



Information Policy & Compliance
bbc.co.uk/foi

Mr Colin Phillips
Via email: request-156-cfb251de@whatdotheyknow.com

16 April 2008

Dear Mr Phillips

Freedom of Information request – RFI20080355

I write regarding your request under the Freedom of Information Act of 6 April 2008 (ref. RFI20080355) requesting:

“information on the individual contracts and salaries of the news and sports presenters employed by the BBC, in both Television on Radio.”

The BBC considers that information concerning the individual contracts and salaries of presenters falls outside the scope of the Act. The BBC and the other public service broadcasters are covered by the Act only in respect of information held for purposes “other than those of journalism, art or literature”(see Schedule 1, Part VI of the Act). This means that the BBC is not obliged to supply information held for the purposes of creating output or which is closely associated with such creative activities. The BBC considers that this includes information about the costs involved in creating its output.

Information being withheld under section 40 of the Act

The BBC notes the recent decision notice of the Information Commissioner (ref. FS50085710): in that case the Commissioner considered that payments made to talent 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 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 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). The salaries and contracts offered to 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.

I should add that the BBC considers that the information requested would also be exempt from disclosure under Section 43(2) of the Act because to do so would prejudice the commercial interests of the BBC.

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 sections 40 (personal information) and 43 (commercial interests) to the information you have requested.

Yours sincerely

Julia Falvey
Advisor, Information Policy & Compliance