



Information Policy & Compliance  
[bbc.co.uk/foi](http://bbc.co.uk/foi)

Mr Mark Salter

Sent by email to: [request-63743-b8872ee5@whatdotheyknow.com](mailto:request-63743-b8872ee5@whatdotheyknow.com)

21<sup>st</sup> April 2011

Dear Mr Salter,

### **Freedom of Information Act 2000 – RFI20110271**

Thank you for your request under the Freedom of Information Act (the Act) received by email on 28<sup>th</sup> February 2011, regarding the handling of and reporting of interference complaints and the BBC's termination last year of its contract with Ofcom to provide that service, as follows:

*'On Wednesday 30<sup>th</sup> June, the handling of reporting and primary investigation passed to the BBC from Ofcom. This new arrangement is described by Ofcom here:*

*<http://stakeholders.ofcom.org.uk/enforcement/interference-complaints/>*

*To understand this change, the planned and predicted :-*

- benefits*
- cost savings*
- efficiencies*
- processes*

*I formally request sight of all documents the BBC produced, received and now holds relating to this process revision and change of responsibilities, specifically :-*

- a) All documents sent from the BBC to third parties.*
- b) All documents received by the BBC from third parties.*
- c) All documents produced for the BBC.*
- d) All minutes produced from related meetings.*
- e) Documents defining the criteria for and procedure of case escalation from the BBC to Ofcom.*



INVESTOR IN PEOPLE

*f) Details of any regulatory duties that have been delegated to the BBC by Ofcom, for each duty, please also provide a link to or include the documentation defining associated legislation’.*

The unique reference for your request is RFI20110271 – I am sorry for the delay in responding and now respond as follows:

I would first like to clarify the circumstance of the ‘new’ arrangement that Ofcom refers to in its statement above. The BBC has an obligation under Clause 82 of the BBC Agreement to “*make reasonable arrangements, at the BBC’s expense, for the investigation of reports of interference by electromagnetic energy affecting domestic television and radio reception in the UK*” From 1998, the BBC met this obligation by placing a contract with the Radiocommunication Agency (now Ofcom) to provide the Radio Investigation Service. In 2009, for a number of reasons, the BBC decided to terminate its contract with Ofcom with effect from 1 July 2010.

In accordance with section 1(1) of the Act, the BBC confirms that it holds information relating to your request. However, I estimate that to deal with your request would take more than two and a half days; under section 12 of the Act, we are allowed to refuse to handle the request if it would exceed the appropriate limit. The appropriate limit has been set by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations (SI 2004/3244) as being £450 (equivalent to two and a half days work, at an hourly rate of £25). As you may be able to imagine, the number and scope of documents that you request and their wide distribution around the BBC means that it would take longer than 2.5 days to locate, retrieve and extract all of the requested information.

However, we are mindful of our duty under section 16 of the Act to provide reasonable advice and assistance to you and specifically to advise how you might narrow your request so that it complies with the time limit. We are however concerned that it is not possible to suggest any meaningful way of narrowing. For example, even if the search were to be narrowed to a single Division the amount of information that would need to be searched would still be very large because of the number of emails and attachments that would need to be searched in order to identify and extract information relevant to your request. If the search were to be narrowed to one day or one individual this would not provide you with a meaningful response.

However, in order to offer assistance we have considered your request for the information necessary to understand “the planned and predicted benefits, cost savings, efficiencies and processes” and also the more specific requests in parts (e) and (f) of your enquiry regarding procedures and regulatory duties. We are happy to supply you with the most relevant documents that we have been able to locate which, between them, cover these parts of your request in a very good level of detail which I think should be sufficient for you to understand the reasons for the changes.

I therefore enclose the following:

Documents covering the decision process to bring the service in-house:

1. Disclosure Document 1: "RIS\_IRMG \_2.pdf". Highlights the risks in bringing the service in-house.
2. Disclosure Document 2: "RIS Strawman.pdf". A discussion document about the new service.
3. Disclosure Document 3: "EB(09) 205 - The Radio Investigation Service.pdf". A paper to the BBC's Executive Board seeking approval for the new arrangements.
4. Disclosure Document 4: "2009-12-07 - Executive Board Minutes - extract.pdf". Extract of the minutes from the above Executive Board meeting
5. Disclosure Document 5: "RIS\_Overview\_180211.pdf". This is a presentation that was given to summarise the changes to the service.
6. Disclosure Document 6: "Radio Investigation Service Quarterly Report Jun-Sept2010\_redacted.pdf".

We are withholding detailed financial information from Disclosure Document 6 (labelled as Figure 6) under section 43(2) of the Act (commercial interests) as it contains detailed financial costs, disclosure of which would be likely to prejudice the commercial interests of the BBC and some of our partners.

Figure 6 showed a graph of costs for each of the financial quarters 2010 Q1 to 2011 Q1 inclusive (2010 Q3 to 2011 Q1 being estimates rather than actual figures), with each quarter being broken down into subject headings (eg staffing costs, website development, call centre costs etc). Although we are withholding the individual breakdown of costs, we are happy to release the total amounts which appeared in this graph as follows:

| Financial Quarter  | Description                           | Total figure shown on graph |
|--------------------|---------------------------------------|-----------------------------|
| 2010 Q1            | Ofcom contract costs                  | Approx £510,000             |
| 2010 Q2            | BBC running costs, and start-up costs | Approx £650,000             |
| 2010 Q3 (estimate) | BBC running costs, and start-up costs | Approx £185,000             |
| 2010 Q4 (estimate) | BBC running costs                     | Approx £150,000             |
| 2011 Q1 (estimate) | BBC running costs                     | Approx £150,000             |

Disclosure of detailed financial information would be likely to prejudice the commercial interests of the BBC and various third parties by:

- weakening the BBC's bargaining position with suppliers of goods and services;
- having a detrimental impact on the commercial revenue of the BBC or a third party;

- weakening the BBC's or a third party's position in a competitive environment by revealing market-sensitive information or information of potential usefulness to competitors;

As section 43 is a qualified exemption, in accordance with section 2(2) of the Act we have considered the public interest factors in this case. Specifically, whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In favour of disclosure, we recognise that there is a public interest in the following:

- that there is transparency in the accountability of the BBC for its use of public funds;

On the other hand, in considering factors that might weigh in favour of the public interest in withholding, we took into account:

- that the competitive position of our partners in their particular markets is not disadvantaged by doing business with the BBC. It would not be in the public interest to disclose price sensitive information about a particular company if that information would be likely to be used by competitors to gain a competitive advantage over that company.

I am therefore satisfied, in terms of section 2 of the Act, that in all the circumstances of this case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

You will see that the BBC had some relatively high initial costs in terminating the old arrangements and in setting up the new ones, which were expected, but that the estimate of the ongoing running costs is significantly reduced. (The second quarterly report has not yet been published, but as the number of referrals to Ofcom has been less than anticipated it is expected that these reduced running costs will easily be met).

Your request (e), regarding criteria and procedures for case escalation, is answered by the following documents, which also include some information relevant to your other enquiries:

7. Disclosure Document 7: "Ofcom/BBC 1998 RIS contract" – the original contractual arrangement with Ofcom for delivery of the RIS.
8. Disclosure Document 8: FCC (10) 08 "Radio Investigation Service" – a paper to the BBC Trust Finance and Compliance Committee to note the proposal
9. Disclosure Document 9: "RIS Process notes for procurement" – an internal note for procurement detailing the BBC's initial understanding of the scope of the service and how it could be provided.
10. Disclosure Document 10: "Development of Diagnostic Journey.pdf".
11. Disclosure Document 11: "Management process for reports of interference to domestic reception 150210 .pdf".
12. Disclosure Document 12: "Ofcom\_referral\_Form\_Draft\_V0\_1.pdf"

13. Disclosure Document 13: “2010 06 28 HoA - Ofcom.pdf”. This “Heads of Agreement” document (sorry for the poor quality scan) again describes some of the regulatory framework, affecting both the BBC and Ofcom, and also describes the procedures put in place for the handling of interference complaints by both the BBC and by Ofcom, and the handing over of complaints between us, where relevant.

Your request (f) about regulatory duties, as well as being covered by some of the above documents, is also covered by the following:

14. Disclosure Document 14: “2009 06 16 Termination Letter to Ofcom.pdf”. This letter, terminating our previous arrangements with Ofcom, gives some of our reasons for doing so and describes some of our regulatory requirements. It indicates that this is our obligation under the BBC’s Agreement, which used to be performed by Ofcom under contract, but which we will now do ourselves.

Just to be clear, there are no regulatory duties which have been delegated to the BBC by Ofcom, which is what you specifically asked for details of in part (f) of your enquiry.

I hope the above information answers your queries satisfactorily.

## **Appeal Right**

You may request an internal review of our decision that your request exceeds the appropriate limit. Please contact us at the address above, explaining what you would like us to review and including your reference number. 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, telephone 01625 545 700 or see <http://www.ico.gov.uk/>

Yours sincerely,

Steve Gutteridge  
**BBC Distribution**

