

Freedom of Information
Internal Review decision

Internal Reviewer	Lawyer – Information Rights
Reference	RFI20210127/IR2021052
Date	14 June 2021

On 19th January 2021 you made a request to the BBC under the Freedom of Information Act 2000 ('the FOI Act') seeking the following information:

*"Please can you provide me with information about the established reporting regimen between Capita & BBC.
I would like to know the schedule of data/information reports that have been agreed between Capita & BBC. For example, but not limited to, Licence in Force Report, Monthly Performance Pack and any others etc....
I want to know a calendar of what information is agreed to be given by Capita to the BBC on a recurring basis (not ad-hoc). For example, scheduled reports, contracted or otherwise.
This should not exceed your FOI limits, there will be in the first instance contractual information detailed in contracts determining the information needing to be reported and on which date. There will also be information separate to that about agreed reporting regimen outside of the contractual agreements.
My request does not limit this by any particular department but it must include financial/statistical disclosure.
It must also include a schedule of reports that originate from LASSY whether or not those LASSY reports are later manipulated for whatever reason before sending to BBC.."*

On 16th February 2021, the BBC refused to process your request. They formed the provisional view (subject to your right to ask for a review) that the request is vexatious on the following grounds:

"The kinds of reports you are seeking are simply a part of TV Licensing's day-to-day business with its contractors and we can see no obvious purpose to your request; nor can we see how or why disclosing the information would be of any wider benefit to the public interest. It does not appear that you are following a genuine line of enquiry or requesting information about a particular issue or topic of interest."



Although we use this categorisation cautiously, we suspect this is what the ICO refers to as a “fishing expedition” (see paras.81 et seq.) i.e. requests where—

“the requester casts their net widely in the hope that this will catch information that is noteworthy or otherwise useful to them.”

In addition, we anticipate that disclosure of the information you seek will likely be the basis for a series of further burdensome requests for information of questionable value to you or in the public interest.

Since 2009 we have responded to multiple requests made by you under the Act, all focused on the BBC’s relationship with Capita. In recent years, these requests (often repeat) have increased in frequency: in 2019 we received ten requests, three requests in 2020 and a further five requests so far this calendar year. We therefore suspect this is a personal campaign designed to cause disruption or irritation to both parties”

On 14th May 2021 you asked for an internal review of that decision, on the following grounds—

“I am writing to request an internal review of British Broadcasting Corporation's handling of my FOI request 'Reporting agreements between Capita and BBC'.

I make the point that yes I am requesting reports that are "simply a part of TVL day to day business"

You do not have to understand the purpose to my request under the law, it makes sense to myself the requestor. Disclosing the information is of public interest although I am under no obligation to inform you why.

I have made previous requests, with good reason. Again the FOI act does not obligate me to tell you of why I want the information and you should not make inferences about that.

Under the law I am asking you to just give me the information asked for, I am not engaging in an argument about the details of said information”

Internal review

I noticed that you did not make your internal review request within 40 working days of receiving the BBC’s response to your original request, as set out in the Appeal Rights paragraph of the BBC’s response (in accordance with ICO



guidance¹). Although public authorities are not obliged to accept internal review requests after this date, I have overlooked the delay on this one occasion.

I have reviewed your original request, the BBC's reply and your request for an internal review.

Under section 14(1) of the Act, public authorities do not have to comply with vexatious requests. I have had regard to that provision and to the ICO guidance on its use, *Dealing with Vexatious Requests* <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>.

The ICO—

*... suggest that the key question the public authority must ask itself is whether the request is likely to cause a **disproportionate** or **unjustified** level of disruption, irritation or distress.*

They advise that—

... public authorities should not regard section 14(1) as something which is only to be applied in the most extreme circumstances, or as a last resort. Rather, we would encourage authorities to consider its use in any case where they believe the request is disproportionate or unjustified.

Applying section 14 involves a balancing exercise—

This will usually mean weighing the evidence about the impact on the authority and balancing this against the purpose and value of the request. Where relevant the authority will also need to take into account wider factors such as the background and history of the request.

My decision

I am satisfied that the BBC has applied section 14 correctly. I agree that disclosure of information is in the public interest, and that a public authority has to accept that compliance with the FOI Act will sometimes be burdensome and may cause a degree of inconvenience. But an authority has many calls on its resources and even where it has no evidence that a request is being made for the specific purpose of causing disruption or irritation, it has the right under section 14 to balance the impact of the request on it against any apparent merit in the request or value in the information requested. This is in addition to its right under section 12 to refuse requests that involve excessive effort.

You have asked simply for a list of data/information reports that Capita have agreed to provide to the BBC. I can see no intrinsic value in such a list. Such a list

¹ <https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/complaints/>



would not be a trivial thing for the BBC to compile, and while you are correct that in general an authority should take no account of the reason why a requester wants certain information, the guidance makes it clear that, when the requested information has no evident value to the wider public benefit, the authority can take that into account in deciding whether it is obliged to provide it.

I am satisfied that the BBC have applied section 14 objectively and reached a conclusion that people would consider reasonable (see paragraph 52 of the ICO guidance). The BBC explained the factors which led it to that conclusion, including the history of the requests you have made previously, the possibility that this is no more than a “fishing expedition”, and evidence that you are making requests as part of a personal campaign rather than a genuine effort to find out about the business of the BBC and Capita for a serious purpose. The fact that the BBC has responded to numerous requests of yours, and a suspicion that this request is the starting-point for a series of burdensome requests of limited public value, are also legitimate considerations in assessing whether a request is proportionate (paragraphs 58 and 59).

Accordingly, after conducting my review, I am upholding the BBC’s decision not to process your request on the grounds that it is vexatious.

Appeal rights

If you are not satisfied with the internal review, you can appeal to the Information Commissioner. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF, Tel: 0303 123 1113 or see <https://ico.org.uk/>

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