



Information Policy & Compliance
bbc.co.uk/foi

Kevin Osborne

By email: request-46119-b0dbexxx@xxxxxxxxxxxxxxxxxx.xxm

28th September 2010

Dear Mr Osborne,

Freedom of Information Act 2000 – RFI20101181

Thank you for your request under the Freedom of Information Act ('the Act') of 31st August, which is repeated below with our response provided to each question in turn:

How much has the current legal action against "The Stig" (as reported on BBC news website today) cost to date?

We can confirm that to date the BBC has paid £37.50 in court fees to issue the application for an injunction. No order as to costs has been made and we have not yet received invoices for any external legal spend.

Note that we have waited a reasonable amount of time for the full costs to come in before responding but we are obliged under the Act to comply "promptly and in any event not later than the twentieth working day following the date of receipt".

Are these costs covered by an insurance policy or are they met directly from the pot of money provided by the licence payer?

We can confirm that these costs were not covered by an insurance policy.

Please supply all meeting/notes regarding the decision making process behind taking this legal action.

We are not obliged to disclose this information pursuant to section 42 of the Act, which relates to legal professional privilege ("LPP"). LPP covers among other things confidential communications between lawyers and their clients for the purpose of seeking and obtaining legal advice, or communications between lawyers and third parties which come into existence after litigation is contemplated and are made for the dominant purpose of such litigation.



As section 42 is a qualified exemption, in accordance with section 2(2) of the Act, we have considered the public interest factors in this case. Specifically, whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In favour of releasing the information:

- The BBC accepts that there is a public interest in accountability of the BBC for public funds.

On the other hand, in considering factors that might weigh in favour of the public interest in withholding, we took into account:

- The seeking of legal advice by all persons in order to enable them to order their affairs in a lawful manner is strongly in the public interest. That public interest is perhaps at its strongest where the client seeking and receiving legal advice is a public body or quasi-public body whose decisions have the potential to affect large numbers of people. In order for the seeking of advice to take place and for the advice given to be valuable, it is crucial that the seeking and giving of such advice be carried out with absolute candour. This requires that clients be secure in the knowledge that the information that passes between them and their lawyers in the course of seeking and giving legal advice will be free from scrutiny by outsiders. As the Information Tribunal recognised in *Bellamy v Information Commissioner* EA/2005/0023:

“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.”

We are satisfied, in terms of section 2 of the Act, that in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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,

Rachael Ward
Adviser, Information Policy & Compliance