

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 October 2016

**Public Authority:** British Broadcasting Corporation (BBC)

**Address:** Broadcast Centre  
White City  
Wood Lane  
London W12 7TP

#### Decision (including any steps ordered)

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1. The complainant has requested information about the Government's decision to cease funding the provision of free television licences to persons over 75 years of age.
2. The Commissioner's decision is that the BBC has breached section 10(1) of the FOIA because it has not provided a substantive response to this request within 20 working days of receiving it.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
  - Provide a response to the complainant's request of 29 April 2016 in accordance with its obligations under the FOIA.
4. The public authority must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

#### Request and response

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5. On 29 April 2016, the complainant wrote to the BBC and requested information in the following terms:

*"In light of your response, we wish to make the following new request. Please provide the following information, whether contained in*

*documents or otherwise recorded, in relation to: (i) the decision that the Government will cease to fund the provision of free television licences to persons aged 75 and over (the "Policy Decision"); and (ii) the arrangements with the British Broadcasting Corporation ("BBC") by which the Policy Decision is to be implemented (the "Implementing Measures"):*

1. *Minutes and/or notes of all meetings between the BBC and Government officials at which the Policy Decision and/or the Implementing Measures were discussed, including, but not limited to:*
  - a. *the meetings on 29 and 30 June 2015 between BBC officials and officials from the Department for Culture, Media and Sport and Her Majesty's Treasury; and*
  - b. *meetings between 1 and 3 July 2015 between Lord Hall and Rhona Fairhead of the BBC, and the Culture Secretary and the Chancellor of the Exchequer.*

*Please note that this limits your searches to minutes and/or notes of meetings within the categories of information set out in our request of 278 January (in other words, it excludes 'correspondence' from the scope of your searches).*

6. The BBC wrote to the complainant on 6 June 2016. It said that it considered the exemption at section 36 (prejudice to effective conduct of public affairs) applied to the request. However, the BBC also said it needed further time in which to consider the public interest test with regard to this exemption. It said it estimated that it will have reached a decision by 28 June 2016.
7. The complainant wrote to the BBC on 28 June, 13 July and 22 July 2016 because he had not received a substantive response to his request. At the date of this notice, a substantive response has still not been received.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 14 September 2016 to complain about the way his request for information had been handled.
9. The Commissioner's investigation has focussed on whether the BBC complied with its obligations under section 10 of the FOIA.

## Reasons for decision

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10. Section 1(1) of the FOIA says that anyone making a request for information is entitled to be told by a public authority whether it holds the information and, if it does, to have that information communicated to him or her, subject to any exemption being applied.

11. Section 10(1) says that an authority must comply with section 1(1) *"promptly and in any event not later than the twentieth working day following the date of receipt."*

12. The Commissioner's guidance *'Time limits for compliance under the Freedom of Information Act (Section 10)'* deals with issues connected with situations where a public authority is considering extending the time to consider the public interest under section 10. The guidance says:

*"Section 10(3) enables an authority to extend the 20 working day limit up to a 'reasonable' time in any case where;*

- It requires more time to determine whether or not the balance of the public interest lies in maintaining an exemption...*

*... This extension will therefore only apply to requests where the authority considers a 'qualified exemption' (an exemption that is subject to the public interest test) to be engaged...*

*...The Act does not define what might constitute a 'reasonable' extension of time. However, our view is that an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days. An extension beyond this should be exceptional..."*

13. The BBC notified the complainant that it needed more time to consider the balance of the public interest on 6 June 2016. More than 80 working days later, the BBC has not provided a substantive response to the complainant's request. The Commissioner does not consider this amount of extra time to be reasonable.

14. The Commissioner has taken the view that section 10(3) is a modification of section 10(1). She has therefore found that the BBC has breached section 10(1) because it has not provided the complainant with a substantive response to his request.

## Right of appeal

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15. 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: 0870 739 5836  
Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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** .....

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**