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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 met the required 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 on the Ofcom website. 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 standards, 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

## ***Online material: Man jailed after blaming speeding ticket on fictional Frenchman, BBC News website, 18 May 2020<sup>1</sup>***

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This is an Opinion given by Ofcom to the BBC on whether it has observed its own Editorial Guidelines in the content of an [online article](#) (“the Article”)<sup>2</sup>. In this case, it is Ofcom’s Opinion that the BBC did not observe Section 3: Accuracy and Section 8: Reporting Crime and Anti-social Behaviour of the BBC’s Editorial Guidelines for the reasons set out below.

### **Ofcom’s role in relation to BBC online material**

Ofcom’s role in relation to BBC online material is different to that regarding BBC broadcasting content where we have enforcement powers.

Under the [BBC Agreement](#)<sup>3</sup>, Ofcom is not required to resolve complaints about standards in the content of BBC online material and Ofcom does not have any related enforcement powers. Instead, the BBC Agreement<sup>4</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](#) (“the Online Arrangement”)<sup>5</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>6</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. If Ofcom accepts that a complaint raises potentially substantive issues under the relevant Editorial Guidelines, it will consider the complaint in accordance with Ofcom’s [published Procedures](#) for handling complaints relating to BBC online material<sup>7</sup>.

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<sup>1</sup> This article was originally published on 9 May 2018 and updated on 18 May 2020.

<sup>2</sup> “Man jailed after blaming speeding ticket on fictional Frenchman”: <https://www.bbc.co.uk/news/uk-england-hampshire-44058417>.

<sup>3</sup> <https://www.gov.uk/government/publications/bbc-charter-and-framework-agreement>.

<sup>4</sup> Clause 60(1) of the BBC Agreement.

<sup>5</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>6</sup> Clause 3(2) of the Online Arrangement.

<sup>7</sup> [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).

## Factual background to the Article<sup>8</sup>

Mr Henry was the subject of a two-year police investigation beginning in February 2016 when he was suspected of speeding after his ex-wife's car was caught by a mobile speed camera van. In July 2016, Mr Henry was convicted of failing to provide information relating to the identification of a driver of a vehicle under the Road Traffic Act 1998 ("RTA"). He was given six points for this offence and fined £800, which was raised to £1,600 when he appealed, with a three-month disqualification from driving.

In May 2018, Mr Christopher Henry was convicted of three counts of perverting the course of justice at Winchester Crown Court, for which he received a 12-month prison sentence. The background to this case was as follows:

- Mr Henry always denied he was the speeding driver and he was not charged with a speeding offence in 2016;
- the speeding ticket was initially sent to Mr Henry's ex-wife, who was then the registered owner of the vehicle;
- it was alleged by the prosecution that Mr Henry intercepted the speeding ticket documents and completed the paperwork in his ex-wife's name, claiming a French National ("Man 1"), had lived at Mr Henry's address and was the driver and the new owner of the car in question; and
- paperwork was then sent to where Man 1 was purported to be living in France, but these documents were returned claiming that the driver was in fact a man from the Isle of Lewis ("Man 2").

Evidence was given in court that the police had established during their two-year investigation that neither Man 1 nor Man 2 existed, and in 2018 Mr Henry was convicted of perverting the course of justice. Although he consistently denied having driven or having any access to his ex-wife's car, which had been the centre of the above legal action, the court heard voice recordings obtained by the police of Mr Henry calling the AA out on two occasions when he had broken down in the same vehicle. The court was also given evidence showing how, in relation to his ex-wife's car, Mr Henry had: provided false dates of sale to the Driver and Vehicle Licensing Agency; set up a false email address; and doctored emails from insurers which he used to fabricate the identities of Man 1 and Man 2, who he said were the drivers of his ex-wife's car.

## Complaint summary

Ofcom received a complaint from Mr Henry about the current version of the Article on the BBC News website, entitled: *"Man jailed after blaming speeding ticket on fictional Frenchman"*. The article was first published on 9 May 2018 and was updated on 18 May 2020 with a clarification at

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<sup>8</sup> This factual background is based on an [amended article in the Oxford Mail](https://www.oxfordmail.co.uk/news/16217949.driver-jailed-going-extreme-lengths-avoid-speeding-ticket/) which does appear to be a duly accurate account of the court proceedings against Mr Henry <https://www.oxfordmail.co.uk/news/16217949.driver-jailed-going-extreme-lengths-avoid-speeding-ticket/>.

the bottom of the page stating: *“This article has been amended to make clear that Christopher Henry was not charged with speeding”*.

The Article reports that Mr Henry received a 12-month prison sentence in 2018 for perverting the course of justice. It states that Mr Henry was *“caught by a mobile speed trap”* driving a car belonging to his ex-wife in 2016 but the *“allegation about speeding was later dropped”*. The Article also states that *“[Mr Henry] was caught speeding...before police sent a speeding ticket to his ex-wife”*. The Article goes on to explain how he was subsequently arrested and charged by the Hampshire police for creating what they described as *“an extraordinary web of lies”* in relation to the speeding allegation.

Mr Henry complained that the Article included false, inaccurate and misleading information. In particular, he stated that he has never been accused of, attended court for or been sentenced for a speeding offence. He did not consider that the BBC’s clarification of its article on 18 May 2020 addressed what he considered to be substantive inaccuracies in the 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;
- the complaint to Ofcom and supporting correspondence; and
- the BBC’s correspondence to the complainant.

### **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 out in Ofcom’s Broadcasting Code (“the Code”) pursuant to section 319 of the Communications Act 2003 and section 107 of the Broadcasting Act 1996. In considering this complaint, we had regard to Section 3: Accuracy and Section 8: Reporting Crime and Anti-social Behaviour of the BBC’s Editorial Guidelines, which reflect Section Five: Due impartiality and due accuracy of the Code. We considered in particular:

- “3.1 The BBC is committed to achieving due accuracy in all its output. This commitment is fundamental to our reputation and the trust of audiences. The term ‘due’ means that the accuracy must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation... all BBC output, as appropriate to its subject and nature, must be well sourced, based on sound evidence, and corroborated. We should be honest and open about what we don’t know and avoid unfounded speculation. Claims, allegations, material facts and other content that cannot be corroborated should normally be attributed”.

- “3.3.28 We should normally acknowledge serious factual errors and correct such mistakes quickly, clearly and appropriately. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a serious factual error is saying what was wrong as well as putting it right”.
- “8.3.13... Reports of court proceedings must be fair and accurate...”.

## Ofcom’s Opinion

### *Achieving due accuracy*

Ofcom first considered whether the Article was duly accurate. The Article states as fact, following the BBC’s clarification on 18 May 2020, that Mr Henry had been “*caught*” speeding while driving his ex-wife’s car. However, he was not convicted of this offence in court. As set out above, although the vehicle registered to Mr Henry’s ex-wife was caught by a speed camera in 2016, Mr Henry was never charged with or convicted of a speeding offence and he has always denied that he was the speeding driver.

In its final response to Mr Henry dated 18 May 2020, the BBC explained its decision not to remove the claims that he was caught speeding from the Article. The BBC noted that Mr Henry had provided them with court documents referring to the charges brought against him. These included one from HM Courts and Tribunal Service stating that the charge of speeding was withdrawn, and another from the Criminal Cases Review Commission to Mr Henry stating:

“It is possible that the original charge included speeding, but this is usually an alternative offence [to failing to provide information on the identity of a driver] and the defendant is convicted of only one of the offences”.

Citing the court documents, the BBC argued that the fact the police did not pursue a speeding offence against Mr Henry did not prove that he was not the driver of the vehicle that was caught speeding. Rather, in the BBC’s view

“a reasonable conclusion would be that a decision was taken not to proceed with an offence of speeding at the Magistrates Court and that the Police preferred to bring a single charge of failing to provide information under the RTA, which could lead to a criminal prosecution for perverting the course of justice”.

For this reason, the BBC’s final response concluded that the Article was duly accurate as to Mr Henry’s “offence for perverting the course of justice, and conviction, and the circumstances that led up to it”.

Ofcom acknowledges that Mr Henry was convicted of the offences of perverting the course of justice and the Article accurately reflected that fact. We also acknowledge there is a clear public interest in

the BBC reporting court proceedings. However, the public interest is only served if the report is duly accurate. Ofcom considers that the BBC's decision for stating that Mr Henry was caught speeding in the Article was based on its own assumptions regarding relevant events. By stating in the Article that *"he was the man caught speeding"*, the Article was not a duly accurate account of what happened in court.

### *Acknowledging serious factual errors and correcting mistakes*

Ofcom considers that the Article's statement that Mr Henry was caught speeding was a serious factual error, given this amounted to saying that Mr Henry had been found guilty of this specific offence which was not the case. As explained above, while Mr Henry was convicted for perverting the course of justice in relation to the speeding allegation, he was not convicted of being the speeding driver.

Ofcom then considered the steps the BBC took to correct mistakes in the Article when these were raised by Mr Henry. The court correspondence Mr Henry sent to the BBC showed that he initially received a penalty and fine for failure to provide information relating to the identity of a driver, not for speeding. In its final response to Mr Henry dated 18 May 2020, the BBC acknowledged that the Article in its original form "might appear to suggest that the penalty and fine [Mr Henry] originally received were for speeding" rather than for failing to provide information. The BBC informed Mr Henry that the Article would be revised to make clear the "allegation about speeding was later dropped" and that it would include details of the offence and penalty he received for failing to provide information.

We have taken into account that the BBC acknowledged its initial reporting could give rise to a misunderstanding, and it took steps through its clarification to address this. However, in Ofcom's view the steps the BBC took to correct the error were inadequate. Although the correction at the end of the Article states that it has been amended to make clear that Mr Henry *"was not charged with speeding"*, the main body of the article still states several times that he was *"caught speeding"*. In our view, this created inconsistency and potential audience confusion in the updated Article. The BBC's clarification and amendments therefore did not make it sufficiently clear to readers that Mr Henry denied being the speeding driver and he was not charged or convicted of this offence. It was not a duly accurate report of the court proceedings.

### **Conclusion**

As set out above, Ofcom's role in relation to online material is to give an Opinion on whether the BBC has observed the relevant Editorial Guidelines, including making such recommendations as Ofcom considers appropriate.

We acknowledge that there is a high public interest in the BBC providing reports of court proceedings and criminal convictions. However, it is important that such court reporting is duly accurate.

The BBC did acknowledge that elements of the article as initially published in 2018 could give rise to misunderstanding about the facts leading up to Mr Henry's conviction for perverting the course of

justice. In Ofcom's view the BBC only partially addressed this through the clarification it made in 2020.

Ofcom's Opinion is therefore that the BBC did not observe the relevant provisions in Section 3: Accuracy and Section 8: Reporting Crime and Anti-social Behaviour of the BBC's Editorial Guidelines.

### **Recommendation**

Ofcom recommends that the BBC further amend the Article to duly accurately report the criminal proceedings to make it clear that Mr Henry denied being the speeding driver and was never charged with or convicted of a speeding offence.



## 1. Complaints assessed, not accepted

### Closed between 14 May 2022 and 01 July 2022

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.

[More information about how Ofcom assesses complaints about BBC online material.](#)

#### Complaints about BBC online material

BBC online material	Date <sup>10</sup>	Category	Number of complaints
BBC News website: Climate change: How do we know it is happening and caused by humans?	23/11/2021	Accuracy	1
BBC News website: Many people still in the dark over gas boilers, say MPs	06/02/2022	Accuracy	1
BBC News website: Most homes to get energy bill discount of £350	03/02/2022	Accuracy	1
BBC News website: Muhammad Taimoor: Birmingham teacher charged with sexual assault on schoolgirls	15/05/2022	Harm and Offence	1
BBC News website: Spring Statement: Rishi Sunak seeks to combat cost-of-living squeeze	23/03/2022	Impartiality	1
BBC News website: Tonga tsunami: Body of Briton Angela Glover found, says brother	19/01/2022	Accuracy	1
BBC News website: Ukraine war: Kyiv's battle for justice over alleged Russian war crimes	14/04/2022	Impartiality	1
BBC News website: What is fracking and why is it controversial?	24/06/2022	Accuracy	1
BBC News website: When Nazis tried to trace Aryan race myth in Tibet	15/09/2021	Accuracy	1

<sup>10</sup> This is the date the complainant first became aware of the online material. In the event that the complainant does not specify a date, we use the date that the article was published.

## 2. BBC First

### Complaints closed between 14 May 2022 and 01 July 2022

#### 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.

<b>BBC online material</b>	<b>Date<sup>11</sup></b>	<b>Category</b>	<b>Number of Complaints</b>
BBC News website	25/05/2022	Impartiality	1
BBC News website	08/06/2022	Impartiality	1
BBC News website: BBC seeks swift response to bus anti-Semitism story complaints	09/01/2022	Impartiality	1
BBC News website: Have Your Say	25/05/2022	Impartiality	1
BBC News website: India	13/06/2022	Impartiality	1
BBC News website: Ukraine war: Johnson says if Putin were a woman he would not have invaded	29/06/2022	Accuracy	1
BBC News website: We're being pressured into sex by some trans women	26/10/2021	Harm and Offence	2
BBC News website: What is climate change? A really simple guide	24/11/2021	Accuracy	1

[More information about how Ofcom assesses complaints about BBC online material.](#)

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<sup>11</sup> This is the date the complainant first became aware of the online material. In the event that the complainant does not specify a date, we use the date that the article was published.

## 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.

<b>BBC online material</b>	<b>Date<sup>12</sup></b>	<b>Number of complaints</b>
Ipob: Biafra 'media warriors' call for killings on social media – BBC Africa	18/05/2022	1

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<sup>12</sup> This is the date the complainant first became aware of the online material. In the event that the complainant does not specify a date, we use the date that the article was published.