

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 31 July 2013

Public Authority: British Broadcasting Company ('the BBC')

Address: Room 2252
White City
201 Wood Lane
London
W12 7TS

Decision (including any steps ordered)

1. The complainant requested information relating to any private meetings held between the Chair of the BBC Trust and/or the Director General and four named party leaders between January 2012 and the date of his request. By the date of this notice the BBC had yet to provide a substantive response to this request and the Commissioner's decision is that, in so doing, the BBC has breached the requirements of section 10(1) and 17(3) of the FOIA.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide to the complainant a final response to his information request under FOIA. 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

3. On 17 January 2013, the complainant wrote to the BBC and requested information in the following terms:

"Please note that I am only interested in information which relates to the period January 1 2012 to the present day. Please note I am only interested in those meetings which were pre-arranged and not with any chance meetings which may have occurred during particular social functions. Please note the reference to the Director General should also be taken to include anyone who has held or is holding the post of Acting Director General.

1...During the aforementioned period has the Chair of the BBC Trust and or the Director General held private meetings and or discussions with any of the following figures...

David Cameron MP. The Prime Minister.

Nick Clegg MP, the Deputy Prime Minister.

Ed Miliband MP, the Leader of the Opposition.

Nigel Farage, the Leader of UKIP

2...If the answer to the aforementioned question is yes can you please provide a full list of each meeting. In the case of each meeting can you please provide a list of those present, the time and the date of the meeting and the venue. Can you state if the meeting involved a breakfast and or lunch and or dinner.

3...Can you please provide copies of all internal documentation (including emails) held by the BBC and or the BBC Trust which in any way relates to these meetings and or the topics under discussion. This documentation could have been generated prior to the meeting taking place or it could have been generated afterwards.

4...Can you please provide copies of all correspondence and communications (including emails) between Lord Patten (and or his office) and each of the different party leaders which relates in any way to the meetings and the topics under discussion. I am of course interested in correspondence between Lord Patten (and or his office) and the offices of the four party leaders. This correspondence could pre-date the meeting or it could have been generated afterwards.

5...Can you please provide copies of all correspondence and communications between Director General (and or his office) and each of the different party leaders which relates in any way to the meetings and the topics under discussion. I am of course interested in correspondence between the Director General (and or his office) and the various office of the four party leaders. This correspondence could pre-date the meeting or it could have been generated afterwards."

4. Although the BBC informed the complainant of what information it holds relating to his request and informed him that it intended to rely on sections 36 and 43(2) of the Act, at the time of writing this notice the BBC had failed to provide a substantive response which stated why the exemptions applied.

Scope of the case

5. The complainant contacted the Commissioner on 19 June 2013 to complain about the failure of the BBC to respond substantively to his request and to ask that the Commissioner intervene to secure a full response.

Reasons for decision

6. 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 the information of the description specified in the request, and

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

7. Section 10(1) of the FOIA provides that 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.
8. Under section 17(3) a public authority can, where it is citing a qualified exemption, extend the time to consider the balance of the public interest. The Commissioner considers it reasonable to extend the time to provide a full response including public interest considerations by a maximum of a further 20 working days, which would allow a public authority 40 working days in total.
9. In this case, whilst the complainant has been sent a number of responses informing him of the delay in considering the exemptions cited, the total time taken by the BBC has well exceeded 40 working days. As the Commissioner does not consider this to be a reasonable timescale he finds that the BBC has not complied with section 17(3). It follows that the BBC has breached section 10(1) in relation to the handling of this request.

Other matters

10. As well as finding above that the BBC is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the BBC should evidence from other cases suggest that there are systemic issues within the BBC that are causing delays.

Right of appeal

11. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. 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.
13. 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

Rachael Cragg
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