



Information Rights

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

Michelle Meehan

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Dear Michelle Meehan

Freedom of Information request – RFI20201148

Thank you for your request to the BBC of 4 August 2020 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

Under the Freedom of Information Act, can you please tell me how many complaints you received for:

a. The broadcast on BBC News Bristol on 29 June where a white journalist used a racial slur

b. The broadcast on BBC2 on 1 August where historian Lucy Worsley also used the same racial slur

And what was your response to those complaints?

The information you have requested is excluded from the Act because if held it would 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 activities¹.

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.

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. However, the BBC makes a huge range of information available about our programmes and content on bbc.co.uk.

Likewise, you have requested information that relates to editorial complaints. Editorial complaints form part of the on-going review of the standards and quality of particular areas of programme making with a view to further enhancing these standards; the complaints themselves and the information associated with them plays a significant role in helping to inform editorial discussion and decisions going forward. In this way information relating to editorial complaints is used to inform future content and improve the quality of journalistic output; this is an important part of the BBC's process of creating and improving programmes.

The Information Commissioner has issued a number of decisions supporting the BBC view that information relating to editorial complaints is held for the purposes of 'journalism, art or literature'. I have included three Decision Notices which specifically address information about the number of editorial complaints; the first deals with the number of complaints made to the BBC concerning political bias (FS50295017); the second concerns the number of complaints received about the World Cup 2010 programmes (FS50363611); the third case concerned the number of complaints made about editions of Panorama (FS50465338).

In each of these cases, the Commissioner determined that information about editorial complaints was held for the purposes of journalism, art or literature as complaints information – including the numbers of complaints - is used to inform the BBC's editorial choices and direction, and remains held to inform future output. It was the Commissioner's view that the information held about the number of complaints is necessary to provide an overview of the editorial complaints and is created as part of the management and enhancement of the standards and quality of journalism. Including a further Decision Notice which concerned information about the complaints handling procedures (FS50327965); once again the Commissioner determined that information about complaints procedures was used in the process to enable the enhancement of the standards and quality of journalism, and therefore had a direct relationship to the creation of the BBC's output. It is the view of the BBC that similar circumstances exist in the present case, and that the information you have requested is similarly held for the purposes of supporting the BBC's creative output.

For more detail regarding the above ICO decisions please see the following link: <https://icosearch.ico.org.uk/s/search.html?collection=ico-meta&profile=decisions&query>.

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 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 Legal

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.