

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 December 2024

Public Authority: British Broadcasting Corporation (BBC)

Address: Broadcasting House
Portland Place
London W1A 1AA

Decision (including any steps ordered)

1. The Commissioner's decision is that the BBC wasn't entitled to refuse parts 1 – 3 of the complainant's request for information about a letter under section 14(1) and section 21(1) of FOIA – vexatious request and information accessible to the applicant, respectively.
2. Part 4 of the request does engage section 14(1), however.
3. For the reasons explained in this decision notice, it's not necessary for the BBC to take any corrective steps in relation to parts 1 – 3.

Background

4. From the material the BBC has provided to the Commissioner, he understands that on 16 March 2024 the complainant received a reminder letter from TV Licensing that was dated 21 February 2024. By the time they received the letter, a deadline in the letter had passed.

Request and response

5. The complainant made the following information request to the BBC on 21 March 2024:

"I should be grateful for the following information in respect of an enquiry letter received from TV Licensing under reference 6504502490 dated 21 February 2024 delivered by Royal Mail on Saturday 16 March 2024.

Please advise:

1. Who is responsible for the production of the letter;
 2. When and by whom was it printed;
 3. When, how and by whom was it dispatched;
 4. Provide all documentary evidence in support of the answers to 1 to 3 above."
6. The BBC refused the request on 22 April 2024, relying on section 14(1) of FOIA. It said that the complainant had asked Capita the same questions and had received a response from TV Licencing Customer Relations (ie Capita) to those questions. The BBC maintained that position following its internal review of 26 July 2024.
 7. In its submission to the Commissioner the BBC has confirmed that it has now applied section 21 to three parts of the request, as well as section 14.
 8. The Commissioner has reviewed the complainant's correspondence with Capita, which the BBC provided to him. The complainant's questions to Capita aren't phrased in the same way as in the above request. But, regarding part 1 of the above request, the Commissioner can see from the correspondence that it can be deduced that Capita was responsible for producing, or generating, the letter in question. In relation to part 3, Capita also advised, or indicated, to the complainant that it passed the letter to Royal Mail on 21 February 2024 and that Royal Mail was responsible for then delivering the letter. Capita didn't address part 2 of the request as this wasn't a question the complainant had asked.

Reasons for decision

9. This reasoning considers the BBC's reliance on sections 14(1) and 21(1) of FOIA to refuse to comply with the complainant's request.
10. Under section 14(1) of FOIA a public authority isn't obliged to comply with a request for information if the request is vexatious.
11. Broadly, vexatiousness involves consideration of whether a request is likely to cause a disproportionate or unjustified level of disruption, irritation, or distress.

12. To analyse vexatiousness, the Commissioner considers four broad themes that the Upper Tribunal (UT) developed in **Information Commissioner vs Devon County Council & Dransfield [2012] UKUT 440 (ACC)**:
 - Value or serious purpose
 - Motive
 - Burden; and
 - Harassment to staff
13. In its submission to the Commissioner, the BBC has noted that the complainant's request comprises four parts. It says that, in the alternative [ie in addition to section 14(1)] it considers that section 21 of FOIA would apply to parts 1 – 3. The BBC says that section 14(1) would still apply to part 4.
14. In relation to section 14(1), the BBC has explained that the complainant's request is about a TV Licensing letter that they received in the post, which was delivered by Royal Mail. In making its decision to apply section 14(1), the BBC says it took into account email correspondence between the complainant and Capita, which administers TV licensing on behalf of the BBC. In this correspondence, the BBC says, the complainant asked for the same information about the letter from Capita. It says that this email correspondence shows that Capita provided substantive responses to these questions.
15. The BBC notes that the email correspondence begins with the complainant's first enquiry sent on 18 March 2024 (ie before the current request was submitted to the BBC) and concludes with Capita's final response on 11 April 2024 (before the BBC's initial response to the request dated 22 April 2024). The BBC says it therefore considered that the complainant was in possession of the information being requested in parts 1 to 3 of the current request.
16. Taking these circumstances into account, the BBC says, the request was vexatious as defined in Dransfield. The BBC considered it would have been disproportionate to process a request where the applicant was in possession of the requested information. Taking into account the BBC's responsibility to manage resources and provide value for money to all licence fee payers, the BBC says it couldn't establish a justification for processing a request where the applicant had the substantive information in their possession.
17. In relation to part 4 of the request, the complainant has asked for 'documentary evidence' in support of the answers to questions 1 – 3. The BBC notes that those questions related to who produced the letter; when and who printed it; and when and who dispatched it. The BBC

says that in its internal review decision, it had explained that the printing company RAPP Limited provides Capita's printing services and uses Royal Mail to dispatch letters. The BBC had also explained that it retains ultimate responsibility for television licensing functions. In addition, the BBC provided links to websites which set this information out.

18. The BBC considers that to provide further 'documentary evidence' in relation to these arrangements would not add any value or meaning to the information that the BBC and Capita have already provided to the complainant.
19. Processing this part of the request would include liaison between the BBC and Capita to obtain and review, for example, the contract between Capita and Royal Mail for the delivery of TV Licensing letters and the contract between Capita and RAPP Limited for the provision of printing services. A disproportionate amount of work would therefore be required to process this part of the request in circumstances where no value would be added.
20. In relation to the themes detailed in the Dransfield decision, the BBC argues that processing the request would place a disproportionate burden on its staff in the circumstances. This is because the information requested is either already known or available or, in respect of part 4, would add no value to what has already been disclosed.
21. In assessing the value or serious purpose of the request, the BBC notes that comprehensive information about the administration of the TV licence is already in the public domain. It had directed the complainant to this information on TV Licencing's website, at internal review.
22. Because the information requested is already in the complainant's possession and because there is comprehensive additional information already in the public domain, the BBC has confirmed that it considers the balancing exercise weighs in favour of declining to process the request for the reason set out in section 14(1) of FOIA.

The Commissioner's conclusion

23. The BBC has applied section 14(1) of FOIA to the four parts of the request; to parts 1 – 3 because the BBC considered the complainant already had this information at the point they submitted their request, and to part 4 because, in the circumstances, it considered the burden of complying with this part was disproportionate to its value.
24. The Commissioner has considered parts 1 – 3 first. The complainant put queries to Capita on 18 March 2024, and Capita had provided a

substantive response to these questions by 11 April 2024. The complainant submitted their request to the BBC on 21 March 2024 and the BBC had responded to that request on 22 April 2024.

25. Capita had provided the complainant with some of the information requested in parts 1 - 3 at the point the BBC provided a response to the request for similar information. However, at the point they submitted their request to the BBC for this information, the complainant didn't already have the requested information. This was because they hadn't yet received Capita's response and, as noted, the request to the BBC included an element – who printed the letter - that the complainant hadn't put to Capita.
26. An applicant is entitled to request the same information from two organisations, and it isn't an abuse of process to do so. Furthermore, in this case, the complainant didn't submit identical requests to the two bodies, and it seems to the Commissioner that the BBC only knew about Capita's response because of its relationship with Capita.
27. The Commissioner therefore cannot find that parts 1 – 3 of the request are vexatious under section 14(1) on the basis of the complainant already having the information.
28. For the same reason, he can't find that these parts engage section 21(1) of FOIA.
29. In its submission, the BBC says that section 21 could be applied in this case based on the email correspondence between the complainant and Capita. In the BBC's view, this correspondence demonstrates that Capita had previously provided the complainant with the information they sought from the BBC.
30. But, as above, at the point the complainant submitted their request to the BBC, the information they'd requested wasn't reasonably accessible to them through their correspondence with Capita. They hadn't yet received the response from Capita and, in any case, hadn't asked Capita all the questions they went on to ask the BBC.
31. The Commissioner has found that the BBC incorrectly relied on sections 14(1) and 21(1) to refuse parts 1 – 3 of the complainant's request. However, the complainant did go on to receive a response from Capita that addressed the questions they'd subsequently also put to the BBC, and addressed these to a satisfactory degree, in the Commissioner's view. The BBC also provided the outstanding information in its internal review. As such, it wouldn't be proportionate for the Commissioner to instruct the BBC to take any corrective action in relation to these parts of the request.

32. Finally, the Commissioner has considered the BBC's application of section 14(1) to part 4 of the request. The BBC considers that the burden of complying with this part is disproportionate to its value.
33. In line with the Dransfield decision above, the Commissioner will first consider the value of the request as this is the main point in favour of the request not being vexatious. He'll then look at the negative impacts of the request ie the three remaining themes of burden, motive, and harassment, before balancing the value of the request against those negative impacts.
34. The Commissioner appreciates that the complainant received correspondence from Capita about the matter of their TV licence that concerned and irritated them. However, he doesn't consider harassment is a factor here and considers that the motive behind the request is genuine. The Commissioner recognises that the information the complainant has requested has a value to them but considers that the information, and particularly part 4, has little wider public value.
35. In its internal review, the BBC confirmed who had printed the letter – RAAP Limited – and had directed the complainant to relevant information on TV Licencing's website about the administration of TV licences. It had also advised that the complainant was now aware, through their correspondence with Capita, that Royal Mail was responsible for dispatching and delivering the letter in question. Finally, the BBC noted that the complainant had received an apology from Capita.
36. The Commissioner has considered all the circumstances, and he's decided that the BBC was entitled to refuse part 4 of the request under section 14(1) of FOIA. In his view the BBC's correspondence to the complainant, and the information it provided, addresses this part satisfactorily. Whatever burden might be caused to the BBC by fully complying with part 4, the Commissioner considers that burden would be disproportionate to this part's value. As the BBC has noted, many public bodies' resources are stretched and they're entitled to direct those resources where they can have most impact.
37. The Commissioner agrees with the BBC that if it were to comply with part 4, this wouldn't shed any light on why it took as long as it did for the letter to be delivered to the complainant. Capita had told the complainant that letters it sends by post can take seven to 10 days to be delivered. In this case it had taken longer than that and Capita advised the complainant that they could take that matter with up with Royal Mail.

38. The correspondence with Capita shows that the substantive issue about the complainant's TV licence has been resolved. However, if the complainant still wants to pursue their concern about the length of time it took for the TV licence reminder letter to be sent to them, in the Commissioner's view Royal Mail would seem to be the organisation to approach.
39. In the meantime, the Commissioner's decision is that the BBC was entitled to refuse part 4 of the request under section 14(1) of FOIA.

Right of appeal

40. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

41. 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.
42. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF