



Information Policy & Compliance
bbc.co.uk/foi bbc.co.uk/privacy

Miss Smith

Sent by email to: request-196362-e4804e1c@whatdotheyknow.com>

17th March 2014

Dear Miss Smith,

Freedom of Information request – RFI20140224

Thank you for your request to the BBC of 6th February 2014, seeking the following information under the Freedom of Information Act 2000 (“the Act”):

‘any information you have regarding the copyright law surrounding the use of the term ‘Strictly Come...’ Eg if a small amateur musical group wanted to put on a show using the those words in the title of the piece, would we be allowed, would there be any fees associated with the copyright etc?’

Please provide any information or links to other bodies who would have this information’

The BBC is the owner of both registered and unregistered rights in relation to the words ‘Strictly Come Dancing’ and ‘Strictly’ which are protected under UK trade mark law. The BBC registers trademarks for various BBC programmes to protect them from unauthorised exploitation and to retain the benefit of these trademarks for the licence fee payer.

Full details of the BBC’s trade mark registrations can be obtained from the website of the Intellectual Property Office at: <http://www.ipo.gov.uk/pro-home.htm> The IPO also provides information on trade mark law and practice accessible here: <http://www.ipo.gov.uk/pro-types/pro-tm/t-law.htm> If you wish to request permission to use a BBC trade mark or logo, please contact the BBC’s branding website at: www.bbc.co.uk/branding.

Any other information relevant to your request would relate to individual cases and would comprise legal advice given by the BBC’s in-house lawyers in relation to those cases. Under section 42 of the Act there is an exemption which protects communications between lawyers and their clients for the purpose of obtaining legal advice, or documents created by or for lawyers for the purpose of litigation from disclosure. We are therefore withholding any further relevant information held under section 42 (legal professional privilege) of the Act.

As section 42 is a qualified exemption, the BBC is required under section 2(2) of the Act to assess whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In favour of disclosure we recognise there is a public interest in the following:

- In understanding what rights the BBC's owns in the terms 'Strictly Come Dancing' and 'Strictly' and how these are protected under UK law
- In knowing whether the BBC permits the use of these terms by third parties

However, there is also a strong public interest in maintaining the principle of legal professional privilege and in safeguarding openness in all communications between client and lawyer to ensure access to full and frank legal advice; this in turn is fundamental to the administration of justice. It is therefore crucial that the seeking and determination of legal advice be carried out with absolute candour and in the secure knowledge that the information will be free from scrutiny by outsiders. This public interest is particularly strong in those cases where a legal process has not yet reached its conclusion.

The Tribunal recognised this in *Bellamy v Information Commissioner* (EA/2005/0023; 4 April 2006), where it said: *"there is a strong element of public interest inbuilt into the privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt public interest"*. Further guidance from the Ministry of Justice also states that *"given the very substantial public interest in maintaining the confidentiality of LPP [legal professional privilege] material, it is likely to be only in exceptional circumstances that it will give way to the public interest in disclosure."*

In light of the above, the BBC considers that the public interest in withholding the information outweighs the public interest in disclosing the information you have requested.

Appeal Rights

If you are not satisfied that we have complied with the Act in responding to your request, you have the right to an internal review by a BBC senior manager or legal adviser. Please contact us at the address above, explaining what you would like us to review and including your reference number.

If you are not satisfied with the internal review, you can 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 <http://www.ico.gov.uk/>.

Yours sincerely,

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