



Information Policy & Compliance  
[bbc.co.uk/foi](http://bbc.co.uk/foi)    [bbc.co.uk/privacy](http://bbc.co.uk/privacy)

William

By email: [request-221408-04aa9e52@whatdotheyknow.com](mailto:request-221408-04aa9e52@whatdotheyknow.com)

5 August 2014

Dear William,

### **Freedom of Information request – RFI20141218**

Thank you for your request to the BBC of 24 July 2014, seeking the following information under the Freedom of Information Act 2000 ('the Act'):

*I am writing under the Freedom of information Act, to request that you release the Balen Report into the BBC's coverage of Israel.*

The information you have requested is excluded from the Act because it continues to be 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 FOIA 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 activities.<sup>1</sup>

The Balen Report is an internal review of programme content which is currently held to inform and support the BBC's coverage of the Middle East. As such, the BBC considers that it is clearly being held for the purposes of journalism, and therefore the BBC is under no obligation to disclose it.

The BBC has previously declined, under the Act, a number of requests for the Balen Report for the same reason. The Act affords the BBC protection for its journalistic and editorial

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<sup>1</sup> 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.

independence by maintaining a creative and journalistic space for programme makers to produce material for broadcast free from external interference.

You may be aware that the decision not to disclose the Balen Report has most recently been upheld by the Supreme Court, and I enclose a link to the Judgement for your information:

[http://www.supremecourt.gov.uk/docs/UKSC\\_2010\\_0145\\_Judgment.pdf](http://www.supremecourt.gov.uk/docs/UKSC_2010_0145_Judgment.pdf)

It is important to note that the BBC's decision to continue to defend its position has nothing to do with the fact that the review is about the Middle East, the same approach would have been taken whatever area of news output was covered by the review.

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.

That said, the BBC makes a huge range of information available about our programmes and content on [bbc.co.uk](http://bbc.co.uk). We also proactively publish information covered by the Act on our publication scheme and regularly handle requests for information under the Act.

## **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. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow SK9 5AF. Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate) or see <http://www.ico.gov.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 Policy and Compliance**

## **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](http://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](http://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**

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.

Day-to-day operations are run by the Director-General and his senior management team, the Executive Board. All BBC output in the UK is funded by an annual Licence Fee. This is determined and regularly reviewed by Parliament. Each year, the BBC publishes an Annual Report & Accounts, and reports to Parliament on how it has delivered against its public service remit.