

S4C response to Ofcom's Review of procedures for handling broadcasting complaints, cases and sanctions

August 2009

This response is submitted on behalf of S4C. The response is confined to the elements of the consultation document that are relevant to S4C's specific activities, namely the provision of Welsh language public television services.

Paragraph 2.32 of Section 2 and 28 of Section 3, penultimate bullet point (Ofcom says that it will not provide a substantive response to Standards complaints which it rejects)

We believe that it would be helpful if Ofcom could clarify whether it intends to give complainants a brief reason for Ofcom's refusal to entertain the complaint. Our concern is that complainants may not be satisfied if they are given no reason for rejection and may continue to try to pursue their complaint. It might be helpful also to adopt a process similar to Companies House, which sends out standard form letters when forms are rejected which contain a set of standard replies, with the person replying needing only to tick one of those boxes.

Paragraphs 21 of both Section 3 and Section 4

We suggest that these paragraphs should clearly state that the time limits will be extended to enable a complainant to follow a broadcasters' internal complaints procedure through to appeal before the complainant makes a claim to Ofcom. We feel that Ofcom should also encourage complainants to try to resolve their complaint with the broadcaster in the first instance, and to exhaust the remedies available to them within the broadcasters' internal complaints procedure prior to submitting a complaint to Ofcom. The paragraph should also state that a complainant shall not be prejudiced by making a complaint direct to the broadcaster in the first instance.

Paragraph 31 of Section 3

We suggest that the timescales noted in this paragraph are not practical. In reality, much of the information required by a broadcaster to prepare a response to a complaint will need to be collected from external, independent producers and the time limit of 10 working days is a tight timescale. For a commissioning broadcaster such as S4C, and for other broadcasters who have independent production quotas, the process of discussing a complaint with the relevant independent producer before responding to Ofcom is an essential part of ensuring that the response given to Ofcom has been thoroughly investigated and that a detailed and accurate response is prepared. To ensure that broadcasters have the ability to conduct such investigations and are able to prepare relevant submissions, we suggest that this time period is extended to either 20 or at the very least 15 working days. (We draw attention to the fact that broadcasters are given 20 working days to respond to a privacy and fairness complaint – see paragraph 26 of Section 4).

Paragraphs 41 of Section 3 and 42 of Section 4

We would question whether it is appropriate that the decision whether or not to grant a review rests solely with a member of the Ofcom Executive not previously involved in the case. A member of the Ofcom Executive means any member of staff with relevant delegated authority. In view of the importance of this decision, we believe that this should be a person of sufficient seniority or even possibly a member of the Broadcasting Review Committee.

Paragraph 45 of Section 3

The consultation document notes that details of the Broadcasting Review Committee are yet to be announced. Before being able to express an opinion regarding the appropriateness of

this proposal it would be helpful to have a description of who will comprise the Broadcasting Review Committee. For example, will executives be excluded?

Paragraph 31 of Section 4

We assume that any hearing under this provision will conform to Ofcom's Welsh Language Scheme (<http://www.ofcom.org.uk/about/cad/wls/owls.pdf>) and therefore that hearings may be conducted in Welsh should either the complainant or the broadcaster so choose and also that translation facilities will be made available if requested.

Paragraph 33 of Section 4, footnote 31

We suggest that in the second sentence of the footnote, after "broadcaster", please insert "or complainant (as the case may be)".

Paragraph 39 of Section 4

We suggest that after "10 working days of" please insert "notification of".

Paragraph 10 of Section

As stated in relation to paragraph 45 of section 3 above, we believe that it would be helpful to know the intended make-up of the Broadcasting Sanctions Committee before being able to express an opinion regarding the appropriateness of this proposal.

Paragraph 22 of Section 5

We note that the Broadcasting Sanctions Committee will not be bound by the provisional view of the Chair of the committee. We believe that this could result in potential unfairness to the broadcaster if the committee subsequently imposes a harsher sanction than that originally proposed by the Chair. The broadcaster will only have had the opportunity to make representations relating to the provisional view of the Chair. For example if the Chair was only proposing a light sanction, the broadcaster may have chosen not to make any representations. However if the broadcaster knew that a harsher sanction was being proposed, then it may wish to have made representations. We propose therefore that the committee should not be permitted to impose a harsher sanction than that set out in the provisional view of the Chair without the broadcaster having had the opportunity to make representations on any such harsher sanctions.

Paragraph 28 of Section 5

We suggest that the reference to 24 hours in the first sentence should exclude weekends and public holidays. It would be useful to have a flowchart setting out the time limits.