

Reference: 01600190

Information Requests
information.requests@ofcom.org.uk

17 May 2023

Freedom of Information request: Right to know request

Thank you for your request for information concerning your complaint to the BBC about a Radio 4 Today broadcast. Your request was received on 17 April 2023 and we have considered it under the Freedom of Information Act 2000 (the "FOI Act").

Your request

You submitted the below request under the FOI Act, following our email to you about your complaint about a BBC Radio 4 Today programme broadcast on 15 June 2022:

- 1. ...I want to see all the documents relevant to my enquiry.*
- 2. [Ofcom states that] this expression of emotion [in the programme] was "adequate or appropriate to the subject matter and the nature of the programme". I don't know what that means. Could you therefore put it in plain English? If you mean that Today presenters don't have an obligation to be impartial, please say so, and cite your sources. Likewise, if you're asserting that it's okay for BBC journalists to be biased when talking about immigration but not, say, fiscal or foreign policy, please say so, and explain why.*
- 3. What on earth has this to do with freedom of expression? And what's meant by the "audience's right to freedom of expression"? The audience is free to express its views as and when it wants, although of course those views won't be heard on the programme: audience participation isn't a feature of Today.*

Our response

- 1. ...I want to see all the documents relevant to my enquiry.*

I can confirm that we hold internal records related to Ofcom's consideration of your complaint. However, we are unable to provide this information to you as we consider it to be exempt from disclosure pursuant to section 44 of the FOI Act. This is because we are prohibited under section 393 of the Communications Act 2003 from disclosing information which relates to a business (in this case, the BBC) which we have obtained in the course of exercising our functions in relation to broadcast standards, unless we have the consent of that business or one of the statutory gateways

under section 393(2) of the Communications Act 2003 is met, neither of which applies here. Section 44 is an absolute exemption and does not require a public interest test.

2. [Ofcom states that] this expression of emotion [in the programme], unaccompanied by any facts, was "adequate or appropriate to the subject matter and the nature of the programme". I don't know what that means. Could you therefore put it in plain English? If you mean that Today presenters don't have an obligation to be impartial, please say so, and cite your sources. Likewise, if you're asserting that it's okay for BBC journalists to be biased when talking about immigration but not, say, fiscal or foreign policy, please say so, and explain why.

This is not a request for held information. However, I can confirm that we did not consider the presenter's reference impacted on the preservation of due impartiality in the context of wider discussion on immigration policy on this occasion.

3. What on earth has this to do with freedom of expression? ...And what's meant by the "audience's right to freedom of expression"? The audience is free to express its views as and when it wants, although of course those views won't be heard on the programme: audience participation isn't a feature of Today.

This is not a request for held information. However, to be helpful, please see Ofcom's guidance to Rule 5.1 of the Code, which states:

"In accordance with a broadcaster's right to freedom of expression, the broadcaster has the right to interpret news events as it sees fit, as long as it complies with the Code. However, broadcasters should take care before making any unequivocal interpretations or statements about contentious issues, which may be dependent on nuance and open to different interpretations e.g. statistical findings or ambiguous statements made by politicians".

The audience's right to freedom of expression is encompassed in Article 10(1) of the European Convention on Human Rights which states, with our emphasis in bold:

"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to **receive** and impart information and ideas without interference by public authority and regardless of frontiers..."

If you have any further queries, then please send them to information.requests@ofcom.org.uk quoting the reference number above in any future communications.

Yours sincerely

Information Requests

If you are unhappy with the response you have received in relation to your request for information and/or consider that your request was refused without a reason valid under the law, you may ask for an internal review. If you ask us for an internal review of our decision, it will be subject to an independent review within Ofcom.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for responding to internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all

such reviews within 20 working days, and up to 40 working days in exceptional cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact information.requests@ofcom.org.uk

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. Further information about this, and the internal review process can be found on the Information Commissioner's Office [here](#). Alternatively, the Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF