



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2013/0213
Appellant: Leslie Clarkson
Respondent: The Information Commissioner
Judge: NJ Warren

DECISION NOTICE

1. Mr Clarkson continues to be concerned about some of the language used on a radio phone in programme broadcast by BBC Radio Stoke in 2006. He has made a complaint about the broadcast to the BBC Governors' Programme Complaints Committee. That Committee deals only with complaints about the content of programmes or on line articles for which the BBC has editorial responsibility. He is dissatisfied with the outcome of that process and is particularly concerned about the role of the Committee's editorial advisor. He has therefore put in a request for information under the Freedom of Information Act (FOIA).
2. The BBC is subject to FOIA but only "in respect of information held for purposes other than those of journalism, art or literature". Relying on the House of Lords decision in the case of *Sugar v BBC*, the BBC has refused to answer the request and the Information Commissioner (ICO) has upheld that refusal. Mr Clarkson now appeals to the Tribunal.
3. The ICO has applied to strike out the appeal.
4. In the light of the House of Lords decision to which I have referred, it seems to me to be impossible for Mr Clarkson to argue that the BBC Stoke Programme was not part of BBC journalism; and it follows that the editorial complaint process is there to support that journalism. Any information held as part of the process must be information held for the purposes of journalism. I have concluded that it is inevitable that the ICO's arguments would be successful on appeal and I would be doing no favour to anyone to allow the appeal to continue. I therefore strike it out on the ground that it has no reasonable prospect of success.

NJ Warren

Chamber President

Dated 17 December 2013

Promulgated 18 December 2013