

BBC Governors' Programme Complaints Committee:

Draft procedures for handling complaints

27 February 2006

PUBLIC CONSULTATION

Closing date for responses: 24 March 2006

Foreword from the Chairman of the Governors' Programme Complaints Committee

The BBC's Board of Governors believes the public should be at the heart of everything that the organisation does. Licence fee payers have a right to expect the highest editorial standards from the BBC, and the right to challenge if they are unhappy with the standards of any output.

The BBC takes complaints seriously, and wants to make sure its complaints processes are fair, clear and efficient. To this end, BBC management introduced a new system for handling complaints, including a Code of Practice, in February 2005.

The Governors' Programme Complaints Committee (GPCC) helps the Governors to ensure that complaints are properly handled by the BBC. It is also the final stage in the BBC's editorial complaints process, and accordingly considers appeals from people who have made a serious editorial complaint to BBC Management and are not satisfied with the response.

As part of our wider objectives to deliver greater transparency and accountability, the GPCC has proposed a set of public guidelines, outlining how it will consider and handle appeals. We have also proposed a number of specific changes which we believe will improve the effectiveness of the appeals process. In future, we propose that all parties should normally have the opportunity to comment on material provided to the GPCC in making its decision. With some first party complaints we also propose that the GPCC should have the discretion to hold a hearing. First party complaints are where someone is complaining about unfair treatment or an infringement of privacy that has directly affected them personally.

A draft version of the procedures that will form the public guidance is attached at the end of this document. The Governors would like to hear views from a wide range of people in response to the ideas described in this document. We hope you will take the time to respond to our thinking. Based on these responses we intend to finalise the procedures, and then introduce the new guidance over coming months.

Richard Tait
GPCC Chairman

February 2006

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Annex

A Draft GPCC procedures

1. Introduction

The purpose of this document is to set out new draft procedures for the handling of appeals by the Governors' Programme Complaints Committee (GPCC).

The GPCC is a sub-committee of the BBC Board of Governors¹. It is responsible for helping the Governors to ensure that all editorial complaints are properly handled by the BBC. Specifically, the GPCC considers appeals where an editorial complaint potentially fails to meet the BBC's Editorial Guidelines; has already been escalated through the BBC management complaints process; and where the complainant is not satisfied with the response s/he has received.

In order to strengthen the transparency and objectivity of the system, BBC Governors have produced a draft set of public procedures for the handling of editorial complaints by the GPCC. This is the first time the procedures have been clearly set out and published for the public. **The draft procedures are attached at Annex A of this document.**

Note that the regulator Ofcom can also take complaints from the public on radio and television programmes, apart from where they relate to matters of impartiality or accuracy. In these cases the BBC Board of Governors is the sole regulator. See www.ofcom.org.uk

This consultation

BBC Governors are keen to hear views on these proposals, and are now publicly consulting on the draft procedures. A list of questions to help this consultation can be found in Section 3.

Next steps

The Board of Governors will publish a summary of responses to this consultation on its website. Having carefully considered the responses, Governors will then publish procedures for the GPCC later this year.

We intend that the new GPCC procedures will be implemented within the current Charter period in order that processes for complainants can be improved sooner rather than later. However, the BBC Trust will of course have the right to decide on its own procedures when it comes into force.

¹ Further details of the work and composition of the Governors' Programme Complaints Committee can be found at www.bbcgovernors.co.uk/docs/submeetings.html#complaints.

2. Revised procedures for the Governors' Programme Complaints Committee

Annex A contains proposed procedures for the handling of appeals by the Governors' Programme Complaint Committee (GPCC). The procedures document is written for publication to explain to the public how complaints will be handled by the GPCC.

The Governors are not proposing that the BBC's **overall** complaints process should change. Editorial complaints will continue to be handled by BBC Management in the first instance. Subsequent appeals will then be considered by the GPCC. This consultation refers to the GPCC's procedures only. Individual complaints should continue to be made to BBC Management – for more details see: www.bbc.co.uk/complaints

Proposed new features of the GPCC process

In addition to setting out the procedures for the first time, the Governors have proposed the introduction of additional measures to strengthen the objectivity and effectiveness of the appeal process. These are outlined in more detail below:

- Sharing material relied upon with both parties for comment

Governors recommend that, in future, complainants and programme makers should both normally have an opportunity to comment on advice and other material submitted to the GPCC, before a decision is reached.

Under these proposals, in reaching its decision the GPCC might rely on a range of materials, including advice from an Editorial Adviser, Independent Investigator, programme transcripts or recordings, background research, and, on occasion, expert external advice. It is proposed that such material should normally be sent to complainants and programme makers for comment. These comments would then be submitted to the GPCC to inform their decision.

It is proposed that this principle should be applied to both first party and third party complaints. First party complaints are where someone complains about unfair treatment or an infringement of privacy that has directly affected them personally. Third party complaints are other complaints – where the complainant feels some other aspect of the Editorial Guidelines have been broken, but they are not personally involved. The Editorial Guidelines are published at: <http://www.bbc.co.uk/guidelines/editorialguidelines/>

There are some exclusions:

- Notes or other materials identifying a confidential source will not be shared
- The BBC's policy is not to release footage that was not originally broadcast as part of a programme ("rushes"). However, where relevant, a complainant may be provided with a summary of the content of rushes relied on. In exceptional cases where a decision is likely to be based primarily on the content of rushes, it is proposed that the complainant could be shown limited transcripts or given access to view the specific rushes.

- Hearings for first party complaints

Most appeals will be considered by written submission only.

With some first-party complaints (i.e. if an individual has a complaint about unfair treatment or an infringement of privacy that has directly affected them), we propose that the Chairman of the GPCC should have discretion to call an oral hearing.

These would only be held in the most serious cases and where significant disputed facts could not be satisfactorily addressed by written submissions, and, in the Chairman's view, could potentially be resolved at a hearing.

It is proposed that both parties would be present for each others' submissions and questioning. The parties could be accompanied by advisers/ supporters but legal representatives will only be able to attend at the discretion of the GPCC's Chairman.

- Addition of a new finding for GPCC decisions

Governors recommend that GPCC decisions should also include a new finding of "already resolved". This would be used in cases where an error has occurred, and the GPCC is satisfied that BBC Management has acknowledged a problem and already dealt appropriately with the matter. In addition, all future findings should identify whether or not remedial action is required.

3. Questions for this consultation

We would welcome your views on the attached draft procedures, which can be found at the end of this document. We are particularly interested to hear your views on the following questions:

1. Is the draft procedures document clear? Is the tone and style of the document appropriate?
2. Are there any particular issues of access to the appeals procedures for people with special needs that we should consider?
3. Do you have any comments on the circumstances under which the GPCC proposes to hold oral hearings (as outlined in Section 5 of the draft procedures)?
4. Have you any comments on the proposed format for oral hearings?
5. Do you agree with the suggested list of sanctions (as outlined in Section 6 of the draft procedures)?
6. Taking account of the additional time involved, do you agree with the proposal to share materials with complainants and content suppliers?
7. Do you have any other comments on the procedures or procedures document?

Please note that this consultation will not consider specific complaints and appeals about BBC output. It will not re-open past complaints that have been handled by the GPCC. Any new complaints should be directed to www.bbc.co.uk/complaints or write to:

BBC Complaints,
PO Box 1922,
Glasgow G2 3WT

Or telephone:

08700 100 222

4. How to respond to this consultation

Useful information

The BBC Governors are inviting responses to this consultation between 27 February 2006 and 24 March 2006. If you wish to respond to this consultation, you can send your response to:

GPCC consultation
BBC Governance Unit
211, 35 Marylebone High Street
London, W1U 4AA

Or by e-mail to: gpcc.consultation@bbc.co.uk

Please complete the confidentiality statement, shown overleaf, when you make your response.

The final date for receiving responses is 24 March 2006.

Audio and Braille translations are available upon request by calling the Governance Unit on 0800 068 0116.

How we will use your response

A summary of responses will be published on the Governors' website: www.bbcgovernors.co.uk. The Committee may also want to publish responses to the consultation in full.

So please sign the Declaration overleaf to signal that you are prepared for some or all of your response to be made public.

If you would prefer that all or part of your response is treated as confidential, please make this clear in your submission.

The Governors will consider all responses carefully, before finalising the procedures for GPCC. These will then be published on the Governors' website in due course.

PLEASE PRINT OFF AND SIGN THIS DECLARATION IF YOU ARE SENDING A HARD COPY OF YOUR RESPONSE. IF YOU ARE SENDING AN ELECTRONIC RESPONSE, PLEASE COPY THIS STATEMENT INTO THE RESPONSE AND COMPLETE IT.

If you would prefer that all or part of your response is treated as confidential, please complete the confidentiality section below.

What do you want the BBC Governors to keep confidential?

Nothing	••
Whole response	••
Part of the response	••
Which part?	[please indicate]

Name
Position/job title
Organisation
Address
Other contact details (telephone, email)

Please note that we may still refer to the contents of responses in general terms, without disclosing specific information that is confidential. We will exercise due regard to the confidentiality of information supplied.

DECLARATION

I confirm that the information I have submitted is a formal consultation response. It can be published in full on the BBC Governors' website, unless otherwise specified, and I authorise the BBC Governors to make use of the information in this response to meet its legal requirements. If I have sent my response by email, the BBC can disregard any standard e-mail text about not disclosing email contents and attachments.

Name _____ Signed (if hard copy) _____

ANNEX A: DRAFT GPCC PROCEDURES

This document is written for publication to explain to the complainants how their complaint will be handled.

Governors' Programme Complaints Committee:

How appeals are handled

Introduction

The members of the Governors' Programme Complaints Committee (GPCC) are BBC Governors. It is the Governors' job to ensure that complaints are properly handled by BBC management and the GPCC assists with this responsibility. For a full account of the GPCC's role and responsibilities, please see its "Terms of Reference", available on bbcgovernors.co.uk or in hard copy from the Complaints Adviser, BBC Governance Unit. See Section 7 for contact details.

The GPCC's responsibilities include taking appeals from people who have made an editorial complaint to the BBC Editorial Complaints Unit (or in some instances, set out below, a Divisional Director), and are not satisfied with the response they have received.

This document answers the following questions:

1. Does my complaint qualify for an appeal to the GPCC?
2. How can I make an appeal?
3. How is an appeal prepared for the GPCC?
4. What is the GPCC process for considering an appeal?
5. Can I ask for a hearing?
6. What happens if an appeal is upheld?
7. Who do I contact about the appeals process?

The GPCC is supported by the Governance Unit, a BBC department that reports to the Governors via the Director of Governance. You will see mention in this document of the Head of Accountability, who oversees the GPCC procedures within the Unit, and the Complaints Adviser, who has day-to-day responsibility for the GPCC. The GPCC also has access to an independent Editorial Adviser – who is external to the BBC.

Note that the regulator Ofcom can also take complaints directly from the public on radio and television programmes – apart from where they relate to matters of impartiality or accuracy, where the BBC Governors are the sole regulator. See www.ofcom.org.uk

Our promise to you is that the process for handling appeals to the GPCC will be:

- Clearly communicated
- Fair
- Timely. The GPCC aims to give you an answer on your appeal within 16 weeks, and you will receive regular updates on the progress of your appeal

If you think these standards have not been met, please contact the Head of Accountability in the first instance, and then the Director of Governance. For contact details, see Section 7.

1. Does my complaint qualify for an appeal?

Your complaint must meet the following criteria.

- **It must be an editorial complaint.** Your complaint must be about content (for example, a programme or an online article) for which the BBC has editorial responsibility. You may be making a “first party complaint” about unfair treatment or an infringement of privacy that has directly affected you. Or you may be making a third party “standards complaint”, where you feel the content has breached the BBC’s editorial standards in some way.
<http://www.bbc.co.uk/guidelines/editorialguidelines/>
- **Your complaint must have already been escalated** through BBC management’s complaints handling processes (see www.bbc.co.uk/complaints for details). Usually, this will mean that your complaint has been investigated by **BBC Information** and then the BBC’s **Editorial Complaints Unit (ECU)**. Sometimes, however, a complaint falls outside the remit of the ECU, but still provides evidence to suggest there may have been a serious breach of editorial standards. In that case, your complaint must have been considered by a **BBC Divisional Director or a person nominated by them to respond on their behalf.**

If you are not happy with the response you have received from the ECU or the Divisional Director then:

- **You must write to appeal within two months** of the final correspondence with the ECU or a Divisional Director about your complaint.

The GPCC will not consider an appeal which is vexatious or trivial, or which relates to content that has not yet been transmitted or published.

The GPCC may decide not to consider an appeal where it relates to matters which are, or are likely to be, the subject of, or relevant to, legal proceedings. This decision is taken on a case-by-case basis.

The GPCC and/or the Complaints Adviser also reserve the right to refer a complaint back to the ECU or a Divisional Director, particularly if they think there has not been an appropriate investigation and response from Management to the original complaint.

2. How can I make an appeal?

Send your appeal to:

Full details of where to submit appeal correspondence will appear here.

Appeals should normally be made in writing, preferably typed rather than hand written. This helps the GPCC to be clear about the terms of your appeal. But if you have a disability that makes this impractical, please contact the Complaints Adviser for help and advice on how to submit your appeal.

The appeal letter should include the following information:

- A summary of your original complaint, including details of the programme(s) or item, channel or service, and the date of transmission or publication. If your complaint concerns content on the BBC's internet sites, the GPCC will normally only consider an appeal if a copy of the material is supplied. It is a great help to the Committee if complaints are clearly broken down into a series of concise points, and illustrated with specific examples from the programme or internet site of which you are complaining. This will assist us in ensuring that we understand the exact nature and basis of your complaint.
- The date of your original complaint
- The date of the final correspondence with the ECU or Divisional Director concerned
- The reasons why you are dissatisfied with the decision(s) of the ECU or Divisional Director

Before making your appeal, you can normally also ask to see the gist of the material which the ECU or BBC Director previously relied on in responding to your complaint (for example transcripts or statements from the programme maker or online editorial team). You may want to comment on this material in your appeal letter.

The Complaints Adviser in the Governance Unit will make an **assessment of your appeal** against the criteria outlined in Section 2.

The Complaints Adviser will write to you if s/he thinks your complaint does not qualify for an appeal, and explain the reasons for that decision. If you are not happy with this assessment, you can ask for the decision to be reviewed by the Head of Accountability. If s/he confirms the decision that your appeal does not meet the criteria, correspondence is normally closed at this point.

Complaints about the administration of the GPCC appeals procedures should be addressed to the Director of Governance.

If your complaint qualifies for an appeal, you will get a letter acknowledging receipt, explaining the process and setting out the timescale for taking your appeal. Any subsequent delay to the timescale will be clearly communicated and explained.

3. How is an appeal prepared for GPCC?

The Complaints Adviser works with an independent Editorial Adviser to decide what the GPCC will need to consider your complaint. This will include the correspondence and other material relating to your complaint so far.

It may also include:

- A briefing from an independent Editorial Adviser to the GPCC about the editorial issues raised by your complaint
- Further research into facts relating to the complaint, including obtaining advice as needed

Where you have made a complaint about unfair treatment or infringement of privacy that directly affects you, an independent investigator may be appointed to investigate your complaint, and provide the GPCC with an assessment of the allegations you have made.

The Editorial Adviser or Independent Investigator may contact you and/or the content suppliers for more information or further responses (if we contact you, you will usually be asked to respond within fifteen working days).

The Complaints Adviser will normally send material from any further investigation or advice to you and to the content suppliers and relevant BBC management. You will be given an opportunity to comment on this material, and asked to respond within twenty working days.

If a large number of complainants appeal against a specific decision by the ECU or a Divisional Director, some of these procedures will need to be adapted and the Complaints Adviser will compile a summary of the range of issues raised by their complaints. The appeals will then be considered together across the full range of issues identified.

4. What is the GPCC process for considering an appeal?

The GPCC reviews the material gathered in the preparation of your appeal, including your comments on material that's been compiled by the Complaints Adviser. The GPCC meets once a month. Where necessary, it may defer an appeal and request further investigation.

The GPCC will assess the content you have complained about against all the relevant standards, codes and guidelines, including the BBC's Charter and Agreement and Editorial Guidelines. It will come to one of the following findings on your appeal: upheld, upheld in part, not upheld or already resolved (where an error has occurred and the GPCC is satisfied that management have acknowledged a problem and already dealt appropriately with the matter). The GPCC Chairman will send you the finding, and a note of the GPCC's discussion, in writing.

The GPCC publishes its findings in a quarterly bulletin, available on bbcgovernors.co.uk or in print from the Complaints Adviser (see address in Section 7). Your name will be removed from the finding, except where you have been directly involved in a programme and/or content.

The GPCC is the final stage of the BBC's complaints process. Its decisions on standards complaints about accuracy and impartiality are final, because the Governors are the regulators on these matters. Otherwise, if you are dissatisfied with the Committee's findings, you may wish to consider contacting the broadcasting regulator, Ofcom (www.ofcom.org.uk). You can also complain directly to Ofcom in the first instance.

5. Hearings

In most cases, the GPCC will consider appeals without an oral hearing.

The Chairman may decide to hold a hearing in the most serious of cases if you have complained about unfair treatment or infringement of privacy that has directly affected you, and there are significant disputed facts which cannot be satisfactorily addressed by the process of investigation, and which in the Chairman's view, could be resolved with a hearing.

The GPCC Chairman chairs a hearing, or nominates a GPCC member to chair the hearing in his/her absence. At least two other GPCC members will attend.

You will usually be given at least twenty five working days notice of a hearing. You will be invited to attend, along with the content suppliers and members of BBC management that the GPCC Chairman requires to attend.

All parties involved may be accompanied by other people (usually to a maximum of two) and should inform the Head of Accountability of their names and description of their purpose at least seven working days before the

hearing. Those who accompany the parties will attend as advisers rather than advocates. Legal representation should not be necessary as it is only permitted with the prior permission, and at the discretion of the GPCC's Chairman. The Editorial Adviser, Head of Accountability and Complaints Adviser may attend.

Apart from the people mentioned, the hearings take place in private.

The GPCC Chairman will decide on the precise format for each hearing, but it will normally be as follows:

- The chairman outlines the hearing procedure
- You will be invited to summarise your original complaint and the basis for appeal
- The content suppliers/BBC management representatives will briefly respond to your complaint
- The chairman and other GPCC members may ask you and others present questions
- At the chairman's discretion, the two parties may question each other
- There is then an opportunity for the content suppliers and/or BBC management to make a brief final statement followed by a brief statement by you.

New material is not normally accepted at the hearing.

After a hearing, the Chairman and GPCC members who had been present will come to a finding on the appeal.

6. What happens if an appeal is upheld?

When an appeal is upheld the GPCC will:

- Require management to take any appropriate remedial action to guard against the breach occurring again and/or consider appropriate disciplinary action, and to report back to the Committee
- Publish its finding, including any directions to management on remedial action on the complaints website.
- Ensure that the BBC apologises to the appellant for the breach in programme standards. The Committee may also require an on-air or published apology or correction.

7. Who do I contact about the appeals process?

Full correspondence and contact details will appear here.