

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

### **Decision Notice**

**Date:** 23 August 2024

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

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

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1. The complainant requested information from the British Broadcasting Corporation (BBC) relating to the Head of Station for Radio 2's involvement in personnel decisions. The BBC responded that the requested information was covered by the derogation and hence excluded from FOIA.
2. The Commissioner's decision is that the requested information, if held at all, is held by the BBC for the purposes of journalism, art or literature and so is not covered by FOIA. He therefore upholds the BBC's position and requires no steps to be taken in this case.

#### **Request and response**

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3. On 15 February 2024, the complainant wrote to the BBC and requested information in the following terms:

"Please provide all communications involving Head of BBC Radio 2 Helen Thomas regarding the use of characteristics protected under the Equality Act 2010 (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) in personnel decisions."
4. The BBC wrote to the complainant on 13 March 2024 to ask them to clarify their request. Specifically, it asked the complainant to clarify what

they meant by 'personnel decisions' and to confirm the time period of the request.

5. On the same date, the complainant responded and provided the following information to clarify their request:

"By personnel, I am referring to personnel decisions involving all employees, contractors, consultants, freelancers, secondees or those in any other working arrangement, including but not limited to the specific presenters Ken Bruce and Steve Wright.

I am particularly looking for anything related to the statement published in the Daily Mail on 28 January 2024 that "An insider said they believed Ms Thomas had been given orders to make the station younger and more diverse". Please provide any evidence of those orders and any other evidence of using characteristics protected under the 2010 Equality Act in personnel decisions.

Regarding the time period, please provide information as far back as you can go as feasible within the allotted time limit for responding to a FoIA request, and be sure to include 2020-2023."

6. The BBC responded on 19 March 2024 and stated that if held, the requested information would be held for the purposes of "art, journalism or literature" and so would not be covered by FOIA. Therefore, it did not consider that it would be obliged to provide the requested information.

## Reasons for decision

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7. The following analysis covers whether the information requested is excluded from FOIA because it was held for the purposes of journalism, art or literature. Details about derogation and FOIA can be found in the Commissioner's [decision notice support materials](#).
8. In its submissions to the Commissioner, the BBC explained that since becoming Acting Head of Station for BBC Radio 2 in March 2020, and Head of Station in May 2020, Helen Thomas has only been involved in personnel decisions relating to on-air talent such as radio presenters, and staff concerned with the commissioning of radio programmes. She has not been involved in other station recruitment such as production staff or business support staff. Therefore, the BBC considers that if it holds information within the scope of the request that information would relate to the engagement and recruitment of on-air talent and those responsible for the commissioning of radio programmes.

9. The BBC considers radio presenters and commissioning staff to be directly connected to its output, specifically its radio output. It explained that the recruitment and engagement of radio presenters and commissioning staff is an editorial matter with hiring decisions directly affecting radio station programming and the content and journalistic tone of broadcasts.
10. Based on the explanation provided by the BBC's the Commissioner is satisfied that if held, the requested information would be held for the purposes of journalism, art or literature. The information would be associated with the BBC's output as recruitment and personnel decisions relating to radio presenters and commissioning staff directly affect the BBC's radio output.
11. Therefore, the Commissioner's decision is that if held, the information requested by the complainant would be held for the purposes of journalism, art or literature. It is therefore not covered by FOIA and the BBC is not obliged to provide it.

## **Right of appeal**

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12. 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)

13. 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.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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