



Information Rights

bbc.co.uk/foi bbc.co.uk/privacy

Mr J Osborne

Email: request-414242-154763a2@whatdotheyknow.com

14 July 2017

Dear Mr Osborne

Freedom of Information request - RFI20170915

Thank you for your request to the BBC of 25th June 2017 seeking under the Freedom of Information Act 2000 (the Act) the following information in relation to the June 2017 UK General Election:

“ How many complaints the BBC received regarding left/right bias during the 2017 general election, separated for left/right bias accusations:”

The information you have requested is excluded from the Act because it is held for the purposes of ‘journalism, art or literature.’ The BBC is therefore not obliged to provide this information to you and will not be doing so on this occasion. Part VI of Schedule 1 to the Act provides that information held by the BBC and the other public service broadcasters is only covered by the Act if it is held for ‘purposes *other* than those of journalism, art or literature’. The BBC is not required to supply information held for the purposes of creating the BBC’s output or information that supports and is closely associated with these creative activities¹, including information relating to the subject of editorial complaints. The BBC’s independence and impartiality would be at risk through disclosure of information on editorial complaints, which is discussed in detail below.

The BBC has chosen not to volunteer information relating to the subject of editorial complaints for several very good reasons, chief amongst them being a desire to maintain our independence and impartiality. In this particular case, the BBC is concerned to preserve the integrity of the independent review process for editorial complaints.

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

¹ For more information about how the Act applies to the BBC please see the enclosure which follows this letter. Please note that this guidance is not intended to be a comprehensive legal interpretation of how the Act applies to the BBC.

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."

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, as well as the seeking of an independent view of criticism in order to undertake this review process. This is an 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 content of individual criticisms were available for public scrutiny on a regular basis then programme makers would be under even greater pressure to respond to lobbies or vocal individuals than they are already. They might be reluctant to make changes that reflect the views in the complaints in that they could be accused of "caving in to pressure" and other viewers would make judgements about the apparent impartiality of the programme. Conversely, if their judgement was to ignore the complaints, as they believed them to be invalid or outweighed by other factors, they will be accused of ignoring public opinion, without the opportunity to explain the reasons for their editorial judgement. The BBC also believes that publication could lead to a tit-for-tat escalation of complaints, particularly from lobbying groups or political parties, as opponents competed with each other in terms of volume and strength of a complaint to the BBC.

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

In addition, I can advise, outside the scope of the Act that the BBC proactively publishes public responses to recent issues of audience concern which have caused a significant number of complaints, or to any significant issue raised by complaints received. The BBC also publishes quarterly archived reports covering the main themes in all complaints received. In addition, information about second-stage complaints, i.e. those considered by

the Editorial Complaints Unit, is published at the following site:

<http://www.bbc.co.uk/complaints/reports.shtml>.

Information about the third stage of the complaints process, i.e. those considered by the ESC, is published at the following site:

http://www.bbc.co.uk/bbctrust/appeals/editorial_appeal_findings.html

Finally, the BBC makes a huge range of information available about our programmes and content on bbc.co.uk. We also proactively publish information covered by the Act on our publication scheme.

Appeal Rights

The BBC does not offer an internal review when the information requested is not covered by the Act. If you disagree with our decision you can appeal to the Information Commissioner.

Contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF telephone 0303 123 1113 (local rate) or visit their website at

www.ico.org.uk

Please note that should the Information Commissioner's Office decide that the Act does cover this information, exemptions under the Act might then apply.

Yours sincerely

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BBC Legal

Freedom of Information

From January 2005 the Freedom of Information Act 2000 (the Act) gives a general right of access to all types of recorded information held by public authorities. The Act also sets out exemptions from that right and places a number of obligations on public authorities. The term “public authority” is defined in the Act; it includes all public bodies and government departments in the UK. The BBC, Channel 4, S4C and MG Alba are the only broadcasting organisations covered by the Act.

Application to the BBC

The BBC has a long tradition of making information available and accessible. It seeks to be open and accountable and already provides the public with a great deal of information about its activities. BBC Audience Services operates 24 hours a day, seven days a week handling telephone and written comments and queries, and the BBC’s website bbc.co.uk provides an extensive online information resource.

It is important to bear this in mind when considering the Freedom of Information Act and how it applies to the BBC. The Act does not apply to the BBC in the way it does to most public authorities in one significant respect. It recognises the different position of the BBC (as well as Channel 4 and S4C) by saying that it covers information “held for purposes other than those of journalism, art or literature”. This means the Act does not apply to information held for the purposes of creating the BBC’s output (TV, radio, online etc), or information that supports and is closely associated with these creative activities.

A great deal of information within this category is currently available from the BBC and will continue to be so. If this is the type of information you are looking for, you can check whether it is available on the BBC’s website bbc.co.uk or contact BBC Audience Services.

The Act does apply to all of the other information we hold about the management and running of the BBC.

The BBC’s aim is to enrich people’s lives with great programmes and services that inform, educate and entertain. It broadcasts radio and television programmes on analogue and digital services in the UK. It delivers interactive services across the web, television and mobile devices. The BBC’s online service is one of Europe’s most widely visited content sites. Around the world, international multimedia broadcaster BBC World Service delivers a wide range of language and regional services on radio, TV, online and via wireless handheld devices, together with BBC World News, the commercially-funded international news and information television channel.

The BBC’s remit as a public service broadcaster is defined in the BBC Charter and Agreement. It is the responsibility of the BBC Trust (the sovereign body within the BBC) to ensure that the organisation delivers against this remit by setting key objectives, approving strategy and policy, and monitoring and assessing performance. The Trustees also safeguard the BBC’s independence and ensure the Corporation is accountable to its audiences and to Parliament.

