

Reference: 01846435

Information Requests
information.requests@ofcom.org.uk

25 July 2024

Freedom of Information request: Right to know request

Thank you for your request for information about Complaints BBC Regarding Protected Characteristics.

We received this request on 27 June 2024 and we have considered your request under the Freedom of Information Act 2000 (“the FOI Act”).

Your request

“I hope you are doing well. Under the Freedom of Information Act 2000, I am requesting specific information from the BBC and Ofcom regarding complaints related to protected characteristics defined under the Equality Act 2010.

Specifically, I am seeking the following information for the period from June 27, 1944, to 2023, acknowledging that data availability may vary:

- 1. Details of complaints received by the BBC concerning protected characteristics, including age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.*
- 2. Copies of correspondence or documents related to these complaints, including the text of the complaint, if available.*
- 3. Outcome or resolution of each complaint, including whether any legal action was taken against the BBC in cases related to these complaints.*
- 4. Details of complaints received by Ofcom concerning the BBC's handling of issues related to protected characteristics during the same timeframe.*
- 5. Any regulatory actions or decisions taken by Ofcom in response to these complaints.*
- 6. Information on any legal action taken against the BBC following a failed complaint to Ofcom against the BBC or Ofcom itself, specifically related to issues of protected characteristics.”*

Background

We would like to provide some background information on Ofcom’s complaints procedures and reporting, and our remit over the BBC.

Complaints about BBC services are handled in line with our [published procedures](#). Ofcom took up its role as the independent regulator of the BBC with new responsibilities for complaints in April 2017. For complaints received after that date, Ofcom can normally only consider complaints about BBC

programmes where the complainant has already complained to the BBC, and the BBC has reached its final decision (known as the “BBC First” procedure).

Based on an initial assessment of the complaint and a consideration of the related content, Ofcom will consider whether there may have been a breach of the Broadcasting Code (or other Ofcom codes or licence conditions). In cases where Ofcom considers there may have been a breach, it will launch an investigation. The possible outcomes of an investigation are that we judge an issue is in breach, resolved or not in breach of our rules.

[Ofcom’s Broadcast and On Demand Bulletin](#) (“the Bulletin”), published every fortnight on our website, includes decisions about the complaints we have considered. The Bulletin covers a range of cases, including those which Ofcom has escalated for full investigation, and those which, after careful assessment, Ofcom has decided not to pursue because they did not raise issues warranting investigation.

Our response

Regarding the date range of your request, Ofcom only came into existence in 2003, and we only hold searchable information on our complaints database for cases from 2014 onwards. As noted above, Ofcom became the independent regulator of the BBC from April 2017. We are therefore only able to provide information after these dates.

In relation to questions 1 to 3, Ofcom do not hold data on complaints received directly by the BBC.

Regarding questions 4 and 5, Ofcom logs complaints on our complaints database by category of the complaint issue (with reference to the rules in the [Broadcasting Code](#)). Our database contains specific complaint categories related to protected characteristics for:

- Age discrimination / offence;
- Disability discrimination / offence;
- Gender discrimination / offence;
- Race discrimination / offence;
- Religious / beliefs discrimination / offence;
- Sexual orientation discrimination / offence; and
- Transgender discrimination / offence.

We do not record complaints under a specific complaint category for the characteristics of marriage and civil partnership, or pregnancy and maternity. Complaints relating to matters of harm and offence not captured by the specific protected characteristic categories listed above would generally be logged under the category “Generally accepted standards”. Given that the category “Generally accepted standards” includes complaints on a wide range of issues, with over 6,500 complaints on record since 2014, a considerable amount of time would be needed to manually identify any complaints logged under that category that relate to specific protected characteristics. We estimate that this would take at least 18 hours, and so the cost of complying with your request will exceed the appropriate limit under the Freedom of Information regulations¹. In order to respond to your

¹ Section 12 of the FOI Act provides that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “appropriate limit”. The appropriate limit is set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, and is, for Ofcom, £450. That sum is intended to cover the estimated costs involved in determining whether Ofcom holds the information requested, identifying, locating,

request, we have therefore conducted our search for complaints recorded under the categories listed above.

Please find attached a table of complaints related to BBC programmes, which were logged against the complaint categories listed above from 2014 to 2023. This table summarises complaint information already published in the Bulletins, including the outcome of complaints. It should be noted that due to the BBC First system now in place, complaints received by Ofcom before and after this process came into place in April 2017 are not directly comparable.

We are unable to provide additional information such as extracts of complaints, as we consider disclosure of this information is exempt under section 44 of the FOI Act. Section 44 exempts the disclosure of information which is prohibited under another enactment. In this case, section 393 of the Communications Act 2003 applies. Section 393 prohibits Ofcom from disclosing information which relates to a business (in this case, the BBC) and has been obtained in exercise of our statutory powers, unless we have the consent of the business or one of the statutory gateways for disclosure under section 393(2) has been met, neither of which applies here. Section 44 of the FOI Act is an absolute exemption and does not require a public interest test. The detail in the table is therefore limited to the information that would have appeared in the Bulletins.

We do not hold information within the scope of question 6.

We hope this information is helpful. 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

Request an internal review

If you are unhappy with the response you have received to your request for information, or think that your request was refused without a reason valid under the law, you may ask for an internal review. If you do, it will be subject to an independent review within Ofcom. We will either uphold the original decision, or reverse or modify it.

If you would like to ask us to carry out an internal review, you should get in touch within two months of the date of this letter. There is no statutory deadline for us to complete our internal review, and the time it takes will depend on the complexity of the request. But we will try to complete the review within 20 working days (or no more than 40 working days in exceptional cases) and keep you informed of our progress. Please email the Information Requests team (information.requests@ofcom.org.uk) to request an internal review.

Taking it further

If you are unhappy with the outcome of our internal review, then you have the right to [complain to the Information Commissioner's Office](#).

retrieving and extracting the information from any document containing it. The Regulations provide that costs are to be estimated at a rate of £25 per person per hour.