



## **Freedom of Information Act Internal Review Decision**

**Internal Reviewer: Simon Pickard**

**Reference: IR2012016**

**Date: 24 July 2012**

### **Original Request and the BBC's decision**

By a request made on 10 May 2012, the requestor sought disclosure of the following information:

1. A raw copy of the License in Force report from Lassy for each month for the last 3 years
2. Please also provide a list of Lassy reports available and their function

In its response, sent on 08 June 2012, the BBC provided a copy of the raw LIFSUM report from Lassy for the past 3 years, as requested. The BBC further explained that "TV licensing" is a trademark used by companies contracted by the BBC to administer the collection of the television license fee and the enforcement of the television licensing system. The BBC's position set out in its response was that it did not hold the list of Lassy reports and their function. The BBC went on to confirm that one contractor, Capita Business Services Limited ("Capita") did hold relevant information – albeit in the form of a very old and outdated list – but that it fell outside the disclosure regime in the Freedom of Information Act. Specifically, it was pointed out that section 3(2)(a) of the Act states that for the purposes of the Act, information is only held by a public authority if it is held by the authority itself, or it is held by another person on behalf of the authority. Since this list was held by Capita on its own behalf, and not on behalf of the BBC, it was considered that this information was not disclosable under the Act.

In requesting an internal review of the BBC's response, the requestor did not accept that the information was not held on behalf of the BBC by Capita.

### **Issues on Review**

Whether the BBC was correct to conclude that it did not hold the requested information. In order to address this, it is necessary to consider whether the steps taken by the BBC to identify whether the information was held were adequate. It is also necessary to consider whether the list of Lassy reports held by Capita were correctly found to be outside the scope of the Act in accordance with Section 3 (2)(a)

## Consideration

In undertaking this review, I have considered the provisions of the Act, the guidance issued by the Information Commissioners Office and relevant case law on information held on behalf of another. I have also consulted individuals within TVLs license fee unit and Capita.

I will approach this review by undertaking a two-fold line of enquiry:

- (1) To conduct a review of whether the information was in fact held by the BBC; and
- (2) If not held by the BBC, to establish whether this information is held by Capita on behalf of the BBC

I have initially made enquiries of the entirety of the license fee department, and have confirmed that no one within the BBC holds the list of LASSY reports requested. Having conducted this enquiry, I am satisfied that the BBC was correct to assert, in line with section 1(1) of the Act that the BBC does not hold the information requested.

I will now turn to the issue of whether Capita holds the information on behalf of the BBC; or if it is held by Capita for its own purposes. If the information is held by Capita for its own purposes, it will therefore not be subject to disclosure under the Act, as Capita is not a public authority for the purposes of FOIA.

In determining whether the BBC was correct to assert that the information was not held by Capita on their behalf, I am mindful of ICO guidance<sup>1</sup> and case law<sup>2</sup> which sets out various factors to consider in determining whether information is held on behalf of another. I have therefore made detailed enquiries to Capita and the LFU regarding the information based on these factors.

In making such enquiries, I can confirm that the BBC has no access to the information, or current or previous use for this list of Lassy reports. Whilst the BBC may make use of the data on some of the reports included in the list, it has no use for the list itself. Access to the information is under the sole control of Capita, and the BBC at no point deals with any enquiries regarding the information. These factors are all indicative that the information is not held on behalf of the BBC.

Having reviewed the enquiries that were made of Capita, it is clear to me that the information is held solely by Capita. Queries made of an analyst within Capita revealed that this is not an internal Capita document; nor had it been badged as such. Further indicative

---

<sup>1</sup>[http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/information\\_held\\_on\\_behalf\\_of\\_another\\_v1.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/information_held_on_behalf_of_another_v1.pdf)  
[http://www.ico.gov.uk/upload/documents/library/freedom\\_of\\_information/detailed\\_specialist\\_guides/awareness\\_guidance\\_12\\_info\\_caught\\_by\\_foi\\_act.pdf](http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/awareness_guidance_12_info_caught_by_foi_act.pdf)

<sup>2</sup> McBride v Information Commissioner (EA/2007/0105)  
Digby-Cameron v ICO (EA/2008/0010)



of this, is the fact that this document has never been formally approved or circulated by Capita; and is not held in any central server, shared area or document management system. This list was created by a Business Analyst within Capita for her own purposes to assist in her role. It is stored on the C drive of this individual's computer and has only ever been shared with one other colleague within Capita. This list was based on manual work carried out; so there is every chance it is not a comprehensive list. As such, this information is not held either principally or partly on behalf of the BBC and the BBC exercises no control over it. In these circumstances, the BBC was right to conclude that this correspondence is not information held by the BBC but that it is held by another entity, Capita, for its own purposes.

### **Decision**

I endorse the BBC's original decision that the information sought in question 2 is not held on behalf of the BBC and is therefore not subject to disclosure under the Act as per section 3(2) of FOIA.

### **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)

**Simon Pickard**

**Senior Compliance Manager**