

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

### **Decision notice**

**Date:** 5 September 2018

**Public Authority:** BBC  
**Address:** Broadcast Centre  
White City  
London  
W12 7TP

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

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1. The complainant has requested information from the BBC relating to a payment made by the BBC to HMRC around April 2017 to cover the estimated liability of presenters who were currently not paid under PAYE for the tax year 2017/18. The BBC has not responded.
2. The Commissioner's decision is that the BBC has breached section 10 of the FOIA by failing to respond to the request within 20 working days of receipt.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a response to the complainant's 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

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5. On 15 May 2018, the complainant wrote to the BBC and requested information in the following terms:

"I am writing under the Freedom of Information Act 2000 to make two separate requests about a payment made by the BBC to HMRC around April 2017 to cover the estimated liability of presenters who were currently not paid under PAYE for the tax year 2017/18.

Specifically I am asking in two separate FOI requests for

1. The amount of that payment
2. Documents about the decision to make that payment.

Please treat those two requests as separate FOI requests for the purposes of assessing the cost of disclosure."

6. The BBC acknowledged receipt of the request on 15 May 2018 and advised that it would respond within 20 working days.
7. The complainant chased the BBC on 14 June 2018 and also requested an internal review in relation to its breach of section 10 of the FOIA.
8. As the complainant received no response, he emailed the BBC again on 27 June 2018.
9. The BBC responded on 28 June 2018. It apologised for the delay and confirmed that his request was still being considered. The BBC stated that it aimed to respond by 13 July 2018.
10. The BBC provided a response to the complainant's request for an internal review on 13 July 2018. This stated that it acknowledged that it had breached section 10 of the FOIA and aimed to respond shortly.
11. The complainant referred the matter to the ICO on 16 July 2018.
12. The Commissioner wrote to the BBC on 4 August 2018 and requested that it respond to the request by 20 August 2018.
13. The BBC contacted the Commissioner on 17 August 2018 and asked for a short extension to 24 August 2018. This was granted.
14. The Commissioner advised the complainant of the short extension on 21 August 2018.

15. As the BBC failed to respond again, the complainant contacted the Commissioner on 28 August 2018 to request that she proceed to a decision notice.
16. The BBC confirmed on 29 August 2018 that it had still not responded but anticipated doing so within the forthcoming week.

### **Scope of the case**

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17. As stated above, the complainant first contacted the Commissioner on 16 July 2018 to complain about the BBC's failure to respond to his information request. Despite the Commissioner's attempts to resolve this matter informally she understands at the date of writing that the BBC has still failed to respond to the complainant's information request in accordance with its obligations under the FOIA.

### **Reasons for decision**

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18. Section 10 of the FOIA states that a public authority shall respond to requests for information promptly and in any event no later than 20 working days from receipt.
19. The complainant's request for information was made on 15 May 2018 and acknowledged by the BBC the same day. The BBC has to date failed to respond in accordance with the FOIA. The Commissioner therefore finds the BBC in breach of section 10 of the FOIA.
20. The Commissioner requires the BBC to respond to the complainant's request for information in accordance with its obligations under the FOIA.

## **Right of appeal**

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21. 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)

22. 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.
23. 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**

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