

## Freedom of Information Internal Review decision

Internal Reviewer	Nicola Cain, Head of Legal – Freedom of Information & Contentious Data Protection
Reference	IR2016105 (RFI20161363)
Date	30 January 2017

### Requested information

On 18 July 2016, the requester sought the disclosure under the Freedom of Information Act 2000 ('the Act') of "all communications, internal, external and all reports and other recorded information" related to a previous release of information.

The BBC acknowledged the request the following day.

On 15 August 2016, the twentieth working day following receipt of the request, the BBC sent the requester an interim response to his request, confirming pursuant to s1(1) that it held information relevant to his request but indicating that it considered the exemptions at s31 (law enforcement), s40 (personal data), and s42 (legal professional privilege) applied to the requested information and that additional time was required to consider the public interest balance. The BBC indicated that it anticipated conducting this review by 13 September 2016 when it would write again to the requester.

On 16 September, the requester queried the status of his request.

On 01 December 2016, the BBC provided a substantive response to the request. The BBC apologised for the delay in responding. While the BBC disclosed a substantial volume of information, the BBC also relied on certain exemptions in respect of some of the requested information, in particular s31 (law enforcement), s40(1) and s40(2) (personal data), s42 (legal professional privilege) and s43(2) (commercial prejudice).

### Issues on review

On 30 December 2016, the requester sought an internal review of the BBC's response to the request, stating:

*You took far too long to respond to my request, for no reason.*

*You didn't keep me informed as to what was happening with my request.*

*You didn't respond to my queries as to progress.*

*Some of the material is very difficult to read due to your poor quality copying.  
Please review and check whether all the claimed exemptions are correctly applied,  
accurate, required and (where relevant) pass the public interest test.  
I think you failed in your s16 duty to provide advice and assistance - you left me in  
the dark as to what, if anything, you were doing as a result of my request.  
You certainly didn't comply with second 1, 10 and 17 of the Act.*

**Decision**

The BBC failed to respond to the request within the time for compliance under s10 and, having given the requester a notice pursuant to s17, took a further 11 weeks beyond the date it anticipated providing a response to the requester to provide a substantive response. The Information Commissioner's guidance on this matter states that "an authority should normally take no more than an additional 20 working days to consider the public interest, meaning that the total time spent dealing with the request should not exceed 40 working days. An extension beyond this should be exceptional". In the circumstances, I agree with the requester that the BBC failed to comply with these provisions in that it failed to provide a substantive response to the request within the time for compliance and did not identify all of the relevant exemptions within that period. I reiterate the apology already provided to the requester for this delay.

While I consider it unfortunate that the BBC failed to respond to the requester's query of 16 September, as the Act states at s16(2) that any authority which complies with the s45 code of practice ([https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/235286/0033.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/235286/0033.pdf)) shall be taken to have complied with the requirements of s16, I do not consider that there was any breach of this provision.

In relation to the substantive exemptions applied to the requested information, I have reviewed the reasons provided by the BBC for applying the exemptions against the underlying information and consider that the BBC was correct to apply the specified exemptions to the relevant information. I have also considered the public interest factors taken into account by the BBC and its conclusions as to the public interest balance, and consider that these were appropriate.

I have also reviewed the quality of the disclosure documents and while I note that where emails were written in other than black text, the quality of copying is diminished, the information could nevertheless be ascertained and therefore I do not consider that the BBC failed to comply with s1, in that the BBC communicated the requested information to the requester in accordance with the requirements of the Act..



## **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](http://www.ico.gov.uk)