



Freedom of Information Internal Review decision

Internal Reviewer	Valerie Nazareth, Head of Programme Legal Advice
Reference	IR2010 10030
Date	15 th October 2010

Requested information

The following request under the Freedom of Information Act was received on the 20th August 2010:

Please can I have a copy of the most recent performance pack provided by Capita to the BBC.

On 24th August the BBC responded by confirming that the BBC held the information requested, but withholding the information under Section 43(2) of the Freedom of Information Act on the basis that its release would be likely to prejudice the commercial interests of Capita, and in turn, the BBC.

On the 25th August the BBC's Information Policy & Compliance Team wrote to the requestor asking whether they wanted a summary of the major headings that make up the monthly performance pack or whether the requestor wanted an internal review into the decision to withhold the information specific to Capita's latest monthly performance.

The requestor confirmed that they would like a summary in the interim but also wanted an internal review into the decision about Capita's performance.

Issues on review

I have reviewed whether the BBC's decision to withhold the information requested under Section 43 of the Act is correct.

In reviewing this Freedom of Information request I have met a number of people including the person involved in the original decision. I have read the original question and response as well as the information requested. I have also considered the guidance issued by the Information Commissioner.

Decision

I consider that much of the information requested does fall within Section 43 of the Act and its release would harm the commercial interest of Capita and the BBC.



However the document requested contains some information which does not fall within this exemption and I have therefore concluded that those parts of it should be released.

Because Section 43 is a qualified exemption I have considered whether the public interest in maintaining the exemption outweighs the public interest in disclosure of the information. I consider that the position of Capita and the BBC would be significantly disadvantaged by the disclosure of this information, and that the public interest in preventing this commercial prejudice to Capita and the BBC outweighs the public interest in disclosure.

I would also make the point that much of the information which has been withheld because it meets the commercially prejudicial test could also have been withheld under Section 31 (Law Enforcement) and Section 41 (information provided in confidence). However, as the information withheld falls within the exemption provided by Section 43, I have not pursued this point.

I have therefore asked that you be sent a copy of the requested document which has been redacted in relation to those sections which do meet the commercial prejudice test.

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