

Fol ruling means BBC may reveal Middle East report

*By Martin Stabe, Online Press Gazette
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The Information Tribunal has ruled against the BBC in the first case testing the exposure of the corporation's journalism to requests under the Freedom of Information Act.

It decided the corporation had been wrong to deny a request for an internal report about its coverage of the Middle East using a blanket derogation in the law that exempts the BBC from releasing information about its journalism.

The BBC, Channel 4 and Welsh broadcaster S4C are only covered by the Freedom of Information Act "for purposes other than those of journalism, art or literature".

In April, Press Gazette revealed that since the act came into force in January 2005, the BBC had rejected more than 400 requests by citing the derogation. Among the rejected requests was one by London solicitor Steven Sugar, who had asked the corporation to release an internal report on its coverage of the Israeli-Palestinian conflict, written in 2004 by senior editorial advisor Malcolm Balen. The corporation's decision to deny the request was later upheld on appeal by the Information Commissioner.

Overtaking the Commissioner's ruling, the tribunal decided that the derogation does not apply to the Balen Report because at the time of the request the BBC had been using it for strategic, rather than for journalistic, purposes.

The decision hinged on the tribunal's assessment of the meaning of "journalism" in the FOI legislation and whether the BBC's claim that it held the Balen Report only "for the purposes of journalism" was accurate.

The tribunal decided that the key distinction was between "functional journalism" and "the direction of policy, strategy and resources that provide the framework within which the operations of a [public service broadcaster] take place".

The decision of the tribunal now leaves the way open for some of the 400 rejected requests to be re-submitted. These include a request by Press Gazette for information on the number of BBC journalists earning more than £100,000. The BBC told Press Gazette that the corporation was unable to make a comment on the ruling until it had time to consider the findings in greater detail.

Source:

http://www.pressgazette.co.uk/article/070906/foi_ruling_means_bbc_may_reveal_middle_east_report