

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

### **Decision notice**

**Date:** 21 June 2024

**Public Authority:** British Broadcasting Corporation  
**Address:** Broadcasting House  
Portland Place  
London  
W1A 1AA

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

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1. The complainant has requested information about a programme on BBC Scotland. The above public authority ("the public authority") stated that the information was held for a derogated purpose and was therefore not covered by FOIA.
2. The Commissioner's decision is that the requested information would be held for a derogated purpose and therefore the public authority was not obliged to provide it.
3. The Commissioner does not require any steps to be taken.

#### **Request and response**

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4. On 16 May 2024, the complainant wrote to the public authority and requested information in the following terms:
  - "1) From January 1<sup>st</sup> 2024 to present, daily information on the Reporting Scotland evening news show on BBC Scotland, including:
    - a. Live broadcast viewing figures
    - b. Views on BBC iPlayer in 24 hours since broadcast

- c. Names of any elected politicians who appeared on the show
  - d. The leading news story covered
- 2) For 2023, daily information on the Reporting Scotland evening news show on BBC Scotland, including:
- a. Live broadcast viewing figures
  - b. Views on BBC iPlayer in 24 hours since broadcast
  - c. Names of any elected politicians who appeared on the show
  - d. The leading news story covered"
5. The public authority responded on 22 May 2024. It stated that the information was covered by the derogation and therefore it was not obliged to provide it.

### **Reasons for decision**

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- 6. The following analysis considers whether the requested information was derogated.
- 7. There is a considerable history of case law involving the derogation which can be found on the [Decision Notice support materials page](#) (see "FOIA Schedule one, Part VI"). In short, information is not covered by FOIA if it relates to this public authority's output – whether that be via TV, radio or the internet. This is known as derogation.
- 8. The requested information clearly relates to output. Parts C and D relate to the selection of materials for broadcast. Parts A and B relate to the process for evaluating previous broadcasts.
- 9. This information may also be held for other purposes and Parts 3 and 4 will have originally been in the public domain. This is irrelevant to the question of whether it should now be disclosed. If the information is held, even in part, for a derogated purpose, it is not covered by FOIA and therefore the public authority is not obliged to consider it for disclosure.

## Right of appeal

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10. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

11. 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.
12. 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

**Roger Cawthorne**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**