



Department
for Culture,
Media & Sport

The BBC Mid-Term Review

January 2024



Department for Culture, Media and Sport

The BBC Mid-Term Review

Presented to Parliament by the Secretary
of State for Culture, Media and Sport by
Command of His Majesty

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Ministerial Foreword



The BBC matters deeply to this country – as it does to people right across the world. At its best it is a peerless media institution that reflects our values, culture and identity. We saw with its coverage of the Coronation, its reporting on the conflict in Ukraine and the hosting of Eurovision, its incomparable capacity to inform, educate and entertain.

The role of public service broadcasting and a free press has never been more significant than it is today. We are all living in an era of fake news, where social media creates echo chambers of opinion, presents individual experience as established fact and mis and disinformation go unchallenged. The public expects, rightly, the BBC to be an exemplar of impartiality, accuracy and diversity of opinion. An organisation that trusts, respects and serves the entire nation. One that is held to the highest possible standards.

The unique place the BBC holds in our national life is crystallised in the Royal Charter. That Charter forms the constitutional basis for the BBC and is not only the framework for how the corporation is governed, it guarantees and safeguards its independence.

This Mid-Term Review is an unmissable opportunity to pause and examine the scale of the changes introduced at the last Charter Review in 2016. To take stock, at the Charter's half-way point, and evaluate the effectiveness of the BBC's governance and regulation. In answering that question, this review considers a range of issues from the performance of the BBC Board and the effectiveness of the regulation by Ofcom to whether the current system of governance and oversight is fit for the future.

The Review unpacks, in detail, the myriad challenges facing the corporation and the opportunities the BBC now has to grow and sustain public trust in decision-making, impartiality and its complaints handling processes. Our recommendations are unambiguous that there is scope for material improvements across a variety of areas.

A major challenge for the BBC continues to be impartiality. It strikes at the very core of the BBC's remit and the public expects the organisation to embody this value. But, as this review makes clear, audience perception that the BBC is not sufficiently impartial is an ongoing issue and, within a culture of continuous improvement, more can be done.


Today the way we access news and entertainment is unrecognisable from the one in which the Charter reforms were introduced in 2017. Trust in media organisations and in mainstream sources of news has eroded substantially during this period, and this has had a pernicious effect in public trust in the impartiality of the BBC. There is evidence to suggest trust levels in the BBC, overall, remain high relative to other international media organisations. But the corporation has a duty to evolve and maintain a gold standard for its journalism. By doing so, it will retain high levels of public trust in the organisation as it strives to deliver a vital universal service to audiences while setting an example which can drive standards across the media landscape.

This review is clear that only by increasing accountability and transparency about work undertaken to improve impartiality, will the corporation recapture and enhance its reputation for impartiality. Following direct, challenging and constructive dialogue with us in Government, the BBC will implement wholesale reforms that move the corporation in the right direction. This includes a new legally binding responsibility for the BBC Board to actively oversee the complaints process and the extending of Ofcom's existing regulatory responsibilities to include the BBC's online output.

As a Government, our aim will always be to ensure that a strong, distinctive, independent BBC can continue to thrive for years to come – and also to improve the BBC where we can. Our hope is that this staging post in the

Charter will help us live up to that ambition and support the corporation as it flies the flag for Britain in all corners of the world.

Over its 100 year history, the BBC has proven to be one of the most adaptable, innovative and forward-thinking media organisations on the planet. I have every confidence that it will add to that track record, once again, by absorbing the findings of the Mid-Term Review and improving its structures and processes. We all rely on the BBC being the best it can be. This review is going to help ensure that is what the British public gets.

A handwritten signature in black ink that reads "Lucy Frazer". The signature is written in a cursive, flowing style.

The Rt Hon Lucy Frazer KC MP
Secretary of State for Culture, Media and Sport

Executive Summary

1. The BBC is a unique cultural institution that has provided the model for public service broadcasting across the world and continues to sit at the heart of the UK's thriving media sector. It has been informing, educating and entertaining millions everyday, both in the UK and globally, for over one hundred years. Over that hundred years the BBC has consistently adapted to the changing world around it, and in several areas has actively driven change. But the rate of change across the media sector is posing new, and stretching, challenges for the BBC by fundamentally changing the context in which it has to operate, with evolving audience habits, changing technology and an increasingly globalised and competitive market.
2. Following the 2015/16 Charter Review¹, new BBC governance and regulatory arrangements were established: the governance of the BBC would be conducted by a new unitary Board, and regulation would pass to Ofcom, the BBC's first independent, external regulator. Given

1 UK Government, BBC Charter Review, 2015/16.

the extent of these changes, the Charter² provided for the Government to conduct a Mid-Term Review (MTR). The MTR has therefore been an opportunity to examine the effectiveness of the governance of the BBC, and the regulatory framework designed to ensure the BBC delivers on its responsibilities, focusing on the issues which matter most to audiences and stakeholders. It has identified ways in which both the BBC and Ofcom need to make meaningful and effective change to the BBC's governance and regulation to ensure the organisation is delivering for licence fee payers: for example, strengthening the BBC's oversight of its complaints process to ensure audiences have trust that their complaints will be dealt with in a sufficiently independent way, and giving Ofcom new powers to regulate elements of the BBC's online public service content.

3. In the period since the current Charter was adopted, there have also been challenging moments for the BBC, such as Ofcom independently finding the BBC made significant editorial failings over its reporting

2 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

of the anti-semitic attack on Jewish students travelling on a bus in London and a finding of a “culture of defensiveness” at the BBC by Sir Nicholas Serota³. Strong governance and regulatory arrangements are crucial to the BBC’s success in retaining trust, maximising future opportunities, and dealing with future challenges. Over the remainder of this Charter period the BBC and Ofcom should also both consider how governance and regulation can continue to be enhanced in order to ensure the best outcomes are delivered for audiences.

4. The Terms of Reference for the MTR were published in May 2022⁴ (included at Annex A), and set out the six themes of the MTR: editorial standards and impartiality; complaints; competition and market impact; commercial governance and regulation; diversity; and transparency. These themes were identified as being of fundamental concern to audiences and stakeholders, in addition to those that Ofcom identified as important in its review of how the BBC is

3 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021.

4 UK Government, BBC Mid-Term Review: Terms of Reference, 2022.

regulated⁵ and elsewhere in its regulatory activities during this first half of the Charter. We also looked at the governance of the BBC in the round, given the significance of the changes introduced by the current Charter. The Charter prevents the MTR from looking at the Mission of the BBC; the Public Purposes of the BBC; or the licence fee funding model of the BBC for the period of this Charter.

5. The MTR was conducted by DCMS on the basis of evidence received from a wide range of stakeholders across a number of key areas. The BBC and Ofcom also provided information to inform the MTR, and the Government is grateful for their collaboration. A summary of the MTR findings is as follows.
6. **Governance:** the new governance framework introduced by the current Charter introduced fundamental changes to the previous framework to address concerns that the previous model of the BBC Trust prevented clear responsibilities and lines of accountability, led to duplication of effort, and diverged from best practice by having both governance responsibilities for the BBC and regulatory responsibilities. The evidence

5 Ofcom, [How Ofcom regulates the BBC](#), 2022.

received indicates the new framework has been effective in addressing those concerns, although as below a specific Board sub-committee will be given greater powers.

7. The report nevertheless sets out a series of recommendations for the BBC to take forward to enhance its governance over the remainder of the Charter. The first relates to the Board continuing to meet its important responsibilities to ensure it has the confidence of staff. The Board itself needs to be actively involved in monitoring the success of its internal communications work, and the BBC needs to explain publicly how its new editorial whistleblowing policy continues to deliver effectively. Secondly, we note that the BBC's governance is assessed regularly, but this important emphasis on continuous improvement needs to be publicly demonstrated more effectively. We will continue to look at how the BBC's governance has evolved, and how the BBC has evaluated its effectiveness, during Charter Review.
8. **Editorial standards and impartiality:** impartiality is core to the BBC's responsibilities under the Charter, particularly through providing impartial news and information to help people understand

and engage with the world around them. The impartiality of the BBC, as a publicly funded broadcaster, goes to the heart of the contract between the Corporation and all the licence fee payers whom it serves. We recognise the concept of impartiality is complex. We conclude that there is clear evidence that adherence to impartiality and editorial standards is now at the heart of the BBC's priorities, but also that the BBC and Ofcom need to continue to strive to fulfil their responsibilities. There are contrasting views and evidence for changes in trust, with some surveys showing a decline⁶ and others a recent increase⁷. However, Ofcom has also concluded impartiality is still consistently rated lower than trust and accuracy by audiences for the BBC website, app and television⁸ and that whilst people in the UK value the role the BBC plays in news provision, impartiality is one of the areas

6 For example: Reuters research reported by Press Gazette, [Five-year decline in UK news media trust sees BBC, Times and Telegraph have biggest drops](#), 2023. Opinion poll reported by Guardian, [ITV news is more trusted than BBC after Lineker row and Sharp controversy](#), 2023.

7 Reuters, [Reuters Digital News Report 2023](#), 2023.

8 Ofcom, [2022 News Consumption Survey](#), 2022.

where the BBC is perceived less favourably compared to other aspects of news delivery, with perceptions of impartiality not changing over the past year⁹. It is therefore crucial that the BBC demonstrates clearly to audiences that it takes its responsibilities seriously and continues to focus on impartiality, within a culture of continuous improvement, to maintain audience trust.

9. We recommend that the BBC publishes more information about how it undertakes some of the key pillars of its work to improve impartiality, and the impact that work is having, to help build audience trust. Given impartiality is, more than anything, the quid pro quo of the licence fee, we will review how the BBC has responded to Ofcom's challenge that the BBC must continue to challenge and ask difficult questions of itself as it embeds its impartiality recommendations¹⁰. This work

9 Ofcom also noted that BBC TV has a much higher, and broader, reach than these channels and, overall, almost half of all of those who watch any TV news think the BBC is impartial. Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

10 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

will include how the BBC's commitments are being embedded into wider organisational processes in the longer-term, beyond delivery of initial commitments in its 10-point action plan. In terms of regulation, a significant recommendation to enhance the impartiality of the BBC is that Ofcom's existing regulatory responsibilities relating to the BBC should be extended to key areas of the BBC's online public service material. This important policy change reflects that audiences increasingly consume the BBC's news (and other) content online, and this step will enable Ofcom to hold the BBC to account, including against its impartiality responsibilities, in a more robust way.

10. **Complaints:** the feedback of licence fee payers is invaluable in helping the BBC both to understand what its audiences care about and how to make its services better, and editorial complaints are an important form of feedback. The current Charter sought to simplify what was previously a dual complaints system, involving both the BBC and Ofcom with overlapping remits. The principle of 'BBC First' was therefore formally introduced in 2017, making the BBC unique among broadcasters in having the opportunity to resolve editorial

complaints about its services first, before their consideration by Ofcom. Evidence gathered during the review shows that BBC First allows the licence fee payer to hold the BBC directly accountable, and ensures the BBC stays close to the issues concerning its audiences.

11. However, there remain concerns about the extent of the BBC's impartiality, reflected by an increase in the number of complaints made to Ofcom about the BBC's due impartiality this year.¹¹ It is crucial to have an effective complaints process as part of the BBC's toolkit to address these concerns, together with the right legally-binding responsibilities in the Framework Agreement¹². Different sets of polling report a range of satisfaction with the experience

11 39% of all BBC complaints made to Ofcom in 2022/23 were about due impartiality, compared to 19% in the previous year. Ofcom, Annual Report on the BBC 2022/23, 2023

12 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

of using BBC First.¹³ We received significant feedback from a range of stakeholders that specific improvements need to be made to make the experiences of complainants better in a number of ways, such as clearer explanations of the process and the roles of both the BBC and Ofcom. We also note that data showing that a relatively small number of complaints are upheld by the BBC has given rise to concerns that complaints are not being dealt with sufficient independence. Although it is difficult to form a definitive conclusion about the independence of complaints handling from those data, those concerns do suggest the BBC can do more to ensure audiences feel their complaints will be fairly considered.

12. In response to significant concerns highlighted by this review, the Government has worked constructively with the BBC and, as a result of these discussions, the BBC will undertake a set of major reforms. These are particularly focused on enhancing the independent scrutiny of the BBC's complaints handling and improving how the BBC continues to respond to feedback.

13 Ofcom, [Audience Perceptions of the BBC First Complaints System](#), 2022.

These reforms can help build the trust that is necessary between the BBC and its audiences to sustain the principle of BBC First for the remainder of this Charter period.

13. The Board, which includes a number of independent Non-Executive Members (NEMs), will be given a new, legally-binding, responsibility in the Framework Agreement to actively oversee the BBC Executive's handling of complaints. Structurally, pre-broadcast editorial policy and post-broadcast complaints resolution are being separated, with the role responsible for leading complaints handling now reporting directly to the Director General. The BBC Board sub-committee responsible for ensuring that the BBC complies with its complaints framework, the Editorial Guidelines and Standards Committee (EGSC), chaired by a non-executive director, will be given greater powers to scrutinise and challenge how the BBC Executive responds to complaints. Finally, Ofcom will be given a new legally binding regulatory function in the Framework Agreement to independently review more of the BBC's complaints decisions. The report also recommends specific ways the BBC and Ofcom can build on work that has already been undertaken to improve the experiences

of complainants, to ensure they feel able to fully engage with the process and share their views. The review also recommends Ofcom improves the transparency of its decision-making when the BBC has found a breach of its own editorial standards. If the breach is within Ofcom's regulatory jurisdiction, Ofcom should publicly and clearly record this breach. If it decides not to open a formal investigation into the content against the Broadcasting Code, Ofcom should clearly explain its rationale in its online bulletin. At Charter Review, we will examine whether BBC First remains the right complaints model to enable the BBC to deliver against its responsibility to serve all audiences, using Ofcom's forthcoming review of BBC First.

14. **Competition and market impact:** the current Charter introduced major changes to how the BBC would be regulated in regard to its market impact to ensure the BBC was sufficiently held to account by Ofcom. In particular more independent oversight was introduced to the process with new powers given to Ofcom. This included moving the responsibility for deciding whether a change that is likely to have a significant adverse impact on competition should go ahead from the BBC Trust to Ofcom. The Charter

does not preclude the BBC from having an adverse impact on the market if the BBC Board and Ofcom believe is necessary for the effective fulfilment of the BBC's Mission and Public Purposes.

15. It is for the BBC to rise to the challenge and strike the correct balance between its obligations to audiences and to the creative economy, and for Ofcom to robustly hold the BBC to account in meeting those obligations. A lack of effective engagement has the potential to risk the BBC, and Ofcom's, decision making process. We have therefore made recommendations aimed at driving higher standards for stakeholder engagement and transparency to support audiences and other businesses operating in the same markets as the BBC. Our recommendations will enable the BBC's competitors to more effectively engage the BBC and Ofcom on competition and market issues, and ensure the BBC is clearer in how it is fulfilling its obligation to work collaboratively and seek to enter partnerships with other organisations.
16. Finally, we encourage the BBC to consider how it meets its obligations on distinctiveness - a new focus of the current Charter - over the remainder of this Charter.

17. The BBC must clearly demonstrate how it effectively balances the needs of audiences, and the impact on competitors when making decisions on how its services and output are distinctive. Achieving the correct balance between the BBC's ability to deliver for audiences and support the creative economy will be an important question for the renewal of the BBC's Charter. We will examine the BBC's role in the wider market, including how the regulatory framework may need to evolve to reflect shifts in technology and consumer behaviour, as part of our work in the next Charter Review. Reflecting on the evidence we have received, the BBC's distinctiveness will be a key aspect of that work.
18. **Commercial governance and regulation:** the BBC carries out a range of commercial activities, which have grown since the beginning of this Charter period with the creation of BBC Studios as a commercial subsidiary and its merger with BBC Worldwide. The Charter requires the BBC Board to oversee and set a strategy for the BBC's commercial activities, as part of its duty to ensure that the BBC fulfils its Mission and promotes the Public Purposes. The BBC Commercial Board oversees the delivery of the Corporation's commercial ambitions.

The Charter also requires the BBC and Ofcom to ensure that the BBC's commercial subsidiaries do not gain an unfair competitive advantage or distort the market as a result of their relationship with the BBC public service arm. In that context, the Government therefore wants to see the BBC's commercial arm succeed and grow over the remainder of this Charter period. We have already supported this by increasing the BBC's commercial borrowing limit from £350m to £750m.

19. The review finds that the governance and regulation of the BBC's commercial activities is working effectively. The BBC's March 2022 refresh of its commercial governance¹⁴ is encouraging and should support the BBC's plans to grow its commercial arm, and we recommend the BBC should monitor the effectiveness of the new Commercial Board as these new arrangements bed in.
20. **Diversity:** a BBC that accurately reflects, represents and serves the diverse communities of the UK is a requirement of the Charter, and is vital to the BBC delivering its duties to licence fee payers across the

14 BBC, BBC bolsters commercial ambition with new-look BBC Commercial Board, 2022.

country. The current Charter introduced specific diversity duties on the BBC, such as the requirement for the organisation to ensure it is reflecting underrepresented communities in its output and services, and to engage with audiences to ensure their views are taken onboard and factored into decision-making. As set out in the Framework Agreement, the BBC Board also has a specific responsibility to oversee and report annually on the BBC's plans to reflect and represent the UK more effectively. The MTR assessed whether the BBC's governance and regulation frameworks enable the BBC to effectively meet these new responsibilities, and its duties on diversity in general.

21. Whilst the BBC has stated that it understands the importance of improving the diversity of the organisation, both on and off screen, and progress has been made, there are areas for further improvement. A BBC which accurately reflects the diversity of viewpoints that exists across the UK is vital for ensuring audiences feel represented. The BBC Board needs to consider how diversity of thought and opinion could be better reflected in decision-making, given it has been highlighted as an important area for improvement by the BBC itself and by a range of third parties. We

will examine whether the BBC is reflecting sufficient diversity of thought and opinion in its decisions at Charter Review. We have also identified that some audience groups feel underserved by the BBC, and that effective audience engagement is important for ensuring the BBC understands the specific needs of communities across the UK. We therefore recommend that the BBC keeps its engagement with underrepresented groups under review to ensure this engagement is sufficient. To better enable the BBC to demonstrate how it is fulfilling its diversity objectives, and to ensure others are able to hold the BBC accountable for its performance, we also recommend that the BBC considers publishing more detailed information on the the engagement its (Board) Members for Nations are carrying out with audiences.

22. **Transparency:** we received evidence about the BBC's transparency when looking at most of the themes above. One of the ambitions of the current Charter was to enhance the BBC's transparency. Transparency therefore lies at the heart of the BBC's responsibilities, with clear expectations that it observes high standards of openness and seeks to maximise transparency and accountability.

23. We recognise that the BBC's transparency has improved during this Charter, with the BBC continuing to make efforts to further improve. But straightforward and open communication with licence fee payers remains crucial, and the evidence received as part of the MTR shows that the BBC has not always communicated changes that have an impact on audiences and stakeholders effectively with them. The BBC needs to demonstrate it is serious about effective communication. We also recognise that licence fee payers need the opportunity to say what information they want to see in order to hold the BBC to account. So the BBC needs to undertake further work to understand whether audiences are getting the information they need, and publish the results of that work as well as how it intends to respond. Ofcom also has significant responsibilities in its role ensuring the BBC is delivering for audiences, in particular through helping audiences understand why and how it holds the BBC to account. We therefore expect Ofcom to continue to demonstrate high levels of transparency as it conducts its role as independent regulator.
24. The majority of recommendations are for the BBC and Ofcom to take forward

and the Government expects their timely implementation. A number of specific recommendations require changes to the Framework Agreement on which we are already working with the BBC and Ofcom, and these will be published as soon as possible. Looking further ahead, while the MTR has recommended necessary reform now, it will also enable the Government, BBC and Ofcom to better prepare for Charter Review. It has helped to define the focus of Charter Review including through re-visiting issues where we have set out clear expectations of progress from the BBC in the MTR, as well as issues that were out of scope of the MTR's Terms of Reference but where stakeholders had concerns about the calibration of the BBC's Mission and Public Purposes, and updating our assessment on issues where, at the point of the MTR, it was too early to fully assess them.

Introduction

25. The BBC is a unique cultural institution that has provided the model for public service broadcasting across the world. Above even British sports and universities, the BBC remains the UK's best-known cultural export.¹⁵ Closer to home, its services are widely used, with four in five adults using the BBC weekly.¹⁶ The BBC's content serves to inform, educate and entertain millions everyday. As a nation, we share a lot of our time with the BBC, with UK adults spending an average of 16.68 hours a week with its services.¹⁷
26. Beyond these rhythms of our own personal daily lives, the BBC holds a central place in our shared national life. It continues to bring the UK together - both in celebration and in loss - through its first-rate broadcasting of moments of national significance: from the Commonwealth Games and the Coronation

15 BBC, BBC Group Annual Report and Accounts 2022/23, 2023.

16 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

17 BBC, BBC Group Annual Report and Accounts 2022/23, 2023.

of His Majesty King Charles III, to Covid-19 updates and the State Funeral of Her Majesty Queen Elizabeth II. The BBC also united record audiences across the world this year by hosting the Eurovision Song Contest in Liverpool on behalf of Ukraine.

27. As Ofcom noted in its 2021 report ‘Small Screen: Big Debate: Recommendations to Government on the Future of Public Service Media’, the last decade has seen rapid change in the broadcast industry.¹⁸ This has been driven by wider global trends that are fundamentally changing the context in which the BBC has to operate. Audience habits and technologies have evolved, and competition has increased as global streamers have made their presence felt in UK markets. In 2022, less than half of audio-visual viewing went to live TV services.¹⁹ The main beneficiaries of this change have been Video-on-Demand (VoD) services, with over two-thirds of UK households now using a VoD service such as Netflix, Amazon Prime Video or Disney Plus (although household

18 Ofcom, Small Screen: Big Debate: Recommendations to Government on the Future of Public Service Broadcasting, 2021

19 Ofcom, Media Nations: UK 2023, 2023.

take-up of subscription VoD services appears to have reached a plateau). This means our PSBs, including the BBC, are now competing directly with streamers who are able to leverage significant financial resources arising from their global scale. However, given the proliferation of choice, this is an intensely competitive market for all players and there is increasing evidence of viewers shopping around to find the services that best meet their needs.²⁰

28. The cumulative effect of these trends presents difficult questions about how our PSBs can continue to best deliver for UK audiences long into the future. The Government set out its vision for the broadcasting sector, and the steps it will take to support our system of public service broadcasting in our ‘Up Next’ White Paper.²¹ This includes a commitment to legislate for reforms through a Media Bill which was published in draft in March 2023.²² Public service broadcasting is of course a bigger

20 Kantar, Cost of living crisis bites: GB streaming market shrinks, 2022.

21 UK Government, Up Next: The Government’s Vision for the Broadcasting Sector, 2022.

22 UK Government, Draft Media Bill, 2023.

concept than the BBC alone, but we want the BBC to continue to be at the centre of public service broadcasting's evolution for our digital and globalised age.

Roadmap for Reform and Context of the Mid-Term Review

29. In light of the rapidly changing needs and expectations of audiences, the Government set out in the 'Up Next' White Paper an ambitious reform plan for the BBC, to ensure it remains sustainable for the decades to come²³. This roadmap for reform will conclude with a review of the BBC's Royal Charter.
30. The Royal Charter is the constitutional basis for the BBC. It sets out the BBC's Mission and Public Purposes, and its duties to licence fee payers. The Charter also outlines the Corporation's governance and regulatory arrangements, including the role and composition of the BBC Board.²⁴ It is accompanied by the Framework Agreement, an agreement between the Secretary of State

23 UK Government, Up Next: The Government's Vision for the Broadcasting Sector, 2022.

24 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016..

for Culture, Media & Sport and the BBC, which provides further detail on the BBC's public obligations, funding arrangements and regulatory duties.²⁵ The current Charter began on 1 January 2017 and ends on 31 December 2027. Following the Charter Review in 2015/16, new governance and regulatory arrangements for the BBC were established: the governance of the BBC would be conducted by a new unitary Board, and regulation would pass to Ofcom, the BBC's first independent, external regulator in its history. The Charter and Framework Agreement set out how Ofcom and the BBC must deliver this.

31. Given the extent of the changes introduced by the 2017 Charter, Article 57 provided for the Secretary of State for Culture, Media and Sport to conduct a review. The MTR is therefore an important milestone in the Government's wider roadmap of BBC reform: it is a timely opportunity to assess how well the BBC's governance and regulatory arrangements are functioning, and whether

25 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

any changes are needed to ensure the BBC is delivering for all licence fee payers, in line with the Government's vision for a thriving, sustainable BBC in the digital world.

32. At this halfway point in the Charter period, the BBC has already shown its ability to adapt and innovate. In May 2022, the BBC set out a plan to evolve into a 'digital-first' BBC.²⁶ Since then, it has made progress on its plan for digital transformation through measures such as personalising the iPlayer experience and developing BBC Sounds to allow listeners to pause and rewind live radio through smart speakers.
33. This half of the Charter period has also included challenging moments for the BBC, such as Ofcom independently concluding the BBC made significant editorial failings over its reporting of the anti-semitic attack on Jewish students travelling on a bus in London.²⁷ Furthermore, a review led by Sir Nicholas Serota, 'The Serota Review - BBC editorial processes, governance, and

26 BBC, Plan to deliver a digital-first BBC, 2022.

27 Ofcom, Ofcom Broadcast and On Demand Bulletin, Issue 461, 2022.

culture' ('the Serota Review')²⁸ following the Lord Dyson Report²⁹ into the circumstances that led up to, and the aftermath of, Martin Bashir's Panorama interview with Diana, Princess of Wales, found there was a "culture of defensiveness" at the BBC, and that the BBC needed to do more to embed editorial values such as impartiality. Healthy organisations are able to open themselves up to external scrutiny, reflect on challenges and find learning opportunities within them.

34. The events of this Charter period so far - spanning both its opportunities and its challenges - have made clear the importance of strong governance and regulatory arrangements: these are the mechanisms that aid organisational change; enable the BBC to deliver on its objectives and obligations; and ensure that it is held to account on its responsibilities on behalf of all licence fee payers.

28 Sir Nicholas Serota, The Serota Review: BBC editorial processes, governance, and culture, 2021.

29 The Right Honourable Lord Dyson, Report of The Dyson Investigation, 2021.

Scope of the MTR

35. As set out in the Terms of Reference published in May 2022, and included in full at Annex A, the scope of this review is to consider how the changes to the BBC's governance and regulation arrangements made through the current Charter have been implemented. In particular, whether those changes to governance and regulation have successfully enabled the effective delivery of the BBC's Mission and Public Purposes across the UK, including in each of its Nations and globally; the successful discharge of the BBC's General Duties; and that the BBC Board and Ofcom have undertaken the specific functions required of them in the Charter and Framework Agreement.
36. The review therefore concentrated on a number of themes:
- Governance
 - Editorial standards and impartiality
 - Complaints
 - Commercial governance and regulation
 - Competition and market impact
 - Diversity

- Transparency
37. In line with the requirements of the Charter, the review has not considered the Mission of the BBC; the Public Purposes of the BBC; or the licence fee funding model of the BBC for the period of this Charter.

How the MTR was conducted

Stakeholder evidence

38. The MTR was conducted by DCMS on the basis of a targeted consultation during which evidence and feedback were sought from stakeholders with an interest in how the BBC is governed and regulated. Their views were obtained in writing, through roundtables, and in individual discussions. A full list of stakeholders is included at Annex B.
39. DCMS also benefited from information provided by both the BBC and Ofcom. Interviews with senior figures from both organisations were also conducted which allowed for open and frank discussions about how the current arrangements are working, and where improvements could be made.

Consultation with the BBC, Ofcom and Devolved Administrations

40. As required by the MTR Terms of Reference, DCMS has consulted the BBC, Ofcom and the Devolved Administrations in the formulation of the review's conclusions and recommendations. We are grateful for their engagement and collaboration.
41. A full list of the MTR's conclusions and recommendations is at Annex C.

Chapter 1: Governance

Background

42. In his independent review ‘A Review of the Governance and Regulation of the BBC’, published in 2016 to inform the development of the current Charter, Sir David Clementi defined governance as being “about how an entity organises itself in its boards, committees and other decision-making bodies, setting strategic objectives and budgets for the organisation, seeking to be effective and efficient, as well as accountable to those it serves and those to whom it is responsible.” A strong governance framework is crucial for the success of any organisation. Sir David Clementi’s review looked at different models of governance and recommended how the BBC’s then governance framework could be changed.
43. Before that point, the BBC’s governance was based on a Trust model with a two-tier Board. Sir David Clementi concluded that this model prevented clear responsibilities and lines of accountability, led to duplication of effort, and having both governance responsibilities for the BBC and regulatory responsibilities was not considered to be best practice. He

noted that, “it is for this reason that some argue that the Trust is “both cheerleader and regulator””.³⁰

44. On the basis of his recommendations, the current Charter³¹ put into place a single unitary board, with collective responsibility for the BBC. The Board is responsible for ensuring the BBC fulfils its Mission and those Public Purposes, and must uphold and protect the independence of the BBC including by acting in the public interest. The Board consists of a majority of non-executive members. The Government appoints five of the ten non-executive members: the Chair and one NEM for each of the nations of the UK.
45. The Charter also requires the BBC to implement generally accepted principles of good corporate governance where appropriate. Ofcom has taken on the role of sole independent regulator.
46. Given the scale of these changes, we have looked at whether the unitary board has

30 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

31 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

solved Sir David Clementi's concerns and whether any further changes are required to ensure maximum ongoing effectiveness. We received the vast majority of feedback from those close to the day to day governance of the BBC under both the current and previous models. Whilst they were given the opportunity to comment on specific elements of the BBC's governance, other stakeholders have more interest in audience needs and the BBC's impact on the wider market rather than the BBC's governance structure. We note that the review was conducted during the tenure of two different chairs.

The implementation and impact of the new unitary board structure

What we learnt

47. During the evidence gathering phase of this review, we received considerable feedback that the unitary board structure has addressed the key concerns identified by Sir David Clementi's review. It has created clear roles and responsibilities, lines of accountability and a culture of constructive challenge. It is widely understood that the Board is responsible for holding the BBC executive to account without involvement in

day to day operational delivery, whilst Ofcom is responsible for regulation rather than the BBC Trust causing confusion by having some of its own regulatory responsibilities.

48. Feedback suggested that the BBC's sub-committee structure works effectively, in particular that the Audit and Risk Committee performs well. The Board has set up a delegation process – setting out what issues are matters that are reserved for the Board and where decisions can be made at other levels within the organisation.³²
49. We also heard that the Board receives a significant amount of information, for example a range of audience, financial, operational and editorial metrics and objectives, and that it receives the right information in order to help it make suitably informed decisions. We heard no concerns about the information flow between the wider Corporation and the Board, nor the quality of the information provided.
50. Sir David Clementi's review set out a number of expectations for the new unitary board's reporting responsibilities, to ensure the BBC

32 BBC, Delegation of authority and matters reserved for the Board, 2017.

can be adequately held to account.³³ These include a report from key sub-committees in each year's Annual Report and Accounts, as well as reports about specific activities and issues. The BBC's Annual Report and Accounts for each year since 2017/18 include reporting on all of these issues, detailing their particular areas of focus, key decisions and reflections on the reporting year.³⁴ Also included is the BBC's performance against the Operating Framework and Operating Licence³⁵, editorial and complaints issues, and competition and fair trading issues, again in line with Sir David Clementi's proposals and the requirements of the Charter.³⁶

The Government's response

51. The evidence shows that the unitary board model has been implemented effectively, and is delivering the leadership required of a large and complex organisation. Moreover,

33 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

34 BBC, BBC Group Annual Report and Accounts, various years.

35 Ofcom, The BBC Operating Framework and Operating Licence, 2017 and 2023.

36 BBC, BBC Group Annual Report and Accounts, various years.

the model overcomes the challenges presented by the previous model. In particular, it is now clear what members of the Board are responsible for, and what they are not.

1.1 We conclude that the unitary board model has been effectively implemented and is working well. Issues raised during the course of the MTR can be addressed within the current governance framework.

52. While we heard that the BBC Board receives the right information, given how critical that is in order to make effective and timely decisions, it is important that the Board continues to keep this under regular review, as part of its usual business activity, to ensure the current arrangements continue to work well.

1.2 We recommend that the Board keeps the information it receives under regular review so that it continues to maximise its ability to make decisions on the right balance of information.

53. It is important that the Board's sub-committees have the specific responsibilities and expertise to enable a detailed oversight of particular areas of the BBC's performance, and can identify, resolve or escalate problems to the Board as necessary. However, we discuss the effectiveness of

the EGSC, the sub-committee responsible for developing, and ensuring compliance with, the BBC's editorial guidelines, in later chapters of this report, as we have identified some specific recommendations for improvement in how this committee functions.

54. Overall, we conclude that the Board is effectively fulfilling the reporting responsibilities set out in article 37 of the Charter,³⁷ which reflect recommendations made by Sir David Clementi's review.³⁸ Questions about the BBC's transparency in specific areas, including the BBC's transparency about service changes for licence fee payers and relating to the complaints process, are addressed elsewhere in this review.

1.3 We conclude that the sub-committee structure adds value, with clear delegated powers from the Board, and the vast majority of the committees are delivering effectively.

37 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016..

38 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

1.4 We conclude that the Board is fulfilling its reporting responsibilities effectively.

Compliance with best practice

What we learnt

55. Although the BBC is not a listed company, it has opted to fulfil its Charter responsibilities to implement generally accepted principles of good corporate governance where appropriate by following the appropriate provisions of the Financial Reporting Council’s UK Corporate Governance Code (“the Code”).³⁹ We have seen a detailed explanation of how the BBC complies with the Code. It is also clear from the BBC’s Annual Report and Accounts each year why non-compliance is appropriate in specific areas, including those relating to shareholder relationships or where the Code is overridden by the Charter in areas such as the appointment and composition of the Board, and we have not identified any concerns about the BBC’s reasoning when explaining instances of non-compliance.⁴⁰

39 Financial Reporting Council, The UK Corporate Governance Code, 2018.

40 BBC, BBC Group Annual Report and Accounts, various years.

Feedback during the evidence gathering phase of the review provided strong evidence of compliance in a number of specific areas:

- Regular Board effectiveness reviews (discussed in more detail below).
- Performance reviews of the Non-Executive Members (NEMs) conducted by the Chair, including to discuss their roles as Board sub-committee Chairs.
- A culture of frankness, debate and constructive challenge.
- An effective Audit and Risk Committee, as reflected above.

The Government's response

56. It is important to see evidence of compliance with the Code, and a clear explanation on an annual basis of where and why the Board does not see compliance as appropriate. This approach to compliance should form a strong foundation for ongoing governance effectiveness, which is crucial for such a complex organisation supported by significant amounts of public funding.

Non-Executive Members (NEMs)

What we learnt

57. Feedback during the evidence gathering phase, and an examination of individual NEM biographies, suggests that the current NEMs have a wide range of experience and skills, and the BBC plays a clear role in the Government's appointment process for those who are publicly appointed. This means that in line with the Governance Code for Public Appointments and the Charter, the Government must consult the BBC on the process for appointing the Chair and Nation Members, the BBC Chair must be a member of the selection panel for the appointment of the Nation Members and must have particular regard to the Charter's requirement that Board members have the range of skills and experience necessary to secure the proper exercise of the functions of the BBC.⁴¹ We have heard no evidence to raise concerns about the Board's overall composition at this point in time. We also

41 UK Government, Governance Code for Public Appointments, 2023; UK Government, BBC Royal Charter, 2016.

heard positive feedback about the induction process for new NEMs.

The Government's response

58. Effective decision-making must be informed by the widest possible breadth of experience and skills, including those relevant to the sector in question. Many of the NEMs have a particularly crucial role in chairing individual Board sub-committees, providing oversight and challenge on key areas of the BBC's activity. All have an overarching responsibility to hold the BBC executive to account as members of the Board.
59. We recognise that getting a perfect balance of NEM skills and experience can be challenging, as it will depend on applicants and the specific role. The NEM appointment process seems to be working effectively to enable delivery of the expectations set out in the Charter of those NEMs - the NEMs have a wide range of experience and skills and the BBC plays a specific role in HMG appointment process to ensure the right skills balance in future.⁴² The recent appointment of a permanent BBC Board member for

42 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016..

Northern Ireland now means there is a Board member with the specific responsibility to provide challenge and scrutiny to ensure that the BBC provides output and services that meet the needs of audiences in that nation.

60. An effective induction process for the NEMs provides individuals with essential information about their position, and how their roles and responsibilities fit into the organisation's overall objectives and goals. This will allow NEMs to reach maximum effectiveness as soon as possible.

1.5 We welcome the positive feedback received about the induction process for new NEMs.

The Board's responsibilities to its staff

Board visibility

What we learnt

61. We heard feedback during evidence gathering that the Board needed to ensure it was sufficiently visible to the rest of the organisation, with greater interaction including between the NEMs and those in executive roles. However, we also heard that the BBC already has an extensive

programme of internal communications in place so that staff can engage and hear from BBC senior executives and Board members, and the BBC has confirmed it does, and will continue, to monitor the effectiveness of this work. We also heard that the BBC already implements several specific measures to ensure this takes place, and that it keeps these measures under review for example through monitoring staff engagement through staff surveys.

The Government's response

62. The Board has important responsibilities to its staff, who need to have an understanding of, and confidence in, how the organisation is being run at the most senior level, and that their views are being taken into account.
63. We understand that the pandemic may have had an impact on the Board's ability to fulfil these responsibilities. We note the BBC is implementing specific measures and monitors their effectiveness. However, we think that as this is about their own visibility, the Board, including the NEMs, need to play an ongoing role in that monitoring.

1.6 We recommend that the BBC Board, including the NEMs, play an active role in monitoring the

impact of work to ensure the Board is sufficiently visible to staff in the rest of the organisation.

Editorial whistleblowing policy

What we learnt

64. A key element of the BBC's 10-point action plan on editorial standards and impartiality, published in October 2021, was the creation of an editorial whistleblowing policy. This was accompanied by strengthened governance arrangements including reporting of editorial whistleblowing to both the Audit and Risk Committee and the EGSC.⁴³ This is a new policy, published in July 2022, that provides a confidential mechanism for staff and freelancers to raise concerns about editorial issues taking place at the BBC.⁴⁴ It is in addition to the existing mechanisms through which staff can raise concerns about non-editorial issues.
65. In the course of evidence gathering, the BBC also confirmed that regular independent third-party reviews of editorial investigations,

43 BBC, Impartiality and Editorial Standards: BBC Action Plan, Incorporating the Response to the Serota Review, 2021.

44 BBC, BBC Whistleblowing Policy, 2022.

reporting to the Board's Senior Independent Non-Executive Director, are undertaken and that it keeps its editorial whistleblowing policy and procedures under regular review. A summary of whistleblowing data (number of cases and outcomes) is published in the BBC's Annual Report and Accounts to enhance transparency.⁴⁵

The Government's response

66. We agree that the Board must ensure that staff and those working with the BBC feel able to raise concerns about editorial issues proactively, safely and openly. This is a key part of ensuring the BBC's governance structure works not just for the organisation as a whole, but for individuals too. It is important that the Board remains committed to evaluating the operation of the policy to ensure it is working effectively.
67. The BBC should add to the information already published in its Annual Report and Accounts by explaining how it ensures the policy and process continues to deliver effectively. Otherwise it is unclear to those wanting confirmation that the BBC takes

45 BBC, BBC Group Annual Report and Accounts, various years.

the ongoing effectiveness of its editorial whistleblowing policy seriously whether the Corporation does so. It will also allow the Government and other external stakeholders to better evaluate how what is currently a relatively new policy beds in over the years to come.

68. We note the BBC's separate ongoing work to review its policies and processes for non-editorial complaints. It is right that the adequacy of those processes is being evaluated in light of recent cases relating to senior/high-profile members of staff (including historical cases). It is vital that the BBC has the right governance frameworks in place to address serious complaints when they emerge. The BBC's review is due to conclude shortly and we look forward to understanding the outcomes of this review.

1.7 We recommend that the BBC publishes information to explain how it ensures the editorial whistleblowing policy and process continue to deliver effectively.

A culture of continuous improvement

What we learnt

69. The Code states that “there should be an annual evaluation of the performance of the board, its committees, the chair and individual directors, and the chair should consider having a regular externally facilitated board evaluation - at least every three years in FTSE 350 companies.”⁴⁶ The BBC carried out an internal review in 2018/2019, and a light touch exercise in 2020/21 due to the disruption caused by Covid and the arrival of a new Chair, with three external board effectiveness reviews carried out in 2019/20, 2021/22 and 2022/23, as set out in its Annual Report and Accounts for each year⁴⁷. An internal review was not carried out in 2017/18 as the new governance arrangements were newly introduced.

46 Financial Reporting Council, The UK Corporate Governance Code, 2018.

47 BBC, BBC Group Annual Report and Accounts, various years

The Government's response

70. We consider that the principle of regular Board effectiveness reviews should continue to be adopted by the BBC as it is a large, complex organisation, with a Board that is responsible for the effective use of public money. The BBC's governance needs to be regularly assessed to ensure it is evolving as required, not just at this halfway point of the Charter through the MTR but also as we move towards the next Charter.
71. Whilst we have confidence that the BBC has to date complied with this principle, in order to demonstrate a culture of continuous improvement publicly, the BBC needs to publish more detail about each external effectiveness review. This should be done in its Annual Report and Accounts, subject to appropriate confidentiality, with the Board's action plan in response.
72. We note that the BBC has already implemented this in its Annual Report and Accounts for 2022/23, providing significantly more detail than in the equivalent report

for 2019/20 when the last external Board effectiveness review was conducted.⁴⁸

73. We agree that, when an external review is conducted, an internal review is not automatically necessary. However, we note that beyond confirmation that an internal effectiveness review had taken place, no details of its findings or the Board's response were provided in the relevant Annual Report and Accounts. The BBC has committed to conducting these internal reviews in future where an external review has not taken place. These internal reviews are an equally important way for the BBC to demonstrate its commitment to continuous improvement of its governance arrangements, and we therefore think that the BBC should provide more information about the outcome of future internal reviews in the relevant Annual Report and Accounts, subject to appropriate confidentiality.

1.8 We recommend that the BBC's Annual Report and Accounts continues to summarise the conclusions of future external Board effectiveness reviews, and summarises the conclusions of future

48 BBC, BBC Group Annual Report and Accounts 2022/23, 2023; BBC, BBC Group Annual Report and Accounts 2019/20, 2020.

internal Board effectiveness reviews, and confirms how recommendations are to be taken forward.

74. We were not able to see the findings of the external Board effectiveness reviews, nor the Board's response, during evidence gathering as the BBC considered these were private reports to the Board. During the next Charter Review, we will look at how the BBC's governance has evolved and how the BBC has evaluated the effectiveness of that governance since the MTR.

1.9 We will look again at how the BBC's governance has evolved, and how the BBC has evaluated the effectiveness of that governance, during the next Charter Review. We expect the BBC to provide us with sufficient information to do that in due course, including internal documentation.

Chapter 2: Editorial Standards and Impartiality

Background

75. Impartiality is core to the BBC's role to effectively inform and educate audiences, and it is necessary that the BBC provides impartial news and information to help people understand and engage with the world around them. The BBC's impartiality is at the heart of why the BBC is valued both in the UK and globally, and in an era of increasing risks around the prevalence of disinformation, the BBC has been, and should continue to be, a beacon that sets standards to which others can aspire. The current Charter introduced a clear Mission for the BBC: to act in the public interest, serving all audiences through the provision of impartial, high-quality and distinctive output and services which inform, educate and entertain. Its first Public Purpose is to "provide impartial news and information to help people understand and engage with the world around them: the BBC should provide duly accurate and impartial news, current

affairs and factual programming”.⁴⁹ The MTR has therefore considered how the current governance and regulatory arrangements support the BBC in having the highest possible editorial standards and in how it prioritises, and delivers, its responsibilities on impartiality.

The BBC Board’s responsibilities

76. The BBC Board has specific responsibilities in respect of impartiality. The Charter introduced a requirement for the Board to ensure that the BBC fulfils its Mission and promotes the Public Purposes. More recently, the Government agreed changes with the BBC to the Framework Agreement in May 2022 to give the Board stronger and more detailed legally-binding responsibilities relating to the BBC’s impartiality.⁵⁰

Ofcom’s responsibilities

77. Ofcom has responsibility for regulating many areas of the BBC’s content standards,

49 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

50 UK Government, An Agreement Between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2022.

including the due impartiality of news and current affairs. Ofcom does this through the Broadcasting Code, which sets out the standards it requires all broadcasters to meet.⁵¹ Ofcom also has to publish an annual report that includes an assessment of the BBC's compliance with its impartiality responsibilities set out in the Charter. It must publish at least two more reviews on the extent to which the BBC is fulfilling its Mission and promoting each of the Public Purposes, and addressing any specific issues of concern identified by Ofcom, during the Charter period. Ofcom must also, where appropriate, carry out and publish additional reviews addressing any specific issue of concern identified by Ofcom relating to the activities of the BBC that are subject to Ofcom's regulation.⁵²

The BBC's Editorial Guidelines

78. The BBC also has its own Editorial Guidelines, which incorporate the requirements of the Broadcasting Code, but which differ by going further in some areas.

51 Ofcom, *The Ofcom Broadcasting Code*, 2020.

52 UK Government, *Royal Charter for the continuance of the British Broadcasting Corporation*, 2016.

They require due impartiality across all its output.⁵³

Recent developments

79. On 29 October 2021, the BBC published a review led by Sir Nicholas Serota, ‘The Serota Review - BBC editorial processes, governance, and culture’, following the Lord Dyson Report into the Bashir incident. This examined the BBC’s editorial oversight, the robustness and independence of whistle-blowing processes and the wider culture within the organisation.⁵⁴ On the same day, the BBC published a 10-point action plan on impartiality, editorial standards and editorial whistleblowing which incorporated the Corporation’s response to the review.⁵⁵ In July 2022, the BBC published a progress update on the 10-point action plan.⁵⁶

53 BBC, Editorial Guidelines, 2019.

54 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021.

55 BBC, Impartiality and editorial standards BBC action plan, incorporating the response to the Serota Review, 2021.

56 BBC, BBC delivers progress on Impartiality Plan, 2022.

Impartiality as a concept, and the BBC's commitment to it

What we learnt

80. We received only limited feedback during the evidence gathering phase of the MTR on the concept of “due impartiality”. There was some feedback that the concept is not fit for purpose and requires fundamental review, although we did hear that it is a complex concept, and the complexity of the concept is growing as the way people engage with news is evolving.
81. Alongside publication of its report ‘How Ofcom regulates the BBC’ in June 2022⁵⁷, Ofcom published research conducted by Jigsaw, an independent research organisation, on the drivers of perceptions of due impartiality, exploring audience attitudes towards the due impartiality of BBC services in the context of the wider news landscape.⁵⁸ The report concluded that the BBC is operating in a “complex and demanding news landscape” as audiences

57 Ofcom, How Ofcom regulates the BBC, 2022;

58 Ofcom and Jigsaw, Drivers of perceptions of due impartiality the BBC and the wider news landscape”, 2022.

have access to news in more ways than ever before and a charged cultural climate and divided opinions add a further layer of complexity, and it is not just content but also several “wider non-programming contextual factors” that influence perceptions of due impartiality. The research showed that audiences value BBC news and current affairs, and hold them to a higher standard with a stronger sense of public ownership of the BBC, owing to the TV licence fee. The report also concluded that “BBC TV, radio and online news are judged differently by audiences in light of the distinct roles they play. On due impartiality, BBC TV is judged more stringently by audiences compared to radio and online, and is expected to satisfy a wider range of audiences and represent the whole of the UK, in contrast with other TV broadcast brands which are seen as better able to appeal to a specific audience.”⁵⁹

82. In terms of the BBC’s performance, we heard some concerns that the BBC has made significant failings, such as pro-EU bias over a number of years. We also heard

59 Ofcom and Jigsaw, Drivers of perceptions of due impartiality the BBC and the wider news landscape, 2022.

concerns that the BBC does not accept the significance of those failings, particularly in relation to coverage of the UK's exit from the EU. We also heard evidence that the BBC, including the Board, puts adherence to the Corporation's impartiality responsibilities, and its own editorial standards, at the heart of its work, and this is driven at the most senior levels. That commitment is evidenced by impartiality being one of the Director General's four strategic priorities. The BBC's Editorial Guidelines also outline that the BBC's commitment to due impartiality is "fundamental to our reputation, our values and the trust of audiences".⁶⁰

83. We heard in the course of evidence gathering that delivery of the 10-point action plan⁶¹ and the ongoing actions to embed the necessary changes in business as usual within the BBC is regularly monitored by the BBC Board, as well as the EGSC - a sub-committee of the BBC Board responsible for developing, and ensuring compliance with, the BBC's editorial guidelines.

60 BBC, Editorial Guidelines, 2019.

61 BBC, Impartiality and editorial standards BBC action plan, incorporating the response to the Serota Review, 2021.

The Government's response

84. The impartiality of the BBC, as a publicly funded broadcaster, goes to the heart of the contract between the Corporation and all the licence fee payers whom it serves. In addition to its responsibilities to UK audiences, one of the BBC's other Public Purposes is to reflect the United Kingdom, its culture and values to the world through high-quality news coverage to international audiences, firmly based on British values of accuracy, impartiality, and fairness.⁶² Whilst there are many different factors that influence an individual's perception beyond the content in question, it can never be the BBC's role to judge, or appear to judge, the diverse values of people from across the country it serves, even if achieving impartiality is complex and challenging. In an era of disinformation, public service broadcasting that provides accurate, trustworthy and impartial reporting is more important than ever. The BBC has been, and should continue to be, a beacon setting the highest possible standards to which others can aspire, and it must hold itself to these standards. Whilst the BBC

62 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

has assured us that it puts impartiality at the heart of its activities, we are clear that both Ofcom and the BBC must continue to monitor their activity and strive to effectively meet the challenge. We make a number of significant recommendations for change later in this chapter and, importantly, to how the BBC handles complaints in the next chapter.

2.1 The impartiality of the BBC, as a publicly funded broadcaster, goes to the heart of the contract between the Corporation and all the licence fee payers whom it serves.

2.2 We recognise that the concept of impartiality is complex. We conclude that there is clear evidence that adherence to impartiality and editorial standards is now at the heart of the BBC's priorities, but also that the BBC and Ofcom need to continue to strive to fulfil their responsibilities.

The BBC's performance and ongoing work

What we learnt

85. We received some feedback expressing concern about the BBC's performance on impartiality. This included a suggestion for an external impartiality unit to improve the BBC's performance, overseen by an Ombudsman

for impartiality who would report directly to Parliament through DCMS. Other evidence was less concerned. In its fifth annual report on the BBC, Ofcom concluded that the BBC had broadly met the standards Ofcom expect of broadcasters in 2021/22.

86. In its sixth and most recent annual report on the BBC's performance, Ofcom pointed to having completed three standards investigations in 2022/23 – two concerned a broadcast in 2021.⁶³ All three were examined against the BBC's obligations in respect of due impartiality (amongst other obligations), with one breach recorded and two instances where Ofcom concluded that there was no breach of impartiality rules. However, Ofcom concluded that in one of those two instances, the BBC had made a serious editorial misjudgement in its news report broadcast on BBC One about an antisemitic attack on Jewish students on a bus in London.⁶⁴ At the same time, Ofcom published an opinion in response to a BBC News article about that attack. This stated that the BBC had failed to observe its Editorial Guidelines on due

63 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

64 Ofcom, On Demand and Broadcast Bulletin, 2022.

impartiality and due accuracy in not updating the article to reflect a dispute about its interpretation of audio from inside the bus for almost eight weeks.⁶⁵

87. Amongst an overall decline in audience trust in UK news media, Ofcom concluded in its most recent annual report on the BBC that the BBC is rated highly for trust and accuracy, with 71% rating BBC TV news provision highly for trust and 73% for accuracy.⁶⁶ However, there is also evidence

65 Following a number of complaints, the BBC's Editorial Complaints Unit investigated the accuracy and impartiality of the BBC's coverage of the events described, particularly in relation to the claim that an anti-Muslim slur had been heard from inside the bus. The ECU concluded that the online article did not meet the BBC's standards of due accuracy and, to the extent that the anti-Muslim slur claim itself became controversial, it also lacked due impartiality in failing to reflect alternative views: Oxford Street: Men filmed spitting at Jewish people on bus, BBC News Online (England) & BBC London News, BBC One (London), 2 December 2021 | Contact the BBC. The BBC subsequently amended the story posted on the BBC News website: BBC response to Executive Complaints Unit ruling - Media Centre.

66 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

to suggest that the BBC specifically has seen a drop in trust⁶⁷ although more recently trust has started to increase along with that in other public broadcasters.⁶⁸ While acknowledging that audience attitudes on due impartiality continue to be driven by multiple factors, Ofcom also concluded that the BBC must continue to focus on addressing audience perceptions of impartiality, stating in June 2022 that the BBC's impartiality is a "key area of concern" among audiences and "one where they consistently rate it less favourably than trust and accuracy". Ofcom concluded that the BBC should address the apparent disparity between audience attitudes to its impartiality and its good record of compliance with the due impartiality broadcasting rules. Ofcom also stated the BBC would need to find creative ways of demonstrating its approach and commitment to due impartiality.⁶⁹ Ofcom

67 For example: Reuters research reported by Press Gazette, [Five-year decline in UK news media trust sees BBC, Times and Telegraph have biggest drops, 2023](#). Opinion poll reported by Guardian, [ITV news is more trusted than BBC after Lineker row and Sharp controversy, 2023](#).

68 Reuters, [Reuters Digital News Report 2023](#), 2023.

69 Ofcom, [How Ofcom regulates the BBC](#), 2022.

confirmed again in November 2022 that impartiality was still consistently rated lower for the BBC website/app and BBC TV than trust and accuracy, based on subsequent research.⁷⁰ More recently, Ofcom concluded that whilst people in the UK value the role the BBC plays in news provision, impartiality is one of the areas where the BBC is perceived less favourably compared to other aspects of news delivery, with perceptions of impartiality not changing over the past year.⁷¹ Ofcom noted that whilst it recognises that changing audience perceptions of the BBC's due impartiality is a complex process, to maintain audience trust, a focus on impartiality is critical and it is important the BBC retains its focus on this area of work.⁷²

88. In terms of practical developments, the BBC has now completed implementation

70 Ofcom, Ofcom Annual Report on the BBC 2021-22, 2022.

71 Ofcom also noted that BBC TV has a much higher, and broader, reach than these channels and, overall, almost half of all of those who watch any TV news think the BBC is impartial. Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

72 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

of its 10-point action plan.⁷³ This includes publication of its first external thematic review in January 2023,⁷⁴ and announcement of commencement of the next review in May 2023.⁷⁵ By the time of Ofcom’s fifth annual report on the BBC in November 2022,⁷⁶ the BBC had also improved its transparency by publishing the reasoning behind its decisions to not uphold complaints on due impartiality and due accuracy that reached the final stage of its process⁷⁷, and Ofcom’s sixth and most recent annual report noted the BBC is also working to deepen audiences’ trust in its news provision by providing more transparency about how it reports the news,

73 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

74 Michael Blastland and Andrew Dilnot, Review of the impartiality of BBC coverage of taxation, public spending, Government borrowing and debt, 2022.

75 BBC, BBC confirms thematic review into migration output, 2023.

76 Ofcom, Ofcom Annual Report on the BBC 2021-22, 2022.

77 BBC, Group Annual Report and Accounts 20/23, 2023.

with innovations such as BBC Verify and setting out its approach to Generative AI.⁷⁸

89. We heard from a wider range of stakeholders that the 10 point-action plan was a welcome start and a step in the right direction.⁷⁹ The progress update published in July 2022 was however considered to lack detail and specificity to allow audiences to properly judge progress.⁸⁰ Stakeholders suggested that the BBC needed to consider publishing regular public updates and to emphasise the BBC's ongoing commitment to the 10-point action plan going forward. We also heard limited evidence that the 10-point action is too little too late, and its commitments are not significant enough to achieve real change.

90. We received specific feedback about specific elements of the 10-point action plan, particularly the BBC's implementation of the internal content reviews. The BBC already uses audience research to inform decisions

78 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

79 BBC, Impartiality and editorial standards BBC action plan, incorporating the response to the Serota Review, 2021.

80 BBC, BBC delivers progress on Impartiality Plan, 2022.

about which individual programmes to review, and detailed feedback from audiences is provided to the programme makers as part of those reviews. However, we also heard that there needed to be audience engagement in the BBC's internal content reviews to reduce the risk of subjective outcomes in favour of the BBC Stakeholder feedback also suggested that the internal content reviews could be published in the same way as the external thematic reviews. There were limited concerns raised about how the external thematic reviews were actually being undertaken. We also heard a suggestion that impartiality training provided to staff and freelancers should be published to improve audience understanding of, and trust in, the BBC's work, particularly around how it was defining and addressing impartiality.

The Government's response

91. It is right that the BBC remains operationally and editorially independent of Government and that the Government has no say on the BBC's day to day decisions, including on the content it shows.
92. The Government welcomed the BBC's 10-point action plan when it was published, and we said at the time that the BBC

needed to demonstrate clear and continued progress on this plan. We also welcomed the progress set out in July 2022.⁸¹ For example, the appointment of two external Editorial Advisers in July 2022 as part of the 10-point action plan implementation, to provide additional editorial advice and an external perspective, is a valuable way to support the EGSC in delivering its vital responsibilities. These external advisers must be empowered to provide effective challenge, including by ensuring they can access all the information they consider necessary, and if needed they should be given additional powers beyond those being given to the EGSC as a whole (discussed in Chapter 3).

93. It remains the Government's conclusion that we will want to see clear and substantive evidence that the 10-point action plan has had sufficient, long-term concrete impact at Charter Review. This is also important to allow Ofcom and stakeholders to consider the BBC's performance. We note that the BBC has now implemented all of the

81 BBC, [BBC delivers progress on Impartiality Plan, 2022.](#)

10-point action plan,⁸² that the BBC has now dedicated permanent resource to ensure delivery of impartiality (the 10-point action plan has now been embedded into business as usual activity), and that it has said it intends to consider what additional steps are necessary to further advance improvements and cultural change.

2.3 We recommend that the Board ensures detailed, timely reporting of progress against the 10-point action plan’s commitments, with clear deadlines and milestones, impact, and more detail on how it intends to respond to Ofcom’s challenge that the BBC needs to maintain its focus on impartiality to maintain audience trust, and how commitments are being embedded in long-term plans. We intend to assess progress during the next Charter Review.

2.4 We also recommend that the effectiveness of the EGSC external Editorial Advisers is kept under review by the BBC to ensure they continue to have sufficient powers to fulfil their responsibilities, and that this is reported on regularly as part of the BBC’s wider work to provide updates on its impartiality efforts.

82 Ofcom, [Ofcom Annual Report on the BBC 2022-23](#), 2023.

94. We do not think there is sufficient evidence to support the establishment of an external, independent impartiality unit at this time. It would also have the potential to duplicate the role of Ofcom and complicate the current regulatory framework. This would undermine the principle of clear roles and responsibilities that Sir David Clementi considered important when recommending that Ofcom take on BBC regulation, rather than the creation of a new regulator, and that as a result underpin the current Charter.⁸³
95. However, we do consider there must be sufficient separation between those responsible for the impartiality of the BBC's output and those responsible for addressing complaints about the BBC's impartiality. This is covered in the chapter on complaints. We note the BBC now has dedicated permanent resource and ongoing oversight by EGSC on behalf of the Board.

2.5 We recommend that the BBC continues to ensure it has the right governance structures to drive its work on implementation of the 10-point action plan and long-term continuous improvement. We

83 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

will assess whether this has been the case as part of Charter Review.

96. Audiences also need to be satisfied that the BBC is implementing its commitments, so that they have trust that the BBC is committed to continuous long-term improvement. We propose the following recommendations to improve the way the BBC engages audiences on issues around impartiality.

Internal content reviews

97. The BBC already uses audience research to inform decisions about which individual programmes to review, and detailed feedback from audiences is provided to the programme makers as part of those reviews. The feedback received from stakeholders suggested the way in which the BBC uses audience input to inform its internal content reviews is not well understood. This could be corrected through greater transparency from the BBC on how audiences are involved in these reviews. This would also allow stakeholders to consider whether they wish to raise any additional concerns about the extent of audience involvement.

2.6 It is right that the BBC commits to undertaking internal content reviews. We recommend the BBC

publishes more information about the methodology used to undertake its internal content reviews.

98. Whilst the BBC's external thematic reviews are published, the results of its internal content reviews are not. We understand that internal content reviews involve deep dives into specific programmes, relying on candid and open discussions about specific elements and indeed individuals, such as presenters. We therefore recognise that publishing the outcome of these reviews could risk inhibiting free and frank discussion, undermining their effectiveness and impact, and limiting the BBC's ability to learn from such reviews. While it is for the BBC to decide how to publish information, we consider there to be a case for the publications of some learnings emerging from reviews. This is because it is important for audiences to see how the BBC is holding itself to account, and to understand where the BBC is responding to concerns they may have about specific programmes.

2.7 We recommend that the BBC publishes a summary of the key themes emerging from a set of internal content reviews on an annual basis, including how the BBC is taking action as a result.

External Thematic reviews

99. The BBC's commitment to undertake external thematic reviews is the right decision and should be robustly and consistently delivered. As with the internal content reviews, it is important that the BBC considers how best to communicate the fact that these are substantial pieces of work and that it is responding to audience concerns through these reviews. This will also allow stakeholders to provide feedback where appropriate to help ensure the reviews are subject to continuous improvement.

2.8 We recommend that the BBC continues to set out in the public domain the methodology for its external thematic reviews.

100. Although the 10-point action plan⁸⁴ did not specify a role for Ofcom in relation to the external thematic reviews, we understand that Ofcom provides input when the BBC is identifying topics for future external thematic reviews.

84 BBC, Impartiality and editorial standards BBC action plan, incorporating the response to the Serota Review, 2021.

2.9 We recommend that Ofcom continues to be consulted by the BBC on potential topics for future external thematic reviews.

The BBC's impartiality training

101. We considered whether, in light of feedback received during the evidence gathering phase of the MTR, the BBC's written impartiality training materials should be published to enhance the transparency of this work.
102. Following an evaluation of this proposal, and discussions with the BBC, we recognise that a requirement to publish written training materials may not be useful as those materials would lack the full context trainees receive via interactive training sessions. However, we do think there continues to be a lack of understanding about the nature of the training which means that stakeholders cannot be reassured that it is achieving the right objectives.

2.10 We recommend that the BBC publishes information about what its Safeguarding Impartiality training includes, how it is conducted and intended outcomes.

Ofcom's regulation and relationship with the BBC

What we learnt

103. During the course of the MTR, we heard concerns about Ofcom's ability to hold the BBC to account effectively due to the fact that the Ofcom Content Board contains a significant number of former BBC executives who had senior editorial roles at the Corporation. Feedback suggested this prevented Ofcom from making objective decisions about complaints escalated by audiences. However, we found no compelling evidence to conclude that Ofcom's regulation of editorial standards and impartiality is not thorough, nor that Ofcom requires additional powers to regulate the BBC's broadcast or iPlayer content beyond its existing powers. Ofcom is responsible for ensuring that the BBC complies with the Broadcasting Code, including the requirement for due impartiality of news and in non-news content dealing with matters of political or industrial controversy and matters relating to current public policy, and monitors how the BBC is responding to audience concerns through the

BBC First system.⁸⁵ However, we are aware that when there are negative perceptions of the BBC's impartiality, there is the potential for questions to be raised about whether Ofcom is doing enough, or indeed if it has the right powers.

104. We did see evidence that both the BBC and Ofcom are committed to working more closely together to ensure Ofcom has confidence in the BBC's efforts to address concerns about its impartiality: in its fifth annual report on the BBC, Ofcom confirmed it had started holding regular meetings with the BBC Executive on progress against the BBC's 10-point action plan and the Serota Review, and that it would continue this engagement.⁸⁶
105. We heard concerns about Ofcom's approach to measuring audience perceptions of impartiality and how the approach to publishing findings could be improved. This included the suggestions that Ofcom could sometimes focus less on the BBC's different distribution channels and consider audience perceptions on BBC services in

85 Ofcom, The Ofcom Broadcasting Code, 2020.

86 Ofcom, Ofcom Annual Report on the BBC 2021-22, 2022.

the round (i.e. TV and Online together rather than separately) and that Ofcom could benefit from taking less of a ‘one size fits all’ approach when engaging different types of audiences.

106. We were encouraged to explore whether Ofcom’s regulatory role should remain different in relation to BBC online material compared to Ofcom’s comprehensive powers over the content the BBC broadcasts on TV and on iPlayer. The BBC is currently responsible for the editorial standards of its material. Ofcom has no enforcement powers relating to the BBC’s online material. However, article 60(1) of the Framework Agreement requires Ofcom to give an Opinion, including any recommendations it considers appropriate, on whether the BBC has observed the relevant BBC Editorial Guidelines for specific Online material in the UK Public Services.⁸⁷ Ofcom has entered into an Arrangement (the “Online Arrangement”⁸⁸)

87 UK Government, An Agreement Between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

88 BBC and Ofcom, Arrangement relating to online material, 2017.

with the BBC which provides further detail including the scope of material included. Ofcom's most recent opinion was published in April 2023⁸⁹.

The Government's response

107. The Government is clear that it expects Ofcom, as the BBC's independent regulator, to ensure the BBC is robustly held to account in its delivery of impartial content. Of all Ofcom's regulatory duties, it is perhaps this one that is most important in sustaining audiences' trust in our system of public service broadcasting. On the basis of the evidence above, we do not propose to make any changes to Ofcom's existing regulatory responsibilities relating to the BBC's broadcast or iPlayer content.

108. The BBC's commitment to giving Ofcom early notification of potentially serious breaches following Ofcom's recommendation last year must work in a way that allows Ofcom to better scrutinise how the BBC's complaints process is working in practice and, if necessary, intervene early to protect audiences. We also think it is important

89 [Ofcom, Ofcom bulletin for complaints about BBC online material 38, 2023.](#)

that the BBC considers how it can provide audiences with sufficient clarity about how it is implementing that commitment.

2.11 We agree that Ofcom should have early notification from the BBC of potential serious editorial breaches, and note that a protocol has been developed between the BBC and Ofcom to underpin this change⁹⁰. We recommend that the BBC considers how best to make this commitment clear to audiences.

109. We agree with Ofcom's conclusions from its review of BBC regulation, that the regulator needs to have confidence in the BBC's work, particularly in how it handles the most serious editorial complaints, and that regular engagement is necessary.⁹¹ An effective relationship between the regulator and the BBC must be maintained so Ofcom can identify any potential issues at an early stage and take action where necessary - especially once the BBC has made a decision about a particularly serious

90 Ofcom, Protocol for communication between Ofcom and the BBC in cases which fall under the BBC's procedures for (1) self initiated investigations of potential breaches or editorial standards and (2) fast-tracked cases, 2023.

91 Ofcom, How Ofcom regulates the BBC, 2022.

editorial complaint. It is also a crucial way for Ofcom to understand the BBC's priorities and progress on a regular basis, to inform its overall assessment of BBC performance - both in its annual report on the BBC but also in individual reviews on specific topics.

2.12 We recommend that EGSC members continue to meet Ofcom at a working level every six months.

110. We also think there would be value in senior EGSC members engaging regularly with the Ofcom Content Board. The Content Board is the committee of the main Ofcom Board and serves as Ofcom's primary forum for advice related to the regulation of television and radio quality and standards. It is responsible for understanding, analysing and championing the voices and interests of the viewer, the listener and citizen. Regular engagement between EGSC and Ofcom's Content Board about BBC matters will enable Ofcom to hold the BBC Board to account at the most senior level, and for audiences and stakeholders to see that taking place through publication of the minutes.

2.13 We also recommend that the Chair of the EGSC and the two independent expert advisers attend a meeting of the Ofcom Content Board annually, and a summary of discussions is published.

111. Whilst we do not propose to make any changes to Ofcom's existing regulatory responsibilities relating to the BBC's broadcast or iPlayer content as a result of the MTR, we do think changes are necessary to Ofcom's responsibilities to reflect that audiences increasingly consume news and other content online. We are therefore committed to giving Ofcom the same regulatory responsibilities for specific BBC online material as it currently has for the BBC's broadcast/iPlayer content. This is a major change and one we expect will further underpin impartiality across more of the BBC's services.
112. Now is the right time to extend Ofcom's responsibilities. The difference between broadcast content and online content is reducing over time and is starting to look increasingly small given the BBC is planning to create content that can be used across its platforms under its 'digital-first' strategy.⁹² Impartiality is, more than anything, the quid pro quo of the licence fee, and fundamental to the BBC's continued ability to deliver for audiences.

92 BBC, Plan to deliver a digital-first BBC, 2022.

113. We will, in collaboration with Ofcom and the BBC, introduce this recommendation through changes to the Framework Agreement.⁹³ Ofcom will be required to apply the same principles of the Broadcasting Code⁹⁴ in a new code for BBC online public service material, adapted to reflect the specific characteristics of online material. We will work closely with both Ofcom and the BBC to confirm the precise scope of the new regulatory framework, but our intention is that it will include BBC online public service material that is targeted at UK audiences and over which the BBC has editorial control, including where that is on a third party platform. This means including in scope:
- BBC online activities such as material on the BBC news website; and
 - BBC public service branded and editorially controlled material on a third party website, third party application or third party online interface (e.g. YouTube, other video sharing platforms or any

93 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

94 Ofcom, The Ofcom Broadcasting Code, 2020.

website⁹⁵ which is not within the bbc.co.uk domain).

114. Some online material would remain out of scope, aligned with equivalent BBC material that is not currently regulated by the Broadcasting Code, such as the BBC's corporate material or content on BBC services where the BBC does not have editorial control (such as 'below the line' comments).
115. The BBC has recently updated its guidance for personal social media use⁹⁶ following an independent review of the guidance for those working in the on-air freelance community.⁹⁷ It is right that the BBC has looked again at its social media guidance. The new guidelines rightly make clear that everyone working for the BBC must not undermine the impartiality and reputation of the BBC. Along with licence

95 To the extent that services carrying BBC public service branded and editorially controlled material on a third party website do not constitute UK Public On Demand Programme Services.

96 BBC, Guidance: Personal use of social media, 2023.

97 John Hardie, Review of BBC's guidance on individual use of personal social media for those working in the on-air freelance community, outside News, Current Affairs and Factual Journalism, 2023.

fee payers, we will watch closely to see how these guidelines are applied to judge whether they go far enough to ensure the impartiality that is so important to public trust is upheld. We will assess the ongoing adequacy of the new guidance at Charter Review.

2.14 We will extend Ofcom’s regulatory responsibilities to elements of the BBC’s online public service material, and make changes to the Framework Agreement in order to implement this policy.

116. Ofcom’s research is a crucial element of how it assesses the BBC’s performance against its responsibilities, and how it holds the BBC to account as the Corporation’s independent regulator. For example, Ofcom’s research on how audiences rate the BBC on impartiality of its news content provided important context for the regulator’s subsequent review of BBC regulation.⁹⁸ If there is doubt about Ofcom’s research methods, then there is a risk that the regulator’s conclusions and overall role could be undermined. We note that Ofcom already keeps its approach to research under review, and is particularly

98 Ofcom and Jigsaw, Drivers of perceptions of due impartiality the BBC and the wider news landscape”, 2022.

mindful of the complexity of assessing questions about impartiality.

2.15 We recommend that Ofcom continues to discuss research methodology relating to impartiality (particularly audience perceptions) widely ahead of future research to maximise consensus.

Chapter 3: Complaints

Background

117. The feedback of licence-fee payers is invaluable in helping the BBC both to understand what its audiences care about and how to make its services better. Editorial complaints are an important form of audience feedback and, in recognition of this, Sir David Clementi assessed the effectiveness of the BBC's processes for handling complaints as part of his 2016 review of the BBC's governance and regulation.⁹⁹
118. Sir David Clementi concluded that the pre-2017 process was complicated and inefficient. This was because it was a dual complaints system, involving both the BBC and Ofcom, who had overlapping remits. Ofcom could hear complaints against the BBC, subject to certain exclusions of which the most important is editorial complaints about due accuracy and due impartiality. Whereas the BBC Trust could investigate any complaint, even if it was within Ofcom's remit.

99 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

119. Sir David set out that any new system should meet the following criteria:

- A simpler, clearer and proportionate complaints system for the BBC, which offers value for money and removes the current dual regulatory system;
- An appeals system that is independent of the BBC;
- A complaints system that is able to prioritise and resolve the most serious matters, with appropriate 'step-in' rights for the regulator;
- A complaints system that maintains the confidence of complainants, is easily accessible by them, and deals with them fairly in a way that holds the BBC publicly accountable; and
- A complaints system that continues to inform programme makers.

120. Sir David found a broad consensus for simplifying the process. Complaints should be dealt with by the BBC in the first instance, with complainants having the right of appeal beyond the BBC to an independent body in

Ofcom.¹⁰⁰ This system has become known as ‘BBC First’.

The BBC’s Responsibilities

121. In response to Sir David Clementi’s review, the current Charter formally introduced the principle of BBC First in 2017, making the BBC unique among broadcasters by giving it the opportunity, and indeed responsibility, to resolve complaints about its services first, before their consideration by Ofcom.¹⁰¹

Article 56 of the Charter also outlines the broader principles the BBC must adhere to in the establishment of its framework for handling and resolving complaints, informed by Sir David Clementi’s criteria.

122. The Framework Agreement further specifies that the BBC must publish information about its complaints handling in a form and at intervals determined by Ofcom.¹⁰² Ofcom

100 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

101 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

102 UK Government, An Agreement Between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

sets these requirements in its ‘Complaints Handling Determinations’ and increased what the BBC should publish in both 2020 and 2022.¹⁰³

The BBC’s Governance of Complaints

123. Oversight of the BBC Executive’s establishment of its complaints framework is provided by the BBC Board. Article 20 of the Charter sets out that the Board must ensure the BBC fulfils its Mission and promotes the Public Purposes by, among other things, setting a framework within which the BBC must handle complaints.¹⁰⁴

The Editorial Guidelines and Standards Committee (EGSC)

124. More detailed governance of the process is provided by the EGSC. As set out in previous chapters, the EGSC is a subcommittee of the Board with responsibility for overseeing the BBC’s editorial standards and compliance with them across its services. The EGSC’s Terms of Reference, developed by the BBC,

103 Ofcom, Determinations by Ofcom in relation to BBC complaints handling, 2022.

104 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

specify that the members of the Committee are appointed by the Board and must consist of at least three non-executive directors, one of whom should be the chair. They are joined by the Director-General and the CEO of News and Current Affairs, and the two external Editorial Advisers appointed following the Serota Review to provide an external perspective.¹⁰⁵ This means that governance of the complaints process is provided by some members who are independent of the Executive, and some who are independent of the BBC.

125. The Terms of Reference give the Committee specific responsibilities to both ensure that the BBC complies with its complaints framework, and report to the Board on the effectiveness of the framework with recommendations for any proposed changes.¹⁰⁶

The BBC First Process

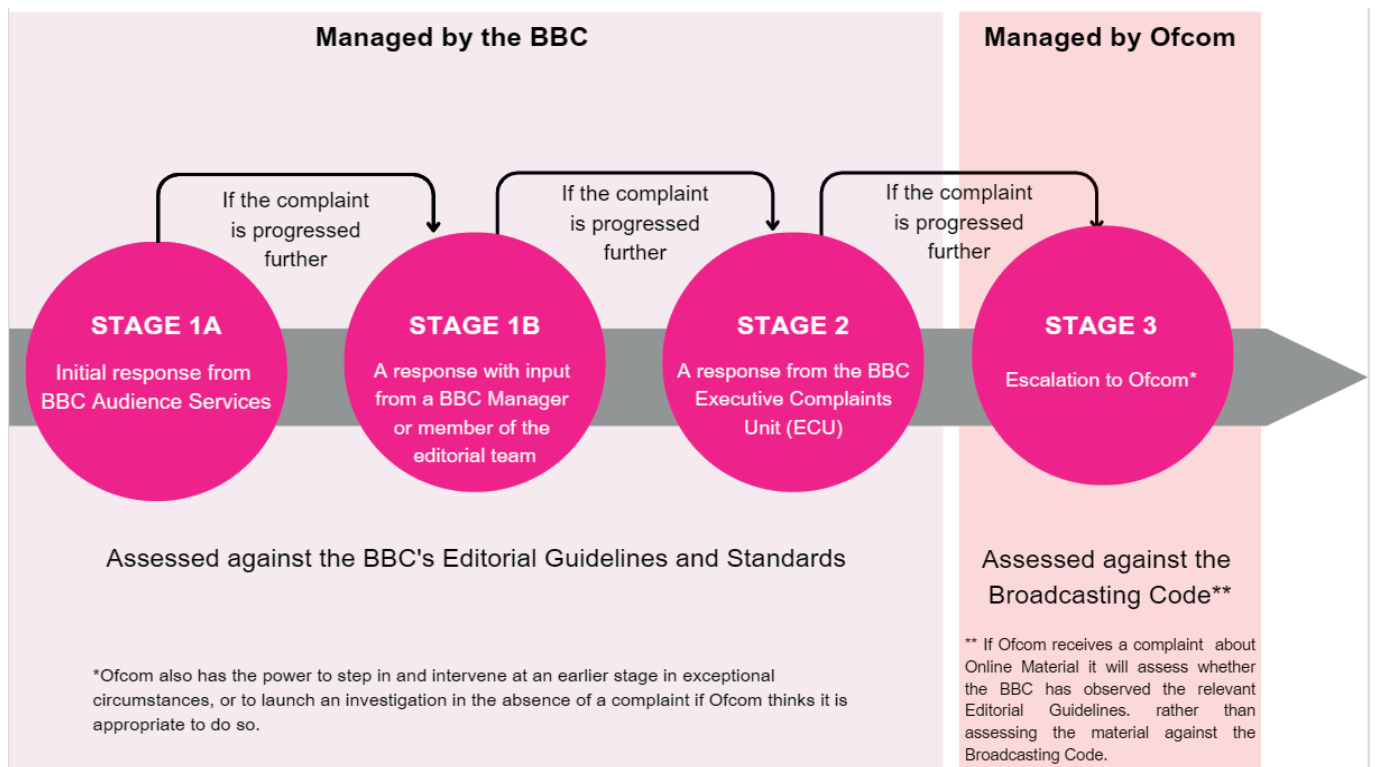
126. Beyond the obligations set out above, the Charter and the Framework Agreement

105 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021.

106 BBC, Editorial Guidelines and Standards Committee Terms of Reference.

allow the BBC to define the details of how its complaints process works in practice. The BBC sets this out in full in its Complaints Framework and Procedures.¹⁰⁷ Figure One summarises the process.

Figure One: The BBC First process for Resolving Editorial Complaints



127. The MTR has considered how the current governance and regulatory arrangements support the BBC in delivering a process for handling and resolving editorial complaints that is of the highest possible standard.

107 BBC, BBC Complaints Framework and Procedures, 2020.

The Executive Complaints Unit (ECU)

128. The ECU, which provides the BBC's final substantive response to a complaint, is an internal team, recruited on the basis of proven editorial judgement, experience of complaints handling, and informed engagement with issues around editorial standards. It investigates alleged instances of non-compliance with the BBC's editorial guidelines and standards raised through editorial complaints.
129. The governance arrangements around the ECU aim to ensure it is able to make complaints decisions independently and impartially of programme-makers, and of the wider organisation's reputational interests. The ECU is structurally separated from output teams. New members of the unit do not work on investigations about their former programming areas for a certain period of time. When the ECU finds a breach of standards, this is reported to the manager of the output area, and to the EGSC. The ECU operates a devolved authority from the Director General, as editor-in-chief, and only the Director General can overturn or intervene in ECU decisions.

Ofcom's role in the regulation of complaints

130. When exploring options for creating a point of appeal in complaints handling that would be independent of the BBC, Sir David Clementi concluded that Ofcom should become the final arbiter. This - as opposed to creating a new body independent of both the BBC and Ofcom - was felt to be simpler, consolidating all regulation within Ofcom. Ofcom already had the necessary expertise and legitimacy to undertake this function. Sir David Clementi found that this would help to strengthen audience confidence in the wider complaints process.¹⁰⁸

131. Article 56 of the Charter specifies that Ofcom will normally consider a complaint only after the complaint has been made to the BBC.¹⁰⁹ Ofcom assess complaints against the Broadcasting Code, the standards against which it regulates all UK broadcasters, including the BBC. Section 57 of the Framework Agreement provides more

108 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

109 UK Government, Royal Charter for the continuation of the British Broadcasting Corporation, 2016.

detail about Ofcom's role in the complaints process.¹¹⁰

The BBC First process

What we learnt

132. The quantitative evidence suggests that BBC First delivers fair complaints decisions that withstand scrutiny from the regulator. In 2021/22, Ofcom considered 160 complaints which complainants chose to escalate after having completed Stages 1 and 2. Of the 160 cases, Ofcom upheld one complaint that the ECU had not.¹¹¹ In the previous year (2020/21), Ofcom did not consider that any of the 185 cases escalated to it raised issues under the Broadcasting Code, and it therefore did not open further investigations.¹¹² This data suggests that the regulator agrees with the vast majority of the BBC's complaints decisions.

110 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

111 Ofcom, Ofcom Annual Report on the BBC, 2021-22, 2022.

112 Ofcom, Ofcom Annual Report on the BBC, 2020-22, 2021.

133. The majority of stakeholders who provided evidence through the MTR wanted to see the principle of BBC First maintained. Stakeholders explained that the current process provides: a means for licence-fee payers to hold the BBC directly to account; fulsome responses from those best placed to explain editorial decision-making (that is, the BBC itself); and a clear feedback loop to enable the BBC to learn from issues raised in complaints.
134. However, stakeholders also argued that, given the unique position the BBC holds in our public life, the BBC's complaints process should be a gold standard. Stakeholders therefore felt that key improvements should be made to BBC First, and the themes of that feedback has informed this chapter.
135. In June 2022, following a review of the BBC's complaints handling as part of its review of BBC regulation, Ofcom concluded that the BBC First model appropriately reflects the unique relationship between the BBC and its licence-fee payers. However, Ofcom recommended that:
- The BBC should be more transparent about how it reaches its decisions in its editorial complaints handling; and

- The BBC should make the process clearer and easier for audiences to navigate.
136. In parallel to the MTR, Ofcom committed to review BBC First again before Charter Renewal, in part to assess how any improvements made to the process by the BBC had impacted the experiences of complainants.¹¹³
137. In November 2022, the BBC responded to Ofcom’s findings by announcing key commitments to improving BBC First, including:
- Making the complaints web pages easier to find;
 - Giving greater prominence to how to make an editorial complaint;
 - Video content explaining how the BBC handles complaints, and how audience feedback is shared across the Corporation;
 - Ensuring the next step is clearly flagged in all responses to complainants;
 - Improving the quality of editorial teams’ responses to complaints at Stage 1B

113 Ofcom, How Ofcom Regulates the BBC, 2022.

through an internal comms programme, templated guidance, and compliance secured through BBC leaders; and

- Improving guidance to editorial teams to boost the speed of replies at Stage 1B.¹¹⁴

138. There were, however, some stakeholders who were critical about BBC First. They considered that BBC First is not delivering a fair means of resolving complaints for audiences because both the BBC's process at Stage 2 and Ofcom's process at Stage 3 are unfit for purpose. These stakeholders argued that the ECU is unsuitable for hearing complaints because it:

- Sits in private;
- Will not hear oral evidence;
- Is staffed by BBC employees and is therefore not independent of the BBC;
- Lacks an independent chair;
- Has no appeals process;
- Is not required to act fairly; and
- Has no teeth to order remedial actions where breaches have been identified.

114 BBC, BBC confirms changes to simplify complaints process, 2022.

139. They felt that Ofcom should not handle appeals because it assesses complaints against a different criteria (the Broadcasting Code as opposed to the BBC's Editorial Guidelines and Standards), and opens a low number of investigations, suggesting its default is to agree with the BBC's findings as opposed to acting in the interests of complainants.¹¹⁵ These stakeholders said it is unjustifiable that the BBC should not be subject to an independent system of handling complaints, given its licence fee funding, and wanted to see an independent tribunal process - external to both the BBC and Ofcom - replace Stages 2 and 3.

The Government's response

140. To meet its Charter obligations to serve all audiences, the BBC must listen to what its audiences think, and seek to understand their views and priorities. The complaints process is therefore an essential tool in the BBC's wider relationship building with licence fee payers. This is particularly important given there was evidence to suggest that, in 2022, trust in the BBC as a news source was declining (though data from 2023 suggests

115 Ofcom, The Ofcom Broadcasting Code, 2020; BBC, Editorial Guidelines, 2019.

that trust has increased).¹¹⁶ For this reason, it is critical that the right model for handling complaints is in place.

141. When considered in the round, the evidence received through the MTR suggests the BBC First model continues to broadly deliver the outcomes it was intended by the Charter. We therefore conclude that fundamental changes to the BBC First system are not needed at this point in time, though the Government will review this again at Charter Review.
142. However, we have received evidence pointing to specific areas where BBC First could be improved - this is set out in the sections that follow. The work already undertaken by both Ofcom and the BBC to improve complainants' experiences of complaining to the BBC is therefore welcome. We want to build on that work to address the full range of concerns heard through the MTR. In particular, we have identified the need to increase complainants'

116 For example: Reuters research reported by Press Gazette, [Five-year decline in UK news media trust sees BBC, Times and Telegraph have biggest drops, 2023](#). Opinion poll reported by Guardian, [ITV news is more trusted than BBC after Lineker row and Sharp controversy, 2023](#).

confidence in BBC First, improve the clarity of the process, and continue to build a research picture of complainants' experiences. We therefore set out a number of recommendations in the remainder of this chapter. Their implementation is critical if the BBC is to continue to enjoy the relative privilege of BBC First.

3.1 We will review the complaints process at Charter Review and consult on alternative models to BBC First. We will invite the cooperation of both the BBC and Ofcom in this process.

143. Finally, the concerns of some stakeholders about the unsuitability of Stages 2 and 3 point to a lack of confidence in BBC First that the BBC can and should do more to address. Our proposals to address these concerns are in the sections on increasing independent and external scrutiny of complaints handling and Ofcom's role.

Increasing Independent and External Scrutiny of Complaints Handling

What we learnt

144. While the majority of stakeholders reported that BBC First has clear benefits, we

also heard limited concern about the appropriateness of the model. Some feedback highlighted that the approach to the reporting line of the ECU, where it reports to the role responsible for editorial policy, had the potential to compromise perceptions of independence. A small number of stakeholders also said the relatively low number of editorial complaints either upheld or partly upheld by the BBC was evidence that the ECU was too close to the BBC, and working ultimately to protect the Corporation as opposed to genuinely learning from complaints.

145. Ultimately, these stakeholders did not support the principle of BBC First but, in the event that the Government continued to support it, they made a number of recommendations to reform the ECU and Stage 2, including:
- The ECU's investigations should be made in public to ensure that its decision-making is transparent to licence fee payers;
 - Complainants should be able to give oral evidence to the ECU. This would allow for more fulsome evidence than the current written word limit;

- The ECU should be given powers to award compensation in favour of the aggrieved complainant to ensure there are sufficient consequences for breaches; and
 - The ECU should be staffed by a minority of BBC employees. External employees will ensure a greater separation between the BBC and its complaints handling.
146. We heard some concerns around the ability of the EGSC to hold the ECU and the BBC Executive accountable over complaints handling. We heard that the EGSC is limited in its ability to oversee BBC First, and suggestions that EGSC did not always have access to the right information to allow members to closely engage with issues arising out of complaints. We also heard suggestions that EGSC lacked the ability to direct action to ensure that issues arising out of complaints handling are responded to appropriately within the organisation.

The Government's response

147. It is understandable that the quantitative data showing that a relatively small number of editorial complaints are upheld at Stage 2 has raised questions for some stakeholders around how complaints are handled.

However, there is not a straightforward correlation between the total number of complaints received by the BBC annually and the number of complaints that are upheld at Stage 2 by the ECU. This is because BBC First is a multi-stage, complainant-led process: in most instances, complaints are resolved at an earlier stage and complainants choose not to proceed to Stage 2 where a case is formally upheld, partly upheld or not upheld.

148. It is imperative that licence fee payers trust that their complaints will be fairly considered. It is clear that there is a gap between the BBC's record for handling complaints fairly and audience perceptions of the system - the BBC can and indeed should do more to increase confidence in its processes. It is right that we take this opportunity to strengthen the governance around BBC First to ensure that audiences feel the BBC is considering their complaints impartially of programme-makers and independently of the Corporation's interests.
149. The Government has had constructive engagement with the BBC on these matters and the concerns identified through the MTR. As a result of these discussions, a series of major reforms to the complaints process will

be made to create legally-binding obligations on the BBC Board; to create structural changes to the management of the ECU; and, to strengthen the oversight of the ECU. These reforms must provide greater external and independent scrutiny of the BBC's complaints decisions.

150. The Government has agreed with the BBC to update the Framework Agreement to create a new obligation for the BBC Board to hold the BBC Executive accountable in its handling of complaints. The Charter requires the BBC Board to oversee the establishment of a complaints framework but the Board has no specific legal responsibilities to ensure that the framework is working effectively. As agreed with the BBC, we will therefore amend the Framework Agreement in line with the BBC's proposal to create a new, legally binding responsibility for the Board to oversee the day to day delivery of the complaints framework by:

- Monitoring the operation of the framework;
- Assessing its effectiveness in responding to complaints; and
- Ensuring the framework complies with the requirements of the Charter.

3.2 We will amend the Framework Agreement in line with the BBC's proposal to give the BBC Board explicit responsibility for overseeing the Executive's handling of complaints.

151. Following constructive discussions with the Government initiated through the MTR, the BBC has changed the reporting line of the Director of Editorial Complaints and Reviews - the role responsible for the ECU. That individual now reports directly to the Director General of the BBC. The ECU was previously structurally separated from programme and content divisions, and this was critical in ensuring that the unit makes objective judgements about potential breaches independent of programme and content makers. However, the Director of Editorial Complaints and Reviews reported to the Director of Editorial Standards and Policy, who is also responsible for advising output teams on compliance with those editorial guidelines against which complaints are assessed.
152. We felt that arrangement created risks that complaints decisions and editorial policy were too close together, and the independence of complaints decisions could be compromised. While evidence received did not indicate that this risk had

materialised, the risk did exist, and this created an ongoing challenge around the perception of the ECU's ability to make fair complaints decisions. The Government therefore asked the BBC to consider moving this reporting line. The BBC acknowledged these perception challenges created by the reporting line and made this change in September 2023. This change will provide greater separation between editorial policy and the assessment of complaints decisions. It is also a move that demonstrates the seriousness with which the BBC views editorial complaints, with closer oversight of the ECU's decisions being provided from the very top of the Corporation by the BBC's Editor-in-Chief.

3.3 Following the Government's request to the BBC that it considers moving the reporting line from the ECU, the BBC has created a direct reporting line between the Director of Editorial Complaints and Reviews and the Director General.

153. Through the MTR, the Government raised with the BBC the evidence received about the current limitations of the EGSC's powers, and asked the BBC to consider whether, and how, EGSC could be better empowered to hold the Executive to account. The BBC has committed to strengthening those powers to

oversee the ECU's processes and outcomes and the wider delivery of the complaints framework. The BBC has committed to:

- Strengthening the remit of the EGSC to explicitly include a responsibility to oversee the delivery of the BBC's complaints framework, with a specific focus on impartiality.
- Strengthening the role of independent advisers on the EGSC, including through giving one independent member explicit responsibility for challenging the ECU; the ability to conduct deep dives into specific issues; and sitting on the appointment panel of the Director of Editorial Complaints and Reviews.
- Shifting the EGSC's focus from monitoring of the complaints process to enshrining active challenge functions through an updated Terms of Reference, as suggested by the Government.
- Affording the EGSC access to the information it needs to perform this enhanced role, including having the authority to commission research through its dedicated research resource or the Executive, as suggested by the Government.

154. Taken together, this set of reforms - which the BBC will reflect in the EGSC's Terms of Reference where appropriate - will increase independent scrutiny of complaints handling, providing a valuable outside perspective that can constructively challenge the Executive's thinking.

3.4 Following the Government's request to the BBC that it considers giving the EGSC a more enhanced, active role, the BBC has committed to both giving the EGSC greater oversight of the complaints process (including the processes of the ECU), and the ability to commission research to improve the EGSC's access to information.

155. Finally, we have explored how to provide greater and more robust external scrutiny of the ECU's handling of complaints in ways that will create more confidence among audiences. Ofcom currently scrutinises the ECU's decisions when complainants escalate their case to the regulator at Stage 3, where Ofcom assesses a complaint against the Broadcasting Code. This is only done when a complainant has appealed to the regulator. Escalated complaints are therefore not a representative sample of the BBC's wider decision-making at Stage 2, given that it will in part depend on whether individual complainants have been satisfied by the

BBC's response. Ofcom also scrutinises the ECU's published decisions at Stage 2, but this process is not formalised.

156. We will therefore create a new regulatory responsibility for Ofcom to review a representative sample of ECU decisions that have not been escalated to Ofcom on the basis of the following core principles:

- The sample of complaints cases should span the full range of content standards principles contained in Ofcom's Broadcasting Code in order to assess a range of the ECU's decision-making;¹¹⁷
- Ofcom should assess the content raised in a complaint against the Broadcasting Code; and
- Ofcom should publish a summary of its findings.

3.5 We recommend that Ofcom conducts regular reviews of a representative sample of the ECU's complaints decisions and makes public a summary of its findings. This new regulatory function will be made a formal requirement through an amendment to the Framework Agreement.

117 Ofcom, The Ofcom Broadcasting Code, 2020.

157. These are significant changes that provide a new, legally binding obligation for the Board to provide a vital independent challenge function within the complaints process for the remainder of the current Charter period. The EGSC will be empowered to provide closer oversight of the ECU's processes and outcomes, while Ofcom will provide external accountability through sampling complaints decisions at Stage 2. This will materially increase independent scrutiny of the BBC's complaints handling, maintaining the fundamental principle of BBC First, but giving audiences greater confidence in the process.
158. We consider these reforms preferable to those suggested by stakeholders, outlined earlier in this section, for the following reasons:
- **Making the ECU's investigations public**
 - while we think it is important that the BBC is more transparent about how the ECU works in practice, we do not think the details of individual investigations should be made public (beyond the complaints decision published by the BBC). This would inhibit free, frank and robust internal discussions, thereby risking the ability of BBC First to ensure programme-makers are able to learn

from complaints, a core tenet of reforms proposed by Sir David Clementi.¹¹⁸

- **Complainants should give oral evidence to the ECU** - this stemmed from a concern that complaints to the BBC are subject to a limit of 1,000 words. The BBC does however outline that this may be exceeded in exceptional circumstances if complainants identify why their complaint should be longer and provide a one-page summary.¹¹⁹ Evidence in the round has not indicated the word limit inhibits either the ability of complainants to complain or of the ECU to investigate satisfactorily.
- **Giving ECU powers to award compensation** - we received no other evidence to suggest that the remedial actions the BBC takes when the ECU finds a breach are inadequate. Practically, it would be very difficult to determine who specifically had been harmed by a breach in editorial requirements and therefore identify a victim who should be

118 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

119 BBC, BBC Complaints Framework and Procedures, 2020.

compensated. Individuals can use other legal routes if they believe the actions of the BBC have caused legal harm.

- **The ECU should be staffed by a minority of BBC employees** - we understand the broader aim of this suggestion - to increase independent scrutiny of the ECU's decisions - but consider the BBC's proposed reforms to the EGSC set out above will better achieve this outcome. Changing the composition of the ECU in this way would create significant complexity by introducing an element of external regulation into what is an Executive function, undermining the key principle of BBC First and blurring lines of accountability and responsibility for decision-making.

Visibility and Clarity of the Process

What we learnt

159. The BBC's recent improvements suggest that Ofcom is actively monitoring the BBC's delivery of its complaints framework, and that the BBC has taken action to respond to Ofcom's concerns. However, a number of stakeholders expressed concern about

the relative lack of awareness among audiences about how to complain to the BBC, as opposed to complaining to Ofcom about other broadcasters citing Ofcom's 2022 research. This found that only 21% of those surveyed were aware of the BBC First process.¹²⁰ We also heard a more specific concern that, while there is little research, this lack of awareness might be lower among audiences who engage with the BBC through less traditional means, for example younger audiences who access BBC content predominantly through digital channels.

160. A significant majority of stakeholders also reported that BBC First is difficult to understand. Complainants were not always clear at what stage they were in the process, and what they needed to do to progress their complaint to the next stage. We heard that this confusion was compounded by a dissatisfaction with the written guidance (the Complaints Framework and Procedure) for audiences on the BBC website.¹²¹ Stakeholders argued a 51 page document

120 Ofcom, Audience Perceptions of the BBC First Complaints System, 2022.

121 BBC, BBC Complaints Framework and Procedures, 2020.

is too long and unwieldy to be helpful to complainants, and could deter them from giving feedback. While most stakeholders understood that it is a necessary document some felt that separate, simplified guidance tailored more specifically to the needs of complainants would be welcome.¹²² Others argued that, if it provided complainants with a clearer understanding of how the process works, their expectations about the output at each stage would be better managed. Stakeholders suggested this might improve reported satisfaction with BBC First.

161. There was also confusion among some stakeholders about the respective roles of the BBC and Ofcom in the BBC First process. Some were unclear about more fundamental principles, for example when Ofcom could become involved in a complaint. Others wanted clarity about more specific details, such as what the BBC and Ofcom were respectively expected to publish about editorial complaints handling.

122 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

The Government's response

162. We welcome the BBC's commitment, made in November 2022, to give greater prominence to how to make editorial complaints, including making the BBC complaints website easier to find.¹²³ However, we remain concerned about a lack of relative awareness of BBC First. We understand audiences are more familiar with Ofcom's wider regulatory role in assessing editorial complaints about other broadcasters. It therefore has the ability to reach greater numbers of potential complainants with messaging about the BBC First process.
163. Given the BBC's Charter obligations to reflect, represent and serve the diverse communities of all of the United Kingdom, it is important that all audiences have an awareness of how to complain to the BBC.¹²⁴ This will help to ensure that the BBC receives feedback from, and better understands the concerns of, its diverse audiences. Ofcom also has responsibilities for ensuring the BBC meets its obligations to serve all audiences.

123 BBC, BBC confirms changes to simplify complaints process, 2022.

124 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

3.6 We conclude that Ofcom has a role to play in raising awareness of BBC First, and recommend Ofcom collaborates with the BBC on relevant initiatives to improve awareness. We recommend that Ofcom’s future research into BBC First should seek to better understand which specific audience groups have lower awareness of BBC First, and that Ofcom and the BBC should work together on strategies to better enfranchise relevant groups within the complaints process.

164. While the evidence clearly shows that BBC First is simpler for the BBC and Ofcom than the previous system, more work is needed to explain the process to complainants and improve accessibility. Following Ofcom’s recommendations in June 2022 and, in parallel to the MTR, the BBC took action to better explain: how BBC First works; how complainants should navigate through the complaints process; and how the BBC uses feedback from audiences provided through complaints.¹²⁵

3.7 It is right that the BBC has produced video content explaining how the BBC handles complaints. We recommend that the BBC continues to find creative means to communicate what the complaints process delivers - both for the Corporation and for

125 Ofcom, How Ofcom Regulates the BBC, 2022.

audiences - to increase confidence in, and audience engagement with, BBC First.

3.8 It is right that the BBC has committed to consistently and clearly flagging to a complainant what their next step might be in its response to complaints at each stage.

165. We want to see the process further clarified, with Ofcom and the BBC working together to tackle confusion about their respective roles in their guidance. In particular, both organisations' guidance for complainants need to more clearly explain when Ofcom can become involved in a complaint, including its step-in powers in exceptional circumstances, and who has responsibility for triggering Ofcom's involvement. The BBC and Ofcom should work together to explain to audiences the respective responsibilities both organisations have around publishing complaints handling data and decisions.

3.9 We recommend that Ofcom and the BBC work together to better communicate to complainants their respective roles in the complaints process. We encourage creative approaches to ensure the information is digestible for complainants.

The Quality and Timeliness of Responses

What we learnt

166. The available research presents a mixed picture of complainants' satisfaction with BBC First. A quantitative survey commissioned by Ofcom as part of its research looking at audience perceptions of the BBC First system found that, of the 4% of participants who had complained to the BBC, 18% had a good experience of complaining to the BBC. However, a mystery shopper exercise commissioned towards the same research found overall higher levels of satisfaction: 26 of 50 shoppers were satisfied with the BBC's response at Stage 1A; 18 of 46 shoppers were satisfied at Stage 1B; and 13 of 25 shoppers were satisfied at Stage 2.¹²⁶
167. Through the Government's evidence gathering, stakeholders expressed concerns about the quality of some responses to individual complaints. This was felt to be a particular issue at Stage 1A, where the BBC's replies were felt to be generic. We heard that this has created a sense that the

126 Ofcom, Audience Perceptions of the BBC First Complaints System, 2022.

BBC is not listening to its audiences, or that it is seeking to manage volumes of complaints without genuinely reflecting on and learning from feedback.

168. We also heard that the BBC's responses to complainants sometimes felt defensive in tone, particularly at Stage 1B where a response is provided by a member of the editorial team or by a BBC Manager. This risked undermining trust in BBC First, suggesting to some that the complaints process is too close to those making programming or that the BBC would not admit when it was wrong.
169. The evidence shows that BBC First has met its targets for response times. Ofcom requires that the BBC responds to 93% of Stage 1 complaints within 10 working days. In 2021/22, 95% of complaints at this stage were handled within this target. The BBC sets its own target for Stage 2 responses, where it aims to respond to 80% of complaints within 20 working days, or 35 if the case is more complex. In 2021/22, the BBC responded to 87% of complaints within this timeframe.¹²⁷

127 Ofcom, Ofcom Annual Report on the BBC, 2021-22, 2022.

170. However, some stakeholders nonetheless expressed dissatisfaction with how long it could take a complainant to complete the BBC First process. We heard concerns that the targets suggested the BBC lacked a sense of urgency in fixing problems. Others suggested that complainants might not want to complete all three stages given the timescales involved.
171. The number of complaints to the BBC on competition issues, which are considered by the BBC as a Regulatory Complaint and handled through BBC First, are small in number. The BBC received no complaints regarding competition issues in 2021/22¹²⁸ or 2022/23¹²⁹. A limited number of stakeholders said BBC First does not work for the BBC's competitors who wish to complain about a competition issue or the BBC's market impact, because it was felt to be too slow for time-sensitive issues. They instead wanted to see either these complaints dealt with outside of the BBC by Ofcom, or through a

128 BBC, Group Annual Report and Accounts, 21/22, 2022.

129 BBC, Group Annual Report and Accounts 22/23, 2023.

separate track within BBC First and handled by a specialist team.

The Government's response

172. Sir David Clementi set out that the complaints process should create confidence among audiences.¹³⁰ We are clear that the BBC's complaints system must ensure that complainants feel heard - this is critical to creating the trust necessary to sustain the BBC First principle. However, we recognise that the BBC must balance the need to give complainants a fair hearing with the cost to licence fee payers for running the process.
173. In parallel to the MTR process, the BBC separately created new audio-visual content in response to Ofcom recommendations. This content explains that, at Stage 1A, the BBC will group large numbers of complaints about the same content together and issue a consistent response to ensure the most efficient use of resources. We understand that offering more bespoke responses to complainants at Stage 1A (wherein each answer deals with the specific concerns of an individual) would demand significantly more

130 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

resources which may ultimately have to be diverted away from another BBC service. We therefore conclude that the BBC's approach to Stage 1A both meets its Charter requirements to provide a proportionate means of resolving complaints, and meets Sir David Clementi's aim for a system that offers both the BBC and licence fee payer value for money. However, the BBC needs to continue thinking about how it ensures that processes such as grouping responses do not inadvertently reduce audience engagement.

174. Sir David Clementi's criteria also set out that the complaints system should be able to prioritise and appropriately respond to the most serious cases. The BBC must therefore continue to ensure that cases about a potential breach or that are of a high level of public concern are reflected on at the right levels of the organisation, with remedial action taken where necessary.

3.10 We conclude that the BBC's approach to Stage 1A is proportionate, and recommend that the BBC continues to make clear to complainants what kind of response they can expect at each stage of BBC First. The BBC must continue to make appropriate use of its procedures to fast-track editorial complaints on a case-by-case basis.

175. The Serota Review identified a wider culture of defensiveness at the BBC, especially around admitting mistakes.¹³¹ Since the launch of the MTR, the BBC has put in place measures in response to Ofcom's recommendations to improve the quality of responses at Stage 1B, including tackling defensive tones. In response to Ofcom recommendations, the measures aim to improve the replies provided by editorial teams and BBC managers through an internal communications programme, templated guidance, and with compliance secured through scrutiny from BBC leaders.¹³²

3.11 It is right that the BBC has committed to improving the quality of responses at Stage 1B, and removing tones of defensiveness. We recommend that the BBC continues to address the wider defensive culture highlighted by the Serota Review, and reflect this in its guidance for editorial teams to ensure Stage 1B replies reflect an openness to learning from complaints.

176. The Charter requires the BBC to provide a timely means of resolving complaints. We

131 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021.

132 Ofcom, How Ofcom Regulates the BBC, 2022.

recognise that in determining the appropriate timelines for responding to a complaint, the BBC must balance the complainants' desire for the swift resolution of their case with ensuring it has properly investigated a complaint, and has sufficient time to provide a quality response. We conclude the existing targets for response times get this balance right.

177. On the question of complaints about the BBC's effect on competition, we think it is important that there is effective and timely engagement between the BBC and its competitors so that the BBC can better understand the potential impact of its activities on competition. We therefore continue to support the principle of complainants going to the BBC first. However, we do recognise that in certain circumstances - for example, where there are concerns about the appropriate attribution of a local news story - a more urgent response from the BBC is required than may currently be provided. We encourage stakeholders to work with the BBC to identify the right contacts to use where faster resolution is needed. We consider this a more proportionate solution given the small number of Regulatory Complaints than

recommending the creation of a new process for commercial competitors and changes to the BBC's complaints framework.

The Transparency of Decision-Making

What we learnt

178. A broad range of stakeholders expressed a desire for the BBC to be more transparent about how it reaches its complaints decisions. They welcomed that, in June 2022, Ofcom revised its Complaints Determinations to increase the BBC's requirements to publish the ECU's reasoning responding to all complaints about due impartiality and accuracy (including election-related and referendum-related complaints) that reach Stage 2.¹³³
179. Some stakeholders wanted to see even greater transparency, though there was no consensus about what specific further information would be most useful. Some suggested that the BBC should give details about the number of complaints at Stage 1 that went on to Stage 2. Others, particularly

133 Ofcom, Determinations by Ofcom in relation to BBC complaints handling, 2022.

stakeholders based in the devolved nations, wanted the BBC to provide more granularity in its Fortnightly Reports by publishing the number of complaints by region, so that audiences can see different views about BBC content.¹³⁴ We also heard a more limited concern that the BBC has not been sufficiently transparent about how the ECU conducts its investigations and reaches its decisions.

180. Finally, a small number of stakeholders expressed concern about a lack of diversity in the ECU. They felt that incidents, such as the initial handling of the complaint about a BBC Breakfast presenter's comments on 17 July 2019, had shown the ECU lacked staff from diverse backgrounds, and therefore allowed employees from well-represented groups to define discrimination on their own terms without sufficient challenge. The Director General subsequently reversed the decision about this specific complaint.¹³⁵

134 BBC, Fortnightly Complaints Reports.

135 BBC Executive Complaints Unit Finding, BBC, Breakfast, BBC One, 17 July 2019.

The Government's response

181. The Charter and Framework Agreement require the BBC to embed transparency into its complaints process. It is also important that audiences understand how the BBC reaches its complaints decisions if they are to have confidence in BBC First. Whilst we heard suggestions for additional transparency, the evidence of whether this would provide audiences with any additional value was inconclusive. We conclude that the current requirements strike the right balance between providing transparency for audiences, and proportionate use of BBC resources.
182. In response to the specific suggestion that the BBC publishes the origin of complaints by region, we have not seen evidence to suggest that the use of complaints data is suitable as a proxy for audience satisfaction on a regional level. This is because, by its nature, complaints data is often only a record of dissatisfaction. It would also be important to avoid giving priority to those who wish to see complaints broken down by geography over those who wish to see the reporting broken down through other lenses, for

example, the socio-economic background of complainants.

3.12 We note that Ofcom has recently increased the BBC’s complaints reporting requirements. It is right that these changes are made to increase the transparency of the BBC’s complaints decision-making.

183. Given that the ECU provides the BBC’s final substantive response to a complaint, it is imperative that audiences understand how the ECU is structured, and how it works. The BBC’s guidance only provides a high-level description of the ECU’s process.¹³⁶ We think the BBC needs to increase the transparency around the ECU. This could include explaining how the ECU is structured and, in particular, the governance processes in place to ensure it is able to make decisions independently from programming teams. We also think audiences would benefit from a more fulsome explanation of how exactly the ECU conducts investigations and reaches its decisions. This information could help audiences better understand the work of the ECU, and thereby increase trust in this crucial part of BBC First.

136 BBC, BBC Complaints Framework and Procedures, 2020.

3.13 We recommend that the BBC makes public information about how the ECU makes fair decisions that are both independent from programme-makers, and independent from the organisation’s reputational interests, in order to increase licence fee payers’ confidence in both Stage 2 and BBC First more broadly.

184. In response to concerns about the ECU’s handling of complaints about comments made by the BBC Breakfast presenter, the BBC’s then Director General, Lord Tony Hall, and the EGSC commissioned an independent review of the complaints process. In light of the action the BBC has taken following the Banatvala report, we are now satisfied that diverse audiences can have greater confidence in the BBC’s complaints handling at Stage 2.¹³⁷

3.14 We note that, following the Banatvala report, the BBC has sought to increase the diversity of the ECU. The Corporation’s ongoing commitment to further increase diversity in complaints handling is sensible.

137 BBC submission, How Ofcom regulates the BBC, 2021.

Ofcom's Role

What we learnt

185. Stakeholders broadly felt that Ofcom had the right regulatory tools to hold the BBC accountable for its delivery of BBC First, and was using these tools effectively. The overwhelming majority of stakeholders supported the recommendations for improving BBC First made by Ofcom in June 2022,¹³⁸ and many felt this had given them confidence in Ofcom's ability to represent the interests of audiences and drive changes for their benefit.
186. Ofcom undertook both qualitative and quantitative research to inform its review of BBC First and has committed to reviewing it again before Charter Review. Stakeholders welcomed the fact that Ofcom had conducted this research. However, we heard some concerns about the quantitative work. Stakeholders argued the data may present the complaints experiences as more negative because the survey method gave greater weight to the views of repeat complainants who were more likely to have stronger, negative feelings about BBC First

138 Ofcom, [How Ofcom Regulates the BBC](#), 2022.

and the BBC more generally. Stakeholders were collectively more positive about the mystery shopper exercise. It was felt that this methodology afforded an objective view of complainants' experiences because mystery shoppers were pursuing a complaint scenario devised by Ofcom, as opposed to their own complaint they may have been personally invested in.

187. In terms of how Ofcom is fulfilling its function as a point of escalation for complainants, a small number of stakeholders felt that the relatively low number of investigations opened by Ofcom at Stage 3 meant that the regulator was failing to act as an independent backstop in BBC First - they felt the regulator's default approach was to agree with the BBC, and disagree with complainants. The evidence provided in support of this view did not identify specific examples of where Ofcom had failed to open investigations where stakeholders perceived it should have.
188. A small number of stakeholders also noted a disparity between the replies to complainants offered by the BBC, particularly at Stage 2, and Ofcom's communication with complainants at Stage 3. They felt that the BBC was more transparent about its

complaints decisions because it explained its rationale to complainants through individual responses, whereas Ofcom generally does not respond individually to complainants.

189. We also heard limited concern that the BBC's Complaints Framework and Procedures,¹³⁹ and Ofcom's approach, restricted complainants to complaining about single broadcast items, rather than being able to, for example, complain about their perception of bias in how a particular issue was dealt with over a period of time and across different types of content. This meant they did not have the opportunity to provide the full spectrum of their views to the BBC or indeed Ofcom, and could not properly hold either to account.

The Government's response

190. The evidence suggests that Ofcom's research has provided valuable insight into the experiences of complainants, and we are pleased that, in parallel to the MTR, it has committed to review BBC First again before the next Charter Review. It is, however, important that stakeholders have confidence

139 BBC, BBC Complaints Framework and Procedures, 2020.

in the methodologies of any future research - especially if it is to inform the Charter Review process and future decisions about the BBC's complaints model.

3.15 It is helpful that Ofcom has committed to reviewing BBC First again before Charter renewal. We recommend Ofcom engages with stakeholders on the approach and scope of any quantitative research that will form part of that review.

191. We conclude, in light of the feedback received from stakeholders, that Ofcom's mystery shopper exercise was a useful means to gain an objective understanding of complainants' experiences of BBC First. In its 2022-2023 Annual Report on the BBC's performance, Ofcom has committed to updating its research on BBC First, including through conducting further mystery shopping exercises.¹⁴⁰ Repeating this exercise regularly will help us, Ofcom and wider stakeholders assess and measure both the impact of the changes the BBC has already made to its complaints processes, and changes implemented as a result of the MTR.

140 Ofcom, Annual Report on the BBC 2022/23, 2023

3.16 It is helpful that Ofcom has committed to conducting further mystery shopper research on BBC First. We recommend this continues on a regular basis, and the results feed into any future review of BBC First.

192. An independent point of escalation beyond the BBC is important in sustaining audience trust in the wider complaints process. It is therefore imperative that audiences are confident that Ofcom carefully considers the complaints escalated to it at Stage 3, and robustly interrogates the BBC's decision-making. Taken as a whole, the evidence we received during the evidence gathering phase of the MTR suggests that Ofcom is meeting its regulatory duties in complaints resolution. When a complainant escalates a complaint to Ofcom, Ofcom will not open an investigation if it agrees with the BBC's original response. The low rate of investigations is not necessarily evidence that Ofcom is failing to function as an independent point of appeal in BBC First, rather, it suggests that BBC First is delivering complaints decisions that withstand scrutiny from the regulator.

193. We have considered whether changing how Ofcom communicates with complainants at Stage 3 would help it to better explain

its complaints decisions, and create greater confidence in the role the regulator plays in BBC First. When it initially took over regulation of the BBC from the BBC Trust, Ofcom wrote to every complainant individually, setting out the outcome of its decision at Stage 3. However, this was found to be a disproportionate use of resources, and created an inconsistency with Ofcom's approach to complaints about other broadcasters (where complainants are generally not given an individual response). Ofcom now instead publishes its decisions, alongside its rationale, for any complaints it has investigated in its online bulletin. When Ofcom decides not pursue an investigation, it publishes a brief line in the bulletin, setting out the programme and transmission details, number of complaints about this content, and the issue of complaint.

194. Given that only a small number of stakeholders expressed concern about the ways Ofcom responds to complainants, we do not consider it proportionate to create a disparity between the way the regulator communicates with complainants about the BBC, and the way it communicates with those who have made a complaint about another broadcaster. It is, however,

important that audiences understand how Ofcom reaches its complaints decisions. In response to the concerns highlighted through our evidence gathering, Ofcom is looking at how it communicates with audiences about complaints. Beyond publishing details of its decision, Ofcom is developing plans for further communications to increase audience understanding of its broadcast and video-on-demand rules; how the rules work in practice; how Ofcom handles complaints; and how Ofcom makes complaints decisions.

3.17 It is helpful that Ofcom has begun to think about what kind of communication about BBC First audiences would value. We recommend that Ofcom continues to work with audiences in its efforts to improve the transparency of its complaints decision-making at Stage 3.

195. Where the BBC has found a breach of its own editorial standards and upheld or partly upheld a complaint, Ofcom can, if the complaint is within its regulatory jurisdiction, decide to open a formal investigation of broadcast or on demand content against Ofcom's Broadcasting Code.
196. Ofcom already makes these assessments about whether or not to investigate as part of its routine regulatory work. Indeed, where

the BBC has upheld a breach that pertains to standards set out in Ofcom's Broadcasting Code, it is reasonable to expect Ofcom to assess whether an investigation may be necessary. While the BBC publishes all upheld, partly upheld and resolved complaints decisions, and undertakes aggregate reporting on decisions annually, there may currently be a lack of audience understanding in what happens after BBC First has been completed and whether or not Ofcom will take any further regulatory action. It is important that BBC audiences better understand Ofcom's thinking, and therefore the regulator should consider how to be more transparent about its processes.

197. We therefore recommend the following approach where the current BBC First process has concluded, and where the BBC has upheld or partially upheld a complaint pertaining to standards in the BBC editorial standards and guidelines: in this context, where Ofcom decides not to investigate a breach identified by the BBC against its Broadcasting Code, it should make this information public on its online bulletin and explain why.

3.18 We recommend that, when the BBC has identified a breach in its own editorial standards

and therefore upheld or partly upheld a complaint regarding its broadcast or on demand content, the breach should be publicly and transparently recorded by Ofcom, which has the choice whether or not to launch its own investigation under its Broadcasting Code. Should Ofcom decide not to launch an investigation into an upheld BBC complaint, the regulator should clearly state its rationale for taking no further action in its online bulletin.”

198. Finally, on the issue of ‘aggregate’ complaints about BBC content, Ofcom is required to set and enforce due impartiality standards in accordance with the Communications Act 2003. In applying these standards, Ofcom considers the content of individual programmes or an editorially-linked series of programmes.
199. Ofcom’s legal remit restricts it from considering general complaints. The MTR did not identify compelling evidence of a gap in regulation necessitating change, particularly as Ofcom has other mechanisms through which hold the BBC to account. While the Government recognises that Ofcom does not have standards enforcement jurisdiction to consider general complaints, we encourage Ofcom to continue to make use of all available regulatory tools it has available as appropriate, such as setting and

enforcing the regulatory conditions in the BBC Operating Licence, or assessing BBC's compliance in its Annual Report on the BBC.

3.19 We conclude that the current complaints framework, which limits Ofcom's standards enforcement role to complaints about single broadcast items or editorially-linked content, is proportionate. We encourage Ofcom to continue to make use of its other regulatory tools to hold the BBC to account.

Chapter 4: Competition and Market Impact

Background

200. The Charter sets out the Public Purposes of the BBC, many of which speak to its relationship with the wider creative economy.¹⁴¹ The current Charter introduced major changes to how the BBC would be regulated in regard to its market impact. It also included an explicit requirement for the BBC to ensure its services and output are distinctive and that it is supporting the creative economy across the UK through a number of specific obligations.
201. The BBC's mission to serve all audiences does create an inherent tension around the market impact of the BBC, where the BBC receives billions in public funding but also directly competes with commercial market participants for audiences. The need to strike the correct balance between delivery for audiences and for the creative economy was discussed in Sir David Clementi's 2016

141 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

review of the governance and regulation of the BBC,¹⁴² where he highlighted a number of important principles required to achieve this balance, which the current Charter seeks to deliver.

202. Sir David’s review highlighted the need to “give sufficient certainty to industry about the scope of the BBC’s activities and protect them against undue adverse market impact”.¹⁴³ He also set out the need for “the BBC [to] be duly open and accountable with appropriate consultation and transparency of decision-making, particularly in relation to managing change which should take due account of the interests of audiences, Licence Fee payers, citizens and the market impact”.¹⁴⁴ In addition, Sir David noted the need for the new regulatory approach to changes to the BBC’s services to be “a less rigid system” than that under the BBC Trust

142 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

143 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

144 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

governance model.¹⁴⁵ He argued that the new regulatory approach should allow decisions to be “reached in the minimum amount of time, whilst allowing for transparency and due consultation” to “the benefit of the BBC, industry and audiences”.¹⁴⁶ The current Charter sought to achieve this balance.

203. The Charter does not preclude the BBC from having an adverse impact on the market if the BBC Board and Ofcom believe it is necessary for the effective fulfilment of the BBC’s Mission and Public Purposes, and in this way the current Charter does not establish the BBC as a market failure intervention.¹⁴⁷ It is therefore for the BBC to rise to the challenge and make sure the correct balance between its obligations is struck. As the BBC’s independent regulator, it is for Ofcom to ensure that any adverse impact on the market is necessary for the effective fulfilment of the BBC’s Mission and Public Purposes, and to robustly hold the

145 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

146 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

147 UK Government, [Royal Charter for the continuance of the British Broadcasting Corporation](#), 2016.

BBC to account in meeting its obligations to both its audiences and the market.

The BBC's responsibilities

204. The current Charter sets out an explicit requirement for the BBC to “show the most creative, highest quality and distinctive output and services” and that its services should be distinctive from those provided elsewhere.¹⁴⁸ The BBC is also explicitly required to support the creative economy across the United Kingdom. The BBC is required to have particular regard to the effects of its activities on competition in the United Kingdom, and the BBC must seek to avoid adverse impacts on competition which are not necessary for the effective fulfilment of the Mission and the promotion of the Public Purposes. The BBC is also required to have regard to promoting positive impacts on the wider market. In turn, Ofcom is required to have regard to the desirability of protecting fair and effective competition in the United Kingdom,¹⁴⁹ and to set requirements in the

148 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

149 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

Operating Framework¹⁵⁰ to protect that. The BBC is also required by the Charter to work collaboratively and seek to enter into partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest.

The BBC's regulatory framework

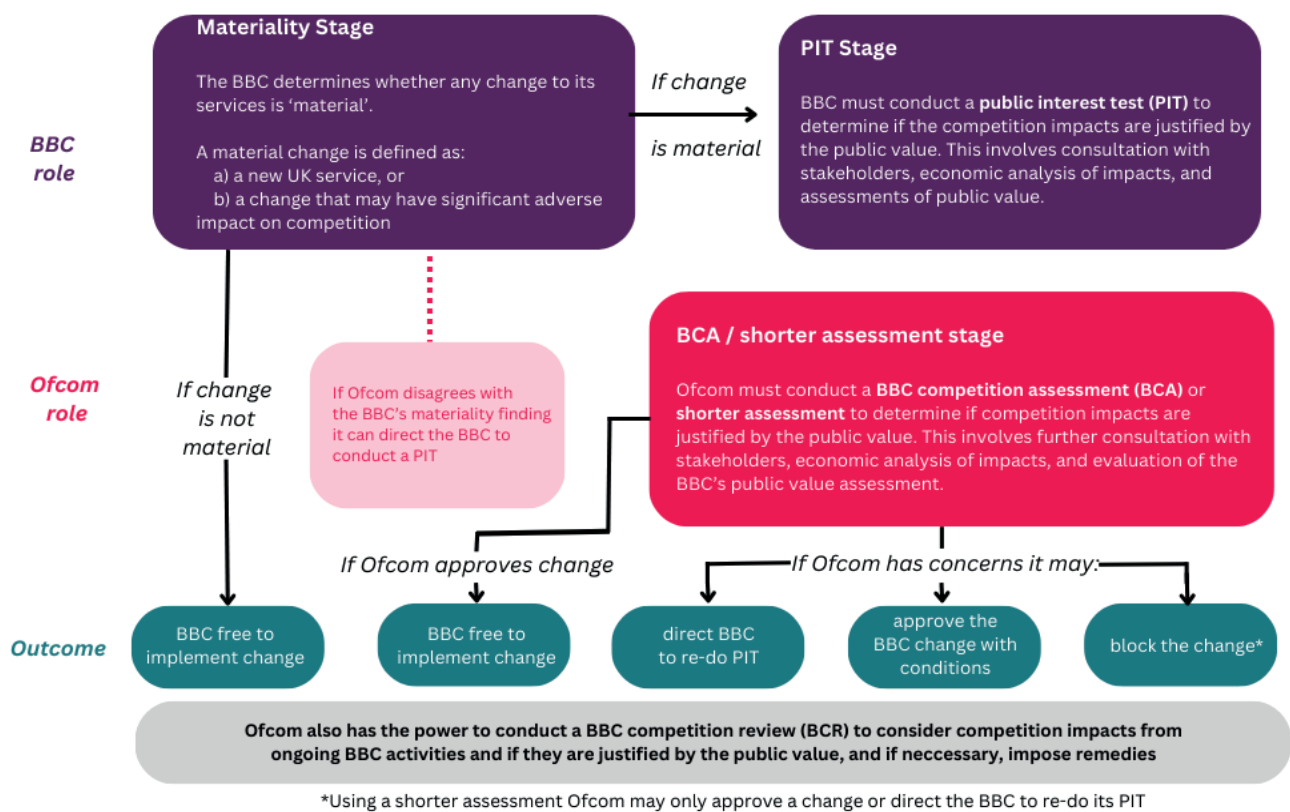
205. Figure Two provides a summary of the BBC and Ofcom's roles under the Charter and Framework Agreement¹⁵¹ for assessing and regulating the competition impact of the BBC's public services. Requiring the BBC to assess the materiality of change first means the BBC must seek to understand the potential impact of a change at an early stage, allowing it to shape its plans while they are still in development to mitigate competition impacts. While Ofcom does not have a specific role to review materiality conclusions where the BBC has found that a change is not material, it has the power to step in and direct the BBC to conduct a Public Interest Test (PIT) if it disagrees on

150 Ofcom, BBC Operating Framework, 2017.

151 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

materiality. Where evidence emerges of harm to competition from ongoing BBC activities, Ofcom has regulatory tools to step in and address these using a BBC competition review (BCR).

Figure Two: Summary of the BBC and Ofcom’s roles under the Charter and Framework Agreement for regulating the competition impact of the BBC’s public services.



Recent consideration of the regulatory framework

206. In June 2022, Ofcom’s review of the BBC’s regulation looked at all areas of its regulation of the BBC’s market impact and considered

whether any changes were required to ensure that regulation remained effective for the remainder of the Charter period.¹⁵² Its report considered how, in the current market context, material changes to the BBC's services should be assessed against both their public value and their potential to harm commercial providers in the market.

207. Ofcom set out that the regulatory process for approving a change should adapt to become more effective and flexible, supported by greater transparency for the BBC's competitors. Ofcom also set out its intention to consult on how greater transparency could be achieved, and recommended three changes to the Framework Agreement to allow for a more effective and flexible process, particularly where the BBC had already undertaken extensive, and robust, market engagement and existing processes may unnecessarily lead to delays and duplication of work:

- **Ofcom should have discretion over whether or not to conduct a BBC competition assessment (BCA) or a shorter assessment following a BBC PIT.** This change would give Ofcom the

152 Ofcom, How Ofcom Regulates the BBC, 2022.

ability to approve a change without taking additional assessments if it agrees that the BBC has appropriately considered competition and public value assessments in its PIT, effectively engaged with stakeholders and appropriately taken account of their concerns. Ofcom would retain the ability to conduct a BCA or a shorter assessment if it felt the BBC had not done enough, or Ofcom had access to information the BBC did not.

- **Ofcom should have the power to use a shorter assessment to approve a BBC change with conditions.** Currently, Ofcom is only able to approve a BBC change with conditions if it conducts a full BCA process (even though this might not be necessary if the BBC has conducted a thorough and effective PIT process).
- **New BBC services should not automatically be considered ‘material’ changes.** Under the current Framework Agreement, any new BBC service is automatically classed as a ‘material’ change. This means that even very small new services that are highly unlikely to have a significant impact on competition are required to undergo a full PIT. Ofcom has recommended removing the

automatic need to undertake a PIT for new services to avoid unnecessary PIT processes where the level of risk to UK competitors from a new BBC service is low. But the launch of a new service would, like any other change, be subject to a materiality assessment in relation to its potential market impact. In practice any new service would still fall within the main definition of a material change if it may have a significant adverse impact on fair and effective competition. This change would allow the BBC to respond more quickly to changing audience tastes where there is low risk to UK competitors.

208. Ofcom consulted on changes to its guidance to create greater transparency for the BBC's competitors in November 2022.¹⁵³ This followed significant stakeholder concern that the BBC does not take its obligations to consult and be transparent with competitors seriously. Ofcom subsequently published a statement in April 2023 which set out its intention to update its guidance aimed at encouraging greater transparency

153 Ofcom, Consultation: How Ofcom regulates the BBC's impact on competition: Proposals for changes to guidance and requirements, 2022.

from the BBC about changes to its public services, and facilitating more positive engagement between the BBC and affected stakeholders.¹⁵⁴

Market analysis

209. During the course of the MTR, we commissioned independent market analysis to provide information about the market context the BBC is operating in.
210. We commissioned Oliver Wyman to conduct analysis to contribute to our overall evidence base on media consumption in the UK, the media market in the UK, consumption of BBC media, and the interrelationship between the BBC and other media market operators. The report focused on how this has evolved since the start of the current Charter period. In audio, this market analysis noted that online audio listening is growing, especially among younger audiences. It noted the opportunity for the BBC to partner with the UK commercial audio sector on a more ambitious scale, given the increasing

154 Ofcom, Statement: How Ofcom regulates the BBC's impact on competition: Changes to guidance and requirements, 2023.

dominance of international platform players in the UK audio market.

211. We also commissioned Alma Economics to carry out an independent study to examine the relationship between online news content published by the BBC and local commercial news organisations, as a means of helping to understand the extent to which the BBC acts as a complement to, rather than substitute for, commercial news. Alma Economics' research analysed the differences in content and type of local news coverage provided by the BBC and the commercial sector. This analysis found that content duplication between the BBC and commercial providers in online local news exists in a way that is consistent with multiple providers covering the same news events. However, it also highlighted concerns within the local news sector about the market impact of further expansion of the BBC into online local news coverage and calls for greater collaboration.
212. This research informed the Government's understanding of the media markets in which the BBC operates. The research was not set up to, and therefore did not set out to, answer specific questions on the BBC's regulatory and governance framework. Therefore, while the research has been

useful in providing additional context for our evaluation of the more directly relevant evidence, it has had limited direct impact on the recommendations we have reached. The broader contextual information provided by the research will inform the Government's thinking as we continue to consider the BBC's market impact in preparation for renewal of the BBC's Charter.

The focus of the MTR

213. Our focus has been on ensuring the underpinning regulation to assess the BBC's market impact is appropriate to ensure the BBC and Ofcom can take informed decisions and that commercial providers have clarity over decisions that affect their own business assumptions and planning. Whilst the BBC is operating in an increasingly competitive environment and its regulation needs to remain fit for purpose, this should not come at the expense of competition and choice for audiences.
214. The Terms of Reference for the MTR set out our intention to have regard to commercial radio and local news sectors and other

content makers and distributors in conducting the review.¹⁵⁵

Transparency for stakeholders, and meaningful engagement

What we learnt

215. Stakeholders, including those operating in audio, audiovisual and local news markets, have identified a lack of transparency and effective engagement when the BBC seeks to make a change to its services. Some have argued that they have had to go to great lengths to get the BBC to engage with them on changes it plans to make to its services and the potential impacts on their business. When the BBC has engaged, some have felt this engagement to be largely superficial in nature, and that the arguments those stakeholders make to the BBC, however well informed, will not make any difference to the BBC's plans nor to Ofcom's approval processes. We also heard that the BBC does not announce changes to its services early enough to allow stakeholders to explain to the BBC the potential impact on their

155 UK Government, BBC Mid-Term Review: Terms of Reference, 2022.

business, limiting their ability to substantively influence the BBC's plans. Similarly, stakeholders have expressed dissatisfaction with the level of detail the BBC shares, limiting those stakeholders' ability to properly understand the BBC's plans, and their ability to engage the BBC on those plans. We also heard that stakeholders felt that the BBC breaks a large change into several smaller change assessments so that the cumulative impact is harder to identify.

216. Some stakeholders argued that the BBC publicly announces planned changes to its services with the potential for market harm ahead of any formal process having started, and often with highly positive framing. This can discourage them from talking to the BBC about their concerns, as they feel decisions have already been taken. Stakeholders were also concerned by the agency afforded to the BBC when assessing the materiality of a change. They thought it inappropriate that the BBC determines how it will consider if a change is material. They also argued that the BBC should not have the agency to determine where taking into account the views of third parties is appropriate. Some stakeholders felt unable to ask the BBC to conduct a materiality

assessment, even if they felt the change may be detrimental to their business. Others noted that assessments are not required to be published, and therefore there is no opportunity for scrutiny of the need for a PIT. Even when a PIT is conducted, many felt the BBC shares insufficient detail and analysis, hindering their ability to consider proposals meaningfully and raise concerns about potential market harm.

217. We heard from some stakeholders that engaging in a BBC change process can be complex and resource intensive for those potentially negatively affected. However, they noted that any alternatives should not remove the objective scrutiny of the current process, particularly Ofcom's own consultation and oversight.
218. Overall, stakeholders argued that the effect of these concerns significantly hinders their ability to effectively advise the BBC and Ofcom on how proposed changes might affect the market. In turn, this can be said to hinder the BBC and Ofcom's ability to fully understand and take into account the potential impacts of its proposals. They felt that Ofcom should be tougher on the BBC in making sure stakeholders' views are heard

and meaningfully inform the BBC's decision-making processes.

219. It has also been argued that the BBC is subject to robust external regulation by Ofcom of potential negative impacts arising from changes to its services, and that there is no evidence that the BBC is crowding out other players. Over the Charter period, Ofcom has found that the BBC has been correct in its assessment about the materiality of a change in all but one instance. The BBC has increased its transparency when publishing planned changes to its services, including within its Annual Plan¹⁵⁶ and Annual Report and Accounts.¹⁵⁷ It also chooses to list all changes it is aware of that it will likely be assessing for materiality in its Annual Plan,¹⁵⁸ not just those that it thinks will be material. Where changes do not fit within the Annual Planning cycle, the BBC has set out its plans in other ways such as in speeches, blog posts, and media releases. We understand that when the BBC proposes a change to its

156 BBC, Annual Plan, various years.

157 BBC, BBC Group Annual Report and Accounts, various years.

158 BBC, Annual Plan, various years.

plans, the BBC seeks to engage widely with stakeholders on those plans specifically, and takes into account the concerns raised by others operating in the market accordingly. However, some stakeholders do not feel this goes far enough.

220. We also heard arguments making the case for more flexibility in the processes to allow the BBC to respond with agility with regards to changes in the media markets more broadly. We heard that for the BBC to be able to thrive in a market with increasing competitive pressure, the regulatory system needs reform – to become quicker and more agile, and to reflect the pace of change in the modern media markets. The ability to move at pace to best deliver for audiences was argued to be crucial, particularly in digital technologies where the market will move swiftly. It was also highlighted that a strong and responsive BBC has demonstrated an ability to draw investment to the UK and pave the way in developing platforms and reducing risks in these developments for other commercial players.
221. Ofcom has raised concerns around the BBC's transparency and engagement with stakeholders when it seeks to make a change in each of its Annual Reports

on the BBC since the beginning of the Charter.¹⁵⁹ Its November 2022 consultation included proposals to support more effective engagement between the BBC and stakeholders, particularly during the materiality assessment stage, and more generally improve these processes. Ofcom set out a number of principles:

- encouraging a more productive dialogue between the BBC and its stakeholders;
- providing clarity on its approach on public value and its expectations of the BBC's assessment;
- providing stakeholders with a better understanding of how regulatory processes work; and
- enabling greater flexibility for Ofcom to decide whether it is necessary to consult on whether a change is material.¹⁶⁰

222. Ofcom subsequently set out in April 2023:

- That the BBC will be subject to an enforceable specific requirement to

159 Ofcom, Annual reports on the BBC, various years.

160 Ofcom, Consultation: How Ofcom regulates the BBC's impact on competition: Proposals for changes to guidance and requirements, 2022.

publicise changes that are likely to be subject to a materiality assessment;

- More guidance on what Ofcom will consider a reasonable and proportionate approach to engagement during the materiality process;
- A clearer expectation of the information that the BBC should provide to stakeholders when it consults as part of a PIT;
- More detail about Ofcom's role in the assessment of materiality; and
- Further guidance about what Ofcom expects to see in the BBC's public value assessment.¹⁶¹

223. The BBC agreed with Ofcom's proposals in principle but objected to some specific elements. Most other stakeholders welcomed Ofcom's proposals, including the new enforceable specific requirement for the BBC to publicise changes that are likely to be subject to a materiality assessment, as a step towards improving the BBC's transparency. Some argued that Ofcom should go further,

161 Ofcom, Statement: How Ofcom regulates the BBC's impact on competition: Changes to guidance and requirements, 2023.

particularly on materiality assessments. In response, Ofcom set out that it did not feel further new requirements or formal measures were proportionate, as many of the changes the BBC considers as part of its materiality assessments are small in scale and highly unlikely to have a significant impact on fair and open competition. However, it did strongly encourage the BBC to act on a number of additional, more specific suggestions on how it should increase transparency. These changes came into effect in August 2023.

224. In line with these arguments, and the progress that has been made, Ofcom has recommended changes to the Framework Agreement to allow a swifter competition assessment process if Ofcom is satisfied with the work the BBC has carried out, including its stakeholder engagement. Ofcom's intention is that the changes to its guidance and its recommended changes to the Framework Agreement¹⁶² should work in tandem to encourage greater

162 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

BBC transparency and more meaningful engagement with stakeholders, and allow Ofcom to streamline the market impact assessment process where appropriate.

225. Ofcom also set out its general views on the BBC's position in the audiovisual and audio sectors and where there is likely to be risk that changes to the BBC's services in these sectors might harm competition.¹⁶³ Its aim was to give the BBC and other stakeholders more clarity about how it is likely to consider the materiality of proposed changes to BBC services, and how it might approach future competition assessments, in some of the sectors in which the BBC operates. Ofcom set out that this does not change the fact that the BBC and Ofcom will still need to consider the competition impact of proposed changes on a case-by-case basis.

The Government's response

226. Our focus in the MTR has been on ensuring the underpinning regulation to assess the BBC's market impact is appropriate to ensure the BBC and Ofcom can take informed

163 Ofcom, Statement: How Ofcom regulates the BBC's impact on competition: Changes to guidance and requirements, 2023.

decisions. Without understanding the full picture from meaningful engagement by the BBC, stakeholders are not able to effectively engage with the BBC and Ofcom, and Ofcom and the BBC are not able to make fully informed decisions.

227. Higher standards for stakeholder engagement and transparency are needed, enabling the BBC's competitors to more effectively provide input to the BBC and Ofcom before changes are made (while calibrating those requirements so the BBC can continue to deliver its Mission and Public Purposes). Similarly, it is imperative for the BBC and Ofcom to adequately consider collaboration and information sharing when making decisions about changes to BBC services.
228. We consider that the new guidance set out by Ofcom broadly achieves a proportionate level of transparency, and sets out a clear framework for stakeholder engagement. It therefore meets our objective of driving higher standards in these areas, whilst allowing the BBC to deliver for its audiences. However, Ofcom's responsibility to hold the BBC to account remains crucial, and as this approach represents a change to the current regulation, we will keep its efficacy

under review as we approach the renewal of the BBC's Charter. The BBC should not seek to, nor should it be allowed to, take advantage of these changes to processes in a way that disadvantages others operating in the media markets. The BBC should ensure stakeholder engagement is undertaken which will enable it to be sufficiently informed about how proposed changes to its services meet the right balance between delivering for audiences and the wider creative economy when making decisions. Ofcom has said it will engage with stakeholders to understand how well the transparency requirement is working in practice and will comment on the BBC's progress in its annual report on the BBC next year.

229. Ofcom should have the ability to approve a change without taking additional assessments if it agrees that the BBC has appropriately considered competition and public value assessments in its PIT, effectively engaged with stakeholders and appropriately taken account of their concerns. Ofcom could then reduce the length of the process, and reduce duplicative processes. It would provide Ofcom the flexibility not to undertake a review if it were satisfied that the BBC had undertaken this

work appropriately. Ofcom would retain the ability to conduct a BCA or a shorter assessment if it felt the BBC had not done enough, or if it believed that Ofcom had access to information the BBC did not. Importantly, Ofcom should not use this power if stakeholder engagement has not been conducted fully and meaningfully, or if the BBC has not been sufficiently transparent. Ofcom should clearly and transparently set out why it has chosen to take the approach it has in assessing the BBC's PIT, and should ensure the time it takes in which to make an assessment of a material change is both efficient and proportionate.

4.1 We agree with Ofcom's recommendation to change the Framework Agreement so that Ofcom has discretion over whether or not to conduct a BCA or a shorter assessment following a BBC PIT.

230. As an alternative to blocking a BBC proposed change to its services, Ofcom is able to approve a change with conditions attached to address unjustified competition impacts. Currently, Ofcom is only able to approve a BBC change with conditions if it conducts a full BCA process (even though this might not be necessary if the BBC has conducted a thorough and effective PIT process). Ofcom should be able to conditionally approve a

BBC change using a shorter assessment as this would reduce duplication, and therefore lower the barrier to conditions being attached to approval of a BBC change. It will provide both the BBC and its stakeholders with certainty on the approach more quickly than if a full BCA process were required. However, it should not be used if the BBC has not conducted a thorough and effective PIT process.

4.2 We agree with Ofcom’s recommendation to change the Framework Agreement so that Ofcom has the power to use a shorter assessment to approve a BBC change with conditions.

231. Under the Framework Agreement, any new BBC service is automatically classed as a ‘material’ change.¹⁶⁴ We recognise that there are instances where this rule could lead to unnecessary delays and bureaucracy that could act against the interest of audiences. While we recognise that some stakeholders will be concerned that this reduces Ofcom’s ability to scrutinise the potential competition impact of changes to the BBC’s services,

164 UK Government, An Agreement Between Her Majesty’s Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

in practice any new service that may have a significant adverse impact on fair and effective competition would fall within the main definition of a material change and would have to undertake a PIT.

4.3 We agree with Ofcom's recommendation to change the Framework Agreement so that new BBC services are not automatically considered material changes.

232. Stakeholders who are likely to be affected by BBC changes need as much transparency as possible. Further transparency and scrutiny from Ofcom of the BBC's impact on the audiovisual and audio sectors, and how it is likely to approach consideration of the competition impact of changes to the BBC's services is helpful, in that it can open the door for further conversations with the regulator on its views of the BBC's position in those sectors. It does not change the requirements that the BBC and Ofcom must carry out when assessing a proposed change to a public service. They will still need to consider the competition impact of specific changes the BBC intends to make on a case-by-case basis and take into account how these specific changes will affect competitors.

4.4 Publication of Ofcom’s high-level view on the BBC’s position within the audiovisual and audio sectors is helpful, as is Ofcom’s commitment to use its Annual Report on the BBC to confirm its current view, or update that view based on any market changes that have taken place.

233. However, while we are pleased to see Ofcom update its high-level view on the BBC’s position within the audiovisual and audio sectors in its most recent Annual Report on the BBC, we think it is crucially important that Ofcom scrutinises the impact of the BBC in the news sector, and particularly in the local news sector.¹⁶⁵ Indeed, the Cairncross Review, published in 2019, recommended that Ofcom should explore the market impact of BBC News, and Ofcom indicated a willingness to look at this issue further.¹⁶⁶ Recent BBC announcements surrounding its plans to increase its investment in online news, and the sector’s concerns about its impact, demonstrate that it is increasingly important for Ofcom to set out its views on the BBC’s impact on the sector. Alongside

165 Ofcom, Ofcom Annual Report on the BBC 2022-23: Annexes, 2023

166 Dame Frances Cairncross, The Cairncross Review: A Sustainable Future for Journalism, 2019.

the changes above, we are recommending that Ofcom publishes annual summaries of its view on the BBC's position in the local news sectors, and how it is approaching consideration of the competition impact of changes to BBC local news services as it has done for the audiovisual and audio sectors. The first summary of the BBC's impact on the local news sector should be published as soon as possible, while allowing Ofcom sufficient time to meaningfully engage with stakeholders and conduct substantive research. Ofcom should consider whether providing an initial view by May 2024 could provide clarity and confidence to stakeholders. The review should be complete by November 2024 to inform Government thinking, including in the lead up to the renewal of the BBC's Charter. Separately, Ofcom has set out that it will monitor the competitive impact of the BBC's recent changes to its online local news offering over the next year - and share its findings - as part of its new work on local media.

4.5 We recommend that Ofcom should annually publish its view on the BBC's position in the local news sectors, and set out its approach to considering the competition impact of changes to BBC local news services. Ofcom should do this for

the first time by November 2024, and subsequently use its Annual Report on the BBC to update this view alongside its views on the audio and audiovisual sectors.

234. This package of changes to the BBC's competition and market impact requirements as a whole delivers the right balance between driving higher standards for stakeholder engagement and transparency. It will enable the BBC's competitors to more effectively provide input to the BBC and Ofcom before changes are made, and calibrate those regulatory requirements so the BBC can continue to deliver its Mission and Public Purposes in a changing market. Reflecting the evolving media sector it is important that Ofcom's decisions on the BBC's market impact continue to take the wider market dynamic into account, including the presence of competitors with a global footprint, as it confirms in its guidance about BBC change assessments. It is also important that the regulatory process does not allow so great a focus on the changing market dynamic that negative outcomes are inadvertently created in those sectors in which the BBC can be said to hold a stronger market position, for example in the local news and radio sectors.

How the BBC could use partnerships to the benefit of other organisations, particularly in the creative economy, where to do so would be in the public interest

What we learnt

235. We heard that, when acting in partnership, the BBC plays a vital role in supporting the creative economy. For example, stakeholders were broadly complementary about the role that the BBC had played in supporting local journalism through the Local Democracy Reporting Service (LDRS). However, many stakeholders wanted to see the BBC's obligation to support the creative economy applied to their sectors more meaningfully. Stakeholders suggested that the BBC could do more to provide, or guide audiences to, third party content on its online services like iPlayer and BBC Sounds. Stakeholders also wanted to see the BBC provide audience insights, share product development information and collaborate on talent development.

The Government's response

236. The BBC's ability to have a positive impact on the market can be demonstrated through its existing partnerships with those that might otherwise see it as a competitor. Partnerships is an area of specific BBC competence, and they need to be of mutual benefit. Our recommendations therefore focus on improving transparency in the process. It should be clear to all how the BBC is fulfilling its obligation to work collaboratively and seek to enter partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest. This will make it easier for organisations in the creative economy to understand how and why the BBC goes about entering partnerships. It should foster greater opportunities for formal partnerships between the BBC and its competitors.
237. A BBC partnerships strategy could first and foremost focus on supporting the BBC's ability to deliver to all audiences, but also examine how the BBC's competitors can help inform and deliver this objective. A published strategy would benefit both the BBC and its competitors by being more transparent about

how the BBC makes partnerships decisions, and the criteria they need to meet.

4.6 We recommend that the BBC does more to demonstrably and transparently take account of its obligation to undertake partnerships, including with its competitors in the creative economy. The BBC should publish a partnerships strategy, and the objectives of that strategy should clearly align with its obligation to support the creative economy, and demonstrate how it plans to meet that obligation.

4.7 We recommend that the BBC provides clear entry routes for organisations who wish to partner with the BBC.

238. Local and regional news outlets are vital pillars of communities and local democracy. They play an essential role in holding power to account, keeping the public informed of local issues and providing reliable, high-quality information. We are committed to a pluralistic media landscape, where citizens are able to access information from a range of sources in order to form opinions. The public's ability to access a wide range of news, views and information about the world in which we live is central to the health of our democracy. We think the BBC has an important role to play in supporting the plurality of local news services in the UK, not

just when assessing its market impact, but as a desirable outcome in itself.

239. We welcome the BBC's commitment to continue to support the LDRS until at least 2027. The LDRS is independently run by the BBC and, while we would support any further efforts by the BBC to grow the scheme, operational decisions such as these are for the BBC to make. The DCMS Select Committee's report into the Sustainability of Local Journalism has recently considered the BBC role in this space.¹⁶⁷ Additionally, the Cairncross Review recommended that the BBC should do more to share its technical and digital expertise for the benefit of local publishers.¹⁶⁸ Our externally commissioned research highlighted that the desire for collaboration is increasing as the BBC expands further into online local news coverage. We believe the BBC has an important and ongoing role to play in collaborating with the press sector, in line with its obligation to work collaboratively

167 House of Commons Digital, Culture, Media and Sport Committee, Sustainability of local journalism, 2023.

168 Dame Frances Cairncross, The Cairncross Review: A Sustainable Future for Journalism, 2019.

and seek to enter partnerships with other organisations, particularly in the creative economy, where to do so would be in the public interest. In particular, we firmly believe that it is very important that the BBC considers what more it can do to support all parts of the local news sector.

Distinctiveness and ongoing impact

What we learnt

240. Over the course of the MTR, we have heard concerns from stakeholders about the BBC harming competition in the market, and a belief that Ofcom is not doing enough to stop the BBC from causing market harm. This view was particularly prevalent in the responses we received from representatives and businesses in the radio and local news publishing sectors, where the BBC has a larger share of the market. Some in the local news publishing sector told us that the BBC is dismissive of its own role in the challenges the sector faces. Others in the audio sector have argued that the BBC has an outsized market impact and uses its position to seek to reinforce its dominant position online, and that there has been insufficient oversight from Ofcom to police its new activities that

overlap with commercial services with a significant impact on commercial investment.

241. We heard concerns from businesses and representatives from the audiovisual, audio and news sectors that the BBC was not focusing on providing distinctive output and services. Some stakeholders told us that the BBC regularly engages in bidding processes and is successful in acquiring “mainstream” content, acting in direct competition with commercial providers. Stakeholders cited the BBC’s purchase of rights to popular American TV content and Hollywood blockbuster films as examples of the BBC providing content that might otherwise be provided by the market, including other ‘free-to-air’ broadcasters. Stakeholders were also concerned about the BBC’s growing online presence and its plans to expand its provision of online news in a way that stakeholders thought would harm the market and reduce the plurality of news in the UK in the longer term. The BBC’s provision of celebrity news and gossip, recipes, online games and comment articles were also cited as examples of the BBC providing content not required by its remit and otherwise well provided by the market. Stakeholders argued that the availability of this ‘soft’ content

for free hindered the ability of commercial providers to monetise their own content. Many argued that changes to the BBC's services were not often distinctive from what was offered on the market; changes to its audio and radio services were often provided as examples.

242. Some stakeholders felt that Ofcom did not do enough to ensure that the BBC was distinctive, and wanted to see more dedicated regulatory resources from Ofcom to assess and enforce this requirement. Others wanted to see new restrictions placed on what the BBC can spend on acquired content, or restrictions that limit the BBC to acquiring content that is clearly distinctive or unlikely to otherwise appear on free-to-air services in the UK. Some wanted to see the BBC cut back on 'soft' content, or remove its provision of any regional based content.

The Government's response

243. A distinctive BBC is a powerful tool for expanding knowledge, experience and imagination, and bringing the country together. However, stakeholder feedback highlighted an external perception that the BBC is not always sufficiently focused on its obligation around distinctiveness. At the last

Charter renewal, ensuring BBC services are sufficiently distinctive from other comparable providers was a central new objective.

244. Inherent tensions emerge between the BBC's duties and its obligations when distinctiveness is considered. There are no obligations on the BBC which preclude the acquisition of popular overseas content. Yet the BBC does have duties to ensure its services and output are distinctive and it is supporting the creative economy across the UK. Therefore, if other free-to-air services can serve audiences with content and services that are the same, or indistinguishable, there may be legitimate questions as to whether certain acquisitions and programming choices are necessary for the BBC's effective fulfilment of its Mission and Public Purposes.
245. The BBC is independently responsible for editorial and commercial decisions, and it is not in scope of the MTR to take a view on the BBC's Mission and Public Purposes. It is also for Ofcom as the independent regulator to assess the BBC's distinctiveness. Yet the requirement for the BBC to consider 'distinctiveness' in its output and services was a significant change introduced by the current Charter. In an increasingly

competitive marketplace, the distinctiveness requirement is even more important now than it was when introduced in 2017. The BBC should clearly demonstrate how it balances the needs of audiences, and the impact on competitors, when making decisions on how its services and output are distinctive.

4.8 Over the remainder of this Charter the BBC must clearly demonstrate how it is delivering on its requirement to provide distinctive output and services.

246. Achieving the correct balance between the BBC's ability to deliver for all audiences and support the creative economy will be an important question for the renewal of the BBC's Charter. We will examine the BBC's role in the wider market, including how the regulatory framework may need to evolve to reflect shifts in technology and consumer behaviour, as part of our work in the next Charter Review. Reflecting on the evidence we have received, the BBC's distinctiveness will be a key aspect of that work.

Chapter 5: Commercial Governance and Regulation

Background

247. The BBC carries out commercial activities through its two wholly owned commercial subsidiaries. BBC Studios produces, licences, and distributes content domestically and internationally, as well as owning and operating channels and streaming services such as UKTV and Britbox International (a joint venture with ITV). BBC Studioworks provides TV studio facilities, equipment, crew, and post-production services to the BBC and independent production companies.
248. BBC Studios was launched as a commercial entity in 2017, with the BBC moving a significant proportion of its production staff into BBC Studios. BBC Worldwide was merged into BBC Studios in 2018 to bring together the BBC's commercial production and distribution activities.
249. The governance and regulation of the BBC's commercial activities have evolved. The Charter prevents the BBC's commercial activities from being undertaken directly by the BBC or funded by the licence fee.

They must be carried out by commercial subsidiaries. They must also fit with the BBC's Mission and Public Purposes, be undertaken with a view to generating a profit, not jeopardise the good reputation of the BBC or the value of the BBC brand, and not distort the market or create an unfair competitive advantage as a result of their relationship with the BBC public service arm.¹⁶⁹

250. The BBC's commercial activities benefit the UK's creative industries through their investment in the sector, help bring BBC content to audiences beyond BBC broadcast channels and iPlayer, and export British content and journalism across the world. These activities also directly support the BBC's licence fee funded public service arm, including through an annual cash dividend which the BBC can invest in BBC services and output that directly benefits UK audiences.

251. The Government therefore wants to see the BBC's commercial arm succeed and grow, delivering greater investment in high quality programmes and the domestic creative economy, greater cultural impact from

169 UK Government, BBC Royal Charter, 2016.

distinctive British content abroad, and more support for the BBC's public service arm.

252. The BBC Director General has also said that growing the BBC's commercial arm is one of his four strategic priorities, and the BBC has set out plans to deliver a step change in ambition by doubling the size of BBC Studios from 2021/22 to 2028.¹⁷⁰ In the 2021 Spending Review, the Government agreed to increase the BBC commercial arm's borrowing limit from £350 million to £750 million in stepped phases between 2022-23 and 2026-27. This will support the BBC's investment in its commercial growth strategy, benefitting the creative economy across the UK.

253. The higher debt limit also increases the level of risk the BBC is able to take on. We also recognise that the BBC's commercial arm and the scale of its activities has already grown and developed significantly since the start of the Charter period. We therefore decided to look at the governance and regulation of the BBC's commercial activities in the MTR, to ensure that the arrangements are working effectively and supporting the BBC's commercial arm to thrive and deliver

170 BBC, BBC Studios hits £2 billion in sales, 2023.

ambitious growth, while managing risks appropriately and competing fairly in the market.

254. Looking further ahead, in the upcoming BBC Funding Model Review and Charter Review we will look at opportunities for the BBC to further increase revenue from its commercial activities, while ensuring that we get the right balance between commercial success and the BBC's public service broadcasting obligations and impact on competition.
255. We received limited feedback from stakeholders about the BBC's commercial governance and regulation as these are highly technical in nature. We therefore focused on looking at the BBC and Ofcom's own evidence on the basis of a more technical assessment, including on the basis of views from UK Government Investments (UKGI).

The BBC's Commercial Governance

256. The BBC Board oversees the BBC's commercial activities. As part of its duty to ensure that the BBC fulfils the Mission and promotes the Public Purposes, the BBC Board sets a strategy for the BBC's commercial activities.

257. The BBC Commercial Board oversees the delivery of the Corporation's commercial ambitions. It reports to the BBC Board on the delivery of BBC Studios' objectives, in line with the BBC's overall commercial strategy, and on BBC Studioworks. In March 2022, the BBC announced a refresh of its commercial governance, with Sir Damon Buffini as the new chair, and for the first time a majority of non-executive directors bringing greater commercial, financial and digital experience and global expertise across media and technology. The BBC said that driving commercial growth is the principal concern of the new BBC Commercial Board, and that the refresh would help accelerate growth and maximise value for licence fee payers.¹⁷¹

What we learnt

258. Through the review, we wanted to be reassured that the BBC's governance arrangements were effective and would support the BBC commercial arm in driving growth while maintaining appropriate oversight of the higher level of debt and risk that it can now take on.

171 BBC, BBC bolsters commercial ambition with new-look BBC Commercial Board, 2022.

259. There is evidence that the refreshed BBC Commercial Board is successfully fulfilling its role. This view has been supported by DCMS and UKGI engagement with the Chair and BBC Studios senior executives throughout the MTR, BBC Studios plans for its future growth ambitions, and views from UKGI on the BBC Commercial Board's oversight of that plan.¹⁷²

The Government's response

260. The Government considers the refresh of the BBC's Commercial Board to be encouraging, and the move to a more balanced board with greater commercial skills should support the BBC's plans to grow the BBC commercial arm. However, at this stage it is too early to fully assess the effectiveness of the new governance arrangements and the BBC should keep the effectiveness of the new BBC Commercial Board under review. The

172 BBC, BBC Group Annual Report and Accounts 2022/23, 2023.

Charter¹⁷³ and Framework Agreement¹⁷⁴ require the BBC to carry out a further review of its commercial activities within this Charter period, which may be an appropriate opportunity to assess the refresh.

261. As its commercial business grows and transforms, we want to see the BBC continue to ensure it has appropriate commercial governance arrangements in place, and ensure that the Commercial Board delivers its role effectively to support the sustained growth of the business and management of risks.

5.1 We recommend that the BBC monitors the effectiveness of the BBC Commercial Board as the new governance arrangements bed in.

The BBC's Commercial Regulation

262. The Charter requires the BBC and Ofcom to ensure that the BBC's commercial subsidiaries do not gain an unfair competitive advantage or distort the market as a result of

173 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

174 UK Government, An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation, 2016.

their relationship with the BBC public service arm. This means that the BBC public service arm, and by extension the BBC licence fee, cannot be used to fund or subsidise commercial activities.¹⁷⁵

263. Ofcom put in place requirements and guidance to regulate this in 2017¹⁷⁶ when it became the regulator of the BBC. Following further consultation, Ofcom modified these requirements in 2019,¹⁷⁷ and published an updated consolidated version of these requirements in 2021.¹⁷⁸ The BBC must put in place appropriate and robust controls and procedures to ensure that it complies with Ofcom's regulation, and publishes an annual Statement of Operational Separation setting out how it has done so.¹⁷⁹

175 UK Government, Royal Charter for the continuance of the British Broadcasting Corporation, 2016.

176 Ofcom, The BBC's commercial and trading activities Requirements and guidance, 2017.

177 Ofcom, The BBC's commercial and trading activities: Statement on modifications to Ofcom's requirements and guidance, 2019.

178 Ofcom, The BBC's commercial and trading activities: requirements and guidance, unofficial consolidated version, 2021.

179 BBC, Statement of Operational Separation, 2022.

264. Given the changes in the market that had taken place, and the continued evolution of BBC Studios, Ofcom undertook a review to better understand how the BBC has implemented Ofcom's regulation of its commercial activities. Ofcom's 'Review of the interaction between BBC Studios and the BBC public service'¹⁸⁰ was published in June 2022.

What we learnt

265. Through the MTR, we wanted to be reassured that the BBC is compliant with the commercial separation requirements, that the BBC commercial arm is not gaining any unfair advantages, and that stakeholders are confident that is the case.

266. Ofcom's review found that in some areas, the BBC had appropriate processes and measures in place. However, Ofcom identified two significant areas where it was not satisfied. The BBC has since taken appropriate steps to rectify these issues, as set out by Ofcom in its statement on how it

180 Ofcom, Review of the interaction between BBC Studios and the BBC public service: Findings, 2022.

regulates the BBC's impact on competition, published in April 2023.¹⁸¹

The Government's response

267. These steps demonstrate appropriate and effective action by both the BBC and Ofcom to ensure regulation of the BBC's commercial activities is working effectively.

5.2 We consider the regulation of the BBC's commercial activities to be working effectively.

181 Ofcom, How Ofcom regulates the BBC's impact on competition: Changes to guidance and requirements, 2023.

Chapter 6: Diversity

Background

268. The Government wants the BBC to be at the forefront of representing diversity, both on and off screen. A BBC that reflects, represents and serves all communities, by providing output and services that meet their needs, and ensuring diversity of thought across the organisation, is vital to the BBC's fulfilment of its obligations to licence fee payers. We have considered whether the BBC has the right governance mechanisms in place to help it meet its responsibilities, including how it ensures diversity of thought and opinion is taken into account. We have also considered whether the current regulatory arrangements provide sufficient scrutiny.

The BBC's responsibilities

269. Representing the UK and its nations, regions and communities has been a Public Purpose in the Charter since 2007. The current Charter makes the BBC's diversity obligations even clearer by introducing specific requirements to reflect

underrepresented communities and support the UK's regional and minority languages.

270. In order to serve all communities, the BBC needs to understand the diversity of thought, experiences and needs that exist across the UK. The BBC can achieve this by effectively and regularly engaging with a diverse range of audience members to gather feedback on its performance, and working to improve audience perceptions. Article 10 of the Charter sets out certain specific duties for the BBC to engage with the public, including to ensure the views of audiences across the UK are factored into decision-making.

The BBC's governance framework

271. The Framework Agreement was updated in 2022 to introduce new requirements on the BBC Board to oversee and report annually on plans to increase diversity within the organisation to reflect and represent the UK more effectively, and to deliver the Across the UK programme. The BBC Board is therefore accountable for ensuring the BBC is making its best endeavours to more fully represent people and perspectives in the UK that are currently under-represented in its content by the end of the Charter period.

272. The Charter mandates the appointment of a non-executive Board Member for each of the UK's four nations. These Nations Members must represent the interests of licence fee payers and provide challenge and scrutiny from within the BBC to ensure that its output and services meet the needs of audiences in each nation.

The BBC's regulatory framework

273. Ofcom has set specific regulatory conditions in the BBC's Operating Licence to secure the promotion of the BBC's fourth Public Purpose, as set out in the Charter, "to reflect, represent and serve the diverse communities of all of the United Kingdom's nations and regions and, in doing so, support the creative economy across the United Kingdom." The Operating Licence includes requirements for the BBC to publicly report on both representation and portrayal and audience satisfaction, as well as to provide Ofcom with detailed information on the diversity of its UK public services workforce on an annual basis.

274. While those conditions in the Operating Licence are enforceable by Ofcom as they are 'specified requirements', the regulator cannot enforce against the BBC's own diversity targets. It can however publicly hold

the BBC to account by drawing attention to areas where the BBC has not met its targets in the course of reporting on the BBC's performance.

The BBC's progress towards its diversity commitments

What we learnt

275. Many stakeholders who provided feedback felt that the BBC had set out clear commitments to achieve its diversity responsibilities, and that the BBC had made progress towards meeting these commitments. They welcomed BBC initiatives to improve the way it reflects and represents different communities, including the Creative Diversity Commitment,¹⁸² the 50:50 The Equality Project¹⁸³ and the Across the UK initiative.¹⁸⁴
276. We also heard extensive feedback from stakeholders about the BBC's progress against its Diversity and Inclusion Plan for 2021-2023, which contains plans to

182 BBC, BBC's Creative Diversity Commitment, 2021.

183 BBC, 50:50 The Equality Project - Impact Report, 2022.

184 BBC, The BBC Across the UK, 2021.

build a workforce that is demographically reflective of the UK population.¹⁸⁵ The BBC's progress was of particular importance to stakeholders because people from a diverse range of backgrounds can bring different thoughts, experiences and opinions to the table, and can help the BBC to create content and services that are relevant to different communities across the UK. As set out in Figure Five, the BBC has made progress against some of its workforce diversity targets: it has reached a balance in its workforce between men and women, and the percentage of "Black, Asian and minority ethnic" staff (as described by the BBC)¹⁸⁶ has increased year-on-year since the current Charter was introduced. Representation of people from "Black, Asian and minority ethnic" backgrounds (as described by the BBC¹⁸⁷) in leadership roles

185 BBC, Diversity & Inclusion Plan 2021 - 2023, 2021.

186 BBC, Diversity & Inclusion Plan 2021 - 2023, 2021.

187 BBC, Diversity & Inclusion Plan 2021 - 2023, 2021.

As set out action 5 of "Inclusive Britain: government response to the Commission on Race and Ethnic Disparities" in 2022, the Government does not use the term "BAME" and encourages other bodies to do the same.

has also increased, but remains lower than representation at an all-staff level.

277. We heard that there are areas where the BBC has gone further than others in its efforts to reflect, represent and serve all communities. For example, the BBC has introduced a target of 25% of staff to be from lower socio-economic backgrounds by 2027, making it the first UK broadcaster to have a specific target for socio-economic diversity in the workforce.¹⁸⁸ The BBC reported on the representation of people from lower socio-economic backgrounds in its workforce for the first time this year.
278. However, as acknowledged by some stakeholders and Ofcom's Annual Reports on the BBC for 2021/22 and 2022/23, the BBC has further to go to meet some of its workforce diversity targets.¹⁸⁹ The percentage of disabled people in the BBC's workforce has decreased since the beginning of the current Charter period. As discussed in more detail in the rest of this chapter, we also heard concerns that the BBC has further to

188 BBC, BBC Annual Plan 2022/23, 2022.

189 Ofcom, Annual Report on the BBC: 2021-22, 2022; Ofcom, Annual Report on the BBC: 2022-23, 2023

go to ensure diversity of thought and opinion is reflected in its workforce.

Figure Five: Demographic makeup of the BBC’s workforce (2017 and 2023) and targets for workforce representation

	March 2017 ¹⁹⁰	March 2023 ¹⁹¹	Target for 2026*
Women	All staff: 48.2% Leadership: 42.1%	All staff: 50.1% Leadership: 49.0%	50%
Black, Asian and minority ethnic	All staff: 14.5% Leadership: 10.3%	All staff: 17.0% Leadership: 14.1%	20%
Disabled	All staff: 10.2% Leadership: 9.6%	All staff: 9.4% Leadership: 7.9%	12%
Low socio-economic background	All staff: N/A Leadership: N/A	All staff: 21.1% Leadership: 20.1%	25%

* Target for socioeconomic diversity is for 2026/27.

279. The BBC has informed us that it is committed to improving the representation of disabled people and people from lower socio-economic backgrounds in its workforce, and is taking part in several initiatives to

190 BBC, Annual Report & Accounts 2016/17, 2017.

191 BBC, Annual Report & Accounts 2022/23, 2023.

facilitate that improvement.¹⁹² This includes the TV Access Project, which focuses on improving accessibility for disabled people in productions, studios and facilities;¹⁹³ and an apprentice training scheme, with a target of 1,000 apprentices by 2025, 80% of which will be based outside London.¹⁹⁴

The Government's response

280. A BBC that accurately reflects, represents and serves the diverse communities of the UK is vital to the BBC meeting its objectives as a PSB. Having a diverse workforce is an important part of that: different thoughts, perspectives and backgrounds help create services and output that serve all audiences.

6.1 The BBC says it understands the importance of reflecting, representing and serving all communities and has set out a clear commitment to improving the diversity of the organisation, both on and off screen. We acknowledge the BBC's evidence that it has made good progress towards meeting its diversity commitments.

192 The Government does not use the term “lower socio-economic backgrounds”, but instead refers to people from disadvantaged backgrounds.

193 BBC, TV Access Project (TAP), 2023.

194 BBC, Annual Report & Accounts 2021/22, 2022.

281. The evidence shows that the BBC does have further to go to meet some of its workforce diversity targets. Its targets are set out in the Framework Agreement, and the BBC Board has a specific responsibility to oversee the BBC's plans to increase diversity within the organisation.

282. In its Annual Report on the BBC for 2021/22¹⁹⁵ Ofcom advised how the BBC can further improve the representation of some groups in its workforce. This included continuing to make progress on existing commitments and initiatives in order to improve workforce representation, providing updates to Ofcom to help it monitor progress, and to consider setting workforce retention targets to help retain staff and create a more inclusive workplace.

6.2 We expect the BBC to follow the advice set out in Ofcom's Annual Report on the BBC for 2021/22 to improve workforce representation of disabled people and people from lower socio-economic backgrounds.

195 Ofcom, Ofcom Annual Report on the BBC, 2021-22, 2022.

The role of the BBC Board in ensuring diversity of thought and opinion

What we learnt

283. As a result of our evidence gathering, we heard concerns that the BBC is not accurately reflecting diversity of thought and opinion across the organisation, and that some audience groups may feel underserved by the BBC as a result. As set out in earlier chapters, audience perceptions of the BBC on issues like impartiality have declined over time, and there is a risk that any lack of diversity of thought within the organisation could fuel negative perceptions and/or limit the BBC's own ability to best serve and represent audiences.

284. The BBC Board is responsible for ensuring diversity of thought and opinion is reflected both within the organisation and in how it serves the UK. Sir David Clementi noted that the BBC Board has an important role to play in representing the diversity of the public it serves,¹⁹⁶ and this is reflected in the

196 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

Framework Agreement. The BBC Executive also has a role: the Director of Diversity & Inclusion has strategic oversight of all of the BBC's diversity commitments, and is responsible for overseeing the development and implementation of workforce diversity initiatives, commissioning guidelines, diversity and inclusion training programmes and metrics to measure progress, reporting to the Chief People Officer.

285. We heard that it is important for the BBC to have a diverse workforce in order to ensure people with a wide range of different views about the world are reflected. Feedback highlighted that the BBC has experienced issues reflecting diversity of thought and opinion across the organisation. The recent external thematic review of the impartiality of BBC coverage of taxation, public spending, Government borrowing and debt found evidence of “lack of impartiality caused by uninformed groupthink” within the BBC,¹⁹⁷ and the Serota Review referred to the need for the BBC to “seek diversity of opinion and

197 Michael Blastland and Andrew Dilnot, Review of the impartiality of BBC coverage of taxation, public spending, Government borrowing and debt, 2022.

foster open editorial debate”.¹⁹⁸ The BBC has itself reflected on the need to ensure there is diversity of thought and opinion within the organisation: its 10-point action plan sets out an action for the BBC to challenge itself creatively to ensure it reflects a wide range of viewpoints,¹⁹⁹ and the BBC has commissioned internal content reviews to assess the BBC’s editorial standards and culture, including diversity of voices.²⁰⁰

286. The evidence shows that the BBC recognises the need to ensure a focus on diversity at a senior level. Furthermore, the BBC’s Director-General has said that the BBC Board and Executive Committee have discussed the need for “people with different backgrounds, different points of view [and] with different life experiences [to be] coming into the BBC”.²⁰¹ The BBC’s Director of

198 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021

199 BBC, Impartiality And Editorial Standards: BBC Action Plan, Incorporating the Response to the Serota Review, 2021.

200 BBC, BBC delivers progress on Impartiality Plan, 2022.

201 Culture, Media and Sport Committee, Oral evidence: The work of the BBC, HC 382, 2023.

Editorial Policy has also emphasised the importance of “people across the whole of [the BBC’s] audience [thinking] that their viewpoints are being expressed, challenged, heard and seen in output”. He stated that the BBC “does not subscribe to cancel culture”, meaning that even views which are considered controversial should be given a platform on the BBC.²⁰² These views are supported by information the BBC shared during evidence gathering for the MTR.

287. Reports indicate the BBC is considering ways to ensure that it is recruiting people with diverse opinions, to prevent homogeneity of views amongst employees.²⁰³ It is also investing in its Across the UK initiative to ensure the thoughts and opinions of people outside London are reflected within the organisation.

The Government’s response

288. A BBC that accurately reflects the diversity of thought and opinion that exists across the UK is vital. Our society is made up of people with

202 Communications and Digital Committee, Uncorrected oral evidence: BBC impartiality and editorial standards, 2022.

203 BBC, Annual Report for 2022/23, 2023.

a wide variety of perspectives and views, and audiences need to feel that their lives are accurately and authentically represented and portrayed by the BBC, both off screen and on.

289. We recognise concerns that diversity of thought and opinion may not be adequately reflected within the BBC. There is therefore a risk that the organisation is affected by groupthink, which could have an impact on the BBC's ability to fulfil its responsibilities to be impartial and deliver output and services that reflect diverse perspectives.
290. The BBC has reflected itself that an organisation with groupthink is unlikely to be accurately reflecting, representing and serving the diverse perspectives of communities across the UK. We note that it is considering ways in which it can take action to ensure that a diverse range of viewpoints are reflected in its workforce. The BBC Board has an important role to play in overseeing this work and reporting on progress as set out in the Framework Agreement. It is important that the BBC's ability to reflect diversity of thought and opinion is kept under review, and the Government will look again at the BBC's progress in this area as part of the upcoming Charter Review.

6.3 We expect the BBC Board to continue overseeing the organisation's plans to increase diversity, and to consider how diversity of thought and opinion could be better reflected in decision-making.

Audience engagement with underserved groups and transparency of reporting

What we learnt

291. We heard that the BBC Board and the BBC Executive Committee carry out different types of engagement activities with audience groups to understand their needs, so that this knowledge can be factored into decision-making. The BBC's Audience Team carries out in depth qualitative research sessions with audience members to gather feedback on services or explore specific issues.
292. Despite the BBC's work to engage with audiences, we heard that some audience groups still feel underserved by the BBC. Some stakeholders were unclear on what the BBC is doing to understand the needs of certain audience groups, specifically d/Deaf and disabled communities, and felt that there was sometimes a lack of

consultation between BBC decision-makers and representatives of these groups or the audience members themselves. There is also evidence from audience satisfaction data (as set out in the BBC's Annual Report & Accounts for 2022/23²⁰⁴) that some audience groups are less likely to feel represented by the BBC than others, such as disabled viewers, "Black, Asian and minority ethnic groups" groups (as described by the BBC), and people from lower socioeconomic backgrounds.

293. With regards to the transparency of the BBC reporting of diversity, evidence highlighted the importance of the BBC being transparent about its progress towards its diversity obligations so that stakeholders and Ofcom can hold it to account. We heard from stakeholders that the BBC has made progress in its approach to the reporting of diversity data since the start of the current Charter, although there were areas where it could go further.

294. The BBC is already required to provide detailed information to Ofcom on the diversity of its UK Public Services staff

204 BBC, BBC Group Annual Report and Accounts: 2022-23, 2023.

(both employees and freelancers) as a condition of its Operating Licence as set by Ofcom. This data is published each year in Ofcom's Annual Report on the BBC, Ofcom's report on Equity, Diversity and Inclusion in Television and Radio,²⁰⁵ and the BBC also publishes its own Equality Information Report.²⁰⁶ The BBC has recently voluntarily supplied Ofcom with workforce diversity data for each of the UK's four nations for the first time last year, making it the first broadcaster to provide Ofcom with diversity data split by geographic area.²⁰⁷ Ofcom also notes the BBC has made progress in collecting data on the socio-economic background of the BBC workforce, and how it communicates that data to Ofcom.²⁰⁸

295. The BBC collects data on the diversity of the content it commissions. This is important for understanding its progress towards its on screen diversity commitments, including

205 Ofcom, Equity, diversity and inclusion in television and radio: 2021-22, 2022.

206 BBC, Equality Information Report: 2022-23, 2023.

207 Ofcom, Annual Report on the BBC for 2021/22, 2022.

208 Ofcom, Annual Report on the BBC for 2020/21, 2021.

whether audiences are seeing authentic and diverse stories portrayed on screen. This data is published annually as part of the BBC's Diversity Commissioning Code of Practice Progress Report.²⁰⁹

296. The BBC also reports annually on data that measures the reach of content and the perceptions of viewers. This is broken down into different characteristics, including characteristics which are classified by the BBC as age, gender²¹⁰, ethnicity, socio-economic status, disability and geographical location by nation, and is important for understanding how the BBC is performing against its Mission and Public Purposes for different audience groups.
297. Ofcom has consistently raised the BBC's transparency in how it reports on audience satisfaction data as an area for improvement, and has previously asked the BBC to more clearly identify its less-satisfied audience groups and set out actions it has taken, or intends to take, to better meet their needs. The BBC provided information on audiences

209 BBC, BBC Diversity Commissioning Code of Practice Progress Report 2022/23, 2023.

210 The protected characteristics in the Equality Act 2010 include "sex" not gender.

which are ‘less satisfied’ with the BBC’s service, alongside further detail on how it is working to improve perceptions within these groups to inform Ofcom’s Annual Report on the BBC for 2020/21.²¹¹ In addition, the new Operating Licence makes it a requirement for the BBC to publish, at the same time as it publishes its Annual Plan, the steps it will take to improve audience satisfaction among these ‘less satisfied’ audiences. The BBC has also shared more detail on how it is developing a new approach to commissioning programmes to reflect all audience groups. For example, in November 2022, the BBC shared plans to commission more TV content aimed at audiences from lower socioeconomic backgrounds, including lighter drama, comedy drama, and sports documentaries, in efforts to improve audience satisfaction amongst these groups.²¹²

298. Despite evidence that the BBC has improved the transparency of its reporting on diversity in the areas discussed above,

211 Ofcom, Annual Report on the BBC for 2020/21, 2021.

212 The Guardian, BBC to produce ‘lighter’ content to attract Britons from poorer backgrounds, 2022.

some stakeholders felt that the BBC could go further, particularly with regards to the breakdown of workforce diversity data within the UK's four nations and level of seniority and job family, to enable them to identify areas for further improvement. Stakeholders felt looking at instances where several different characteristics apply, such as race/ethnicity and socio-economic background, would enable a more nuanced understanding of where underrepresentation is compounded. We note that Ofcom's 2022-23 annual report on Equity, Diversity and Inclusion in Television and Radio includes a breakdown of a number of combined characteristics for the first time.²¹³

299. The BBC is also required by the Operating Licence to report on its progress towards on-air representation and portrayal targets. We heard concerns from stakeholders that the BBC is not fully complying with this, as there is a lack of reporting on the BBC's on-air (radio) representation targets. However, we understand that the BBC is working to develop a system to measure on-air representation and expects to be able to

213 Ofcom, Equity, diversity and inclusion in television and radio: 2022-23, 2023

report against this target in 2023/24, and that Ofcom is keeping this under review.

The Government's response

300. The BBC has a specific duty in the Charter regarding the need to reflect underrepresented communities in its output and services, in order to provide a duly accurate and authentic portrayal and representation of the diverse communities of the UK. However, our evidence shows that some groups still feel underserved by the BBC. Effective engagement with these groups is crucial, as it may help the BBC to better understand their needs and reflect insight back into decision-making so it can ensure audiences' perceptions of the BBC are improved.
301. In light of the above feedback, the BBC could do even more audience engagement to increase its understanding of the thoughts, wishes and needs of the audience it serves, and then consider how that improved understanding can support output and services that are more representative of audiences. To enable audiences to hold it to account, the BBC should share information on actions it plans to take if it identifies

that more engagement is needed with underrepresented audience groups.

302. Additionally, the BBC has a general duty in the Charter to observe high standards of openness and seek to maximise transparency and accountability. It is therefore important that the BBC is sufficiently transparent in its reporting on progress against its diversity responsibilities so it can be held accountable for its performance in meeting its objectives. As above, the BBC has provided voluntary data to Ofcom and greater clarity on plans to improve perceptions of audience groups who are less satisfied with the BBC's service.
303. There are ways in which the BBC could choose to reflect stakeholder feedback, particularly on the reporting of workforce diversity data within the nations, although it is not the Government's position that private sector companies such as independent production companies, should be required to produce additional diversity data. Ofcom's 2021-22 report on Equity, Diversity and Inclusion in Television and Radio noted that publishing further workforce data may provide further clarity on whether the BBC's major employment hubs are representative

of local populations.²¹⁴ It is important that any greater granularity of reporting is useful and proportionate.

6.4 We expect the BBC to continue conducting appropriate engagement to understand the needs of specific audience groups, particularly groups who feel underserved. The BBC Board should keep this under review to ensure engagement is sufficient, and the BBC should set out how it plans to respond if it identifies that more is needed.

Audience engagement in the nations and regions

What we learnt

304. Some stakeholders raised concerns about the BBC no longer using Audience Councils to gather audience insight. Prior to the current Charter, there were Audience Councils for each UK nation. These acted as advisory bodies to the BBC Trust on how well the BBC was performing in the respective nations, provided input into the Trust's decision-making process, and identified emerging issues of importance to local audiences which informed the Trust's

214 Ofcom, Equity, diversity and inclusion in television and radio: 2021-22, 2022.

annual workplan. They were Chaired by the BBC Trust member for the relevant nation, with the support of independent external volunteers. These were replaced by 'Nations Committees' at the start of the current Charter, which play a broader role within the BBC's Governance, but also undertake targeted engagement with audiences within the nations, and are chaired by the respective BBC Board Member for the Nations without a role for external involvement.

305. Some stakeholders raised concerns that since the Audience Councils were disbanded, important opportunities for the senior decision-makers at the BBC to engage with audience members and stakeholders in the nations have been lost. Some felt there was no longer enough consultation. Others felt the mechanism through which the BBC Board takes the views of audience members and stakeholders on board was no longer clear, and were concerned that the Nations Committees did not feature the independent voices of individuals who were external to the BBC.
306. On the other hand, we also saw evidence that engagement with audiences remains a priority for the BBC Board and for the

Nations Members themselves. We heard that the BBC's Nations Committees undertake a variety of different techniques to better understand the thoughts and needs of audiences in the UK's nations and regions, and the information gathered was fed back into Board decision-making by those Nations Members. The appointment of Michael Smyth KC OBE as the Member for Northern Ireland on 20 July will help ensure that the perspectives of audiences in Northern Ireland are understood and reflected back into decision-making.

The Government's response

307. We have seen evidence that engagement with audiences in the UK's nations and regions is a priority for the BBC, and that the BBC Board has mechanisms in place to conduct targeted engagement sessions with members of the public. We have also seen evidence of how the insight gained from this engagement is factored into decision-making. However, some of the confusion around roles and responsibilities does highlight that the BBC is not sufficiently transparent about the engagement its Nations Members are carrying out with audiences in the nations and regions. It is important for audiences

to have a clear understanding of the engagement that the Nations Members are carrying out in the nations, particularly as engagement with audiences is a duty set out in the Charter, and the BBC has a general duty to seek to maximise transparency for licence fee payers.

308. It is also important for audiences in the nations to have an understanding of how their feedback has been taken on board. In the interest of transparency, it is important that the BBC continues sharing evidence of how it is responding to stakeholder feedback across the UK's nations.

6.5 We recommend that the BBC's Nations Members publish more detailed retrospective information about the engagement they have carried out with diverse communities within the nations, as well as priorities for future engagement. Ideally, this information would include information on engagement with audience members, representative organisations and industry experts. Doing so will allow audiences to continue to understand what engagement has taken place.

Ofcom's role as regulator

What we learnt

309. Ofcom has set out conditions in the BBC's Operating Licence that require the BBC to share information on how it is meeting Public Purpose 4. These conditions require the BBC to report on, among other things, the extent to which it has made progress towards meeting its representation and/or portrayal targets including its on screen and on air targets, audience satisfaction and the diversity of its workforce, and compliance with the Diversity Commissioning Code of Practice²¹⁵. Ofcom reports annually on the BBC's compliance with its licence conditions and articles 12 and 13 of schedule 3 to the Framework Agreement. Many stakeholders who submitted evidence to the MTR felt that the current regulatory arrangements with regards to diversity were working well. However, some stakeholders felt that Ofcom could have enhanced powers to better hold the BBC to account on progress towards its diversity objectives, for example by being

215 BBC, BBC Diversity Commissioning Code of Practice

able to sanction the BBC for not meeting its own self-defined diversity commitments.

The Government's response

310. As noted in Sir David Clementi's 2016 review²¹⁶, the independent scrutiny provided by effective regulation is important for holding the BBC to account for its performance and ensuring it is fulfilling the obligations placed upon it by the Charter. Based on the evidence we have received, we believe that the current regulatory arrangements are appropriate. The BBC is already required to report to Ofcom annually on its progress towards its diversity obligations, and Ofcom uses its public reporting to hold the BBC to account on its performance on diversity, identify areas of concern and advise the BBC on how to improve.

311. Ofcom has used this mechanism to request that the BBC improves the transparency of its reporting on diversity by sharing additional data and information with Ofcom. The BBC has always complied with Ofcom's requests for further information, and has voluntarily provided Ofcom with information

216 Sir David Clementi, [A Review of the Governance and Regulation of the BBC](#), 2016.

such as plans to better meet the needs of less-satisfied audiences, and to provide more granular data on the diversity of the BBC workforce in the nations and regions. The new Operating Licence now requires the BBC to publish the steps it will take to improve the satisfaction of less satisfied groups.

312. It is important that Ofcom's regulatory powers strike the right balance between being too prescriptive and allowing the BBC to maintain its independence. In many cases, it is more appropriate for Ofcom to allow the BBC to determine for itself the best ways in which to provide its output and services. Our view is that giving Ofcom additional powers would stray beyond what is appropriate for Ofcom's remit, and would not be proportionate to the regulatory arrangements in place for other PSBs.

6.6 We conclude that Ofcom does not need any additional powers to regulate the BBC's obligations with regards to diversity, such as giving Ofcom the ability to sanction the BBC in the event it does not meet targets and commitments it has set for itself.

Chapter 7: Transparency

Background

313. Following the 2015/16 Charter Review²¹⁷, one of the ambitions of the current Charter was to enhance the BBC's transparency²¹⁸. Transparency therefore lies at the heart of the BBC's responsibilities in the Charter. In addition to specific transparency requirements associated with various elements of the BBC's activities, the BBC has a general duty in article 12 of the Charter to observe high standards of openness and seek to maximise transparency and accountability. The BBC Board has responsibility for ensuring the BBC has a plan for how it will comply with the general duty.

314. This emphasis on transparency also flows into Ofcom's responsibilities as the BBC's independent regulator. Following Sir David Clementi's recommendations, article 46 of the Charter requires Ofcom to issue both an Operating Framework, the overall

217 UK Government, A BBC for the future: a broadcaster of distinction, 2016.

218 UK Government, BBC Royal Charter, 2016.

framework within which the BBC operates, and one or more Operating Licences that set out in detail the obligations placed on the BBC's activities, to help hold the BBC to account for its delivery in that area in an open and transparent way.²¹⁹ Article 50 of the Charter also now requires Ofcom to provide a full account of how the BBC has met certain responsibilities for which Ofcom has oversight as regulator.²²⁰

The BBC's progress

What we learnt

315. As Ofcom set out in its review of BBC regulation, as a publicly funded body it is critical that the BBC sets out how it is meeting audience needs and responding to their concerns. Ofcom has regularly raised issues about the BBC's transparency, including about how it articulates its plans for changes to its services, how it reports on performance and how it makes decisions on content standards and complaints

219 Sir David Clementi, A Review of the Governance and Regulation of the BBC, 2016.

220 UK Government, BBC Royal Charter, 2016.

handling (particularly with respect to due impartiality).²²¹

316. Ofcom also recognised that the Serota Review explicitly noted the importance of improving transparency of the BBC’s operations overall. It stated that as a “publicly funded organisation in a society that is increasingly open, the BBC must continue to seek opportunities to enhance transparency still further.”²²²

317. Ofcom’s 2022 review did note some improvements in the BBC’s transparency since 2017. It concluded that the BBC made the Director General’s strategic priorities clear in its Annual Report and Accounts for 2020/21, and that it has seen better reporting on iPlayer and Sounds.²²³ But the review also reiterated ongoing concerns that the BBC needs to “do much more to engage in a meaningful and transparent way with the public, other stakeholders, and with Ofcom”, Ofcom subsequently published

221 Ofcom, How Ofcom regulates the BBC, 2022.

222 Sir Nicholas Serota, The Serota Review: BBC Editorial Processes, Governance, and Culture, 2021; Ofcom, How Ofcom regulates the BBC, 2022.

223 BBC, BBC Annual Report and Accounts 2020/21, 2021.

an updated Operating Licence for the BBC in March 2023.²²⁴ For the first time, the Operating Licence requires the BBC to comprehensively report on its plans and performance. It imposes strict and detailed requirements specifying what the BBC needs to report, and when. These compel the BBC to set out extensive information with its Annual Plan about how it will deliver for audiences, including total broadcast hours and hours of new content, by genre. The BBC must then evaluate whether it has delivered on those plans, as part of its Annual Report and Accounts.²²⁵ The BBC's reporting against its transparency requirements under the new Operating Licence will form a key element of Ofcom's performance assessment in the next year. Most recently, in its sixth annual report on the BBC, Ofcom concluded that as the BBC transforms, it must provide more clarity to audiences about what it is doing and why, to help audiences understand the reasons behind changes²²⁶.

224 Ofcom, Statement: Modernising the BBC's Operating Licence, 2023.

225 BBC, Group Annual Report and Accounts, various years.

226 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

318. We also heard during evidence gathering that transparency is not simply a matter of publishing more information. This can sometimes be counterproductive, for example, because it can lead to publication of data that is too narrow to allow for robust conclusions, or the publication of too much information which can be difficult for audiences to navigate.
319. We heard that for some audiences a long and comprehensive Annual Report is a useful product that enables the BBC to explain its strategy, and for audiences to be able to scrutinise the BBC. However, we also heard reflections that for other audiences, a long and detailed Annual Report may inadvertently lead to audiences feeling less able to engage with the BBC.

The Government's response

320. We acknowledge that the BBC continues to consider how to be more transparent, that the Board takes its duties in the Charter seriously, and there is evidence of improvements as set out above. However, there is also significant evidence that the BBC needs to go further. Where the BBC does go further on transparency, it should continue to think about how it can best tailor

its efforts to ensure audiences are effectively engaged. Any additional transparency or changes to how information is made public needs to result in real benefits - it must be of value to those that it is intended for.

321. We have no information about whether the new transparency requirements in Ofcom's modernised BBC Operating Licence have had significant impact as they only took effect on 1 April 2023.²²⁷ However, we expect to see its assessment as it starts to report on the BBC's compliance with the Operating Licence as a whole, for example as part of its next annual report on the BBC.

Communicating service changes to audiences

What we learnt

322. During the evidence gathering phase of this review, Ofcom published an exchange of letters with the BBC about local radio and world news alongside publication of the modernised Operating Licence. Ofcom's letter reflected on the BBC's announcement in July 2022 to create one 24-hour news

227 Ofcom, Statement: Modernising the BBC's Operating Licence, 2023.

channel to replace the current BBC News UK channel and BBC World News in July 2022, and the BBC's more recently announced plans to transform its local services in England, including changes to BBC local radio services. The letter stated that Ofcom was disappointed by the lack of detail and clarity contained within the BBC's announcements about the changes to its provision of local content and news:

“The absence of important information has resulted in a lot of uncertainty for audiences who are not clear about what the changes will mean in practice for the services they use. We have had to request a significant volume of additional information from the BBC in order to understand the changes and believe some of this could have been avoided had the BBC set out much clearer plans from the start.”²²⁸

323. Similarly, DCMS Ministers in both Houses of Parliament expressed at the dispatch box their disappointment about the proposed changes to BBC local radio services. There have also been several instances over the Charter period where a lack of effective

228 Ofcom, Statement: Modernising the BBC's Operating Licence, 2023.

transparency in engaging the public has been highlighted in the media and by Parliamentarians. For example, perceptions that the BBC had failed to explain how it was dealing with complaints about the anti-semitic incident on a bus on Oxford Street at the end of 2021 in the face of significant public pressure received widespread media coverage. The announcement of the closure of BBC Singers led to Parliamentary discussions and media reports raising concerns about how the decision had been made and communicated, including internally within the BBC.

The Government's response

324. When considering how the BBC communicates with audiences, it is our view that the BBC should be held to a higher standard than other organisations given the extent of its public funding. This higher standard needs to go beyond publication of more data and information, to straightforward and open communication with audiences. The BBC Board has overall responsibility for ensuring that the BBC communicates changes that have an impact on audiences effectively with those audiences. This has to be accompanied by equally effective

communication with its workforce. Evidence received indicates that the BBC has not always achieved this.

7.1 We recommend that the BBC continues to learn from recent experiences where announcements about service changes have led to criticism about the BBC's approach to transparency.

7.2 We also recommend that the BBC publishes details of its strategy for communicating with audiences which explains improvements to its communications approach already made, but also how it identifies any changes needed so that audiences and staff can be confident that future service changes and their impact will be explained clearly.

Understanding audience needs

What we learnt

325. During evidence gathering, many stakeholders made proposals regarding how the BBC could improve its transparency in specific ways to help audiences hold it to account. All of these proposals related to individual specific themes in previous chapters. Ofcom's research suggests that there are perception issues with the BBC's impartiality that more effective transparency could help address.

The Government's response

326. It is important that licence fee payers do not just have the opportunity to shape the services that the BBC provides, but that they also have the opportunity to tell the BBC how they would like the BBC to be more transparent.

7.3 We recommend that the BBC looks at what information audience members find valuable to hold the BBC to account, including through audience engagement. We recommend the BBC publishes information about what it has heard in these sessions and how it intends to respond, to show it takes the principle of audience members holding the BBC to account seriously. We will assess the BBC's transparency in the information it provides for audiences as part of Charter Review.

Ofcom's transparency as regulator

What we learnt

327. We did not receive any specific feedback on the question of Ofcom's overall transparency as regulator. Ofcom sets out its regulatory activity regarding the BBC, where appropriate, in a number of different ways:

- Where Ofcom is undertaking an own-initiative BBC project, it will set this out in

its Annual Plan of Work²²⁹ and report on progress in its annual report on the BBC's performance.

- Where timings mean it is not possible to include a specific project in its Annual Plan of Work, Ofcom will look to publish the scope of that work it intends to undertake separately.
- There are also cases where Ofcom is not in a position immediately following a BBC announcement to say precisely what action it might take, as for example, it may first have to obtain more information from the BBC first. However, it will often refer to action taken when providing an update on a specific issue, such as in its letter about changes to BBC services published alongside the updated Operating Licence in March 2023.²³⁰

The Government's response

328. It is important that Ofcom ensures audiences and stakeholders understand why and how it holds the BBC to account. This needs to include how all elements of Ofcom's work

229 Ofcom, Annual Plan of Work 2023-24, 2023.

230 Ofcom, Statement: Modernising the BBC's Operating Licence, 2023.

fit together to create a coherent whole, and the points at which it may make further conclusions about the BBC's performance based on new research. It also needs to include the impact that Ofcom's regulation has. We note that Ofcom explains its responsibilities, regulatory work programme and priorities, and the associated results, in a variety of different ways, depending on the situation. We do not intend to recommend specific changes to this approach, as we recognise there is no one-size fits all approach to explaining such work.

7.4 We recommend that Ofcom continues to maintain a high level of transparency in how it scrutinises the BBC, making clear at the outset when explaining how it intends to examine a specific issue, what that will look like in practice e.g. the regulatory mechanisms and processes it will use, and anticipated timescales for completion.

Chapter 8: Next Steps

329. The Government believes that the BBC is a vitally important British institution and we want it to continue contributing to British life. We are committed to working with both the BBC and Ofcom to ensure that the BBC is able to adapt to a changing broadcasting landscape and remain sustainable for decades to come. The MTR is therefore an important milestone in the Government's wider roadmap of BBC reform, providing a timely opportunity to assess the effectiveness of the organisation's governance and regulatory arrangements at the half-way point of the Charter period.

Recommendations and Updating the Framework Agreement

330. The MTR makes 39 recommendations for the BBC and Ofcom. Taken together, the package will support improvements in the ways the BBC's governance and regulation are functioning to facilitate the BBC's delivery of its Mission and Public Purposes. Most of these recommendations are for the BBC and Ofcom to now take forward. The Government expects their timely implementation, and

will check their progress through the regular engagement DCMS has with both organisations. The BBC and Ofcom will also need to consider how they publicly report on the delivery of these reforms so that licence fee payers and Parliament are kept informed of progress.

331. There are specific recommendations that require implementation through changes to the Framework Agreement, which can be made during the Charter period, subject to the agreement of the Secretary of State and the BBC/Ofcom. To implement the relevant recommendations of the MTR, the Framework Agreement will be updated to:
- Require Ofcom to regulate the BBC's online public service material;
 - Give the BBC Board explicitly responsibility for overseeing the BBC Executive's handling of complaints;
 - Require Ofcom to regularly review a representative sample of the Executive Complaints Unit's decisions at Stage 2 that have not been escalated to Ofcom, and report publicly on a summary of its findings;

- Allow Ofcom the discretion over whether or not to conduct a BBC Competition Assessment (BCA), or a shorter assessment following a BBC Public Interest Test (PIT);
 - Give Ofcom the power to use a shorter assessment to approve a BBC change; and
 - Ensure that new BBC services are not automatically considered ‘material’ changes.
332. DCMS, the BBC and Ofcom are working together to develop these new legal requirements, and the Government will publish the changes as soon as possible.

Looking Ahead To Charter Review

333. The next Charter Review will be the culmination of the Government’s roadmap for reform of the BBC ahead of the current Charter ending on 31 December 2027. It will be a significantly broader process than the MTR, considering the BBC’s Mission and Public Purposes and the Funding of the BBC.
334. The MTR has, nevertheless, been a useful process for introducing necessary reform now, but also in enabling the Government,

BBC and Ofcom to better prepare for Charter Review. It has identified a number of significant areas which will require further consideration at Charter Review, to ensure the BBC and Ofcom have continued along a journey of continuous improvement.

How the MTR Will Inform Charter Review

335. The MTR has brought together evidence from a wide range of stakeholders, and facilitated constructive, open and frank conversations between the Government, the BBC and Ofcom. This has resulted in recommendations for significant material and meaningful change. It has been a valuable exercise, and will continue to be useful as we prepare for Charter Review. Building on what we have heard from stakeholders and our own research throughout the process, learnings from the MTR will inform the next Charter Review in three vitally important ways.
336. Firstly, during the course of our evidence-gathering, we encountered some issues that were not in the scope of this Review, as defined by its Terms of Reference in line with Charter. For example, in the **Diversity**

theme, we heard concerns that the BBC has not sufficiently devolved its decision-making away from London, and in the **Competition and Market Impact** theme, we heard from some stakeholders that felt the BBC should be further constrained in the market impact that it can have.

337. Given that these are important points raised by stakeholders, the Government will instead look at them as part of the next Charter Review process. The Charter Review will provide an opportunity to assess the BBC's progress on its 'Across the UK' strategy, published in March 2021, including looking at how successfully the BBC has delivered on plans to move power and decision-making away from London and into the nations and regions. Further detail about how we intend to look at issues arising from the **Competition and Market Impact** theme is below.
338. Secondly, we identified some areas where the BBC is in the process of implementing changes and, at the time of the MTR, it was too early to evaluate them fully.
339. Notably, in the **Commercial Governance and Regulation** theme, we concluded that the refresh of the BBC's Commercial Board

was encouraging. However, given that the changes are still bedding in, the MTR was not able to assess the efficacy of this refresh. As part of Charter Review, we will therefore revisit the BBC Commercial Board, and assess whether the move to a more balanced Board with greater commercial expertise has supported the BBC's plans to grow its commercial arm.

340. In the **Editorial Standards and Impartiality** theme, we note the BBC has now completed implementation of its 10-point action plan.²³¹ The Board must ensure ongoing, detailed, timely reporting of progress. Given the importance of impartiality in the social contract between the BBC and licence fee payers, and the need for the BBC to make clear and continued progress on its 10-point action plan, the Government will assess progress at Charter Review. This will include an assessment of how the BBC has responded to Ofcom's challenge that it needs to maintain its focus on impartiality to maintain audience trust. We will also assess how the commitments from the plan are being embedded into the wider processes of

231 Ofcom, Ofcom Annual Report on the BBC 2022-23, 2023.

the organisation in the longer-term, beyond the delivery of the plan itself. It will also be important to carefully monitor the impact of the BBC's implementation of the new social media guidance, published in September 2023.²³²

341. In the **Diversity** theme, we saw evidence that the BBC is not accurately reflecting diversity of thought and opinion across the organisation. The BBC has itself recognised that this is an area for improvement, and is considering ways in which it can take action to ensure diversity of thought and opinion is reflected in its workforce. This includes considering ways to ensure that the BBC is recruiting people with diverse opinions, and investing in the Across the UK initiative to ensure the thoughts and opinions of people outside London are reflected. It is too early to evaluate the impact of the BBC's proposed changes in this area. As part of Charter Review, the Government will also assess whether the BBC's plans to increase diversity of thought and opinion across the organisation have been effective

232 BBC, Guidance: Personal Use of Social Media, 2023.

in addressing the concerns raised by stakeholders in the course of the MTR.

342. Finally, we received a wide range of feedback during the evidence gathering process which highlighted legitimate questions around whether the current Mission and Public Purposes of the BBC are calibrated in a way that best delivers for audiences. We will return to these questions at Charter Review when we undertake a comprehensive evaluation of the BBC's Mission and Public Purposes.
343. Following the conclusions of the **Governance** theme, the Government will look again at the BBC's governance arrangements and make another assessment about how effectively they are working, incorporating further evidence from the latter half of the Charter period. This will include assessing the BBC's progress against the results of both internal and external BBC Board Effectiveness Reviews.
344. Following the conclusions of the **Complaints** theme, the Government will look again at the BBC First model to inform our assessment of whether the BBC has the right complaints model in place. This will be informed by the results of Ofcom's updated research.

345. Finally, following the conclusions of the **Competition and Market Impact** theme, the question of how the correct balance between the BBC's ability to deliver for all audiences and support the creative economy will be an important focus. We will examine the BBC's role in the wider market, including how the regulatory framework may need to evolve to reflect shifts in technology and consumer behaviour, as part of our work in the next Charter Review. We have set out that the BBC must clearly demonstrate how it effectively balances the needs of audiences, and the impact on competitors when making decisions about how its services and output are distinctive. Reflecting on this, and the evidence we have received, the BBC's distinctiveness will be a key aspect of our ongoing work ahead of the next Charter Review.

Annex A: Terms of Reference

These Terms of Reference have been produced by the Department for Digital, Culture, Media and Sport (DCMS) following consultation with the BBC, Ofcom and each of the Devolved Administrations in accordance with article 57 of the Royal Charter.

Purpose

The BBC is established by Royal Charter. Following the Charter Review in 2015/16, new governance and regulatory arrangements for the BBC were established: governance of the BBC would be conducted by a new unitary Board under article 19 of the new Charter, while regulation would pass to the independent regulator Ofcom under article 44.

Article 57 of the Charter allows the Secretary of State for Digital, Culture, Media and Sport to conduct a Mid-Term Review focussing on the governance and regulatory arrangements for the BBC. The Mid-Term Review must be completed between 2022 and 2024.

This review aims to examine and assess how effectively the governance and regulation arrangements of the BBC are performing at the half-way point of the BBC Charter.

Objectives

The objectives of the Mid-Term Review are to:

Examine whether the governance arrangements established during Charter Review 2015/16 and enshrined in the current Charter and Framework Agreement are effective in enabling the BBC to deliver on its Mission and Public Purposes.

Examine whether the regulatory arrangements established during Charter Review 2015/16 and enshrined in the current Charter and Framework Agreement are effective in enabling the BBC to deliver on its Mission and Public Purposes and reviewing the evidence as to how ensuring Ofcom can successfully hold the BBC to account.

Make recommendations, as appropriate, for changes to these arrangements during the current Charter period, and as necessary, for further consideration at the next Charter Review.

In conducting this Mid-Term Review, the Government remains committed to upholding the independence of both the BBC and Ofcom.

Scope and key considerations

The scope of this review is to consider how the key changes to the BBC's governance and regulation arrangements made through the current Charter have been implemented, and in particular whether they have successfully enabled the effective delivery of the BBC's Mission and Public Purposes across the UK, including each of its Nations and globally, the successful discharge

of the BBC's General Duties and that specific functions of the BBC Board and Ofcom as set out in the Charter and Framework Agreement have been undertaken. In considering these issues the review may look at regulatory and governance best practice. The review will have a particular focus on the following issues:

- Editorial standards and impartiality: assessing the effectiveness of the BBC's governance mechanisms (including changes made in the light of the Serota Review) in ensuring compliance with its editorial standards including impartiality requirements, and the regulatory arrangements for the enforcement of the BBC's content standards
- Complaints: the way the BBC handles complaints through its BBC First system, the Editorial Complaints Unit (ECU), transparency of complaints resolution, and Ofcom's framework for assessing BBC complaints as part of ensuring effective oversight of the BBC and its relationship with licence fee payers
- Commercial governance and regulation: whether the governance and regulatory arrangements of the BBC's commercial subsidiaries ensure the effective functioning of the BBC's commercial subsidiaries in accordance with its Charter obligations and appropriately support the BBC's ability to maximise revenue in support of its public service activities
- Competition and market impact: evaluating how the BBC and Ofcom assess the market impact and public

value of the BBC in an evolving marketplace and how that relates to the wider UK media ecology, including with regard to commercial radio and local news sectors and other content makers and distributors

- Diversity: evaluating how well the BBC's governance arrangements deliver on the duty for the BBC and its output to reflect the entirety of the whole United Kingdom, including how it ensures diverse perspectives and interests are taken into account, and its duty to enter partnerships with other organisations throughout the UK, and also the extent of Ofcom's regulation of these requirements
- Transparency: assessing the way in which BBC governance mechanisms support the BBC's duty to demonstrate high standards of openness and transparency in the BBC's reporting of progress against key commitments and performance against the above themes, and the extent of Ofcom's regulation of that transparency

As set out in article 57 (4) of the Charter the Mid-Term Review must also consider any relevant reviews carried out by Ofcom under article 51 of the Charter (i.e. Ofcom's review of BBC regulation), and its assessment of the BBC's performance over the Charter period so far contained in its Annual Report on the BBC 2020-2021. This should not unnecessarily delay the implementation of any changes proposed as a result of Ofcom's review.

As set out in the Charter, the scope of the Mid-Term Review is limited and must not consider the Mission of the BBC; the Public Purposes of the BBC; or the licence fee funding model of the BBC for the period of this Charter.

Process

As required by the Charter, the Secretary of State for Digital, Culture, Media and Sport has consulted the BBC, Ofcom and ministers of the devolved administrations in the formulation of these Terms of Reference.

The review will be conducted by officials from DCMS.

DCMS will seek information and other assistance from the BBC and Ofcom in connection with the review. DCMS will also seek information from specific third parties as appropriate, such as key stakeholder bodies with an interest in how the BBC is governed and regulated, including those based in the UK nations. DCMS may also consider commissioning external research as required.

DCMS will work with the BBC, Ofcom and the Devolved Administrations throughout the Mid-Term Review, and will consult them on conclusions before the review is finalised. The final conclusions and associated recommendations shall be for ministers. Any subsequent updates to the Framework Agreement shall require agreement between the Government and the BBC, together with Ofcom's input where relevant to their remit.

In addition to these Terms of Reference, relevant correspondence and the outcome of the Mid-Term Review will be made publicly available.

Any other material, including details of individual submissions by stakeholders and notes of any subsequent discussions with stakeholders shall remain confidential unless agreed for publication by DCMS Ministers and the relevant organisations.

Timing

We will seek to complete the review at pace, within 12 months.

Outcomes

The review will conclude with a publication summarising the evidence in respect of the current governance and regulation of the BBC, and setting out the Government's resulting conclusions.

The report may make recommendations for changes to the governance and regulatory arrangements for the BBC as set out in the Charter and Framework Agreement.

Annex B: List of stakeholders who engaged with the MTR

- The MTR received evidence from the following stakeholders:
- The BBC and those with previous experience of the BBC's governance and regulatory structure
- Ofcom
- The Welsh Government
- The Scottish Government
- The Northern Ireland Department for Communities
- Ofcom's Advisory Committee for England
- Ofcom's Advisory Committee for Wales
- Ofcom's Advisory Committee for Scotland
- Ofcom's Advisory Committee for Northern Ireland
- Commercial, On-Demand and Broadcasting Association (COBA)
- Underlying Health Condition
- Hartswood Films
- Directors UK
- Voice of the Listener and Viewer (VLV)
- News-Watch

- Disability Action
- MG ALBA
- ITV plc
- News UK
- Radiocentre
- News Media Association (NMA)
- Newsquest Media Group
- National World plc
- Iliffe Media Group
- Midlands News Association
- Teledwyr Annibynnol Cymru (TAC)
- Audio UK
- Scottish Newspaper Society
- Social Mobility Foundation
- Broadcasting, Entertainment, Communications and Theatre Union (BECTU)
- Professional Publishers Association (PPA)
- Baylis Media Ltd
- Producers Alliance for Cinema and Television (PACT)
- BT Group plc
- Sky Group Ltd

- A wide range of academics and subject matter experts

We would like to thank everybody who provided evidence to inform the MTR for their contributions.

Annex C: List of the MTR's conclusions and recommendations

Governance

1.1 We conclude that the unitary board model has been effectively implemented and is working well. Issues raised during the course of the MTR can be addressed within the current governance framework.

1.2 We recommend that the Board keeps the information it receives under regular review so that it continues to maximise its ability to make decisions on the right balance of information.

1.3 We conclude that the sub-committee structure adds value, with clear delegated powers from the Board, and the vast majority of the committees are delivering effectively.

1.4 We conclude that the Board is fulfilling its reporting responsibilities effectively.

1.5 We welcome the positive feedback received about the induction process for new NEMs.

1.6 We recommend that the BBC Board, including the NEMs, play an active role in monitoring the impact of work to ensure the Board is sufficiently visible to staff in the rest of the organisation.

1.7 We recommend that the BBC publishes information to explain how it ensures the editorial whistleblowing policy and process continues to deliver effectively.

1.8 We recommend that the BBC's Annual Report and Accounts continues to summarise the conclusions of future external Board effectiveness reviews, and summarises the conclusions of future internal Board effectiveness reviews, and confirms how recommendations are to be taken forward.

1.9 We will look again at how the BBC's governance has evolved, and how the BBC has evaluated the effectiveness of that governance, during the next Charter Review. We expect the BBC to provide us with sufficient information to do that in due course, including internal documentation.

Editorial Standards & Impartiality

2.1 The impartiality of the BBC, as a publicly funded broadcaster, goes to the heart of the contract between the Corporation and all the licence fee payers whom it serves.

2.2 We recognise that the concept of impartiality is complex. We conclude that there is clear evidence that adherence to impartiality and editorial standards is now at the heart of the BBC's priorities, but also that the BBC and Ofcom need to continue to strive to fulfil their responsibilities.

2.3 We recommend that the Board ensures detailed, timely reporting of progress against the 10-point action plan's commitments, with clear deadlines and milestones, impact, and more detail on how it intends to respond to Ofcom's challenge that the BBC needs to maintain its focus on impartiality to maintain audience trust, and how commitments are being embedded in long-term plans. We intend to assess progress during the next Charter Review.

2.4 We also recommend that the effectiveness of the EGSC external Editorial Advisers is kept under review by the BBC to ensure they continue to have the right powers to fulfil their responsibilities, and that this is reported on regularly as part of the BBC's wider work to provide updates on its impartiality efforts.

2.5 We recommend that the BBC continues to ensure it has the right governance structures to drive its work on implementation of the 10 point action plan and long-term continuous improvement. We will assess whether this has been the case as part of Charter Review.

2.6 It is right that the BBC commits to undertaking internal content reviews. We recommend the BBC publishes more information about the methodology used to undertake its internal content reviews.

2.7 We recommend that the BBC publishes a summary of the key themes emerging from a set of internal content reviews, on an annual basis, including how the BBC is taking action as a result.

2.8 We recommend that the BBC continues to set out in the public domain the methodology for its external thematic reviews.

2.9 We recommend that Ofcom continues to be consulted by the BBC on potential topics for future external thematic reviews.

2.10 We recommend that the BBC publishes information about what its *Safeguarding Impartiality* training includes, how it is conducted and intended outcomes.

2.11 We agree that Ofcom should have early notification from the BBC of potential serious editorial breaches, and note that a protocol has been developed between the BBC and Ofcom to underpin this change. We recommend that the BBC considers how best to make this commitment clear to audiences.

2.12 We recommend that EGSC members continue to meet Ofcom at a working level every six months.

2.13 We also recommend that the Chair of the EGSC and the two independent expert advisers attend a meeting of the Ofcom Content Board annually, and a summary of the discussions at that annual meeting is published.

2.14 We will extend Ofcom's regulatory responsibilities to elements of the BBC's online public service material, and make changes to the Framework Agreement in order to implement this policy.

2.15 We recommend that Ofcom continues to discuss research methodology relating to impartiality (particularly audience perceptions) widely ahead of future research to maximise consensus.

Complaints

3.1 We will review the complaints process at Charter Review and consult on alternative models to BBC First. We will invite the cooperation of both the BBC and Ofcom in this process.

3.2 We will amend the Framework Agreement in line with the BBC's proposal to give the BBC Board explicit responsibility for overseeing the Executive's handling of complaints.

3.3 Following the Government's request to the BBC that it considers moving the reporting line from the ECU, the BBC has created a direct reporting line between the Director of Editorial Complaints and Reviews and the Director General.

3.4 Following the Government's request to the BBC that it considers giving the EGSC a more enhanced, active role, the BBC has committed to both giving the EGSC greater oversight of the complaints process (including the processes of the ECU), and the ability to commission research to improve the EGSC's access to information.

3.5 We recommend that Ofcom conducts regular reviews of a representative sample of the ECU's complaints

decisions and makes public a summary of its findings. This new regulatory function will be made a formal requirement through an amendment to the Framework Agreement.

3.6 We conclude that Ofcom has a role to play in raising awareness of BBC First, and recommend Ofcom collaborates with the BBC on relevant initiatives to improve awareness. We recommend that Ofcom's future research into BBC First should seek to better understand which specific audience groups have lower awareness of BBC First, and that Ofcom and the BBC should work together on strategies to better enfranchise relevant groups within the complaints process.

3.7 It is right that the BBC has produced video content explaining how the BBC handles complaints. We recommend that the BBC continues to find creative means to communicate what the complaints process delivers - both for the Corporation and for audiences - to increase confidence in, and audience engagement with, BBC First.

3.8 It is right that the BBC has committed to consistently and clearly flagging to a complainant what their next step might be in its response to complaints at each stage.

3.9 We recommend that Ofcom and the BBC work together to better communicate to complainants their respective roles in the complaints process. We encourage creative approaches to ensure the information is digestible for complainants.

3.10 We conclude the BBC's approach to Stage 1A is proportionate, and recommend that the BBC continues to make clear to complainants what kind of response they can expect at each stage of BBC First. The BBC must continue to make appropriate use of its procedures to fast-track editorial complaints on a case-by-case basis.

3.11 It is right that the BBC has committed to improving the quality of responses at Stage 1B, and removing tones of defensiveness. We recommend that the BBC continues to address the wider defensive culture highlighted by the Serota Review, and reflect this in its guidance for editorial teams to ensure Stage 1B replies reflect an openness to learning from complaints.

3.12 We note that Ofcom has recently increased the BBC's complaints reporting requirements. It is right that these changes are made to increase the transparency of the BBC's complaints decision-making.

3.13 We recommend that the BBC makes public information about how the ECU makes fair decisions that are both independent from programme-makers, and independent from the organisation's reputational interests, in order to increase licence fee payer's confidence in both Stage 2 and BBC First more broadly.

3.14 We note that, following the Banatvala report, the BBC has sought to increase the diversity of the ECU. The Corporation's ongoing commitment to further increase diversity in complaints handling is sensible.

3.15 It is helpful that Ofcom has committed to review BBC First again before Charter renewal. We recommend Ofcom engages with stakeholders on the approach and scope of any quantitative research that will form part of that review.

3.16 It is helpful that Ofcom has committed to conducting further mystery shopper research on BBC First. We recommend this continues on a regular basis, and the results feed into any future review of BBC First.

3.17 It is helpful that Ofcom has begun to think about what kind of communication about BBC First audiences would value. We recommend that Ofcom continues to work with audiences in its efforts to improve the transparency of its complaints decision-making at Stage 3.

3.18 We recommend that, when the BBC has identified a breach in its own editorial standards and therefore upheld or partly upheld a complaint regarding its broadcast or on demand content, the breach should be publicly and transparently recorded by Ofcom, which has the choice whether or not to launch its own investigation under its Broadcasting Code. Should Ofcom decide not to launch an investigation into an upheld BBC complaint, the regulator should clearly state its rationale for taking no further action in its online bulletin.

3.19 We conclude that the current complaints framework, which limits Ofcom's standards enforcement role to complaints about single broadcast items or editorially-

linked content, is proportionate. We encourage Ofcom to continue to make use of its other regulatory tools to hold the BBC to account.

Competition & Market Impact

4.1 We agree with Ofcom's recommendation to change the Framework Agreement so that Ofcom has discretion over whether or not to conduct a BCA or a shorter assessment following a BBC PIT.

4.2 We agree with Ofcom's recommendation to change the Framework Agreement so that Ofcom has the power to use a shorter assessment to approve a BBC change with conditions.

4.3 We agree with Ofcom's recommendation to change the Framework Agreement so that new BBC services are not automatically considered material changes.

4.4 Publication of Ofcom's high-level view on the BBC's position within the audiovisual and audio sectors is helpful, as is Ofcom's commitment to use its Annual Report on the BBC to confirm its current view, or update that view based on any market changes that have taken place.

4.5 We recommend that Ofcom should annually publish its view on the BBC's position in the local news sectors, and set out its approach to considering the competition impact of changes to BBC local news services. Ofcom should do this for the first time by November 2024, and

subsequently use its Annual Report on the BBC to update this view alongside its views on the audio and audiovisual sectors.

4.6 We recommend that the BBC does more to demonstrably and transparently take account of its obligation to undertake partnerships, including with its competitors in the creative economy. The BBC should publish a partnerships strategy, and the objectives of that strategy should clearly align with its obligation to support the creative economy, and demonstrate how it plans to meet that obligation.

4.7 We recommend that the BBC provides clear entry routes for organisations who wish to partner with the BBC.

4.8 Over the remainder of this Charter the BBC must clearly demonstrate how it is delivering on its requirement to provide distinctive output and services.

Commercial Governance & Regulation

5.1 We recommend that the BBC monitor the effectiveness of the BBC Commercial Board as the new governance arrangements bed in.

5.2 We consider the regulation of the BBC's commercial activities to be working effectively.

Diversity

6.1 The BBC says it understands the importance of reflecting, representing and serving all communities and has set out a clear commitment to improving the diversity of the organisation, both on and off screen. We acknowledge the BBC's evidence that it has made good progress towards meeting its diversity commitments although note concerns we have heard that the BBC is not accurately reflecting diversity of thought and opinion across the organisation, set out below.

6.2 We expect the BBC to follow the advice set out in Ofcom's Annual Report on the BBC for 2021/22 to improve workforce representation of disabled people and people from lower socio-economic backgrounds.

6.3 We expect the BBC Board to continue overseeing the organisation's plans to increase diversity, and to consider how diversity of thought and opinion could be better reflected in decision-making.

6.4 We expect the BBC to continue conducting appropriate engagement to understand the needs of specific audience groups, particularly groups who feel underserved. The BBC Board should keep this under review to ensure engagement is sufficient, and the BBC should set out how it plans to respond if it identifies that more is needed.

6.5 We recommend that the BBC's Nations Members publish more detailed retrospective information about

the engagement they have carried out with diverse communities within the nations, as well as priorities for future engagement. Ideally this information would include information on engagement with audience members, representative organisations and industry experts. Doing so will allow audiences to continue to understand what engagement has taken place.

6.6 We conclude that Ofcom does not need any additional powers to regulate the BBC's obligations with regards to diversity, such as giving Ofcom the ability to sanction the BBC in the event it does not meet targets and commitments it has set for itself.

Transparency

7.1 We recommend that the BBC continues to learn from recent experiences where announcements about service changes have led to criticism about the BBC's approach to transparency.

7.2 We also recommend that the BBC publishes details of its strategy for communicating with audiences which explains improvements to its communications approach already made, but also how it identifies any changes needed so that audiences and staff can be confident that future service changes and their impact will be explained clearly.

7.3 We recommend that the BBC looks at what information audience members find valuable to hold the BBC to account, including through audience

engagement. We recommend the BBC publishes information about what it has heard in these sessions and how it intends to respond, to show it takes the principle of audience members holding the BBC to account seriously. We will assess the BBC's transparency in the information it provides for audiences as part of Charter Review.

7.4 We recommend that Ofcom continues to maintain a high level of transparency in how it scrutinises the BBC, making clear at the outset when explaining how it intends to examine a specific issue, what that will look like in practice e.g. the regulatory mechanisms and processes it will use, and anticipated timescales for completion.

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