

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 April 2015

**Public Authority:** British Broadcasting Corporation  
**Address:** Room BC2 B6 Broadcast Centre  
White City  
Wood Lane  
London  
W12 7TP

#### **Decision (including any steps ordered)**

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1. The complainant has requested access to all documentation held by the BBC which in any way relates to the 1995 edition of Panorama which included an interview with the Princess of Wales. It said that it had already provided the complainant with all information it held relevant to the scope of the request, but reissued this information to the complainant. During the course of the Commissioner's investigation it provided the complainant with two further pieces of information. It confirmed that it did not hold any further information under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
2. The Commissioner considers that the BBC was correct to confirm that it did not hold any further information under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

#### **Request and response**

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4. On 22 September 2014 the complainant requested information of the following description:

"I would like to request access to all documentation held by the BBC which in any way relates to the 1995 edition of Panorama which included an interview with the Princess of Wales.

Much of this material will have been generated at the time although it is possible some of the material will have been created post the transmission of the programme."

5. On 10 October 2014 the BBC responded. It said that the complainant had previously made an identical request on 24 March 2007. It confirmed that it had responded in full on 4 April 2007. It provided the complainant with a copy of this response and the information it had previously provided to him.
6. The complainant requested an internal review on 28 October 2014. The BBC sent the outcome of its internal review on 22 December 2014. It upheld its original position and confirmed it held no further information, other than that identified in its response of 4 April 2007.

## Background

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7. The BBC received six requests in 2006 and 2007 in relation to this episode of *Panorama*, including two from the complainant. Having revisited this matter, the BBC concluded that it should have provided a copy of both of these responses to the complainant when it responded to this request on 10 October 2014. The BBC therefore provided the complainant with this information during the course of the Commissioner's investigation.
8. The BBC provided the Commissioner with the other four responses from the BBC in connection with this episode of *Panorama* and a copy of an internal review carried out in relation to one of these requests. It said that this internal review dated 18 March 2006 is particularly relevant because it focuses on the adequacy of the BBC's search for the requested information. As set out in the internal review (and largely communicated to the applicant in the BBC's response to him of 4 April 2007):

*"I met with [named individual], Information Manager within the BBC's Information Policy and Compliance unit, who coordinated the original search, to review his findings.*

*He confirmed that the Governance Unit, the Registry and the News division (responsible for Panorama) had all been asked to provide any relevant documentation, and that the total number of documents relevant to the request was ten, as set out in the letter of 8 February 2006 to [the requester].*

*[Named individual] felt that there are a number of key reasons why the number of documents found was small:*

- As this programme was an exclusive, News has confirmed that the paperwork would have been kept to a minimum, certainly before transmission. Much of the communication would have been done deliberately by telephone or meeting, to avoid the need for documented records.*
- Some of the documentation may have belonged to and been destroyed or removed by Martin Bashir when he left the BBC, only a year or two after the event. Whilst not ideal, this may realistically be the case.*
- It appears that only a very small group of people at the BBC were involved in the making of the programme, and that the majority (if not all) of these people have since left, thereby limiting the potential sources of information to formal written records held in our document archives.*

*Finally, in view of the fact that an Arena programme 'The Princess and Panorama' was broadcast only last November on BBC2, the FOI central team also contacted the producer (Samantha Peters), to ask whether she had any documentation dating back to 1995. However she confirmed that her research was based on books, cuttings and speaking to people who were involved at the time, and she said she had no documentation from 1995."*

10. For these reasons the BBC holds very limited information in relation to the *Panorama* programme. As the BBC explained in one of its other responses dated 9 July 2007:

*"The BBC does not hold the information that you have requested. As this programme was an exclusive, News has confirmed that any paperwork would have been kept to an absolute minimum, certainly before transmission. Much of the communication would have been done deliberately by telephone or face to face to avoid the need for documented records. This will have also meant that any meetings to discuss this particular programme would not have been minuted and the number of people involved in the process kept to a need-to-know basis only."*

11. After reviewing its previous responses and disclosure documents, the BBC confirmed that no information has been released to any other requester that had not been released to the complainant.
12. Finally the BBC explained that in the applicant's request for an internal review he said that the material released by the BBC in 2006 which

formed the basis of an article in *The Telegraph* was different to the information that was recently provided to him. The reason why the material released to the applicant is different is because the applicant is referring to another request he made to the BBC about the Queen's Christmas broadcast. It also provided the Commissioner with a copy of the BBC's response to this request dated 27 January 2006.

13. The BBC explained that in an effort to resolve this complaint, the BBC sent a copy of the BBC's previous response to the complainant of 3 May 2007 (regarding the *Panorama* interview) and a copy of the BBC's response of 27 January 2006 (regarding the Queen's Christmas broadcast).

## Reasons for decision

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9. 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".
10. The BBC said that when it received this request it did not consider it necessary to carry out any further searches for the requested information. This is because a thorough search had been carried out (and an internal review into the adequacy of that search) at the time of the original requests for information in connection with this programme in 2006 and 2007. Furthermore, given that over 10 years had passed since the original requests were received (and almost 20 years since the programme was broadcast), it is unlikely that any searches now will identify information which could not be located in 2006.
11. It said that given that this episode of *Panorama* was broadcast in 1995, it is highly unlikely that any further information would have been created between the applicant's requests in 2007 and his most recent request in 2014.
12. The BBC explained that the original search included asking the Governance Unit, the Registry, and the News division (including people who worked on *Panorama* in 1995) whether they held any relevant information. A search of the BBC's database was also carried out using the search terms 'Panorama', 'Diana', 'Princess of Wales', 'Martin Bashir', and 'Royal liaison'. In addition, the producer of an *Arena*

programme, *'The Princess and Panorama'* was also asked if she held any relevant information.

13. It said that in this case the potential sources of information are limited because only a very small group of people within the BBC knew of the programme prior to its transmission, and these individuals have now left the BBC.
14. The BBC reiterated that the original search included an electronic search of the BBC's database. Given the small number of individuals who could reasonably be expected to hold any relevant information (and who have since left the BBC) and the replacement of computer equipment which has occurred since 1995 it is not possible to carry out a further search for information held locally. It confirmed that in the original search the terms 'Panorama', 'Diana', 'Princess of Wales', 'Martin Bashir', and 'Royal liaison' were used. It said that if there was further information it would be held as manual records. The BBC reiterated that it was not aware of any information having been destroyed but said that some of the documentation may have belonged to and been destroyed or removed by Martin Bashir when he left the BBC.
15. Finally the BBC said that documents of a historical nature such as the information requested in this case would be permanently held in the archive and would have a destruction date given to them. However, this is dependent on the documents entering the archive system in the first instance. It appears that Martin Bashir either kept for himself any records that he had created or destroyed them without consideration of the need to maintain them in the BBC Archive.
16. The Commissioner considers that the BBC conducted a thorough search for the requested information when the complainant originally made the request in 2007. It provided him with the information it held. When the complainant resubmitted the request in 2014 it reviewed whether any further information was held, other than that which had been previously provided, and it provided the complainant with two further documents during the course of the Commissioner's investigation. It said that some other responses were sent to FOIA requests made for this information by other individuals, but that these responses reflected that which was sent to the complainant. It contacted relevant personnel to ensure that searches were directed accurately. Both manual and electronic searches were conducted and appropriate search terms to the request were used. On the balance of probabilities the Commissioner is satisfied that the BBC does not therefore hold any further information, other than that which was provided to the complainant.

## Right of appeal

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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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**