

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 October 2020

Public Authority: British Broadcasting Corporation (BBC)

Address: Room BC2 A4 Broadcasting Centre
White City
201 Wood Lane
London
W12 7TP

Decision (including any steps ordered)

1. The complainant has requested information relating to allegations made against a named individual (now deceased). The BBC confirmed that it did not hold the requested information under section 1(1)(a) FOIA.
2. The Commissioner considers that on the balance of probabilities, there is no recorded information held by the BBC under section 1(1)(a) FOIA falling within the scope of the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 7 February 2020 the complainant requested information of the following description:

"This request relates to allegations made against [name redacted], now deceased, [redacted]. These allegations were alluded to in John Simpson's book 'Strange Places, Questionable People' (published in 1998) using the pseudonym 'Uncle Dick' and by the International Business Times [link redacted] (which states that the BBC would look into these allegations as part of the Jimmy Savile review).

1. Does the BBC hold documentary records of such allegations, either in relation to the Savile review or otherwise?
2. Has the BBC undertaken an investigation into the above-named

- person? If so, please supply copy of report.
3. If no such investigation took place, was a decision made not to conduct an investigation and what were the reasons?
 4. Has John Simpson been interviewed in relation to this matter?"
 5. On 2 April 2020 the BBC responded. It confirmed that it did not consider that this was a valid request for recorded information and that the BBC was not obliged to create information to respond to a request.
 6. The complainant requested an internal review on 5 April 2020. The BBC sent the outcome of its internal review on 4 June 2020. It provided some background information and in relation to part 4 of the request it explained what information the BBC did hold (not falling within scope as it was a record of a discussion with John Simpson rather than an interview) should the requester wish to make a further request for this information.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner contacted the BBC to confirm that the request was a valid request under FOIA and that appropriate searches would need to be conducted to determine if any information was held. Following searches conducted by the BBC, it confirmed that it did not hold any information falling within the scope of the request under section 1(1)(a) FOIA.
9. The Commissioner has considered whether any recorded information is held by the BBC under section 1(1)(a) FOIA falling within the scope of the request.

Reasons for decision

10. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing

by the public authority whether it holds information of the description specified in the request". Section 1(1)(b) of FOIA states that, "If that is the case, to have that information communicated to him".

11. The BBC has explained that in relation to part 1 of the request, it interpreted 'documentary records' to mean primary sources such as interview notes or other types of correspondence with individuals who may have come forward with allegations. In relation to part 2 of the request, the BBC interpreted 'investigation' to mean a significant inquiry, probe or examination of the facts followed by a finding of fact or some recommended outcome.
12. The BBC explained that it has conducted reasonable and proportionate searches for all of the requested information. It confirmed that no information was held in relation to parts 1-3 of the request. It explained that this was because no formal investigation had been carried out. It confirmed that no recorded information was held detailing reasons why a formal investigation was not carried out. In relation to part 4 of the request, again it confirmed that no information was held, however mindful of its obligations to provide advice and assistance under section 16 FOIA, it explained what information it did hold which did not fall within the scope of the request but may be information the complainant would wish to request. This was a record of a discussion between the then Head of BBC Investigations and John Simpson (a copy of which was subsequently passed to the Police and to Dame Janet Smith).
13. The BBC asked its Investigation and Litigation departments to conduct a search for the requested information as these are the divisions that would hold the relevant records if indeed they were held. It said that if held these would be electronic records however BBC Archives also conducted searches for paper records. It confirmed that no recorded information was located, either electronic records or paper records in BBC archive.
14. In terms of records management, BBC explained that investigation records are held for 7 years and any deletions are recorded. No information falling within the scope of the request was located nor a record of deletion of any such relevant records. It went on that External Accountability (which would include the Dame Janet Smith Review) records are retained for 5 years. As the Dame Janet Smith Review took place in 2016 records held by the BBC relating to this would still be retained and no such information has been located.
15. Based upon the BBC's interpretation of the request and the appropriately directed divisional searches of electronic and paper records, the Commissioner considers, on the balance of probabilities,

that there is no recorded information held falling within the scope of the request under section 1(1)(a) FOIA.

16. The BBC has however confirmed that it does hold a record of a discussion between the then Head of BBC Investigations and John Simpson (a copy of which was subsequently passed to the Police and to Dame Janet Smith). It does not consider that this falls within the scope of this request but it would be open to the complainant to make a separate request for this information if he wishes to do so.

Right of appeal

17. 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: 0870 739 5836

Email: grc@justice.gov.uk

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

18. 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.
19. 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.....

Gemma Garvey
Senior Case Officer

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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF