

Freedom of Information
Internal Review decision

Internal Reviewer	Jim McKenzie, Advisor, Information Policy and Compliance
Reference	IR2014003 (RFI20131793)
Date	1 May 2014

Chronology

The applicant wrote to the BBC via the WhatDoTheyKnow website on 1 December 2013 requesting the following information under the Freedom of Information Act 2000 ('the Act'):

1) I would like the release of your latest customer care assistant / customer service / helpline staff call scripts / responses (pre-planned responses to customer queries) and training materials ETC.

1)a) If this script has changed since Sept 2013, please provide all amended versions.

2) Please provide me with any document (AKA Information) that you might hold (electronically or clerical) that might explain why a consumer would be required to provide the BBC / TV Licensing with "Proof" that they had left the UK to receive a refund. Obviously as a TV License is only required for those who use a TV to receive a live broadcast in the UK it appears clear that somebody would be entitled to a refund even if they had not left the UK.

3) Please provide me with the information you hold on how a person who previously purchased a TV License can request and actually receive a refund for the payments upon account. So far I have personally sent yourselves the signed declaration / form your team sent to me, a letter from my Landlord in Ireland stating I live in Ireland and still no refund has been issued.

4) Please provide me with the following statistical data:

a) How many people have telephoned your helpline or contacted your team via your website to request a refund

b) of the people who contacted yourselves (a) how many actually received a refund?

c) if (b) is lower than (c) please provide all recorded information that outlines the reason for this.

5) Please provide me with any document that provides your legal argument for only issuing a refund of unused quarters of a TV license, and not a pro-rata refund.

On 23 December 2013 the BBC provided a partial response which addressed questions 2, 3, 4a), 4b), 4c), and 5.

On 13 January 2014 the applicant requested an internal review:

I am writing to request an internal review of British Broadcasting Corporation's handling of my FOI request 'TV License Fee Refund / Latest Customer Service Script's'.

On 29 January 2014 the BBC provided its final response which addressed question 1 and 1a).



On 5 February 2014 the applicant reiterated and elaborated on his request for an internal review:

There are two ways to do this:

1. If it is the same day that the refund was generated, telephone Client Accounts on [detail removed – internal use only] (do not give these telephone numbers to the customer) and explain the situation and what your customer requires (please do not transfer calls to these numbers).

This response is not sufficient. I expect FULL release of ALL recorded information that I requested.

The example above is ONE of these pieces of information that you have withheld.

Issues on review

The scope of this review is to consider the BBC's handling of this request and whether it dealt with the applicant's questions in accordance with the Act. In particular, the purpose of this review is to determine whether the BBC has incorrectly withheld any information falling within the scope of the applicant's request.

Decision

The BBC was required to respond to this request no later than 31 December 2013. Although the BBC provided a partial response before this date, it did not provide an answer to question 5 until 29 January 2013 and therefore it has failed to adhere to section 10 of the Act.

I do not consider that the BBC has withheld any information incorrectly. I uphold the BBC's decision to remove a small amount of irrelevant information; to withhold personal data from the information released in response to question 1) under section 40(2); and to refuse to comply with questions 4b) and 4c) because the cost of compliance is estimated to exceed the 'appropriate limit'.

In carrying out this review I have considered the provisions in the Act and the relevant guidance issued by the Information Commissioner's Office (ICO). I have also spoken to the member of staff within the TV Licensing Management Team who prepared the BBC's responses.

Analysis

I will address each question separately in order to be clear with my decisions and provide more clarity for the applicant.

Questions 1 and 1a)

As explained above, the response to this request was due by 31 December 2013 at the latest and the BBC did not respond to this question until 29 January 2014. In the BBC's favour, it did provide a partial response before the statutory date for compliance, a date for when it expected to be in a position to respond, and an apology when it was subsequently unable to respond by that date. However, the BBC still breached section 10 of the Act by failing to respond within 20 working days.

The BBC responded to this question by providing a copy of the current TV Licensing ASK Helpscript.



The BBC explained that it had removed information that is not relevant to the request, including internal instructions for staff. The information falling within this category includes the example given by the applicant in his request for a review:

If it is the same day that the refund was generated, telephone Client Accounts on [detail removed – internal use only] (do not give these telephone numbers to the customer) and explain the situation and what your customer requires (please do not transfer calls to these numbers).

In this example, the BBC removed the direct dial telephone numbers for Client Accounts. This information was removed because it says in the guidance that these telephone numbers should not be provided to customers. I expect that the reason why these numbers are not given to customers is because there is a dedicated TV Licensing helpline for customers to call - 0300 790 6131. In addition, the members of staff in Client Accounts are not in public facing roles and it is more helpful for customers if they have a single point of contact so that queries can be handled consistently by members of staff who have the relevant training and experience to deal with customer enquiries. Most importantly, the telephone number in itself does not help to explain the processes and procedures that staff follow to deal with queries from members of the public. It is for this reason that the information was considered to be irrelevant and not within the scope of the request. I conclude that it was reasonable for the BBC to have removed this type of irrelevant information from the Helpscript.

The BBC also explained that it had withheld a limited amount of information under section 40(2) of the Act. 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 personal information that was withheld from the Helpscript includes customer details, such as the names and contact details of licence fee payers. My understanding is that these real life examples are used in the guidance for illustrative purposes to help staff understand particular processes.

I agree with the application of section 40(2) in this case. Licence fee payers would not expect their personal data to be disclosed in these circumstances, and there is no overriding public interest in the release of their personal details.

Although the BBC explained that it was relying on section 40(2) of the Act, it would have been helpful if it had explained why it was withholding this information. In this case, the information was withheld because the individuals identified in the HelpScript would not expect their personal data to be disclosed to a third party. To do so would be unfair and therefore disclosure would breach the first data protection principle (personal data must be processed fairly and lawfully).

Having made enquiries, I am assured that there is no further recorded information held by the BBC falling within the scope of this request.

Question 2

In response to this question the BBC provided a link to TV Licensing's Refund Policy and a copy of an internal document: 'Applying for a Refund – Guidelines for "What is the Correct & Most Appropriate Evidence required?"' In my view this is a reasonable response to the question.

Question 3

In response to this question the BBC again referred to TV Licensing's Refund Policy and some sections of TV Licensing's website concerning refunds. In my view this is a reasonable response.

Questions 4a), b) and c)

In response to question 4a) the BBC provided the applicant with the number of refund requests received via the TV Licensing helpline and website for the financial year 2012/13. The BBC also explained that because the outcome of some refund requests by telephone are not recorded, the figures did not include every request for a refund.

The applicant has not specifically said that he would like us to review this particular aspect of the BBC's handling of his request. However, in my view providing these figures for the previous business year was a reasonable approach to take.

In response to questions 4b) and 4c) the BBC refused to handle the request because it would not be possible to identify and extract the requested information within the 'appropriate limit'.

Section 12(1) of the Act allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit. The appropriate limit is defined in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The appropriate limit for the BBC is £450 (18 hours at an hourly rate of £25).

The BBC explained in its response that it estimated it would take more than two and a half days to 'locate and extract' the requested information. Although it is not a statutory requirement, the Information Commissioner's Office recommends that an explanation should be included to show how the public authority's estimate has been reached.¹ The BBC failed to provide any detail about how it reached its estimate, but it is clear in this case that individually checking over 138,000 requests for a refund would take longer than 18 hours and therefore I consider that the BBC was correct to refuse the request on this basis.

In line with the duty to provide advice and assistance under section 16(1) of the Act, the BBC consider that it would have been helpful to have provided the number of refunds given in the 2012/13 financial year; even though this information does not directly correlate with the number of refunds requested in that period. The overall figure for that period is 236,990 and I hope the applicant finds this information helpful.

Question 5

In response to this question the BBC explained that it has discretion under section 365 of the Communications Act 2003 to make refunds in 'such cases as we may determine'. In other words, the 'legal arguments' for supporting the BBC's position are contained in the legislation. I have been told that the BBC does not hold any other information within the scope of this request.

¹ ICO Guidance, 'Requests where the cost of compliance with a request exceeds the appropriate limit'
http://ico.org.uk/for_organisations/guidance_index/~media/documents/library/Freedom_of_Information/De-tailed_specialist_guides/costs_of_compliance_exceeds_appropriate_limit.ashx



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 0303 123 1113 (local rate) or 01625 545 745 (national rate) or see <http://www.ico.gov.uk>.