



Freedom of Information
Internal Review decision

Internal Reviewer	Fern Kersey, Business Manager, Marketing & Audiences
Reference	IR2012049
Date	March 2013

Requested information

Does the BBC maintain a register of BBC employees' interests? If so does it include interests in private sector companies bidding for healthcare provision funded by the NHS? If such a register exists, can I have access to it please?

Issues on review

Further to my recent request on the declaration of interests in private health care firms, although the BBC has 20,000 employees, it must be possible to identify those employees who are able to influence what is covered in news or current affairs programs. Could you not check just the declaration of interests of those people?

Decision

I have focused my review solely on the question above – relating to the potential disclosure of declaration of interests forms of: *“those employees who are able to influence what is covered in news or current affairs programs”* – and whether the BBC can revisit its original decision and disclose this portion of information now requested.

As background, the BBC is not obliged to provide information held for the purposes of ‘journalism, art or literature.’ This is because 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’.

This 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.

I have done some research as to whether the declaration of interest forms for News & Current Affairs editorial staff may be considered to fall into this category of information, and therefore non-disclosable under FOIA.



BBC programme managers use the personal interest forms and the register to ensure that a journalist or presenter's interests never influence BBC coverage or the subject matter of programmes or the choice of items. In particular, the manager will use the information to determine the suitability of a journalist/ presenter to cover a story. Clearly decisions of this nature are ones that should be carried out in the 'journalistic space' as described above.

Therefore, I maintain the information regarding the interests of *employees who are able to influence what is covered in news or current affairs programs* is held to protect the impartiality of the journalism conducted for the BBC and is therefore integral to the overall production process. In addition, these employees' declaration of interests is a factor considered in allocating a particular individual/journalist/resource to cover a story.

When information such as this is requested, the BBC is not obliged to disclose it under the Act. It is my understanding from researching this type of information that what you have requested is not covered by the Act, and therefore not disclosable to you

Information Commissioner Decision Notices I considered to form this conclusion:

With consideration of the allocation of resources, I have subsequently found an Information Commissioner Decision:

http://www.ico.gov.uk/~media/documents/decisionnotices/2011/fs_50379739.ashx This case concerned the number of journalists fluent in Chinese. The first extract links up dedication of resources as a programme-making decision; the second makes the link between the people who produce the output and the output itself.

"The BBC has explained that the decision as to what resource to dedicate to a particular area of news, such as news gathering and broadcasting in China, is a fundamental programme-making decision. The BBC has limited resource (the licence fee, Grant-in-Aid and commercial funding) and it considers that resource allocation goes right to the heart of its creative decision making."

Similar points are also made in this Information Commissioner decision notice about newsreaders salaries:

http://www.ico.gov.uk/~media/documents/decisionnotices/2012/fs_50418148.ashx

I have interpreted 'resource' in terms of a person rather than just money, but the key point in bold remains the same:

"When considering the purposes for which the information was created, and the users of the information, the BBC has explained that **decisions around**



*which presenter or contributor to engage and how much resource to allocate to secure their services **are essentially editorial decisions**. The information therefore supports a wider editorial decision to engage and reimburse journalists for their professional services with regard to the BBC's journalistic remit."*

Appeal Rights

The BBC does not usually offer an internal review when the information requested is not covered by the Act. However, on this occasion we have considered your request under the internal review process because the initial request you placed was for information that broadly fell within the scope of the Act.

It should be noted that, strictly speaking, your request for internal review was instead a new request for information, which is not covered by the scope of the Act.

As such, if you disagree with our decision, your right of appeal is to the Information Commissioner. Contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF telephone 01625 545 700.
<http://www.ico.gov.uk>