[GB] Clarification of the BBC's Duties under the Freedom of Information Act

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The BBC is mentioned in the Freedom of Information Act 2000, which provides a right of access to official information. However, it is only covered in relation to information held "for purposes other than those of journalism, art or literature." The High Court has clarified the meaning of this position, following other litigation concerning the scope of the appeal procedures in such cases (see IRIS 2009-4: 11).

The case concerned an internal review of BBC coverage of Middle Eastern Affairs based on a report commissioned from a senior journalist; it included consideration of the impartiality of the BBC's coverage. An application was made under the Freedom of Information Act for disclosure of the report; this was declined on the ground that the Act did not apply to it; the decision was upheld by the Information Commission, but overturned by the Information Tribunal. The court now had to decide whether the report fell within the derogation relating to journalism.

The Information Tribunal had held that news gathering and editorial functions fall within the 'journalistic space'. The report had originally been commissioned for predominantly journalistic purposes, but was used for wider purposes of strategic policy and resource allocation and so fell outside the derogation. According to the High Court, it was not correct to ask what the predominant purpose for which the information was held was; if information was held for multiple purposes, including journalism, that did not mean that it had to be disclosed. Instead, the legislation meant that the BBC has no obligation to disclose information which is held to any significant extent for the purposes of journalism, art or literature, whether or not the information is also held for other purposes. If the information is held for mixed purposes, it is not disclosable. Moreover, strategic policy and issues of impartiality themselves fall within the concept of 'journalism' preventing disclosure.

British Broadcasting Corporation v Steven Sugar [2009] EWHC 2349

http://www.bailii.org/ew/cases/EWHC/Admin/2009/2349.html

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