

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 September 2013

Public Authority: The British Broadcasting Corporation (the "BBC")

Address: 2252 White City
201 Wood Lane
London
W12 7TS

Decision (including any steps)

1. The complainant has requested information from the BBC concerning its handling of a Freedom of Information Act request submitted to the BBC by another individual. This earlier request asked for information held by the BBC regarding the broadcast of ITV's programme "Exposure – The Other Side of Jimmy Savile" on 3 October 2012. The complainant requested information as to whether the BBC had complied with the procedural requirements of the FOIA in relation to this request. The BBC provided a late response to the request.
2. The Commissioner's decision is that the BBC has failed to provide a response to the request within the statutory time frame of 20 working days. He upholds the complaint but requires no further action to be taken as a response has now been provided to the complainant.

Request and response

3. On 18 May 2013 the complainant requested information from the BBC as follows:

"On 6th October 2012 the BBC was sent an FOIA request, which you allocated the reference number RFI20121054. The request sought all information the BBC held regarding the broadcast of ITV's programme

"Exposure - The Other Side of Jimmy Savile" on 3rd October 2012.

I have been following the progress of that request and the BBC has failed to provide a response in accordance with law. The requestor's plea for an internal review also appears to have fallen on deaf ears.

The original request read as follows:

"Under the terms of the 2000 Act please provide me with all information the BBC holds in relation to the broadcast of "Exposure - The Other Side of Jimmy Savile" on ITV on 3rd October 2012. My request for information includes that contained in relevant letters and emails generated by the BBC, their staff, or others acting on their behalf."

Please provide a response."

4. On 20 May 2013 the BBC acknowledged receipt of the request.
5. On 18 June 2013 a reminder was sent to the BBC as no response had been received within the 20 working days response deadline under the FOIA.
6. On 21 June 2013 a further reminder was sent by the complainant.
7. On 25 June 2013 he submitted a request to the BBC for an internal review as he had received no response to the request.
8. On 3 July 2013 the complainant wrote a further letter to the BBC advising that he would be making a complaint to the Information Commissioner (the "Commissioner") as he had received no response to the original request or an acknowledgement in respect of his request for an internal review.
9. On the same date the complainant advised the Commissioner that he was not satisfied with the response to his request for information dated 18 May 2013 in that a response had not been dealt with within the required timescales under the FOIA.
10. On 4 July 2013 the BBC advised the complainant that a response would be forthcoming in respect of the original request and apologised for the internal review request not being dealt with.
11. On 9 July 2013 the BBC provided its response to the request for an internal review confirming breach of section 10 of the FOIA.
12. On 6 August 2013 the BBC provided its response to the complainant's request for information dated 18 May 2013.

Scope of the case

13. The complainant wrote to the Commissioner on 6 August 2013 to confirm he was not satisfied with the response to his request for information in that the response had not been dealt with within the required timescales under section 10 of the FOIA.

Reasons for decision

14. Section 1(1) of FOIA requires a public authority in receipt of a request for information to confirm whether it holds the requested information, and, if so, disclose it to the applicant. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
15. The Commissioner considered whether the BBC responded to the request of 18 May 2013 in line with the provisions of the FOIA.
16. In its submissions to the Commissioner the BBC provided background information to explain the delay in dealing with request for information within the required timescales.
17. It advised that following the reporting of allegations in respect of Jimmy Savile in October 2012 it had received an unprecedented number of FOIA requests, including a significant number requesting information about Jimmy Savile's employment at the BBC. Many of the requests asked for a wide range of statistical and procedural information about the areas of child protection, sexual harassment and sexual misconduct. Because of the volume of requests, level of complexity and number of documents involved it had not been possible to deal with all requests in the required time limits.
18. The BBC also advised that because of the decision to voluntarily release a substantial amount of information beyond the scope of the FOIA a significant amount of time had been spent reviewing and preparing information for disclosure.
19. From the information provided to the Commissioner in this case it is evident that the BBC did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

Right of appeal

11. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. 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.
13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

**Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
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SK9 5AF**