



Information Rights

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

Keith Kennaugh
request-958795-5d3f38ac@whatdotheyknow.com

22 March 2023

Dear Keith Kennaugh,

Freedom of Information request – RFI20230365

Thank you for your request to the BBC of 11 March 2023 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

In your statement yesterday defending the defence of the established wife beater, Stanley Johnson by the host on Question Time, you said that she was obliged to give a right of reply. Given that the wife beating in question has been well documented in Mr Johnson's biography, and doesn't appear to have been contested, I am baffled as to why a right to reply would apply here.

What are the requirements that you referred to in your statement defending domestic abuse?

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.

However, the below is a link to the BBC's Editorial Guidelines which are the BBC's values and standards which apply to all our content.

<https://www.bbc.com/editorialguidelines/guidelines>

Additionally for information, the BBC provided the following statement on the matter which you may have seen -

'Domestic abuse is abhorrent, and we would never wish to suggest otherwise, When serious allegations are made on air against people or organisations, it is the job of BBC presenters to ensure that the context of those allegations - and any right of reply from

the person or organisation - is given to the audience, and this is what Fiona Bruce was doing.

She was not expressing any personal opinion about the situation.’

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 activities¹.

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

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

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.

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.