



Information Rights

[bbc.co.uk/foi](http://bbc.co.uk/foi)    [bbc.co.uk/privacy](http://bbc.co.uk/privacy)

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23 November 2021

Dear Alex,

### **Freedom of Information Request - RFI20211638**

Thank you for your request to the BBC of 01 November 2021 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

*I am seeking information about the article 'We're being pressured into sex by some trans women', published on 26 October 2021.*

*In response to this article:*

- *How many complaints have been received in response to the article so far?*
- *How many 'appreciations', positive comments, and other forms of positive feedback have been received?*
- *What methods did readers use to submit this positive feedback, and how many responses were received via each route?*
- *If applicable, what categories has the BBC used to classify readers' responses to the article, and how many responses have been assigned to each category?*

If held, the information you requested is held for the purposes of 'art, journalism or literature'. The Act provides that the BBC is not obliged to disclose this type of information and we will not be disclosing the information on this occasion.

### **Legal explanation**

Part VI of Schedule 1 to the Act 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 activities<sup>1</sup>.

This is an important way that the BBC and other public service broadcasters can preserve their independence by ensuring information about matters including editorial decisions about programming and budgets allocated to such programming, are not subject to undue public scrutiny. It is important that the BBC is an independent and impartial news organisation.

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. The BBC also makes a huge range of information available about our programmes and content on [bbc.co.uk](http://bbc.co.uk).

In this case, 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'. 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.

That said, the BBC makes a huge range of information available about our programmes and content on [bbc.co.uk](http://bbc.co.uk). In particular you can read further detail about BBC Complaints here:-

<https://www.bbc.co.uk/contact/complaint/lesbianspressured>

<https://www.bbc.co.uk/contact/complaints>

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<sup>1</sup> 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.

Additionally the BBC also publishes fortnightly reports about complaints made to the BBC, the Executive Complaints Unit's finding and the performance of the service available here:-

<https://www.bbc.co.uk/contact/complaint-service-reports>

## **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](http://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](http://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.