



From the Director-General

8 November 2021

Julian Knight MP
Chair, DCMS Committee
House of Commons
London
SW1A 0AA

Dear Julian

I was grateful for the opportunity to appear, with our Chairman Richard Sharp and Chief Operating Officer Leigh Tavaziva before your Committee on 21 September. There were some questions on which we promised to come back to you and you'll find those responses attached as an appendix to this letter.

One of the issues raised at the Committee session was that of the missing clothes of murder victim Karen Hadaway and I said that we were proactively looking into this again. This work has now concluded and I attach the findings here. I have also written personally to both families affected in this case. To Michelle Hadaway, the mother of Karen, I have offered our sincere apologies for the distress caused to her and her family and I have extended that apology to the family of Nicola Fellows.

As you know we await the decision on the licence fee in the coming weeks and months and we look forward to the future planning stability that that will hopefully give us. Our plans for reform over the next five years are ambitious and necessary and something we are committed to drive to give the best value to our audiences.

Once again, the Chairman, Leigh Tavaziva and I are grateful for the opportunity to speak to the Committee and to answer your questions.

Best wishes,

A handwritten signature in blue ink, appearing to be 'T. Davie', written over a light blue circular stamp.

Tim Davie
Director-General

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Appendix

Following on from the DCMS Select Committee hearing on 21 September 2021, please find below the additional information required.

Stephen Nolan and Scott Mills disclosures

The Committee asked for clarity on the increased monies paid to Stephen Nolan and Scott Mills as highlighted in this year's disclosures:

Scott Mills

The year-on-year difference for Scott was due to Scott presenting more editions of his Radio 1 show, a full year of his new show on 5 live with Chris Stark, and he also worked on Radio 2.

Stephen Nolan

The year-on-year difference for Stephen was due to an increase in the number of *Nolan Live* shows for BBC One NI.

The figure published in the BBC's latest Annual Report and Accounts also includes a payment owed to Stephen Nolan for a series of *Nolan Live* that was broadcast in 2020.

Income from BBC Studios

The Committee asked for clarification on how many of the top ten highest paid on-air talent have also been in receipt of monies paid by BBC Studios.

From the top ten highest paid talent in the 2020/21 ARA, the following have received remuneration from BBC Studios: Zoe Ball, Fiona Bruce and Huw Edwards (this reflects that his work on Outside Broadcasts and Events is produced by BBC Studios).

Update on legal fees for equal pay cases

Further to our letter of 20 January 2021, we have gathered the updated total costs requested by the Committee. These have not significantly increased for the reasons given at the Committee oral session; namely that we were dealing with a very few outstanding cases.

In our previous letter, we did not include tribunal claims which were still ongoing because it was commercially prejudicial to disclose such information. Some of those tribunal claims have since come to an end, and this update therefore includes hours recorded or costs incurred for those cases, whether such hours and costs were incurred before January 2021 or in the period since.

An update on what the BBC has paid to lawyers in relation to gender pay cases

External solicitors have spent a total of 281 hours on tribunal cases for the BBC where there have been allegations of equal pay. As notified in our January 2021 letter, barristers do not typically record time in hours but charge on the basis of a 'brief fee' for appearance at hearings. Therefore, we do not have a record of hours spent on such tribunal claims by barristers.

The total invoiced in relation to both external solicitors and barristers on equal pay tribunal claims amounts to £135,529 (plus VAT). This amount has been incurred both in the period prior to January 2021 and since that date due to the fact that some claims which were ongoing and therefore not included in the figures provided in January have since closed.

An update on the number of hours spent by in-house lawyers

Since the last update, BBC in-house lawyers have recorded 208 hours against files opened for employment tribunal cases where there have been allegations of unequal pay.

'Love in the Flesh'

The Committee asked us to outline the checks and balances in place for BBC Three's *Love in the Flesh*.

Love In The Flesh is a new show for BBC Three that focuses on real-life potential couples who have already formed relationships via dating apps and social media but who have never met each other in the real world.

The show explores whether the persona they have been projecting online matches their real-life personality and is a reflection of the modern dating experience for young people. It will explore themes that are important to the BBC Three audience such as relationships, identity, catfishing, body image, sexuality and confidence.

They are not competing for a cash prize and there is no public vote.

The host Zara McDermott is a serious host and has already presented one positively received documentary regarding revenge porn and has a new film centred on sexism in schools coming up.

The Producers

Ten66 is the independent production company commissioned to produce the series. The BBC has oversight of the production; Ten66 produces the show. Ten66 is a small, growing diverse-led indie based in Hastings.

The Duty of Care process

The show had rigorous and extensive duty of care protocols at every level of the production that complied with the BBC's editorial guidelines. These were drafted by Ten66 in consultation with the BBC, their safety advisors, the production psychotherapist, the independent welfare executive and the BBC.

These protocols included, but were not limited to:

- A psychological evaluation for all contributors with a BBC-approved psychotherapist in conjunction with an HCPC psychiatrist/psychologist prior to final selection. Pre-production DBS checks, social media/background checks and home visits conducted by the Executive Producer.
- The show had a dedicated welfare team, independent of the editorial, which comprised of a 'Welfare Executive', a 'Senior Welfare Producer' and a 'Welfare Producer', all on location for the duration of the shoot. The welfare team was on board through the entire production – before the shoot, after the shoot and during and beyond transmission to ensure the contributors have a consistent presence supporting them through their experience on the show.
- Similarly, the production psychotherapist was on site during the shoot and is regularly checking in with the contributors towards and beyond TX. All contributors were allocated 'time out' on a regular basis during the shoot, where they were able to talk to the welfare team and psychotherapist off camera and away from the rest of the group.
- As this was a new series, also on the ground on location were the two BBC Commissioning Editors and the Senior Editorial Policy Adviser so that the processes and protocols devised prior to filming could be observed and, where necessary, refined and adjusted with the on site experiences of all involved. To that end there was a daily senior executive Ten66 and BBC meeting on site to ratify the welfare process and lines of communications and to air any thoughts/concerns.
- There are future webinars planned closer to TX to continue to reiterate Social Media Management, Press and Publicity Plans and importantly Duty of Care Support available to the contributors – these will be with Ten66 and the BBC.
- The senior team at Ten66 will be in close contact on a fortnightly basis with contributors in the run up to TX. The senior team will have weekly calls with the BBC to consistently monitor how contributors are faring and whether we

need to review the resources required. Contributors will know they can always talk to the psych and support is there for them when and if they need it.

Certification process

In our session, the question was asked if the BBC's certification process for manufacturers of electronics (TV sets etc.) wanting to install BBC software on their products was overly cumbersome. We have outlined below our certification Policy, which explains our approach.

BBC position

- Quality, accessibility and performance are central tenets for the BBC. BBC terrestrial channels, its radio output and its news estate have a history of upholding these principles. The BBC believes that in the future iPlayer is going to be the primary way the audience interacts with us so quality, accessibility and performance are paramount.
- The BBC also has an obligation for universality, which means we strive to be on all devices and makes our drive for quality that much more challenging because the technology is so diverse.
- The BBC's approach offers value for money because it avoids managing multiple iterations of our products and bespoke developments for each partner. The costs of an alternative approach would be prohibitive. We don't charge for testing.
- To ensure audiences can access our content on all devices we work with manufacturers. A certification process ensures manufacturers carry BBC content to a sufficient operational standard to benefit all audiences.

Process

- BBC products are amongst the most comprehensive in market, covering VOD, Linear IP, Live, Live UHD, podcasts, live radio, interactive tv (e.g. red button) and broadcast. Compare this to Netflix which only delivers VOD.
- We seek to deliver a high-quality, stable, consistent service, and keep products in operation for as long as possible while keeping a handle on cost. Unlike with mobiles, the TV landscape is fragmented, and manufacturers tend to focus on a device release for a single year. This can lead to older models being left unsupported. To ensure all audiences are served, the BBC's model needs to enable us to distribute to all no matter the price or capability of the TV.

- We use open standards, that are non-proprietary and can be used by anyone free of charge, allowing us to create a single version of iPlayer which brings cost-effective universality for licence fee payers. This is in contrast to other content providers, such as Netflix, who have multiple versions of an app, which costs much more, but enables simpler testing.
- There are technological reasons behind our different approach. Netflix, for example, is built much deeper into our partners' devices and is less reliant on partners' software implementations. This means Netflix have to develop different versions of their application, incurring extra development and onboarding costs but simplifying testing. Netflix have tried to reduce the huge cost burden of their approach and move to a more scalable model.
- The BBC aims to get each device certified on its first pass. The teams are always on hand to offer as much guidance and support as possible to help partners through the process.

We continually seek to clarify our product principles and work closer with manufacturers to highlight how to spot issues. For example, we have responded directly to market concerns by trialling allowing devices to be carried over from year to year. This means if identical hardware and software is being used in two consecutive years the devices from the latter year will not need to do a whole certification again. We have also developed an automated certification tool which allows manufacturers to test earlier, and more often, meaning they can find any bugs as early as possible in the device lifecycle bringing confidence and certainty for their launch plans.

Public Eye – R-v- Bishop

Outcome of further enquiries into the missing clothes of Karen Hadaway

1. This document sets out the steps taken by the BBC to try to locate the missing clothes of Karen Hadaway or to understand what might have happened to them. The BBC accepts that these clothes were lost after being given into the possession of one of its reporters, Martin Bashir, and offers its sincere apologies for the distress the loss has caused the families. It is fundamentally wrong that better care was not taken of the clothing and it is appalling that they were lost in such circumstances. We set out below the steps taken by the BBC to try and locate the clothing.

Background

2. In the 1990s *Public Eye* was a BBC social affairs programme which occasionally investigated possible miscarriages of justice. In 1991 Martin Bashir was one of the journalists working on the programme. With the knowledge of the strand editor and working with a freelance researcher who had brought the case to *Public Eye*, he was investigating a possible programme on the 1986 murders of Karen Hadaway and Nicola Fellows and the unsuccessful prosecution of Russell Bishop in 1987. The journalistic investigation did not result in a commission for a programme. The BBC has not recovered records indicating why the investigation was not developed into a programme for broadcast although some documents indicate concerns at an early stage of the investigation that it might be too complex to deliver a legally compliant programme within the time available.
3. On 15 August 1991, the mother of Karen Hadaway, Ms Michelle Hadaway, handed her daughter's clothes to Martin Bashir, who signed a receipt for them. She understood that the purpose of taking the clothes was for the BBC to have them forensically examined as part of the journalistic investigations. In 2002, and again in 2004 following a campaign to reform the law relating to double jeopardy which would allow Bishop to be retried (to come into effect in 2005), Mr Ian Heffron, the uncle of Nicola Fellows, contacted the BBC to enquire after the clothing. At that time in 2004, BBC Investigators were unable to locate the clothing.
4. Following the publication of Lord Dyson's Report on the 1995 *Panorama* Interview with Princess Diana, the story of the lost clothing re-emerged in the media. As a result, Tim Davie, the Director-General, instructed one of his senior editorial

executives to oversee a review of what steps had been taken in 2004 to find the clothes and most importantly to ensure that there was no further action that we could take now that may help to locate them.

The 2004 search for the clothing

5. Mr Heffron contacted the BBC again in 2004. As soon as he was informed, the BBC's Deputy Director-General, Mark Byford tasked the BBC Investigation Unit to assist by finding out what happened and doing whatever they could to find the clothes. During the 2004 search for the clothes, the BBC Investigation Unit spoke with the Editor and the Assistant Producer from 1991 and Martin Bashir. Martin Bashir said he did not know where the clothes were, and suggested that the production team may have had them. Others that were consulted could either not recall whether they knew Martin Bashir had obtained the clothes, or thought that he had but knew nothing about what may have happened to them.

Further steps undertaken by the BBC

6. As part of their recent review, the BBC team have:
 - a. Reviewed the limited available documents from the 2004 search to identify any new leads which could be followed and conducted further archive searches for relevant documents from 1991.
 - b. Reviewed further documents provided by the researcher which had been retained at home.
 - c. Spoken to original members of the production team, including some who were not contacted in 2004, and to the Investigator who led the 2004 search.
 - d. Conducted further enquires as to where physical objects (such as the clothes) could have been stored.

Outcome

7. This review has now concluded. Regrettably, the clothes have not been found. The review's findings were:
 - a. This review was hampered by the passage of time because some of those people spoken to could not recall being approached in 2004 and others simply cannot recall precise details of what they knew at the time.
 - b. All information obtained by the investigators in 2004 would have been entered on a secure database which only keeps material for 7 years due to legal and data

protection constraints and therefore unfortunately was not available to the latest review. Only limited investigation records were therefore available and no relevant programme or production files were found (production files would usually only be retained in archive for broadcast programmes).

- c. As part of this process the review had access to material provided by the researcher which had not been previously seen by the BBC. This material included a letter to Martin Bashir and the researcher from the then Editor suggesting that they should try and obtain some '*scene of the crime material, post-mortem details*' in order for a forensic scientist to '*flesh out*' his views. The forensic scientist named confirmed to the Mail on Sunday that he never received the clothes.
 - d. Martin Bashir has stated that he does not have the clothes and very regrettably says he has no recollection of what had happened to them. He acknowledges that he signed a receipt for them, and has stated it is likely that he took the clothes back to the BBC production office. The then Editor has stated that he can no longer remember anything about the clothes, and the Assistant Producer has also said he has little recollection of this production and does not know what happened to the clothes.
 - e. The BBC has no central storage for or system for preserving physical objects (aside from external facilities for some programme sets/props for drama and entertainment shows). *Public Eye* would not have had physical storage facilities beyond ordinary office furniture such as desk pedestals, cupboards and drawers. *Public Eye* was cancelled as a show in 1996 and by 2013 the whole of the current affairs department had moved from West London to the BBC's central office in W1. This was a move to a smaller office and so a great deal of material would not have been kept. Even if the clothing had been stored for years in the old *Public Eye* office, it would almost certainly have been discarded at that time, if it had not been lost before then.
 - f. Whilst it is always possible that other unknown individuals who were associated with *Public Eye* may exist and may have information about the clothes, none were identified as part of this review.
8. The review has concluded that regrettably thirty years on, little more can be done to find the missing clothes. In all likelihood the clothes were lost between 1991 and 2004.
 9. The distress caused to the families is a matter of very deep regret. We hope that it is some little consolation that the police have confirmed that all forensic evidence needed had been already obtained from the clothing in 1986 and stored separately and therefore the unavailability of the clothing had no material impact on the investigation or the 2018 prosecution which eventually brought Russell

Bishop to justice. Nevertheless, this should never have happened. As we said above, we are appalled that it did and extend our sincere apologies to the families both that the clothing was lost in such circumstances, and that we have been unable, both now and in 2004, to give them any answers about what happened to the clothing.