

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date 19 March 2007

**Public Authority:** British Broadcasting Corporation  
**Address:** MC3 DI  
Media Centre  
Media Village  
201 Wood Lane  
London  
W12 7TQ

### Summary

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The complainant made a number of information requests to the public authority during a short period of time. The public authority refused these requests as they were considered vexatious. The Commissioner finds that the requests have the effect of harassing the public authority and that they can be fairly characterised as obsessive. The Commissioner upholds the refusal of these requests as vexatious and does not require the public authority to take any further action.

### The Commissioner's Role

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1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

### The Request

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2. The stance of the public authority that information requests made by the complainant are vexatious relates to a number of requests. These are as follows.

On 14 June 2005 the complainant requested the following:

*"...a copy of the expense statements submitted by Mr Richard Sambrook since January 2004."*

- “1. All expense statements submitted by Mr G Dyke during his time as DG of the BBC.*
- 2. All expense statements submitted by Mr Gavyn Davies during his time as Chairman of the board of governors of the BBC.*
- 3. All expense statements submitted by individual BBC governors since June 2003.*
- 4. All expense statements submitted by Claire Paul, divisional manager, BBC news since June 2003.*
- 5. All expense statements submitted by Glen Del Medico since June 2004.*
- 6. All expense statements submitted by Andrew Neil since June 2004.*
- 7. All expense statements submitted by Mr David Frost since June 2004.”*

On 27 June 2005, the complainant requested the following:

- “1. Provide details of all hospitality offered by the BBC to any DCMS personnel, including ministers, in respect of Wimbledon 2005.*
- 2. Provide details of all hospitality offered by the BBC to any government minister in respect of Wimbledon 2005.*
- 3. Provide details of all hospitality offered by the BBC to the office of the PM at 10 Downing St in respect of Wimbledon 2005.*
- 4. Provide details of all hospitality offered by the BBC to any member of the board of governors of the BBC in respect of Wimbledon 2005.*
- 5. Provide details of all hospitality offered by the BBC to any employee of the BBC in respect of Wimbledon 2005.*
- 6. Provide details of all hospitality offered by the BBC to any person employed by the any BBC subsidiary and BBC commercial organisation in respect of Wimbledon 2005.*
- 7. Provide details of all hospitality offered by the BBC to any member of the royal family in respect of Wimbledon 2005.*
- 8. Provide details of all hospitality offered by the BBC to any person not defined by the foregoing seven RFIs in respect of Wimbledon 2005.”*

On 29 June 2005, the complainant requested the following:

- “1. Please provide full details of travelling costs for Mr M Grade for the past 12 months.*
- 2. Please provide full details of the total travel costs for BBC governors for the past 12 months.”*

On 6 July 2005, the complainant requested the following:

- “1. In respect of ‘lunch to Sir David Frost’ 12/08/04, please provide the following:*

*The purpose of the meeting and matters arising*  
*The meeting notes*  
*Any e mails / correspondence arising from the meeting*  
*A copy of the actual restaurant receipt (£119.53)*  
*Identify the other guests at the meeting*

2. *In respect of 'lunch to Sir Peter Burt, ITV', please provide the following:*

*The purpose of the meeting and matters arising*  
*The meeting notes*  
*Any e mails / correspondence arising from the meeting*  
*A copy of the actual restaurant receipt (£51.20)*

3. *In respect of 'lunch to Matthew Taylor, No 10', please provide the following:*

*The purpose of the meeting and matters arising*  
*The meeting notes*  
*Any e mails / correspondence arising from the meeting*  
*A copy of the actual restaurant receipt (£83.69)*

4. *In respect of 'cost of white tie hire for state banquet' 09/11/04 please provide the following:*

*The justification for this personal expense*  
*A copy of the invitation*  
*The definition of 'Irregular Expenses'*  
*A copy of the original hire receipt (£65)*  
*Confirmation that the BBC claimed back the VAT on this expense*

5. *In respect of RTS Annual Membership 25/11/04 please provide the following:*

*An explanation of this charge*  
*A definition of RTS*  
*A copy of the original receipt*

6. *In respect of BABI meeting in New York: taxi (receipt lost - £25.88), please provide the following:*

*The definition of BABI*  
*The purpose of the meeting and matters arising*  
*The meeting notes*  
*Any e mails/correspondence arising from the meeting*  
*Identification [of] any other BBC personnel at the meeting*  
*Confirmation that the meeting was not in any way connected with the business of BBC Worldwide Americas Inc."*

3. The public authority responded to the requests dated 14, 27 and 29 June 2005 on 4 July 2005. This letter stated that the requests had been refused under section 14 as they were considered vexatious.
4. The complainant responded to this on 5 July 2005 and asked for the handling of his information requests to be internally reviewed. The complainant stressed in this response that he did not agree that his information requests were vexatious.
5. The public authority responded on 27 July 2005 giving the conclusions of the internal review. This review upheld the refusal of the information requests of 14,

27 and 29 June 2006 as vexatious. The public authority cited the following reasons for considering the complainant's requests vexatious:

- The complainant had made a large number of information requests.
  - The requests of 14, 27 and 29 June 2005 all requested similar information.
  - The requests lacked a serious purpose.
  - Large volumes of non FOI related correspondence had previously been exchanged between the complainant and the public authority.
6. The public authority responded to the complainant's request of 6 July 2005 on 1 August 2005. In this reply, the public authority refused the request as vexatious. The public authority also stated that they would not carry out an internal review of this decision as the internal review of the handling of the requests of 14, 27 and 29 June 2005 had covered this ground previously.

## The Investigation

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### Scope of the case

7. The complainant contacted the Information Commissioner to complain on 12 August 2005. In this letter, the complainant stated that he did not agree that his requests were vexatious. The complainant indicated his belief that the information he wished to access is of "*grave concern to the public*" and that the public authority has been deliberately obstructive towards information requests.
8. In its summary of the requests that were refused as vexatious, the public authority included an information request made by the complainant on 9 June 2005. In connection with this, the Commissioner contacted the complainant on 18 August 2006 to request that he provide a copy of his request of 9 June 2005. The complainant responded on 28 August 2006. In this response, the complainant stated that he had no record of making any request on 9 June 2005. This request has not, therefore, been included in this notice.

### Chronology

9. The Commissioner contacted the public authority on 5 September 2006 about the complaint. The public authority was asked to respond giving its supporting arguments as to why the requests made by the complainant were considered vexatious.
10. The public authority responded to this on 17 November 2006. It gave background concerning previous requests made by the complainant. Prior to the Act coming into force, the public authority advised that it had been in protracted correspondence with the complainant, extracts of which were provided in order to demonstrate the content and tone of some of this correspondence.
11. Following the Act coming into force in January 2005, the public authority received approximately 90 requests from the complainant prior to refusing the requests

- above as vexatious. The public authority provided a schedule setting out all the requests from the complainant and giving the wording of each of these.
12. The public authority advised that careful consideration had been given to this issue before refusing the requests as vexatious and that legal advice on this issue had been taken. The public authority stated that it had also taken into account the Commissioner's published guidance on vexatious requests when considering these requests.
  13. The public authority went on to give specific detail as to the grounds on which they believe the requests above to be vexatious. Firstly, the public authority referred to the Commissioner's guidance that a request may be vexatious where it is connected to an existing grievance or complaint between the requester and the public authority. The public authority advised that they believed this to be the case in this instance as the complainant has a long standing grievance against the public authority concerning the legality of the licence fee. The public authority referred to documents previously provided to the Commissioner in support of its stance that the legality of the licence fee has been established through the courts.
  14. The public authority asserted that the complainant's information requests do not have a serious purpose. An example of this was a request where the complainant has asked for details of expenses claimed by a staff member of the public authority who had dealt with a previous request made by the complainant.
  15. The public authority also stated that it believes that some of the requests serve the purpose only of harassing the individual within the public authority dealing with the request. In support of this, the public authority cited a number of examples where the complainant has been abusive in his correspondence with the public authority.
  16. The public authority stated that it considers the requests made by the complainant to be obsessive. The public authority advised that it believes that the complainant is obsessed with the licence fee and has used the Act in order to continue this obsession. The public authority also believes that the complainant's obsession with the licence fee has led to his use of the Act to harass the public authority in a manifestly unreasonable way.
  17. The public authority went on to state that it believes that the intention of section 14 was to stop the type of requests made by the complainant in this case. It stated that the use of section 14 where appropriate is necessary in order to manage the impact of the Act. It stated further that these were the only requests it had so far refused as vexatious.
  18. The public authority emphasised that it is aware that section 14 can be cited only where the request itself is vexatious, rather than where the requester is considered vexatious. The public authority referred to a briefing provided to the individual within the public authority charged with carrying out the internal review of the decision to refuse the request as vexatious, a copy of which was provided to the Commissioner. This briefing referred specifically to the requirement that it is only the request, not the requester, which can be adjudged vexatious.

## Findings of fact

19. The complainant has been corresponding with the public authority continuously for several years and has made a large number of requests to the public authority.
20. The public authority received approximately 90 requests from the complainant during a period of less than 6 months.
21. The complainant believes that the public authority is being obstructive to his attempts to exercise the right to know provided by the Act.
22. The complainant does not agree that his requests are of no serious purpose or that they are only intended to harass the public authority. The complainant considers his requests do have a serious purpose and that the public interest would be served by the disclosure of the information requested.

## Analysis

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### Section 14

23. While giving maximum support to individuals genuinely seeking to exercise the right to know, the Commissioner's general approach will be sympathetic towards authorities where a request, which may be the latest in a series of requests, would impose a significant burden and:
  - clearly does not have any serious purpose or value;
  - is designed to cause disruption or annoyance;
  - has the effect of harassing the public authority; or
  - can otherwise fairly be characterised as obsessive or manifestly unreasonable.
24. It is clear to the Commissioner that the requests above are the latest in a series of requests. The Commissioner is also satisfied that the approximately 90 previous requests have imposed a significant burden on the public authority and that the requests refused as vexatious would themselves impose a significant burden.
25. The public authority has argued that the request clearly does not have any serious purpose or value. The Commissioner recognises that certain individual questions asked by the complainant in the requests above could give this impression and support such a stance. However, it must be entirely clear that a request does not have any serious purpose or value for a request to be refused on this ground.
26. In this case, whilst a by-product of these requests may be that they cause disruption to the public authority, the Commissioner cannot accept that they were intended solely for this purpose unless this is manifestly clear. In this case, the

Commissioner accepts that, although it may not appear so to the public authority, the complainant does consider his requests to be of purpose and value.

27. The public authority has argued that the nature and tone of some of the complainant's correspondence supports its stance that the information requests are vexatious. The Commissioner accepts that some of the complainant's correspondence has been inappropriate and considers it unfortunate that the complainant has chosen to conduct his dispute with the public authority in this way. However, the Commissioner notes that the tone and nature of the correspondences in which the above requests were made does not appear inappropriate.
28. The public authority has further argued that some of the complainant's requests have been made with the sole intention of harassing individuals within the public authority with whom the complainant has previously corresponded. The Commissioner notes that there appear to be examples of such requests in those cited above.
29. Ordinarily, it may be appropriate to respond to requests for details of the expenses of non senior staff by citing section 40. In this case, however, the cumulative effect of such requests, as well as the abuse directed by the complainant towards the individuals within the public authority with whom he has corresponded, would support the vexatiousness argument.
30. An alternative argument is that the public authority has been harassed through the large number of complainant's information requests within a short period. The Commissioner accepts that the public authority could be considered to have been harassed by the number of requests made by the complainant and that this is a valid argument in favour of refusing the requests above as vexatious.
31. Finally, the Commissioner considered whether the requests could be characterised as obsessive. The public authority has made representations that the complainant has been in correspondence with it since 1999 and that, within the first 6 months of the Act coming into force, the complainant made over 90 information requests. These requests were complied with up to the point that the public authority considered that the requests above were vexatious.
32. It appears that the complainant is utilising the Act to further his long standing dispute with the public authority. Although this in itself would not represent any contravention of the Act, it can be characterised as obsessive at the point where it appears that there is no outcome within the realms of realistic possibility that is likely to satisfy the complainant. Where a series of requests can be characterised as obsessive, as is the case here, it is appropriate to refuse these requests under section 14 as vexatious.

## The Decision

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33. The Commissioner considers the requests vexatious. The grounds for this are that, firstly, the volume of requests has the effect of harassing the public authority. Certain of the requests also have the effect of harassing individuals within the public authority with whom the complainant has corresponded. Secondly, the requests can be fairly characterised as obsessive.
34. The Commissioner's decision is that the public authority dealt with the above information requests in accordance with the Act.

## Steps Required

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35. The Commissioner requires no steps to be taken.



## Right of Appeal

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36. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

**Dated the 19<sup>th</sup> day of March 2007**

**Signed .....**

**Jane Durkin  
Assistant Commissioner**

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
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Cheshire  
SK9 5AF**