

Freedom of Information Internal Review decision

Internal Reviewer	Simon Pickard, Senior Compliance Manager
Reference	IR2013046 (RFI20130706)
Date	20 February 2014

Requested information

The requester wrote to the BBC on 8 May 2013 requesting the following information;

'Please could you tell me the dates of Lizzie Watson's employment at the BBC.

Please could you tell me all her job titles/positions within the organisation and dates.

Please list all the programmes which she has been involved during her term of employment.

Please confirm that she is the daughter of Margaret Hodge MP.'

Issues on review

The BBC responded on 10 June 2013.

With regards to the first three questions the BBC stated; 'We are withholding all of the information requested in parts 1, 2 and 3 of your request. Under section 40(2) of the Act, personal information about identifiable living individuals is exempt if disclosure to a third party would breach one or more principles in the Data Protection Act 1998. The individual concerned would not expect employment details to be disclosed to a third party. To do so would be unfair; therefore, disclosure would breach the First Data Protection Principle (fair and lawful processing).'

The BBC's response went on to explain that for the fourth question, the BBC did not maintain a central record of family relationships, and that family relationships do not in themselves constitute a conflict of interest. Staff are required to inform the BBC of such relationships if there is a the potential for a conflict of interest to arise. In this case, staff are required to declare such a relationship in their Declaration of Personal Interests (DOPI).

A link to the BBC's Declaration of Personal Interests Policy was provided to the requester.

The BBC's response stated that it would only hold the information requested in question 4, if the individual employed by the BBC had included it in their DOPI form or had raised it with their local Human Resources team.

The response stated; 'Section (1)(a) of the Act requires that a public authority informs the applicant of whether or not the requested information is held. However, certain of the provisions in the Act remove this duty and in this instance, the BBC declines to confirm or deny whether or not the requested information is held under section 40(5)(b)(i) (personal information). This exemption applies when providing confirmation or denial that information is held would itself contravene one or more of the Principles in the Data Protection Act 1998. In the present case, confirming or denying whether or not the requested information is held would constitute the disclosure of an individual's personal data to a third party. This would be unfair, as the individual concerned would not expect her personal data to be disclosed, and would therefore breach the First Data Protection Principle (fair and lawful processing).'

The applicant wrote to the BBC on 10 June 2013 requesting an internal review of their request stating; *'.....This is clearly a breach in transparency and the public have a right to know BBC staffers links. If you or Lizzie Watson is unhappy with this, perhaps you need to go and work in a private enterprise. The BBC is a public body, funded by the public, and we have a right to know if a staffer is a lobbyist (in the broadcast sense) too. I want to know *now* when Lizzie Watson last updated her Details of Personal Interests (DOPI) and what these are?'*

Decision

The BBC may have declined to deal with this request; Section 8(1) of the FOIA sets out the requirements of a valid request for information and says that a request must, amongst other things, "state the name of the applicant and an address for correspondence". The ICO guidance further states;

- A public authority is entitled to treat as invalid a request where the real name of the applicant (whether an individual or a corporate body) has not been used.
- Requests involving known pseudonyms cannot be the subject of a valid complaint to the Information Commissioner under section 50 of the FOIA.
- Where a public authority knows that a pseudonym has been used, as a matter of good practice it should still consider the request, for example where identity is not relevant and it is content to disclose the information requested, even though technically the request is invalid.

However, as the BBC decided to deal with the request, I shall undertake the Internal Review as well.



It is clear to me that the information requested by the applicant constitutes personal data as defined under section 40(2) of the Freedom of Information Act, and that disclosure to a third party would breach one or more principles of the Data Protection Act 1998.

The BBC is committed to openness and transparency, and as such publishes details about the most senior members of BBC staff at the following link; <http://www.bbc.co.uk/aboutthebbc/insidethebbc/managementstructure/seniormanagement/> . However, less senior staff still have an expectation that details regarding the personal data remain private between the individual and the BBC. The BBC undertakes a two-part test to ascertain whether the public interest in publishing details such as salary, expenses, DOPI etc are met;

1. Is the individual a budget holder or otherwise have responsibility for allocation of BBC funds?
2. Does the individual have a decision making role in respect of BBC policy, at genre level or otherwise?

If both of these requirements are met then the BBC considers that it is likely to publish details such as those that can be found at the above web-link. In the case of Lizzie Watson, these requirements were not met and therefore the BBC concludes that personal information about this individual should not be published.

Both Section 40(2) of the Freedom of Information Act, and the Data Protection Act 1998 do not differentiate between those people that work in the public sector of those that work in the private sector; personal information is exactly that irrespective of where the individual works.

I therefore uphold the findings in the original response.

I apologise on behalf of the BBC for the delay in providing you with this response.

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

Simon Pickard
Senior Compliance Manager