

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 23 March 2016

**Public Authority:** British Broadcasting Corporation (BBC)

**Address:** Room BC2 A4  
Broadcast Centre White City  
Wood Lane  
London  
W12 7TP

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to employee travel and expenditure.
2. The BBC refused to comply with the request under section 12 of the Freedom of Information Act 2000 (FOIA) as it said it would exceed the cost limit to do so.
3. The Commissioner's decision is that the BBC was correct to apply section 12 FOIA in his case. However the BBC breached its obligations under section 16 FOIA in relation to the way in which it dealt with this request.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide the complainant with advice and assistance in accordance with the BBC's obligations under section 16 FOIA.
5. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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6. On 22 January 2015 the complainant requested information of the following description:

"Please note that I am only interested in information which relates to the period 1 January 2014 to the present day [22 January 2015].

1...During the aforementioned period can you please provide a full list of occasions when James Harding the Director of News and Current Affairs has travelled overseas as a representative and or employee of the BBC. Please include all trips which involved a cost to the BBC. In the case of each individual trip can you please provide a full itinerary which includes the dates of travel, the duration of the stay and all the specific destinations and organisations visited. Please do provide a reason for each visit?

2...In the case of each trip can you please provide a breakdown of all domestic and overseas transportation costs met by the BBC either at the time or in the form of a expense claim and or on a corporate credit/procurement card. These costs will include but will not be limited to the costs of external and internal helicopter/plane flights, train journies, taxis and car hire. (sic)

3...In the case of each trip can you please provide details of the class and type of each railway ticket and or each plane ticket purchased by the BBC. These could have been purchased at the time or in the form of an expense claim. They could have also been purchased on a corporate credit or procurement card.

4...In the case of each trip can you please provide a full breakdown of all accommodation costs. These could have been met at the time of the book and or paid for in the form of an expense claim. They could have been purchased on a corporate credit or procurement card.

5...In the case of each trip can you please identify all accommodation used by Mr Harding. Can you please provide the names of all hotels, bed and breakfast establishments as well as those firms which specialise in the provision of villa, apartment and chalet accommodation.

6...In the case of each trip can you please provide a list of all other BBC employees and or representatives who accompanied Mr Harding on the trip?

7...In the case of each trip can you please state whether the BBC contributed to the travel and accommodation costs of any member of Mr Harding's family who may have accompanied him on the trip. Can you

please provide details for each individual trip including a full list of the costs met by the BBC,

8...In the case of each of the aforementioned trips can you please provide the overall cost to the BBC. This will include BBC expenditure on Mr Harding as well as anyone else who accompanied him on the trip.

9...In the case of each and every trip can you please provide copies of all expense claims and associated documents, bills and receipts submitted by Mr Harding."

7. The BBC originally relied upon section 14(1) FOIA to refuse to comply with the above request. As a result of the ICO's decision notice reference FS50579033<sup>1</sup>, which concluded that section 14 FOIA had been incorrectly applied by the BBC, on 2 September 2015 it wrote to the complainant and refused to comply with the request under section 12 FOIA.
8. The complainant requested an internal review on the same date. The BBC sent the outcome of its internal review on 30 September 2015. It upheld its application of section 12 FOIA.

## Reasons for decision

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### Section 12 – cost exceeds appropriate limit

9. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate cost limit to:
  - either comply with the request in its entirety, or
  - confirm or deny whether the requested information is held.
10. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request - 24 hours work for central government departments; 18 hours work for

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<sup>1</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1432284/fs\\_50579033.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1432284/fs_50579033.pdf)

all other public authorities. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:

- (a) determine whether it holds the information
- (b) locate the information, or a document which may contain the information
- (c) retrieve the information, or a document which may contain the information, and
- (d) extract the information from a document containing it.

11. The appropriate limit for the BBC is £450 or the equivalent of 18 hours work.
12. The BBC explained that the request related to a period of more than one year. It explained that from the information that the BBC proactively publishes, it would appear that during the period which is the subject of the request Mr Harding had undertaken 10 overseas trips (i.e. trips outside the United Kingdom) which resulted in a cost to the BBC. It said however that this may not represent the total number of overseas trips undertaken which resulted in a cost to the BBC. It explained that additional trips may be revealed when undertaking further searches described below (for example, if it was not apparent from the published information that a particular item of expenditure related to an overseas trip) or as a result of further expenses claims relating to the period which is the subject of the request being submitted.
13. It said that in respect of each of the 10 or more overseas trips it is likely that there were a number of individual items of expenditure in respect of travel to/from the point of departure/arrival (such as train, taxi fare or mileage claim), flight or train fare, accommodation, any subsistence claims, and associated receipts and tickets.
14. It explained that requests about expenses claims are particularly difficult and time consuming to handle because of the way in which such claims are processed and the information recorded. Claims can be submitted up to six months after the expense has been incurred, meaning that information held by the BBC, or on its behalf, is not in a systemised electronic filing system linked or indexed to a particular activity. Receipts are stored in the order they are submitted, rather than in chronological order or by reference to the individual who submitted the claim. Consequently, in order to locate such information, the BBC will usually be required to manually examine each expense claim. Before any receipts can be reviewed, they need to be requested and located by Steria, the BBC's outsourced partner which provides finance and accounting services across the BBC.

15. It went on that when submitting expense claims, individuals are understandably not required to provide the level of detail which would easily allow it to identify the requested information (eg 'this taxi fare from the BBC's premises to Heathrow Airport is for the purposes of an overseas trip to visit the new BBC bureau opening in Burma'). Accordingly, it said that there are likely to be many instances where it is not clear from the information it holds whether the record is within the scope of the request or to which travel activity the claim relates. It said, for example, a claim may have been submitted to reimburse the cost of a lunch in accordance with the expenses policy and it may not be immediately obvious from the claim or receipt that the expense was incurred overseas (or where overseas it was incurred) without further investigation or corroboration with other information held by the BBC. In these circumstances it will often be necessary to involve members of staff from the relevant division to provide clarification.
16. It said that in relation to this particular request, the information sought concerns the period 01 January 2014 to 22 January 2015, and relates to trips undertaken and sums incurred during that time period, not merely receipts submitted during that time period. At the time of the BBC's response to the request, on 19 February 2015, the deadline for submitting receipts relating to the period which is the subject of the request had not passed. Indeed, although that deadline has now passed, the BBC has not yet collated the relevant expenses information as part of its pro-active publication of information relating to expenses and central booking claimed by those senior managers who have a full time equivalent salary of £150,000 or more or who sit on a major divisional board.
17. It provided the following explanation setting out the tasks that would have needed to be conducted at the relevant time in order to respond to the request and the BBC's estimate of the time it would take to conduct those tasks and/or the estimate of the actual costs that would be incurred by the BBC:
18. It said that it would need to review Mr Harding's electronic diary across a 13 month period to identify overseas trips and retrieve relevant data. It said that this would take an hour at a cost of £25.
19. It said it would need to cross-reference each trip with the central bookings and expenses claimed by Mr Harding, to associate items of expenditure with each trip and identify any trips for which no claims had been made at the relevant time (and for which expenses information may need to be collated). It said that this would take 3 minutes for each of the 10 trips, therefore 30 minutes at a cost of £12.50.

20. The BBC explained that it would need to conduct a review of, and retrieval of information from, Mr Harding's electronic diary and other sources of recorded information held by the relevant department, such as emails and manual records, to ascertain for each trip:

- duration of stay
- specific destinations visited
- organisations visited
- reasons for visit
- dates of travel
- name of accommodation/provider
- full breakdown of accommodation costs
- class of ticket purchased
- type of ticket purchased
- whether there were any accompanying BBC employees/representatives, and if so whom
- whether there were any accompanying family members

It said that this would take 10 mins for each of the 10 trips, therefore 1 hour and 40 minutes at a cost of £41.66.

21. It explained that it would need to ascertain whether any other BBC employees/representatives who accompanied Mr Harding made central bookings and/or submitted expenses claims related to relevant trips and obtain details of such claims. It said that this would take 15 minutes at a cost of £6.25.

22. It went on that it would need to ascertain whether the BBC made any contribution to any travel or accommodation costs of any accompanying family member and obtain details of any such contributions. It confirmed that this would take 10 minutes at a cost of £4.16.

23. It said that it would need to retrieve relevant claim forms from the BBC's agent, Steria for Mr Harding and any other BBC employees/representatives who may have accompanied him. It said that it would use claim numbers to identify consignment numbers for boxes in which relevant receipts (which are held in paper form and filed in order of receipt by BBC's agent, Steria – those submitted within 3 months of request likely to be held by agent on-site and older archived off-site in secure location) submitted by Mr Harding and any other BBC employees/representatives who accompanied him are stored. It said that it would then need to manually locate receipts submitted by Mr Harding and any other BBC employees/representatives who accompanied him in relevant boxes. It said that this would take £80 per receipt. As there are 10 relevant trips

this equates to a cost of £800. It said that this is based upon previous experience and this would be the actual cost to the BBC rather than an estimated cost.

24. It said that it would then need to review claim forms and receipts retrieved from Steria to ascertain from these information not recorded in the electronic diary, emails or manual records:
- duration of stay
  - specific destinations visited
  - organisations visited
  - reasons for visit
  - dates of travel
  - name of accommodation/provider
  - full breakdown of accommodation costs
  - class of ticket purchased
  - type of ticket purchased
  - any BBC employees/representatives accompanying

It said that this would take 10 minutes at a cost of £4.16.

25. The BBC said it would then need to collate receipts/booking information which had not been published at the relevant time under the publication scheme from Mr Harding and any other BBC employees/representatives accompanying him, or obtain confirmation that no further claims were submitted. It said that this would take 20 minutes at a cost of £8.33.
26. It explained that it would need to review claim forms and receipts obtained from Mr Harding and any other BBC employees/representatives accompanying him which would take 5 minutes at a cost of £2.08.
27. Finally it said that it would need to extract the requested information for provision to the requester in accordance with the terms of the request. It said this would take 30 minutes at a cost of £12.50.
28. It concluded that the total cost of complying with the request would come to £916.64.
29. The BBC confirmed that the above estimate is based on the quickest method of gathering the requested information and uses assumptions which are based on the lowest volumes possible e.g. just one receipt being filed for each overseas trip and could therefore be higher. It

concluded that complying with the request would significantly exceed the cost limit of £450.

30. The Commissioner considers that the BBC has provided a very detailed explanation of the work and time/cost implications of complying with this request. The most significant time/cost involved would be to retrieve the relevant claims from its agent, Steria and in manually locating the receipts. The cost of this work alone is £800 and is based upon previous experience (rather than an estimate) and is therefore the actual cost to the BBC.
31. Based upon the BBC's arguments, to comply with this request would vastly exceed the cost limit and therefore it was correct to apply section 12 FOIA in this case.

### **Section 16 – advice and assistance**

32. Under section 16 FOIA the BBC is obliged to provide the complainant with advice and assistance to help the complainant refine the request to fall within the cost limit or explain why this would not be possible.
33. The BBC said that it had previously advised the applicant (on 10 September 2014 in the context of its response to a separate request for expenses information) that his broad request for expenses information exceeded the appropriate limit and that he ought to consider whether there were any particular instances of expenditure in which he was interested. It said that the BBC's application of section 12 to the previous request was ultimately upheld by the Information Commissioner on 21 January 2015<sup>2</sup>, the day before the complainant submitted the request for information which is the subject of this complaint.
34. The Commissioner considers that the BBC's obligations under section 16 arise in relation to each separate request made. So even if the advice and assistance it would give in relation to this case, would be the same as that given to a previous similar request, the BBC still has an obligation to provide that advice and assistance in relation to a subsequent similar request.

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<sup>2</sup> [https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1043161/fs\\_50560168.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2015/1043161/fs_50560168.pdf)



35. As no advice and assistance has been provided in relation to this specific request, the Commissioner does not consider that the BBC has complied with its obligations under section 16 FOIA.

## Right of appeal

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36. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals,  
PO Box 9300,  
LEICESTER,  
LE1 8DJ

Tel: 0300 1234504  
Fax: 0870 739 5836  
Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

37. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Signed** .....

**Gemma Garvey**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**