not two who were against it.

In his initial response, the Head of Programme Complaints again cited a response from the programme editor. This said that the programme had featured a wide range of opinion, both in callers and in the five guests who discussed the issue in the studio: a BBC correspondent in Holland, two guests in support of euthanasia and two against (Dr Phillip Gaskell and Ian Murray).

In subsequent correspondence, the Head of Programme Complaints accepted that the complainant was correct to point out that, for technical reasons, Ian Murray indeed had not appeared on *The Lesley Riddoch Show*. He apologised for the error in his original letter. He maintained, however, that the programme had taken care to put all the relevant arguments. There were ten voices on air: one BBC correspondent, and nine guests and callers. Five of these were in favour of some kind of euthanasia, four against. Although only one caller was absolutely opposed to euthanasia in principle, others were concerned that it raised questions which might make it difficult to enact legislation.

The complainant later said that Ian Murray had offered to take part in the programme by phone, as he could not get to the studio, and that Radio Scotland had agreed to this arrangement. He had been connected to the BBC and stayed on the line until the end of the programme, but had not been called on to participate.

Characterisation of Scottish population as "scared" to debate euthanasia

The complainant said that the presenter of *The Lesley Riddoch Show* had said that Scottish people were "scared" of debating the issue of euthanasia. She noted that the Scottish Parliament had already debated the concept of legalising living wills and had not legislated in favour of them.

The Head of Programme Complaints noted that, in the introduction to the debate on *The Lesley Riddoch Show*, the presenter had asked the question about whether we are scared to debate such a controversial and painful topic. But this had not swayed the resulting debate in any way.

He noted further that it had been Jeremy Purvis MSP, after talking to other MSPs, who had suggested that people were "scared of the issue" because there are "so many difficult aspects" to it. In subsequent correspondence, the complainant disputed this. She maintained that the Head of Programme Complaints had no proof that what Jeremy Purvis MSP had said was based on discussions with other MSPs, and that the Editorial Complaints Unit had presented his views without giving proper background to his reasoning.

Irresponsible coverage

The complainant said that the BBC had put discriminatory and unlawful ideas into people's heads by interviewing a guest (Lesley Close) who described how she had taken her brother out of the country to die. She maintained that it was not right to allow those who support euthanasia "to insinuate that people who are being fed artificially and require 24 hour care are candidates for being killed before their time".

The HPC maintained that Lesley Close had not said that people like her brother were "candidates for being killed before their time", but had made it clear that her brother was lucid and mentally alert and made his own decision to end his life. He held that reporting that "39% would help a loved one to die" was not putting ideas into people's heads nor was it likely to induce them to break the law.

The complainant appealed to the Governors' Programme Complaints Committee.

The Committee's decision

The Committee reviewed the programmes concerned, and the correspondence relating to this appeal. It recognised that euthanasia was a highly sensitive topic and required careful handling by the BBC.

In considering the various elements of the complaint, the Committee came to the following conclusions:

- A survey of 800 people represented a satisfactory sample for a poll of this sort.
- The overall focus of the coverage on *Good Morning Scotland* concerned the politics of debating euthanasia, and the call by Jeremy Purvis MSP for the Scottish Parliament to debate the issue. In this context, the interview with Andrew Graham, who had multiple sclerosis, had provided an illustration of the broader issue. The omission of a balancing interview, as suggested by the complainant, did not represent a serious lapse of editorial standards on impartiality.
- Concerning *The Lesley Riddoch Show*, the primary focus had been on opening up a debate about euthanasia. It recognised that the studio guests had not represented an equal representation of views on euthanasia *per se*, and that the balance in the built programme had been adversely affected by the failure to call on Ian Murray. The Committee was satisfied nevertheless that the programme had been balanced overall, given the range of views expressed by callers.
- On identifying the poll as commissioned by the Voluntary Euthanasia Society, the Committee noted that the BBC Producers' Guidelines require that, when reporting the findings of voting intention polls, programmes must "report the organisation which carried out the poll and the organisation or publication which commissioned it". The Committee judged that, in this case, the commissioning body should have been identified, given that the poll concerned such a sensitive topic. This element of the appeal was upheld.
- The Committee did not concur with the complainant's view that the interview with Lesley Close would have put "discriminatory and unlawful ideas into people's heads". It took the view that the interview had been legitimate, sensitive and appropriately framed.
- The Committee recognised the complainant's concerns about references to the Scottish people or Parliament being "scared" of debating euthanasia, but did not consider that this aspect of her complaint raised serious issues in relation to editorial standards for accuracy or impartiality.

The appeal was upheld in part.

Red Runs the Vistula

Radio 4, 4 September 2004

The complainant runs an independent production company. He complained to the Head of Programme Complaints that the above programme contained 11 minutes of copyrighted material from the documentary film *Battle for Warsaw* without his permission; that the programme wrongly stated that the film was commissioned by the Polish émigré movement, when in fact it was an independently made production; and that an on-air correction had departed from the agreed text.

The Head of Programme Complaints replied in the following terms:

- He explained that, as they raised legal issues, the Programme Complaints Unit was not able to investigate the complainant's points about copyright.
- He upheld his complaint relating to the description of the programme as having been commissioned by the Polish émigré movement.
- He noted that the confusion over the text of the apology was regrettable. He explained that this had happened because, although the agreed apology was forwarded to Radio 4 Presentation, they mistakenly used an earlier draft. Taken together, however, he was satisfied that the two corrections had addressed the complainant's main concern.

The complainant appealed to the Governors' Programme Complaints Committee.

The Committee's decision

The Committee reviewed the correspondence relating to this complaint. It noted that the Head of Programme Complaints had upheld the complaint concerning the incorrect credit for *Battle for Warsaw* as having been commissioned by a group of anti-communist Polish émigrés, whereas it had been commissioned and wholly financed by the complainant.

The Committee took the view that the complaint relating to an infringement of copyright was a managerial matter and not for the Governors. It noted that the BBC Head of Legal Affairs, Talents Rights Group, had written to the complainant on the matter.

The Committee also noted that the confusion and omissions relating to the on-air apologies were regrettable. It recognised the lengths to which management had gone to put the matter right. The Committee concluded that the content of the apologies taken together represented an appropriate redress to the complaint.

The appeal was not upheld.

Ten O'Clock News

BBC One, 15 and 28 September 2004

The complainant wrote to the Head of Programme Complaints about two news reports on the *Ten O'Clock News*: the coverage on 15 September of the invasion of the House of Commons by hunt supporters and, on 28 September, of the protests during Mr Blair's speech to the Labour Party conference. The complainant stated that the above items breached the BBC's obligations to provide balanced coverage of controversial political issues.

His original complaint was that:

- The above items included one-sided interviews with pro-hunt demonstrators, while no time was given to the opposing point of view.
- The BBC allowed anti-social stunts to be rewarded with free, unchallenged publicity, providing an incentive for such stunts to be repeated.

The Head of Programme Complaints did not uphold the complaint on the grounds that:

- Neither item raised questions about the merits or otherwise of hunting with dogs, but about events in the political sphere.
- On 15 September, the reports focused on the unprecedented breach of security in the House of Commons, and on the violence which occurred in the pro-hunt demonstration.
- On 28 September, the report was about the demonstration, not an examination of the merits or otherwise of hunting.
- In further correspondence, the Head of Programme Complaints said that, as a news organisation, the BBC is bound to report demonstrations when the nature of the protest (as distinct from the topic) justifies it.

The complainant then appealed to the Governor's Programme Complaints Committee on the following grounds:

- The core argument of his complaint had not been properly addressed, namely that whatever the focus of the BBC's coverage of these pro-hunting demonstrations, the BBC had allowed them and the related staged incidents to be used as a platform for pro-hunting propaganda (through the packing of the screen with placards and the protestors explaining their actions or having their actions explained).
- The Head of Programme Complaints had not dealt with the second part of his complaint relating to the anti-social element of demonstrations being rewarded with unchallenged publicity. The complainant was not opposed to the reporting of demonstrations *per se*, but the incentive to indulge in related anti-social stunts might have been reduced by not allowing protestors to explain their actions or by presenting the views of the anti-hunting lobby in the package.

The Committee's decision

The BBC Producer's Guidelines note that "comprehensive coverage of demonstrations is an important part of the BBC's news coverage". The Guidelines also note that there are pitfalls in covering demonstrations, and that news coverage of a demonstration should offer a comprehensive and impartial view. The Committee noted that the BBC was fully aware of the issues relating to coverage of protests and demonstrations and the risk of giving undue publicity to individual groups or factions. In coming to its finding, the Committee reviewed the transcripts and recordings of the reporting on the two days.

It noted that coverage on 15 September 2004 focused primarily on the security breaches and issues arising, the violent protests, and the outcome of the vote to ban hunting. On 28 September, it was the nature of the protests that the stories focused on.

The Committee took the view that the reports had reflected on events of each day, describing how they unfolded and assessing their significance. The concerns of the protestors had been noted in context, but it was not accurate to portray the reports as giving a platform for the "one-sided presentation of its views, without fear of contradiction or rebuttal".

In particular, the Committee noted that the protestors who were interviewed talked respectively about the confrontation with the police, and their willingness to break the law. They were not voicing their views in the hunting debate *per se*, and a balancing perspective of the anti-hunt lobby was not therefore needed.

The Committee concluded that, in the two instances cited by the complainant, appropriate care had been taken, that the events being covered were of unanswerable importance and significance, and that the reports had been appropriately framed.

The appeal was not upheld.

To note

The Committee noted the following amendment to its finding on *Top 10 Egypt* (BBC Two, Thursday 27 December 2003), published in the quarterly bulletin for April–June 2004.

This appeal concerned a complaint that the presenter, Michael Wood, had “tracked the progress of monotheism as the progress of civilisation”, but had mentioned only Christianity and Islam, and had deliberately excluded Judaism.

The Committee did not uphold the complaint. It noted subsequently, however, that its findings had referred to its conclusion being reached after “seeking expert opinion”, although such independent specialist advice had not been taken. It subsequently commissioned an internationally respected scholar in this field to review the programme. His report found that this was an engaging and well-balanced programme which was historically accurate and aware of current trends in research and scholarship. However, it also found that Michael Wood’s omission of any reference to Judaism was historically problematic, although not inaccurate. But, the report concluded, there was no evidence that the programme was, as the complainant suggested, damaging to Jews and Judaism.

Having considered the report, the Committee decided not to uphold the complaint but agreed to inform Michael Wood of the complainant’s concerns.

Matters of taste and decency

Broadcasting House

Radio 4, 24 October 2004

The complainant wrote to the Head of Complaints about Fi Glover referring to Prince Harry as “carrot top” at the start of an edition of *Broadcasting House* on Radio 4. She complained that this was “offensive and detrimental to the nation’s perception of a member of a Royal Household whose position, status in life, in our world, our nation is sanctified, sacred, deemed by God. Therefore, as such must be given due respect, honour and addressed, accordingly.” The complainant then stated that the presenter should be “sacked or apologise, unreservedly, to the United Kingdom and ultimately, HRH Prince Harry”.

The Head of Programme Complaints did not investigate this complaint on the grounds that it fell outside the PCU’s remit, which was confined to instances where there was reason to believe there might have been a serious breach of editorial standards. The Head of Programme Complaints went on to explain that humorous references to people in the public eye (including members of the Royal Family) have long formed an accepted part of a range of BBC programmes.

The complainant was dissatisfied with this response and asked that the complaint be looked into again. The Head of Programme Complaints referred the complainant to the Governors’ Programme Complaints Committee.

At the opening to this edition of the programme the presenter Fi Glover said: “It’s 9 o’clock. Good Morning. This is Fi Glover with *Broadcasting House*. Ginger topped, outside a night club, and ready to punch you.”

This was a clear reference to reports of Prince Harry lunging at a press photographer as he was leaving a night club in the small hours, a story which attracted wide publicity.

The Committee’s decision

The Committee accepted that Fi Glover’s remark had been deeply offensive to the complainant. However, the audience would have been aware of the circumstances referred to by Ms Glover as the incident was, by this time, in the public domain. The Committee affirmed its belief that all members of the public and the Royal Family were entitled to respect. It noted, however, that those who were in the public eye could, as in this case, expect to be treated with a degree of humour.

The appeal was, therefore, not upheld.

Remit of the Governors' Programme Complaints Committee

The Governors' Programme Complaints Committee (GPCC) consists of five Governors of the BBC, to whom the full Board of Governors has delegated responsibility for ensuring that complaints made by viewers and listeners are "given due consideration by and are properly handled" by the Corporation, as required under the Charter. The activities and conclusions of the GPCC are reported to the full Board of Governors. The Committee members are Richard Tait (Chairman), Deborah Bull, Professor Fabian Monds, Angela Sarkis and Professor Merfyn Jones.

In fulfilling this remit, the GPCC undertakes regular reviews of the BBC's processes and performance in relation to complaints handling. In particular, the GPCC is responsible for the independent oversight of the BBC's strategic approach to complaints handling, and for monitoring the effectiveness of its processes, to ensure both serve the public interest and reflect best practice.

In line with the GPCC's responsibility for monitoring the effectiveness of complaints handling by BBC management, it is also the specific function of the GPCC to consider appeals against decisions and actions of the Editorial Complaints Unit (ECU) in dealing with serious editorial complaints, where complaints allege:

- that the complainant has suffered unfair treatment in a transmitted item
- that the complainant's privacy has been unjustifiably infringed, either in a programme or item as transmitted, or in the process of making the programme or item, or
- that there has otherwise been a failure adequately to observe the BBC's editorial guidelines

In order to give full consideration to an appeal, the GPCC may make any further enquiries of the complainant, or those responsible for making the programme, which it considers necessary to determine the appeal fairly. The GPCC aims to reach a final decision on an appeal within 12 weeks of receiving the request.

The findings for all appeals are reported each quarter in this bulletin, *Programme Complaints: Appeals to the Governors*. The bulletin is also available online at www.bbcgovernors.co.uk.

For a copy of the full remit of the GPCC or for further copies of this quarterly bulletin of appeals to the GPCC, please write to:

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