

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 January 2025

Public Authority: Channel Four Television Corporation
Address: 124 Horseferry Road
London
SW1P 2TX

Decision (including any steps ordered)

1. The complainant has requested information about the handling of SARs. The above public authority ("the public authority") provided some information and stated that the remainder was not held.
2. The Commissioner's decision is that the request was unclear and therefore the public authority had an obligation to seek clarification. As it failed to do so, it failed to comply with section 16 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Contact the complainant to seek clarification of the request.
4. The public authority must take these steps within 30 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 1 July 2024, the complainant wrote to the public authority and requested information in the following terms:

"[A] Please could you tell me, under FOIA, how many data subject requests [SARs] you have refused or partially refused citing:

- 1) Paragraph 7, sub-paragraph 2 of Schedule 2 of the Data Protection Act 2018
- 2) Paragraph 7, sub-paragraph 4 of Schedule 2 of the Data Protection Act 2018

... in the last 5 years

Please provide separate statistics for 1) and 2), and for each year - 2020, 2021, 2022, 2023, 2024. So 10 separate statistics.

"[B] For each of these years and subcategories, please also then provide separate data as to how many of those refusals related to datasets concerning investigatory or complaint-handling functions that may benefit the public but which Channel 4 undertook when investigating their own activities.

This would include, for example but not exclusively, whistleblowing investigations, disciplinary investigations, grievances."

6. The public authority responded on 23 July 2024. It provided information within the scope of part A. In respect of part B, it stated that this part fell outside the scope of the Act as it would require the creation of new information in order to respond.
7. The complainant sought an internal review on 23 July, he did not accept that responding to part B required the creation of new information. Following an internal review the public authority wrote to the complainant on 31 July 2024. It stated that it did not hold information within the scope of the request as the level of skill or judgement, required to convert the records it did hold, into the information the complainant was seeking, was such as to require the creation of new information.

Scope of the case

8. The complainant has not raised any objection to the information he has received in respect of part A. However, he disputes that the public authority has correctly interpreted part B and therefore does not accept that it has complied with section 1(1) of FOIA in respect of this part.
9. Before determining whether the public authority has complied with section 1 of FOIA, the Commissioner must first decide whether it has identified the correct objective reading of the request.

Reasons for decision

10. Section 16 of FOIA requires a public authority to provide reasonable advice and assistance to those making, or proposing to make, requests for information.
11. In particular, where a request is unclear about the recorded information being sought, the public authority has a duty to either seek clarification or assist the requester in identifying recorded information that they wish to receive.
12. The Commissioner considers that the request was, on its face, vaguely worded. Indeed it is possible that there is no objective reading of the request that would meet the requirements of a valid request under sections 8 and 84 of FOIA.
13. The lack of a clear, single, objective reading of the request demonstrates why the public authority needed to seek clarity before proceeding.
14. The Commissioner notes that the complainant has put forward what he believes to be the correct objective reading of the request. The Commissioner does not need to determine whether that interpretation is an objective reading or not. He would simply observe that, if the complainant is correct, it only highlights the need for the request to have been clarified.
15. The public authority must now contact the complainant to seek clarification. This will give him the opportunity to set out his interpretation of the request.

Right of appeal

16. 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

17. 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.
18. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF