

**Freedom of Information
Internal Review decision**

Internal Reviewer	Katherine Leslie, BBC Advisor – Freedom of Information
Reference	RFI20161755 / IR2016083
Date	7/11/2016

Requested information

On 20 September 2016 the Applicant, Ms Joyce Lawrence via www.whatdotheyknow.com, sought the following information under the Freedom of Information Act 2000 ('the Act'):

My FOI request was for information stating if more than GUEST ROOM is in the sheltered housing complex then a ARC licence will be refused, the only reference i can see is in the link you gave me was the following one which it says is a room included in the ARC TV Licence for members of family not more than 28 days, exact wording below.

(g) one dwelling within the group is used for overnight accommodation, for no longer than 28 nights in any consecutive period, for any member of the family of any person referred to in sub-paragraph (4)

I know 1st of April 2007 also 1 respite room was included in the ARC TV Licence but as you are aware a respite room and guest room are entirely different, as a guest room and is not for family members only and unlike respite room has also has to pay a full TV Licence fee.

So i am asking you again can you please show me the [sic] legislation regarding Guest Rooms and ARC Licence for sheltered housing.

On 10 October 2016 the BBC responded advising:

Please be advised that the Act gives a general right of access to all types of recorded information held by public authorities; and we are not required to create new information to respond to a request, or give a judgement or opinion that is not already recorded. Since the response to your request RFI20161575 has already signposted you to the relevant legislation¹ as information freely available elsewhere, I consider that the BBC has fulfilled its duty under the Act to provide you with recorded information relevant to your request.

¹ Part 2 of schedule 4 of the Communications (Television Licensing) Regulations 2004 - <http://www.legislation.gov.uk/uksi/2004/692/contents/made>

I note that you have submitted several requests concerning Accommodation for Residential Care (ARC) Concessionary TV Licences; and that your queries indicate a specific interest in the eligibility of sheltered housing for an ARC licence. As advised in my response to your most recent request RFI20161667, the TV Licensing Customer Relations team is fully qualified to answer these particular queries and you may contact the team via email on tvL-darwenCR@capita.co.uk.

On the same day the Applicant requested an internal review on the basis that:

I have been told that I was directed to the relevant information concerning guest rooms and Arc Licence but on studying the information nowhere dose it refer to guest rooms only a room for relatives family for not more than 28 days,this room is included in the Arc Licence,Guest rooms are not included in the ARC Licence,they have to pay full TV Licence so therefore it is not the relevant information I requested so still have not been given any exact information concerning a ARC Licence will be refused if the sheltered accommodation has more than one guest room.

So can you please show me where it specifically states a ARC Licence will be refused concerning guest rooms and also why the management of the sheltered housing accommodation have not been given the refusal of a ARC Licence in writing.

Issue on review

The issue on review is whether the BBC handled the Applicant's request in accordance with its obligations and duties under the Act. In particular, as required by section 1(1)(a) and (b), did the BBC confirm or deny that it holds the requested information, and have that information communicated to the Applicant?

Decision

I am satisfied that the BBC handled the request in accordance with the Act.

Analysis

The FOI Act does not require the BBC to create new information to respond to a request, or give a judgement or opinion that is not already recorded.²

The Applicant requested the legislation regarding guest rooms and ARC Licence for sheltered housing.

² See <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

As indicated in the BBC's earlier letter dated 20 September 2016, which responds to the Applicant first FOI request (reference: RFI20161575), Schedule Four of the *Communications (Television Licensing) Regulations 2004* sets out the relevant law for Accommodation for Residential Care (ARC) Concessionary TV Licences. This Schedule specifies the fee payable for ARC Licences and provides the conditions that must be met for an ARC licence to be valid. It follows that, if an application for ARC Licence is made, and it does not meet the conditions as required by Schedule four, an ARC Licence will be refused. Further information is available on the TVL website about ARC licences and sheltered homes; see for example: <http://www.tvlicensing.co.uk/faqs> and <http://www.tvlicensing.co.uk/check-if-you-need-one/business-and-organisations/sheltered-accommodation-aud9>.

This FOI request is one of several requests concerning the eligibility of ARC Concessionary TV Licences. The TV Licensing Customer Relations team is fully qualified to respond to specific queries about TVL matters and provide advice to the Applicant, and the team can be contacted directly via email on tvldarwenCR@capita.co.uk.

The Applicant has an outstanding FOI request (RFI20162058), which asks for information concerning section 6 of the ARC application form. The BBC anticipates replying to the Applicant by 29 November 2016.³

Appeal Rights

If you are not satisfied with the outcome of your 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; Telephone 01625 545 700 or www.ico.gov.uk

³ The FOI request is available here:

https://www.whatdotheyknow.com/request/arc_licence_information