



Information Policy & Compliance
bbc.co.uk/foi

Mr Ormerod
By email: request-1133-843a04cb@whatdotheyknow.com

1st August 08

Dear Mr Ormerod,

Freedom of Information request –RFI20080762

Thank you for your request of 2nd July 08 under the Freedom of Information Act 2000 seeking the following information:

How many complaints did the BBC receive in response to the 'graphic footage' shown on BBC News at Ten on BBC One, 2nd July 2008.

The BBC will not be providing you with the information you requested as we believe it is not covered by the Freedom of Information Act 2000 (“the Act”).

The BBC and the other public service broadcasters are covered by the Act only in respect of information held for purposes “other than those of journalism, art or literature” (see Schedule I, Part VI of the Act). This means that we are not obliged to supply information held for the purposes of creating the BBC’s output or which is closely associated with these creative activities.

The BBC has chosen not to volunteer information relating to audience feedback for several very good reasons, chief amongst them being a desire to maintain our independence and impartiality.

You may not be aware that one of the main policy drivers behind the limited application of the Act to public service broadcasters was to protect freedom of expression and the rights of the media under Article 10 European Convention on Human Rights (“ECHR”). The BBC, as a media organisation, is under a duty to impart information and ideas on all matters of public interest and the importance of this function has been recognised by the European Court of Human Rights. Maintaining our editorial independence is a crucial factor in enabling the media to fulfil this function.



The Information Commissioner's Office has recognised the importance of Schedule 1 of the Act in protecting the independence of the media, stating that:

“It is the Commissioner's view that the ultimate purpose of the derogation (Schedule 1) is to protect journalistic, artistic and literary integrity by carving out a creative and journalistic space for programme makers to produce programmes free from the interference and scrutiny of the public.”¹

The BBC agrees that we have the right to protect our journalistic and editorial independence by maintaining just such a private space in which to produce our content. This extends to the sifting and review of praise and criticism from audiences, which is important part of the BBC's process of creating and improving programmes. Despite the BBC's obligation to be independent and impartial, many bodies, groups and individuals attempt to influence our output. This pressure takes many forms and has to be resisted by programme makers across the BBC.

If the BBC and other public broadcasters were obliged to disclose audience feedback, this would damage our independence by impeding the ability of the programme maker to weigh complaints, praise and other comments alongside other elements of feedback on a programme as would his/her ability to come to their own journalistic judgement without public scrutiny.

I hope this provides you with some understanding of why this is an important concern for the BBC.

For your information, the ICO has agreed with the BBC's interpretation that information pertaining to audience feedback falls outside the scope of the Act, stating that:

‘...fundamentally the complaints are about, and intended to influence, content. Despite other applications complaints information is intrinsically linked with the creative purposes for which the BBC was established.’

Appeal Rights

If you are not satisfied with this response you have the right to appeal to the Information Commissioner. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 01625 545 700 or see www.informationcommissioner.gov.uk

Kind regards,

Jenny Baxter
Controller of Production
BBC News

¹ ICO Reference: FAC0070848