



We are determined to portray fully-rounded gay & lesbian 'normalised' characters in our television output and in 2006 that included *The Line Of Beauty* a major BBC TWO drama which charted the relationship between a gay middle class man with a passion for Henry James and the Feddens, a rich Tory family from Notting Hill. *Synchronicity* on BBC THREE set on the streets of Manchester, was a stylish, sexy comedy drama. The series followed the fortunes of a love-locked threesome as they encountered an array of romantic conundrums. *Fantabulosa* for BBC FOUR was a portrait of Kenneth Williams and explored his life as a consummate entertainer who was loved by everyone - with the exception of himself.

Our Daytime drama serial *Doctors* has an established character Dr Greg Robinson who has been on our screens since April 2003. Greg is open about his homosexuality and has been from the start. We have followed him through the heartbreaking trauma of his first partner dying from skin cancer to eventually finding true happiness with Rico, a Brazilian travel writer. They have had their ups and downs but in April 2006 we saw Greg confront his father's homophobia and marry Rico in the first civil partnership to be portrayed on TV. *Casualty* has had several lesbian and gay storylines. The most recent featured regular characters Matty and Agnes confirming their love for each other.

*The Trouble With Gay Men* was a documentary on BBC THREE in which Simon Fanshawe presented a personal view of the problems, pitfalls and cliches of being a gay man in Britain today. We continue to ensure that we provide an integrated and diverse range of contributors for our mainstream programmes and *Dog Borstal*, *Spendaholics* and *Say No To The Knife* have all featured contributors who also happened to be gay or lesbian.

Our Comedy programmes have had a variety of characters across our prime time shows including *The Catherine Tate Show*, *The Worst Xmas*, *Ideal* and *That Mitchell and Webb Look*. Recent films range from *Gods and Monsters*, *Boys Don't Cry* to *Chasing Amy* and coming up for Christmas is *The Next Big Thing*. Also coming up at Christmas we have our *Little Britain Christmas Specials* which, while not being exactly normal along anyone's spectrum, contain brilliant comic creations!

In July 2006 the BBC appointed Mary FitzPatrick as Editorial Executive, Diversity to oversee the way BBC channels represent the audiences they serve. The creation of this important role reflects our commitment to putting audiences at the heart of what we do at the BBC. To deliver the ambition of Creative Future and meet audiences' expectations in a changing world, we need our programmes to reflect fully and accurately the diversity of the UK population.

## **Appeal Rights**

The BBC does not offer an internal review when the information requested is not covered by the Act. However, if you are not satisfied with our response, you do 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](http://www.informationcommissioner.gov.uk) In the event of a finding by the Information Commissioner that the Act does apply in this case, should you then wish, the BBC is prepared to undertake an internal review of our decision on the application of section 43 (commercial prejudice) to the information you have requested.

Yours sincerely

Fern Kersey

**Adviser, Information Policy & Compliance**

[The BBC's approach to this case](#)

The BBC does not agree with the Commissioner's decision on the scope of the Act and reserves its position on the matter. However, the BBC considers that in the event of a similar finding by the Commissioner in this case, the information you have requested would also be exempt under the Act under section 43(2) because disclosure would be likely to prejudice the commercial interests of the BBC, in the following way.

Disclosure of this information may result in a ratchet effect among bids from independent production companies ("indies") for licence deals in respect of similar programmes. This could lead to the position that indies will know that a minimum level of funds are available for a particular type of programme or similar programme, and they will have an incentive to bid beyond that level. This will prejudice the commercial interests of the BBC, in that it will be forced to increase what it pays indies for those licence deals, or face losing the deals.

The effects described above are likely to cause grave prejudice of the BBC; they would be likely to result in a choice between losing programmes and suffering a drop in the quality of our programming; or increasing spending in order to retain programmes and thereby suffering a drop in value for money to the licence payer.

#### Consideration of the public interest

As section 43 is a qualified exemption, the BBC has considered the public interest factors in this case in accordance with section 2(2) of the Act: specifically, whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In favour of disclosure, the BBC recognises that there is a public interest in the following:

- There is a clear public interest in ensuring that the BBC is able to provide quality programming and value for money in respect of its use of the licence fee. Both these objectives will be threatened if a presumption is created in favour of the general disclosure of information relating to in-house programming, for the reasons set out above; and
- Furthering the public's understanding of and participation in public debate on a topic. However, in order for the information to be of value to the public, it would be necessary to have access to information about the costs of other broadcasts who commission similar content. The majority of the broadcasting industry is not subject to the Act and therefore information about their content is not subject to disclosure under the Act.

On the other hand, in considering factors that might weigh in favour of the public interest in withholding, we took into account:

- That the BBC has robust controls on the way public money is spent which are already evident. There are a broad range of oversight mechanisms, internal and external, including the oversight of the BBC Trust, the Executive Board, Ofcom and the fair trading regime and competition law in general. High level information on expenditure is provided in the Annual Report, however detail beyond this threatens to pose considerable harm to the BBC's commercial interests, without offering a proportionate benefit to the public;
- That the BBC is able to provide quality programming and value for money in respect of its use of the licence fee. The BBC's ability to do this is dependent upon maintaining a strong bargaining position vis-à-vis suppliers during contractual negotiations, which may be seriously undermined by releasing information of the type requested here;

I am satisfied, in terms of section 2 of the Act, that in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Thus, the BBC believes that the public interest is best served by allowing the BBC to continue to compete on an equal basis with, the rest of the market, so that normal market forces may take effect to the benefit of the general public.