



Broadcasting Act 1990

1990 CHAPTER 42

PART V

THE BROADCASTING COMPLAINTS COMMISSION

142 The Broadcasting Complaints Commission

- (1) The commission which at the commencement of this section is known as the Broadcasting Complaints Commission (in this Part referred to as “the BCC”) shall continue in existence as a body corporate but shall be constituted in accordance with, and have the functions conferred by, this Part.
- (2) The BCC shall consist of not less than three members appointed by the Secretary of State.
- (3) The Secretary of State shall appoint one member of the BCC to be chairman, and may appoint another to be deputy chairman.
- (4) Schedule 13 to this Act shall have effect with respect to the BCC.

143 Function of BCC

- (1) Subject to the provisions of this Part, the function of the BCC shall be to consider and adjudicate upon complaints of—
 - (a) unjust or unfair treatment in programmes to which this Part applies, or
 - (b) unwarranted infringement of privacy in, or in connection with the obtaining of material included in, such programmes.
- (2) This Part applies to—
 - (a) any television or sound programme broadcast by the BBC on or after such date as is specified in an order made by the Secretary of State for the purposes of this subsection;
 - (b) any television programme broadcast by the Welsh Authority on or after that date; and

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- (c) any television or sound programme included, on or after that date, in a licensed service.

144 Making and entertaining of complaints

- (1) Complaints must be made in writing.
- (2) A complaint may be made by an individual or by a body of persons, whether incorporated or not, but, subject to subsection (3), shall not be entertained by the BCC unless made by the person affected or by a person authorised by him to make the complaint for him.
- (3) Where the person affected is an individual who has died or is for any other reason both unable to make a complaint himself and unable to authorise another person to do so for him, a complaint may be made by the personal representative of the person affected, or by a member of his family, or by some other person or body closely connected with him (whether as his employer, or as a body of which he is or was at his death a member, or in any other way).
- (4) The BCC shall not entertain, or proceed with the consideration of, a complaint if it appears to them—
 - (a) that the complaint relates to the broadcasting of the relevant programme, or to its inclusion in a licensed service, on an occasion more than five years after the death of the person affected, or
 - (b) that the unjust or unfair treatment or unwarranted infringement of privacy complained of is the subject of proceedings in a court of law in the United Kingdom, or
 - (c) that the unjust or unfair treatment or unwarranted infringement of privacy complained of is a matter in respect of which the person affected has a remedy by way of proceedings in a court of law in the United Kingdom, and that in the particular circumstances it is not appropriate for the BCC to consider a complaint about it, or
 - (d) that the complaint is frivolous,
 or if it appears to them for any other reason inappropriate for them to entertain, or proceed with the consideration of, the complaint.
- (5) The BCC may refuse to entertain a complaint if it appears to them not to have been made within a reasonable time after the last occasion on which the relevant programme was broadcast or, as the case may be, included in a licensed service.
- (6) Where, in the case of a complaint, the relevant programme was broadcast or included in a licensed service within five years after the death of the person affected, subsection (5) shall apply as if at the end there were added “within five years after the death of the person affected”.
- (7) The BCC may refuse to entertain—
 - (a) a complaint of unjust or unfair treatment if the person named as the person affected was not himself the subject of the treatment complained of and it appears to the BCC that he did not have a sufficiently direct interest in the subject-matter of that treatment to justify the making of a complaint with him as the person affected; or
 - (b) a complaint made under subsection (3) by a person other than the person affected or a person authorised by him, if it appears to the BCC that the

complainant's connection with the person affected is not sufficiently close to justify the making of the complaint by him.

145 Consideration of complaints

- (1) Subject to the provisions of section 144, every complaint made to the BCC shall be considered by them either at a hearing or, if they think fit, without a hearing.
- (2) Hearings under this section shall be held in private; and where such a hearing is held in respect of a complaint, each of the following persons shall be given an opportunity to attend and be heard, namely—
 - (a) the complainant;
 - (b) the relevant person;
 - (c) where the relevant programme was included in a licensed service, the appropriate regulatory body;
 - (d) any person not falling within any of paragraphs (a) to (c) who appears to the BCC to have been responsible for the making or provision of that programme; and
 - (e) any other person who the BCC consider might be able to assist at the hearing.
- (3) Before they proceed to consider a complaint the BCC shall send a copy of it—
 - (a) to the relevant person, and
 - (b) where the relevant programme was included in a licensed service, to the appropriate regulatory body.
- (4) Where the relevant person receives from the BCC a copy of the complaint, it shall be the duty of that person, if so required by the BCC—
 - (a) to provide the BCC with a visual or sound recording of the relevant programme or of any specified part of it, if and so far as the relevant person has such a recording in his possession;
 - (b) to make suitable arrangements for enabling the complainant to view or hear the relevant programme, or any specified part of it, if and so far as the relevant person has in his possession a visual or sound recording of it;
 - (c) to provide the BCC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the relevant person is able to do so;
 - (d) to provide the BCC and the complainant with copies of any documents in the possession of the relevant person being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
 - (e) to furnish to the BCC and the complainant a written statement in answer to the complaint.
- (5) For the purposes of this section, section 155 and section 167 it shall be the duty of each broadcasting body to retain a recording of every television or sound programme which is broadcast by that body—
 - (a) where it is of a television programme, during the period of 90 days beginning with the broadcast, and
 - (b) where it is of a sound programme, during the period of 42 days beginning with the broadcast.

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- (6) Where the relevant person receives from the BCC a copy of a complaint, it shall be the duty of that person, if so required by the BCC—
- (a) where the relevant person is a broadcasting body, to arrange for one or more of the governors, members or employees of the body to attend the BCC and assist them in their consideration of the complaint, or
 - (b) where the relevant person is a body other than a broadcasting body, to arrange for one or more of the following, namely—
 - (i) the persons who take part in the management or control of the body, or
 - (ii) the employees of the body,to attend the BCC and assist them in their consideration of the complaint, or
 - (c) where the relevant person is an individual, to attend, or to arrange for one or more of his employees to attend, the BCC and assist them in their consideration of the complaint.
- (7) Where the relevant person receives from the BCC a copy of a complaint and, in connection with the complaint, the BCC make to any other person a request to which this subsection applies, it shall be the duty of the relevant person to take such steps as he reasonably can to ensure that the request is complied with.
- (8) Subsection (7) applies to the following requests by the BCC to any such other person as is there mentioned, namely—
- (a) a request to make suitable arrangements for enabling the complainant and any member or employee of the BCC to view or hear the relevant programme, or any specified part of it, if and so far as the person requested has in his possession a visual or sound recording of it;
 - (b) a request to provide the BCC and the complainant with a transcript of so much of the relevant programme, or of any specified part of it, as consisted of speech, if and so far as the person requested is able to do so;
 - (c) a request to provide the BCC and the complainant with copies of any documents in the possession of the person requested, being the originals or copies of any correspondence between that person and the person affected or the complainant in connection with the complaint;
 - (d) a request to furnish to the BCC and the complainant a written statement in answer to the complaint;
 - (e) a request to attend, or (where the person requested is not an individual) to arrange for a representative to attend, the BCC and assist them in their consideration of the complaint.
- (9) The BCC may, if they think fit, make to any person who attends them in connection with a complaint such payments as they think fit by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him so to attend.
- (10) In this section “the relevant person” means—
- (a) in a case where the relevant programme was broadcast by a broadcasting body, that body; and
 - (b) in a case where the relevant programme was included in a licensed service, the licence holder providing the service.

146 Publication of BCC's findings

- (1) Where the BCC have considered and adjudicated upon a complaint, they may give the following directions, namely—
 - (a) where the relevant programme was broadcast by a broadcasting body, directions requiring that body to publish the matters mentioned in subsection (2) in such manner, and within such period, as may be specified in the directions; and
 - (b) where the relevant programme was included in a licensed service, directions requiring the appropriate regulatory body to direct the licence holder to publish those matters in such manner, and within such period, as may be so specified.
- (2) Those matters are—
 - (a) a summary of the complaint; and
 - (b) the BCC's findings on the complaint or a summary of them.
- (3) The form and content of any such summary as is mentioned in subsection (2)(a) or (b) shall be such as may be approved by the BCC.
- (4) A broadcasting or regulatory body shall comply with any directions given to them under this section.
- (5) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such directions as may be given to him by that body for the purpose of enabling them to comply with any directions given to them under this section.
- (6) The BCC shall publish, at such intervals and in such manner as they think fit, reports each containing, as regards every complaint within this subsection which has been dealt with by them in the period covered by the report, a summary of the complaint and the action taken by them on it and, where they have adjudicated upon it, a summary of their findings.
- (7) A complaint made to the BCC is within subsection (6) unless it is one which they are precluded from entertaining by section 144(2).
- (8) The BCC may, if they think fit, omit from any summary included in a report under subsection (6) any information which could lead to the disclosure of the identity of any person connected with the complaint in question other than—
 - (a) a broadcasting or regulatory body; or
 - (b) a person providing a licensed service.

147 Duty to publicise BCC

- (1) It shall be the duty of each broadcasting or regulatory body to arrange for the publication (by means of broadcasts or otherwise) of regular announcements publicising the BCC.
- (2) Any such announcements may contain a statement of the difference between the kinds of complaints that may be considered by the BCC and those that may be considered by the Broadcasting Standards Council established by this Act.
- (3) Any licence to provide a licensed service which is granted by a regulatory body under this Act shall include conditions requiring the licence holder to comply with such

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directions as may be given to him by that body in connection with the performance by them of their duty under subsection (1).

148 Annual reports

- (1) As soon as possible after the end of every financial year the BCC shall prepare a report of their proceedings during that year, and transmit it to the Secretary of State who shall lay copies of it before each House of Parliament.
- (2) The report shall have attached to it the statement of accounts for the year and a copy of any report made by the auditors on that statement.
- (3) The BCC shall send a copy of the report—
 - (a) to each broadcasting or regulatory body; and
 - (b) to every person providing a licensed service.

149 Contributions towards cost of BCC

- (1) For the financial year which includes the commencement of this section and each subsequent financial year the Secretary of State shall notify—
 - (a) to each regulatory body the sum which he considers to be the appropriate contribution of that body, in respect of persons providing licensed services under licences granted by that body, towards the expenses of the BCC; and
 - (b) to the Welsh Authority the sum which he considers to be the appropriate contribution of that body towards such expenses.
- (2) Each regulatory body and the Welsh Authority shall pay to the Secretary of State any sum notified to them under subsection (1).

150 Interpretation of Part V

In this Part—

“appropriate regulatory body”, in relation to a programme included in a licensed service, means the regulatory body by whom that service is licensed;

“the BCC” means the Broadcasting Complaints Commission;

“broadcasting body” means the BBC or the Welsh Authority;

“complaint” means a complaint to the BCC of any such unjust or unfair treatment or unwarranted infringement of privacy as is mentioned in section 143(1);

“licensed service” means—

(a) a television programme service (within the meaning of Part I of this Act),
or

(b) an independent radio service falling within paragraph (a) or (b) of section 84(1),

which is licensed under Part I or (as the case may be) Part III of this Act, or any additional service (within the meaning of Part I or III of this Act) which is licensed under that Part of this Act and constitutes a teletext service;

“participant”, in relation to a programme, means a person who appeared, or whose voice was heard, in the programme;

“the person affected”—

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- (a) in relation to any such unjust or unfair treatment as is mentioned in section 143(1), means a participant in the programme in question who was the subject of that treatment or a person who, whether such a participant or not, had a direct interest in the subject-matter of that treatment; and
- (b) in relation to any such unwarranted infringement of privacy as is so mentioned, means a person whose privacy was infringed;

“regulatory body” means the Independent Television Commission or the Radio Authority;

“the relevant programme”, in relation to a complaint, means the programme to which the complaint relates;

“television programme” includes a teletext transmission, and references to programmes shall be construed accordingly;

“unjust or unfair treatment” includes treatment which is unjust or unfair because of the way in which material included in a programme has been selected or arranged.