

BBC Trust Committee Terms of Reference Editorial Standards Committee

● December 2010



Getting the best out of the BBC for licence fee payers

BBC | Trust

Editorial Standards Committee

The BBC's Governance Structure

The Royal Charter is the constitutional basis for the BBC. It sets out the public purposes of the BBC, guarantees its independence and outlines the duties of the BBC Trust and the BBC Executive Board. The Agreement sits alongside the Charter and provides detail on many of the topics outlined in it. It also details the BBC's funding and its regulatory duties.

The Trust has established a set of Protocols which set out how the BBC Trust will carry out its functions as required by the Charter and Agreement. The Protocols also clarify the Trust's processes and the respective roles and responsibilities of the BBC Trust and the BBC Executive Board.

The Trust has also established a set of policies, codes and guidance which set out how the Trust works in more detail.

The Charter specifies that the Trust should establish a number of Committees to help it to carry out its functions.

What are "Terms of Reference"?

Terms of Reference describe the purpose and structure of a committee, meeting or any similar group who have agreed to work together to accomplish a shared goal. Terms of Reference have been established for each of the Trust's Committees to outline their particular purpose. They are also the document through which the Trust (under the Charter) delegates particular Trust functions to a Committee.

What this document covers:

This document is the Terms of Reference for the Editorial Standards Committee. It explains the purpose of the Committee and should be read in conjunction with **BBC Protocol B2 (Editorial Standards)** and **BBC Protocol E3 (Complaints Framework)**.

Editorial Standards Committee

1. Committee purpose

- 1.1 The Editorial Standards Committee (ESC) is a committee of the BBC Trust which is responsible for assisting the Trust in setting and securing editorial standards. It determines appeals on these standards and related complaints handling. It also has functions in relation to election and referendum coverage, Party Political Broadcasts, Party Election Broadcasts and Referendum Campaign Broadcasts.
- 1.2 The Committee carries out a range of activities, sometimes autonomously (under authority delegated by the Trust) and sometimes by recommending actions for the Trust to consider.

2. Membership and Attendance

- 2.1 In accordance with the Trust's Standing Orders, membership of the Committee is determined by the Chairman of the Trust and is published on the Trust's website.
- 2.2 The Committee is normally made up of up to six members of the Trust, of whom one is the Chairman of the ESC and the other five are ordinary members.
- 2.3 Other Trustees are welcome to attend any meetings of the Committee in a non-voting capacity, with the agreement of the Chairman of the Committee. The Chairman of the Trust is entitled to attend any meetings of the Committee and when doing so will be considered to be a full member.
- 2.4 The Committee Secretary asks at the beginning of each meeting whether there are any real or potential conflicts of interest and minutes these, and the agreed arrangements for handling them, in accordance with the Trust's Code of Practice.
- 2.5 The Committee is advised and supported by the Trust Unit. A member of staff of the Trust Unit is the Committee Secretary.
- 2.6 The Committee is also advised by one or more independent Editorial Advisers, appointed by the Committee, who assist on editorial issues relating to individual complaints. Advisers normally attend meetings during the consideration of items on which they are advising.
- 2.7 The Committee may also appoint advisers to assist on editorial issues which are not the subject of a complaint.
- 2.8 The Committee sometimes requires attendance from other employees of the Corporation for some items of business. The Committee generally expects the relevant Executive Director, or Executive sponsor of an item, to attend for consideration of that item.
- 2.9 The Committee may also sometimes invite external professional advisers to attend meetings.

3. Quorum

- 3.1 A quorum of members is necessary before the Committee can undertake any of its duties. The quorum necessary for the ESC is three members of the Trust.

4. Notice and Frequency of Meetings

- 4.1 Meetings of the Committee are arranged by the Committee Secretary at the request of the Chairman of the Committee or any other member.
- 4.2 The Committee usually meets monthly (except in August) and at other times as required.
- 4.3 Notice of each meeting confirming the venue, time and date together with an agenda of items to be discussed is normally sent to each member five working days in advance of the meeting.
- 4.4 Meetings may be held in person, by telephone or by video conference.

5. Chairing of meetings

- 5.1 The Chairman of the Committee normally chairs Committee meetings.
- 5.2 In the absence of the Chairman, and unless a member has been nominated in advance by the Chairman for this purpose, members of the Committee present choose a Chairman from among themselves to chair that meeting.

6. Decisions

- 6.1 Decisions of the Committee are recorded in the minutes of the meeting at which the decision was made.
- 6.2 Unless a vote is requested by a member of the Committee (see below), a declaration by the Chairman at the meeting that a decision has been made is conclusive.

Voting

- 6.3 Any member of the Committee is entitled to call for a vote on any question before the Committee.
- 6.4 When a decision of the Committee requires a vote, the outcome of the vote is determined by a simple majority of the members participating in the meeting. Each member of the Committee has one vote.
- 6.5 In the case of an equality of votes on any question the person who is chairing the meeting has a second or casting vote.
- 6.6 Any member of the Committee participating in the meeting can request that his or her vote or abstention is recorded in the minutes.

7. Urgent Business

- 7.1 Urgent issues for which there is no time to arrange a meeting can be decided by the Committee without a meeting being called (for example, by circulating a paper by email). When this happens, a majority of Committee members must indicate support for any proposal being considered before the Chairman of the Committee can determine that it is approved.
- 7.2 When a decision is made in this way, a written report must be provided to the next meeting of the Committee outlining what action, if any, has been agreed.
- 7.3 Members of the Committee can decide to delegate authority to any Committee member over process matters in between meetings should this be required.

8. Minutes of meetings

- 8.1 The Committee Secretary, or a nominated deputy, writes minutes of the proceedings and decisions of all meetings of the Committee, including recording the names of those who attended.
- 8.2 Minutes of the Committee meeting are put to the next meeting for approval. Approved minutes are signed by the Chairman of the Committee and kept as a permanent record in the BBC's archive.
- 8.3 A report of the Committee's proceedings is circulated to all members of the Trust before the following Trust meeting.

9. Authority

- 9.1 The Committee is authorised by the Trust to:
- carry out any of the functions and duties outlined in these Terms of Reference, which include authorities delegated to it by the Trust;
 - seek any information that it requires from employees of the Corporation that it considers necessary to determine an appeal fairly and/or to secure editorial standards (and all employees must cooperate with any request made by the Committee), or from third parties including independent production companies, or from any appellant; and
 - obtain legal or other professional advice as required, including from outside the Corporation.

10. Functions and Duties

General approach to editorial standards

- 10.1 Perform the following duties, which are (or relate to) duties outlined in **Protocol B2 (Editorial Standards)**:
- (a) commissioning the Executive Board to draft the BBC's Editorial Guidelines

- (b) considering such draft Guidelines and recommending to the Trust whether the drafts should be further amended or approved
- (c) where necessary and appropriate, considering and, when satisfied, approving significant guidance notes supplementing the Editorial Guidelines
- (d) following a review of the Editorial Guidelines—
 - (i) considering amendments proposed by the Executive Board and recommending to the Trust whether they require approval, and (if so) whether they should be further amended or approved,
 - (ii) recommending to the Trust that the Trust make amendments
- (e) monitoring, and holding the Executive Board to account for, the BBC's compliance with the Editorial Guidelines and other relevant codes and guidelines (and in particular the Trust's duty to ensure that the accuracy and impartiality code is complied with)
- (f) commissioning and (on behalf of the Trust) receiving from the Executive Board compliance reports and a twice-yearly accuracy and impartiality report
- (g) making recommendations to the Trust as to the commissioning of independent impartiality and accuracy reviews and supervising the reviews on behalf of the Trust
- (h) commissioning—
 - (i) reports from independent authors on editorial standards matters
 - (ii) reports of Executive Board investigations into standards breaches
 - (iii) other special projects or investigations
- (i) considering any of the reports, reviews etc., mentioned above, and pursuing with the Executive any issues arising or making recommendations to the Trust in respect of such issues (including requiring, or making recommendations to the Trust as to, any actions to be taken by the Executive Board)
- (j) ensuring that when the Committee (in the absence of a complaint) finds a breach of editorial standards—
 - (i) the finding is taken into account by programme executives in the framing of future programming
 - (ii) the BBC apologises for the breach in editorial standards (and the Committee may require an on-air or published apology or correction)
 - (iii) the Executive takes any appropriate remedial action to guard against the breach occurring again and/or considers appropriate disciplinary action, and
 - (iv) the Executive reports to the Committee any remedial action taken
- (k) considering topics of editorial concern to the Committee – whether or not such concern arises from a formal complaint; and requesting information

from the Trust Unit, Executive or external sources to support such consideration as necessary

- (i) reviewing and monitoring any other matters arising from the proceedings of the Committee

Complaints, appeals and audience comments

10.2 Perform the following duties—

- (a) undertaking the Trust's duties outlined in **Protocol E3 (Complaints Framework)** in relation to complaints and appeals about editorial standards
- (b) exercising the functions of the Committee under Procedure no. 1 of **Protocol E3 (Complaints Framework)** (editorial complaints and appeals procedures)
- (c) ensuring that there is a procedure for handling appeals to the Trust about editorial standards (see Annex I)
- (d) monitoring the performance of the complaints and appeals process in relation to editorial appeals, ensuring is informed by best practice and (in particular) that complaints are handled promptly and investigated rigorously and impartially, and periodically reviewing the process, making recommendations to the Trustees concerning any changes it considers should be made
- (e) raising broader editorial issues arising from its consideration of appeals and/or editorial standards issues with, as appropriate, the Director-General or the Deputy Director-General through the Complaints Management Board or Editorial Standards Board
- (f) notifying the BBC and the complainant of the Committee's decision to uphold an appeal
- (g) if the Committee considers the remedial action taken is inappropriate or insufficient, informing, as appropriate, the Director-General, or the Deputy Director-General (as chair of the Complaints Management Board and Editorial Standards Board) requesting that they review the issues raised and report their findings to the Committee
- (h) noting Ofcom findings and sanctions on complaints; and where necessary requiring the Executive to take appropriate action
- (i) requiring the Editorial Complaints Unit to report to the Committee any upheld complaints and resulting actions.

Elections, Party Political Broadcasts and Referendum Campaign Broadcasts

- 10.3 Perform the duties of the Trust outlined in Part C (elections and referendums) of **Protocol B2 (Editorial Standards)** as respects elections, Party Political Broadcasts and Referendum Campaign Broadcasts.

Retention of recordings and programmes

- 10.4 Consider and, if satisfied, approve any variation proposed by the Executive to the policy relating to the retention, pursuant to clause 62 of the Agreement, of recordings of programmes, subject (where necessary) to the variation being agreed with Ofcom.

Investigations

- 10.5 Conduct investigations, where appropriate, in connection with editorial standards matters in accordance with **Protocol E2 (Investigations)**.

Other

- 10.6 Undertake any other duty as requested by the Trust.

11. Review

- 11.1 The Committee will annually review its own performance and terms of reference and recommend any changes to the Trust for approval.

| Version | Date of publication | Approved by the Trust | Summary of changes since previous version |
|---------|---------------------|-----------------------|--|
| 1.1 | January 2007 | 7 December 2006 | n/a |
| 1.2 | October 2007 | 3 October 2007 | <p>This document was updated to:</p> <ul style="list-style-type: none"> • expand the list of employees of the Corporation who might be required to attend for some items of business; • insert provisions relating to urgent business which arises between meetings; • include an empowerment to seek any information from independent production companies; • include a duty to note Ofcom findings and sanctions on complaints and, where necessary, require Management to take appropriate action; • expand the procedure for appeals which the Committee will not consider; and • clarify provisions concerning the communication of decisions on appeals. |
| 1.3 | January 2009 | 18 December 2008 | <p>This document was updated to:</p> <ul style="list-style-type: none"> • clarify the Committee's responsibility for determining appeals about the BBC Executive's handling of complaints under the BBC's editorial complaints process; • increase the membership of the Committee from five Trustees to six; • include a more general statement regarding employees of the Corporation who might be required to attend for some items of business; • include an empowerment to seek any information from third parties in relation to securing editorial standards (as well as determining an appeal fairly); • include a duty to request any further information or actions from the Executive as necessary in relation to compliance reports; • specify that the Committee's role in annually reviewing the BBC's complaints handling processes and performance relates only to editorial matters; • clarify procedures for a breach of editorial standards being found by the Committee in the absence of a complaint; • clarify and expand the criteria for appeals which the Committee will and will not consider; and • clarify provisions concerning the communication of decisions on appeals, including amending timelines. |

| Version | Date of publication | Approved by the Trust | Summary of changes since previous version |
|---------|---------------------|-----------------------|---|
| 1.4 | April 2010 | 31 March 2010 | <p>This document was updated to reflect the changes to the revised BBC Protocol B2 – Editorial Standards, ie to better reflect the Committee’s role in:</p> <ul style="list-style-type: none"> • reviewing editorial guidelines; • signing off editorial guidance notes (discretionary role); and • hearing party election broadcast allocation appeals. |
| 2.0 | December 2010 | 18 November 2010 | <p>This document has been updated to:</p> <ul style="list-style-type: none"> • clarify provisions around membership and attendance; • insert provisions relating to the chairing of meetings and decisions; and • amend the functions and duties to reflect and fit better with the new protocol format. |

Annex I

Procedure for handling appeals to the Trust

1. In connection with paragraph 10.2 (c) above (procedure for handling appeals to the Trust), details of the specific procedure are set out in Procedure no. 1 of **Protocol E3 – Complaints Framework** (editorial complaints and appeals procedures).
2. These details include descriptions of the criteria for considering a request for an appeal and appeals which the Committee will not consider. However, in addition to these details, the following also apply:
 - The Committee will not consider an appeal which in its opinion concerns issues of bias by omission in BBC News programmes unless the Chairman believes that it is plausible that the omission of an item could have led to a breach of the guidelines on impartiality.
 - The Committee will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.