

Commissioner considered that those payments (including expenses) did fall within the scope of the Act. However, the Commissioner decided that the information was exempt from disclosure under section 40(2) of the Act as he felt that the payment information constituted personal data and that its disclosure would breach the first data protection principle in the Data Protection Act, being 'fair and lawful processing'. The Commissioner found that the payments made to these individuals did not relate to the performance of a public function which involves spending public money or taking influential policy decisions. The Commissioner considered that the individuals in that case had a reasonable expectation that their personal data would not be disclosed and it would therefore be unfair to do so.

The BBC's approach to this case

The BBC does not agree with the Commissioner's decision on the scope of the Act and reserves its position on the matter; however, the BBC considers that in the event of a similar finding by the Commissioner in this case, the information you have requested would also be exempt under the Act under section 40(2) as the information constitutes personal data and disclosure would breach the First Principle (fair and lawful processing) for the reasons outlined above.

Further, The expenses claimed by these individuals do not relate to the performance of a public function which involves spending public money or taking influential policy decisions. The individuals involved would not expect the type of information requested to be disclosed to third parties, and therefore to do so would be unfair.

The Information Commissioner's Office has published guidance on the disclosure of information about salaries here:

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/practical_application/salaries_v1.pdf

Appeal Rights

The BBC does not offer an internal review when the information requested is not covered by the Act. However, if you are not satisfied with our response, you do have the right to appeal to the Information Commissioner. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, telephone 01625 545 700 or see www.informationcommissioner.gov.uk In the event of a finding by the Information Commissioner that the Act does apply in this case, should you then wish, the BBC is prepared to undertake an internal review of our decision on the application of section 40 (personal information) to the information you have requested.

Yours sincerely,

Stephanie Harris
Head of Accountability, BBC News