

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 December 2021

Public Authority: British Broadcasting Corporation (BBC)

Address: BBC Broadcasting House
Portland Place
London
W1A 1AA

Decision (including any steps ordered)

1. The complainant has requested the BBC to disclose all documents relating to a note, written by the late Princess of Wales, to the BBC on 22 December 1995. To date the BBC has failed to respond to the request.
2. The Commissioner's decision is that the BBC has breached section 10 of the FOIA, by failing to respond to the request within 20 working days of receipt.
3. The Commissioner requires the BBC to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with FOIA.
4. The public authority must take these steps 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

5. On 10 September 2021, the complainant wrote to the BBC and requested information in the following terms:

"I am researching the BBC handling of documents relating to the November 1995 Panorama interview with the late Princess of Wales.

- My request is to see all documents relating to the note, written by the late Princess, and sent to the BBC on 22/12/1995, from the period during which the possibility of procuring the note was discussed internally, from the date of its receipt, up to and including its 'rediscovery' in November 2020, and during the period leading up to the publication of Lord Dyson's report in May 2021.
 - I am particularly interested in all BBC documentation created between August 2020 and November 2020, when the whereabouts of this note became a matter of very great national interest."
6. The BBC responded on 8 October 2021. It apologised for the delay in responding to the request and advised that it would respond in full shortly.
7. As the complainant received no response, he referred the matter to the Commissioner on 8 November 2021.
8. The Commissioner wrote to the BBC on 13 November 2021 to request that it issues a response within the next 10 working days.
9. The complainant contacted the Commissioner again on 30 November 2021 to say that the BBC had still failed to respond to his request.

Scope of the case

10. As stated above, the complainant contacted the Commissioner on 8 and 30 November 2021 to complain about the BBC's failure to respond to his request. It is the Commissioner's understanding that this still remains the position today.
11. The Commissioner considers the scope of this investigation is to establish whether the BBC has complied with its obligations under FOIA.

Reasons for decision

12. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.

13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the BBC has breached section 10 of FOIA.

Right of appeal

13. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

14. 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.
15. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF