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# Ofcom Bulletin for complaints about BBC online material

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## Introduction

This Bulletin reports on complaints made to Ofcom about the BBC's online material. It gives the outcome of Ofcom's consideration on each complaint received and where relevant, provides Ofcom's opinion on whether the BBC observed the relevant standards for its online material.

Under the BBC's Charter and Agreement, set by Government and Parliament, the BBC is responsible for the editorial standards of its online material. Ofcom has a responsibility to consider and give an opinion on whether the BBC has observed relevant editorial guidelines in its online material<sup>1</sup>. This came into effect with the Digital Economy Act on 27 April 2017.

Online material means content on the BBC's website and apps. This includes written text, images, video and sound content. It does not extend to social media, Bitesize, BBC material on third party websites and World Service content, among other things.

Ofcom's published arrangements and procedures for handling complaints about BBC online material can be found here on the Ofcom website: <https://www.ofcom.org.uk/consultations-and-statements/ofcom-and-the-bbc/bbc-online-material>. These documents contain more information about the types of complaints we will consider and the process we will normally follow when handling complaints.

Complaints about BBC online material must follow the 'BBC First' approach, where they are made to the BBC in the first instance. If a complainant is not satisfied with the BBC's final response to a complaint about its online material, they may seek an independent opinion on it from Ofcom.

Unlike our role regulating the standards of BBC broadcasting and on demand programme services (such as the BBC iPlayer), Ofcom has no enforcement powers for BBC online material.

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<sup>1</sup> This does not include content on BBC on demand programme services (such as the BBC iPlayer), which must comply with relevant rules in Ofcom's [Broadcasting Code](#).

# Opinion

## Complaint by Baroness Patricia Scotland PC QC, submitted on her behalf by Carter-Ruck

### *Online material: Concerns raised over Commonwealth leadership, BBC News website, 26 January 2017*

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This is an Opinion given by Ofcom to the BBC on whether it has observed its own Editorial Guidelines on the content of an online article.

In this case, taking the article as a whole, for the reasons set out below, in Ofcom's Opinion the BBC observed the relevant provisions of Section Six of the BBC's Editorial Guidelines and Ofcom does not make any recommendation to the BBC in relation to the online article.

#### Background

In relation to BBC online material, Ofcom's role is different to the role we have in BBC broadcasting standards where we have enforcement powers.

Under the BBC Agreement<sup>1</sup>, Ofcom is not required to resolve complaints about standards in the content of BBC online material and Ofcom has no related enforcement powers. Instead, the BBC Agreement<sup>2</sup> provides that Ofcom must consider and give an opinion, including such recommendations as it considers appropriate, on whether the BBC has observed the relevant editorial guidelines on the content of online material in the UK Public Services. In accordance with the BBC Agreement, Ofcom has entered into an arrangement ("Online Arrangement")<sup>3</sup> with the BBC which outlines the respective roles of the BBC and Ofcom in handling complaints about BBC online material.

The Online Arrangement<sup>4</sup> provides that Ofcom will consider whether a complaint about the editorial standards of BBC online material raises potentially substantive issues under the relevant editorial guidelines which warrant consideration by Ofcom. Ofcom will do so by reference to the gravity and/or extent of the matter complained of and whether it considers the BBC reached an appropriate final view on the complaint<sup>5</sup>.

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<sup>1</sup> <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>

<sup>2</sup> Clause 60(1) of the BBC Agreement.

<sup>3</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/101892/bbc-online-arrangement.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/101892/bbc-online-arrangement.pdf)

<sup>4</sup> Clause 3(2) of the Online Arrangement.

<sup>5</sup> If Ofcom accepts that a complaint raises potentially substantive issues under the relevant BBC editorial guidelines, it will consider the complaint in accordance with Ofcom's published Procedures for handling complaints relating to BBC online material. ([https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/101893/bbc-online-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/101893/bbc-online-procedures.pdf))

## Complaint summary

Carter-Ruck submitted a complaint on behalf of Baroness Scotland about the online article entitled: *Concerns raised over Commonwealth leadership* (“the online material”), published on the BBC News website on 26 January 2017.

Separately, Carter-Ruck also submitted a fairness complaint about broadcast content in *The World at One* (“the radio programme”), broadcast on BBC Radio 4 on the same date. Ofcom has reached an Adjudication in relation to the radio programme. Our final decision is published here<sup>6</sup>.

Both the online article and the radio programme discussed concerns allegedly held by some senior government officials about Baroness Scotland’s leadership of the Commonwealth Secretariat in her role as Commonwealth Secretary-General.

Carter-Ruck said that both the online article and the radio programme included numerous “falsehoods, inaccuracies and misleading allegations” that went “to the heart” of Baroness Scotland’s professional reputation and “the integrity” of the Commonwealth Secretariat. It also said that Baroness Scotland was not given a fair opportunity to reply to the allegations levelled against her.

In relation to the complaint about the online article, Ofcom considered that the complaint raised potentially substantive issues under the relevant editorial guidelines which warranted consideration by Ofcom.

In reaching its Opinion, Ofcom took into account the following material:

- the online material (see Annex 1);
- Baroness Scotland’s complaint to Ofcom;
- the BBC’s final responses to Baroness Scotland’s complaint to the BBC; and,
- the complainant’s and BBC’s submissions to Ofcom in relation to the online material and the related fairness complaint about the radio programme *The World at One*.

## BBC’s Editorial Guidelines

The relevant editorial guidelines are defined in the Online Arrangement as those of the BBC’s Editorial Guidelines which reflect the standards set in Ofcom’s Broadcasting Code. The Editorial Guidelines set out best practice for the BBC’s editorial staff; some are mandatory and others advisory. In considering this complaint, we had regard to Section 6 of the Guidelines on Fairness, Contributors and Consent<sup>7</sup>.

Ofcom had regard to each of the principles and practices in Section 6 and the need to read that section in conjunction with Section 3 of the Guidelines on Accuracy. We considered that Principle 6.2.3 was particularly relevant in this case. Principle 6.2.3 states that “When our output contains allegations of wrongdoing, iniquity or incompetence or lays out a strong and damaging critique of an

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<sup>6</sup> Ofcom’s Broadcast and On Demand Bulletin number 358  
[https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/116048/Issue-358-Broadcast-On-Demand-Bulletin.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/116048/Issue-358-Broadcast-On-Demand-Bulletin.pdf)

<sup>7</sup> <http://www.bbc.co.uk/editorialguidelines/guidelines/fairness>

individual or organisation, those criticised should normally have a right of reply, unless there is an editorial justification to proceed without it”.

### Ofcom’s Opinion

In Ofcom’s view, the online article *Concerns raised over Commonwealth leadership* included statements which laid out a strong critique of Baroness Scotland and amounted to serious allegations of wrongdoing and incompetence. In particular, the article referred to allegations that the Government was concerned about Baroness Scotland’s running of the Commonwealth Secretariat and that some, senior, parliamentary and diplomatic sources had accused her of “*poor leadership*”. Ofcom considered that it was therefore necessary for the BBC to offer Baroness Scotland an appropriate and timely opportunity to respond in order to avoid unfairness.

In its submissions to Ofcom, the BBC said that Mr Landale gathered his information from a number of sources, some of which provided information in confidence and wished to remain anonymous. It said that providing someone with the opportunity to respond to charges would require that criticisms were described in sufficient detail to allow an informed response, not that sources were named. It said that, in this case, the criticisms concerned poor leadership and a lack of support within and without the Commonwealth Secretariat, and that the evidence suggested this critique was broadly understood by Baroness Scotland’s representatives.

The BBC said that Mr Landale had made the then Director of Media and PR for the Commonwealth Secretariat, Professor Bernie Choudhury, aware of the nature of the story he was writing in a series of telephone conversations in the days leading up to the publication of the article<sup>8</sup>. The BBC said that Mr Landale did make clear that the criticism that had been levelled against her was strong, that it had come from Commonwealth as well as political sources, and was of sufficient gravity for him to consider the story worth pursuing.

Ofcom recognised that the level of detail in which the allegations against Baroness Scotland were described by Mr Landale during these conversations is disputed by the parties. Nevertheless, we considered that the BBC had taken sufficient steps to make Baroness Scotland’s representatives aware of the nature of the criticisms levelled against her in the days leading up to the publication of the article and had given Baroness Scotland an opportunity to respond.

We took into account the fact that Baroness Scotland’s representatives provided the BBC with a statement in response to the allegations which was fully reflected in the article. The statement made clear that Baroness Scotland had “*the backing of the 52 Commonwealth member states who elected her*” and it outlined the areas of work on which she was focusing. The statement also explained that Baroness Scotland had “*launched a programme to modernise the Commonwealth Secretariat*” and that it was “*only sensible that the Secretariat employs people of the highest calibre and those who have a track record of success in their respective fields*”. In Ofcom’s view, this statement amounted to a comprehensive response which sufficiently and fairly reflected Baroness Scotland’s position in relation to the allegations made about her “*poor leadership*” in the article.

Ofcom considered that the BBC took reasonable care to ensure the facts were fairly represented and that rebuttals to statements critical of Baroness Scotland were included at appropriate points in the article. In Ofcom’s view, the allegations made in the final paragraphs were presented as such and did not differ substantively from those included earlier.

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<sup>8</sup> The BBC said that there had been three phone calls as well as emails and texts.

Taking the article as a whole, in Ofcom's Opinion, the BBC observed the relevant provisions of Section Six of the BBC's Editorial Guidelines and Ofcom does not make any recommendations to the BBC in relation to the online material.

## Complaints assessed, not accepted

### Closed between 12 May and 6 July 2018

Below is an alphabetical list of complaints which, after careful assessment, Ofcom considered did not raise substantive issues under the relevant BBC editorial guidelines that warranted further consideration by Ofcom.

For more information about how Ofcom assesses complaints about BBC online material go to: [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/101893/bbc-online-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/101893/bbc-online-procedures.pdf).

### Complaints about BBC online material

| BBC online material  | Date <sup>1</sup> | Category     | Number of complaints |
|--|-------------------|--------------|----------------------|
| BBC News website: South Africa coffin case: White farmers receive jail terms               | 02/11/2017        | Accuracy     | 1                    |
| BBC News website: Isambard Kingdom Brunel: The engineering giant with 'short man syndrome' | 23/03/2018        | Accuracy     | 1                    |
| BBC News website: Charlotte Hogg: former Bank deputy 'sorry' for mistake                   | 19/05/2018        | Accuracy     | 1                    |
| BBC News website: Racism and Islamophobic 'getting worse in Scotland'                      | 02/06/2018        | Impartiality | 1                    |

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<sup>1</sup> This is the date the complainant first became aware of the online material.

## BBC First

### Complaints closed between 12 May and 6 July 2018

#### Complaints about BBC online material, made to Ofcom in the first instance

The table below is an alphabetical list of complaints about the BBC's online material which Ofcom has not assessed. This is because Ofcom only considers complaints about the BBC's online material if the complainant has already complained to the BBC and the BBC has reached its final view on the complaint. The complaints in this table were made to Ofcom before completing the BBC's process.

| BBC online material   | Date <sup>1</sup> | Category         | Number of complaints |
|---|-------------------|------------------|----------------------|
| BBC News website: University strike: How big is the pension black hole?             | 13/03/2018        | Impartiality     | 1                    |
| BBC News website: Why is Brexit taking sooo long?                                   | 29/03/2018        | Accuracy         | 1                    |
| BBC News website: Edinburgh march for vote on final Brexit deal                     | 14/04/2018        | Accuracy         | 1                    |
| BBC News website: Syria air strikes: Theresa May says action 'moral and legal'      | 17/04/2018        | Impartiality     | 1                    |
| BBC News website: No girls, no entry: Is it OK for bars to turn away groups of men? | 18/04/2018        | Accuracy         | 1                    |
| BBC News website: David Davis: Lords amendments would undermine Brexit              | 01/05/2018        | Harm and Offence | 1                    |
| BBC News website: Brexit: Jeremy Corbyn must change stance, says Lord Kinnock       | 12/05/2018        | Impartiality     | 1                    |
| BBC News website: Gaza begins to bury its dead after deadliest day in years         | 15/05/2018        | Accuracy         | 1                    |
| BBC News website: Jerusalem embassy Why Trump's move was not about peace            | 15/05/2018        | Accuracy         | 1                    |
| BBC News website: Jerusalem embassy: Why Trump's move was not about peace           | 16/05/2018        | Impartiality     | 1                    |
| BBC News website  | 16/05/2018        | Impartiality     | 1                    |
| BBC News website: Period Poverty: what some women put in their underwear            | 28/05/2018        | Harm and offence | 1                    |
| BBC News website: Twitter 'bans women against trans ideology', say feminists        | 30/05/2018        | Harm and Offence | 1                    |

<sup>1</sup> This is the date the complainant first became aware of the online material.



|   |            |              |   |
|---|------------|--------------|---|
| BBC News website: UK drone users face safety tests and flight restrictions          | 30/05/2018 | Accuracy     | 1 |
| BBC News website: Gaza violence: thousands attend funeral for Palestinian medic     | 04/06/2018 | Impartiality | 1 |
| BBC News website: Child sexual abuse and the Catholic church: What you need to know | 05/06/2018 | Impartiality | 1 |
| BBC News website  | 06/06/2018 | Impartiality | 1 |
| BBC News website: Labour anti-Semitism row is putting off Jewish students           | 18/06/2018 | Impartiality | 1 |
| BBC News website  | 20/06/2018 | Impartiality | 1 |

### Out of remit complaints

The table below includes complaints which have not been assessed by Ofcom because they fall outside of Ofcom's remit under its arrangement with the BBC.

| BBC online material     | Date <sup>2</sup> | Number of complaints |
|-------------------------|-------------------|----------------------|
| BBC Academy website     | 15/05/2018        | 1                    |
| BBC Three Twitter page  | 20/05/2018        | 1                    |
| BBC Twitter             | 20/05/2018        | 1                    |
| BBC Three Facebook page | 20/06/2018        | 1                    |
| BBC Facebook            | n/a               | 1                    |

For information about how Ofcom deals with different types of BBC complaints, go to:

<https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/how-ofcom-deals-with-bbc-complaints>

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<sup>2</sup> This is the date the complainant first became aware of the online material.