

MINUTES OF THE MEETING BETWEEN ICO AND THE BBC
Held on 18 April 2005 at BBC Media House, Wood Lane, London

Present: **BBC**
 Nicolas Eldred (NE)
 Mark Burgess (MB)
 Meredith Cook (MC)
 James Leaton-Gray (JG)

ICO
 Phil Boyd (PB)
 Maurice Asielue (MA)

The following issues were discussed:

4. Procedures

PB confirmed that it was unnecessary to offer an internal review of a decision to refuse an RFI under derogation. He also confirmed that in the event the ICO upheld a complaint that derogation had been wrongly applied to a RFI, a Decision Notice would be issued and directions made to the effect that the BBC:

- (i) has wrongly applied derogation, and
- (ii) should substantively deal with the RFI (any possible exemptions under the FOIA should be considered by the BBC at this stage).

In addition, PB confirmed that on receipt of a complaint under this head, the ICO would adopt the following procedure:

- (iii) initially assess if derogation has been correctly applied.
- (iv) close the complaint if in our view derogation has been clearly and correctly applied. The complainant can apply for a judicial review.
- (v) in the event of uncertainty (or when it is unclear from the available facts) that derogation has been correctly applied, the ICO would require the BBC to justify and explain its application of derogation.
- (vi) an Information Notice may be sent on or after at this stage.