



Information Rights

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

Janis Humberstone

request-602610-ec18bf06@whatdotheyknow.com

3 October 2019

Dear Janis Humberstone,

Freedom of Information request – RFI20191453

Thank you for your request to the BBC of 10 September 2019 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

“BACKGROUND

An advert by BBC Licensing appears regularly just before BBC Breakfast at around 5.58am. It is blatantly racist as it depicts a white man trying to stop his black colleague from shredding the paper copy of the TV license and being told that everyone has gone paperless now. The white man gives an embarrassed smile and the black man looks him up and down in contempt. The message depicts the white man as being a bit stupid and the black man as someone with superior knowledge, who overtly holds the white man in contempt.

I have complained about the advert but, as anticipated, received a standard reply to say that it is not racist. As you are not covered by the monitoring organisation which might normally be expected to protect individuals from offence in advertising, I would like to understand how the BBC reaches decisions on matters over which it appear to have autonomy.

MY REQUEST FOR INFORMATION

Have you received any other complaints about this advert?

If so, how many have you received?

Who was responsible for the decision to broadcast the advert? If you consider that the identity of the person concerned should not be disclosed, please tell me the title of that person and the level of autonomy that person enjoys.

What criteria do you apply for determining whether something is considered racist or not.”

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 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 activities¹.

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. 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. 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 Freedom of Information
BC2 A4, Broadcast Centre
201 Wood Lane
London W12 7TP

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.

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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.