

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 August 2014

Public Authority: British Broadcasting Corporation
Address: 2252 White City
201 Wood Lane
London W12 7TS

Decision (including any steps ordered)

1. The complainant has requested information from the British Broadcasting Corporation (BBC) about the gender breakdown of particular television and radio programmes. The BBC said that it did not hold this information and that if it was held it would be covered by the derogation and exempt from the FOIA.
2. The Commissioner's decision is that the BBC does not hold the requested information and he does not require the BBC to take any further steps.

Request and response

3. On 9 May 2014, the complainant wrote to the BBC and requested information in the following terms:
"I would also like to issue a Freedom of Information Act asking: What is the gender breakdown on all TV programmes shown on BBC 1, 2 and 4, both in front of the camera and behind? Also what is the gender breakdown on all radio programmes broadcast on Radio 1, 2, 3, 4, 5 and 6."
4. The BBC responded on 23 May. It said that it did not believe that the information was caught by FOIA because it was held for the purposes of 'art, journalism or literature'.

5. During the course of the Commissioner's investigation, the BBC revised its position and told him that it did not hold the information that had been requested.

6. On 27 June the complainant revised their complaint to the following:

"...just to re-iterate my request using the language of the BBC, can they please provide a gender breakdown of all people they have a contractual arrangement with and categorise as 'talent'. To assist them in providing the data, I am happy to provide a date range of 1/1/2012-1/1/2014 (there or thereabouts). I asked about the primary BBC TV channels but if this data is recorded differently, I am happy to accept an alternative categorisation as long as it is about BBC talent and shows a gender breakdown."

7. The BBC maintained its position that it did not hold this information.

Scope of the case

8. The complainant contacted the Commissioner on 23 May to complain about the way their request for information had been handled. During the investigation, they referred to a response the BBC had made to a separate request for information in 2011 (BBC reference RFI20111106¹). This provided information about the gender, age, ethnic background of BBC "staff" and the complainant questioned why the BBC had released information in this case.

9. The Commissioner focussed his investigation on clarifying some of the BBC's terminology in order to ascertain whether or not it was correct when it said that it did not hold the specific information that had been requested.

1

http://downloads.bbc.co.uk/foi/classes/disclosure_logs/rfi20111106_staff_age_demographics.pdf

Reasons for decision

10. In correspondence dated 23 June, the BBC clarified to the Commissioner that it made a distinction between 'talent' – those in front of the camera – and 'staff' – those behind the camera on fixed term or permanent contracts. It acknowledged that it could have explained this distinction in its original response to the complainant.
11. At this point the BBC said that it did not collect monitoring information about the former and that information about the latter for 2013 was already published on its website with more up to date information due to be published in July 2014.
12. In response to the complainant's revised request on 27 June, the BBC confirmed that it does not currently collect monitoring information about its 'talent'. It also said that it considered that information relating to the gender of individuals who appear on screen would be closely related to its creative output and therefore outside the scope of the FOIA.
13. The Commissioner is prepared to accept that the BBC does not hold the requested information. Moreover, he is satisfied that if the BBC *had* held this information it would have been covered by the derogation and therefore exempt from the Act. Given that the information is not held, the Commissioner has not gone on to explain the derogation in more detail. Information about it is available in decision notices on previous BBC cases, published on the website of the Information Commissioner's Office².

² <http://search.ico.org.uk/ico/search/decisionnotice>

Right of appeal

14. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
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