



Information Rights

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

Lesley Fyles

request-754373-4435354c@whatdotheyknow.com

18 May 2021

Dear Lesley,

Freedom of Information request – RFI20210823

Thank you for your request to the BBC of 11 May 2021 seeking the following information under the Freedom of Information Act 2000:

‘Hello my name is lesley fyles I was in an episode of kilroy in 1990's approximately 1998-99 I never saw the episode and would like to see it as I was asked question by kilroy and spoke to him i remember it being about dissaponted parents’

Response under the Freedom of Information Act

If held, the information you requested is held for the purposes of ‘art, journalism or literature’. The Act provides that the BBC is not obliged to disclose this type of information and we will not be disclosing the information on this occasion.

Legal explanation

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.

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.

This is an important way that the BBC and other public service broadcasters can preserve their independence by ensuring information about matters including editorial decisions about programming and budgets allocated to such programming, are not subject to undue public scrutiny. It is important that the BBC is an independent and impartial news organisation.

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.

Right of Access under GDPR

Individuals do however have a right of access to their personal data under Article 15 of the GDPR. If you wish to exercise this right then please contact us at the above address, providing the required information listed below. Please be aware that Paragraph 26, Schedule 2 of the Data Protection Act 2018 exempts personal data from the application of Article 15 of the GDPR where the personal data are processed only for the special purposes of journalism, academia, art and literature. Therefore, if personal data relating to you is held by the BBC only for its journalistic activities then this exemption would be engaged and the BBC may not be required to release this information.

ID required

In order for us to process your request further, we require your identification. Therefore please could you provide the following copies of ID:

- a copy of your government-issued ID, such as a copy of passport, photocard driving licence, national ID card or equivalent

The rationale for asking for identification is as follows:

As a data controller, the BBC may ask for proof of identification to confirm the identity of the data subject requesting access to their personal data.

For more information about the requesting of identification, please see the Information Commissioner’s Office guidance, accessible via the following link:

<https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/individual-rights/right-of-access/>

Please note we cannot comply with your request until we have received proof of identification.

Privacy notice

You're providing information that includes your name, email address and details of the data the BBC processes. This is so we can respond to your request and to fulfil our obligations under data protection legislation.

The information you give us will only be used to respond to your request. However, we will need to share your information with relevant employees and divisions within the BBC so that we can respond to your request. We may also need to share your information with companies that process data on our behalf, or because the law requires us to.

We'll keep the information you provide for six years. After that, we will consider destroying it in line with the BBC's Records Management Policy.

You can read more about how we process your data in our **[Privacy and Cookies Policy](#)**.

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, tel: 0303 123 1113 (local rate) or +44 1625 545 700 (national rate) or see <http://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,

Information Rights
BBC Legal

Freedom of Information

From January 2005 the Freedom of Information (FOI) Act 2000 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 Ofcom (the BBC’s independent regulator) to ensure that the organisation delivers against this remit by setting key objectives, approving strategy and policy, and monitoring and assessing performance. Ofcom also safeguard the BBC's independence and ensure the Corporation is accountable to its audiences and to Parliament.