

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 May 2018

Public Authority: British Broadcasting Corporation
Address: Room BC2 A4 Broadcast Centre
White City
201 Wood Lane
London
W12 7TP

Decision (including any steps ordered)

1. The complainant has requested information relating to a monument of George Orwell. The BBC has failed to respond to this request.
2. The Commissioner's decision is that the BBC has breached section 10(1) of the FOIA in the handling of this request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The BBC must provide the complainant with a response to this request in accordance with its obligations under the FOIA.
4. 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

5. On 8 November 2017, the complainant wrote to the BBC and requested information in the following terms:

"My request concerns the recently unveiled statue of the author George Orwell.

Could you please confine your searches to the offices of the Director General, the Corporation's press and public relations teams, the BBC's legal department, the BBC Archives and any other department or individual which was specifically involved in the commissioning and or design and or planning and or funding and or erection of the statue.

Please note that I am only interested in information which was generated between 1 January 2015 and the present day.

Please note that I have chosen a specific time period to ensure my request stays within the time and cost constraints laid down by the FOI Act.

But if you are already aware of relevant information outside those time frames please let me know and I will submit another request.

1...During aforementioned period did the BBC exchange correspondence and communications including emails with the The George Orwell Memorial Trust. Please note that I am only interested in correspondence and communication which in any way related to the life and work of the author George Orwell, Mr Orwell's time at the BBC and plans by the BBC and others to commemorate his life and work with a sculpture or other visual art work. If the answer is yes can you please provide copies of this correspondence and communication including emails. I am interested in receiving both sides of the correspondence and communication. Please provide copies of any designs or sketches and or drawings and or photographs which accompanied the statue.

2...During the aforementioned period did the BBC exchange correspondence and communications with Mr Orwell's son Richard Blair. Please note that I am only interested in correspondence and communication which in any way related to the life and work of the author George Orwell, Mr Orwell's time at the BBC and plans by the BBC to commemorate his life and work with a sculpture or other visual art work. . If the answer is yes can you please provide copies of this correspondence and communication including emails. I am interested in receiving both sides of the correspondence and communications including emails and supporting designs, drawings, sketches and photographs.

3...During the aforementioned period did the BBC exchange correspondence and communications with the sculptor Martin Jennings

which in any way related to the life and work of the author George Orwell; Mr Orwell's time at the BBC and plans to commemorate the life and works of Mr Orwell with a statue or other visual representation. If the answer is yes can you please provide copies of this communications and correspondence including emails. I am interested in receiving both sides of the correspondence and communication including emails. Can you please provide copies of any photographs and or sketches and or drawings and or designs which accompanied the correspondence/communication

4...During the aforementioned period did the BBC exchange correspondence and communications with any other sculptor and or photographer and or artist which in any way related to the life and work of the author George Orwell, Mr Orwell's time at the BBC and plans to commemorate him with a statue or other visual representation. If the answer is yes can you please provide copies of this communication and correspondence including emails. I am interested in receiving both sides of the correspondence and communication including emails. Can you please provide copies of any photographs and or sketches and or drawings and or designs which accompanied the correspondence.

5...If the BBC has destroyed relevant documents. In the case of each relevant document can you provide a brief description and outline of its contents and state on what date it was destroyed. If a copy of the destroyed document is held in another form can you please provide a copy of that document."

6. The BBC acknowledged the request on 9 November 2017 but despite a request by the complainant for an internal review about its failure to respond to his request which was acknowledged on 19 December 2017 he has not received a response.

Scope of the case

7. The complainant contacted the Commissioner on 11 February 2018 to complain about the way his request for information had been handled.
8. In line with her usual practice, the Commissioner contacted the BBC on 20 February 2018 to highlight the outstanding response. She requested that the BBC respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 23 April 2018 about the BBC's failure to respond to his request and during a discussion on 22

May 2018 requested a decision notice considering the BBC's compliance with the FOIA.

10. The Commissioner considers that the scope of her investigation is to determine whether the BBC has complied with Section 10 of the FOIA.

Reasons for decision

11. Section 1(1) of the FOIA provides that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

12. Section 10(1) of the FOIA provides that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

13. The request was made on 8 November 2017 and a response has not yet been provided. The Commissioner therefore finds that the BBC has breached section 10(1) of the FOIA in failing to respond within 20 working days.

Right of appeal

14. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Pamela Clements
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF