

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

### **Decision notice**

**Date:** 21 October 2019

**Public Authority: British Broadcasting Corporation ("BBC")**

**Address: Broadcasting House  
Portland Place**

**London W1A 1AA**

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

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1. The complainant has requested information from the BBC relating to cancellations of TV licences. The BBC disclosed some of the requested information, but refused to disclose the remainder, citing section 22 (information intended for future publication) as a basis for non-disclosure.
2. The Commissioner's decision is that the BBC has correctly applied the above exemption to the withheld information and therefore she requires no steps to be taken.

### **Request and response**

3. On 15 April 2019 the complainant requested the following information from the BBC:-  
  
"Please can you supply the statistics pertaining to total number of TV licence cancellations for each of the twelve months in 2018."
4. The BBC responded on 13 May 2019 stating that, whilst TV Licensing management information is compiled by financial year, cancellations data is reported on a monthly basis. The BBC advised the complainant that it intends to publish figures on the number of licences in force cancelled each month during the 2018/19 financial year and that

therefore it was withholding the monthly figures for April to December 2018 under section 22(1)(a) of the FOIA, which relates to information which is intended for future publication (specifically, that the information is held with a view to its being published by the BBC at a future date). It stated that this information is intended for publication on the TV Licensing website later this calendar year. The BBC did provide the complainant with statistics pertaining to TV Licence cancellations for January to March 2018.

5. The complainant requested an internal review on 15 May 2019. He stated to the BBC that the information requested has previously been provided in full with regards to earlier periods, i.e. for the years 2006-2017.
6. The BBC responded to the complainant's request for internal review on 6 June 2019. The reviewer upheld the original decision, and reiterated that the statistics for April to December 2018 ("the withheld information") are going to be published later this calendar year on the TV Licensing website.

### **Scope of the case**

7. The complainant contacted the Commissioner on 6 June 2019 to complain about the way his request for information had been handled.
8. The Commissioner wrote to the BBC seeking its detailed submissions on 10 September 2019. The BBC responded to the Commissioner on 24 September 2019, providing its submissions as to its application of the above exemption. The Commissioner has considered the BBC's handling of the complainant's request.

### **Reasons for decision**

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9. Section 22 states that information is exempt from disclosure if –
  - (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),
  - (b) the information was already held with a view to such publication at the time when the request for information was made, and
  - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

10. For this exemption to apply the BBC must, at the time of the request, have intended to publish the requested information. It must have had a settled expectation that the information will be published at some future date.
11. It is important to note that a public authority must hold the information with a view to its publication at the time of the request, the exemption does not require a set publication date to be in place. The date of publication does not need to be definite for the exemption to apply.
12. The BBC has confirmed to the Commissioner that there was a settled intention to publish the information prior to the complainant's request being received by the BBC in April, as this information had been the subject of prior requests.
13. The BBC evidenced this intention by providing the Commissioner with a statement from a member of its staff who is responsible for dealing with FOI requests. That statement confirmed that, due to an increase in requests for information regarding the cancellation of TV licences, it was decided in a meeting on 12 March 2019 that such information would in future be published annually on the TV licensing website. The date for the publication of the withheld information on the website is October 2019.
14. It is clear that the previous requests that the BBC has received for such cancellations data has resulted in the decision to publish the data on an annual basis. The Commissioner is satisfied that, at the time of this request, the BBC did have a settled intention to publish the withheld information.
15. However, before concluding the exemption is engaged, the Commissioner must consider whether it is reasonable in all the circumstances that the information should be withheld until it is published.
16. The BBC has informed the Commissioner that data on TV licence cancellations is collected by an external organisation at the end of each month and that the monthly data is consolidated at the end of each financial year. Therefore, the cancellations data is subject to revision pending completion of this annual audit. The BBC has received multiple FOI requests for this data at various times of the year and the BBC took the decision to publish this data annually to avoid both the release of inconsistent cancellation figures and the necessity of engaging the intensive resources which would be needed to respond to each specific FOI request for that information.

17. The Commissioner accepts that publishing this information on an annual basis seems a reasonable approach to take and is therefore satisfied with the application of section 22 of the FOIA.

### **The public interest**

18. Having concluded that the exemption is engaged, it is necessary to go on to consider whether the public interest favours the maintenance of this exemption or disclosure of the withheld information

### **Factors in favour of disclosure of the withheld information**

19. The BBC acknowledges that there is a general public interest in providing further information about its television licensing activities, which affect a large percentage of the general public. There is also a specific duty under Article 12 of the BBC's Royal Charter to seek to maximise transparency, openness and accountability. The Commissioner recognises this as a strong public interest factor in favour of disclosure, and has accorded significant weight to it.

### **Factors in favour of maintaining the exemption**

20. The BBC has pointed out that the surprise and interest in relation to stories and developments to be released to the media regarding the importance of purchasing a TV licence should be maintained, as it is in the public interest not to undermine media planning.
21. Furthermore, there is a strong public interest in ensuring that public authorities are able to provide accurate and reliable information in a controlled and efficient manner. The BBC informed the Commissioner that disclosure of the withheld information at this stage would not serve to increase the public's understanding of TV licensing.

### **Balance of public interest arguments**

22. Whilst the Commissioner recognises the importance of public authorities being transparent and accountable in their decision-making, as reflected by the BBC's specific obligations under the Royal Charter, she also recognises the wisdom in annually publishing the figures which make up the withheld information, in order to ensure complete accuracy and reliability of information. In this case, since disclosure would not serve to inform the public or increase its understanding of TV licensing, and indeed may undermine media planning and risk the

detriment caused by inconsistent figures being disclosed in relation to separate FOI requests, the Commissioner considers that, in all the

circumstances of the case, the public interest favours maintaining the exemption as set out at section 22 of the FOIA.

## Right of appeal

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23. 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@justice.gov.uk](mailto:GRC@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

24. 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.
25. 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 .....**

**Information Commissioner's Office**

**Wycliffe House**

**Water Lane**

**Wilmslow**

**Cheshire**

**SK9 5AF**