

## Freedom of Information Internal Review decision

Internal Reviewer	Nicola Cain, Head of Legal – Freedom of Information & Contentious Data Protection
Reference	IR2016036 (RFI20160005)
Date	19 May 2016

### Requested information

The requester wrote to the BBC by email on Saturday 2<sup>nd</sup> January 2016 seeking the following information under the Freedom of Information Act 2000 ('the Act'):

*... a copy of the Monthly Performance Pack for the last 3 years and also the 10 day report.*

The BBC acknowledged the applicant's request on Monday 4<sup>th</sup> January 2016.

On 29<sup>th</sup> January 2016, the BBC wrote to the requester confirming, in accordance with s1(1) of the Act, that it held information relevant to the request but informing him that it considered that the exemptions provided by s31 and s43(2) were applicable to the requested information and it needed additional time to consider the balance of the public interest.

On 21<sup>st</sup> March 2016, the requester enquired as to the status of his request.

On 20<sup>th</sup> April 2016, the requester sought an internal review, stating that he had not yet received a substantive response to his request., and that he had received no response to his enquiry of 21<sup>st</sup> March.

### Issues on review

The issue to be considered upon review is therefore whether the BBC complied with the time for compliance under the Act.

### Decision

The BBC failed to comply with s10.

Under s10(1) of the Act the BBC would be obliged to respond to the request "promptly and in any event not later than the twentieth working day following the date of receipt", i.e. by Friday 29<sup>th</sup> January 2016.



However, the BBC went on to rely on s10(3) of the Act, which extends the time for compliance “*until such time as is reasonable in the circumstances*” for further consideration of the public interest.

I note that the Information Commissioner’s guidance indicates that he anticipates that in the majority of cases “*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*”<sup>1</sup>, which would have been Friday 26<sup>th</sup> February 2016.

While I note that the BBC has been heavily engaged in the Charter Review process since this request was submitted, as well as dealing with matters such as the publication of the Dame Janet Smith Review, which would justify a period in excess of an additional 20 working days, I nevertheless consider that the time taken by the BBC to provide a substantive response to this request has exceeded what is reasonable in the circumstances.

I am aware, however, that the BBC has been taking steps to process this request and anticipate that it will be in a position to provide a substantive response to the requester shortly.

On behalf of the BBC, I apologise to the requester for the delay in providing a substantive response to his request. I also apologise that no response was sent to his enquiry of 21<sup>st</sup> March.

## **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)

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1165/time-for-compliance-foia-guidance.pdf>