

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 February 2020

Public Authority: The British Broadcasting Corporation ('the BBC')

Address: BC2 A4 Broadcast Centre
White City
201 Wood Lane
London
W12 7TP

Decision (including any steps ordered)

1. The complainant requested information about the gender of applicants to be a 'presenter'. The BBC provided some information but said that it is not obliged to comply with the remainder of the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so.
2. The Commissioner's decision is that the BBC is not obliged to comply with the remainder of the request under section 12(1) and is satisfied that the BBC met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 1 September 2019 the complainant made the following request for information under the FOIA:
 - '1. Would you inform me of all employment, direct or indirect as may be, made by the BBC from 2016 to the present September 2019 (inclusive) in respect of Gender; this is specifically since the departing Chairwoman in 2016 stated that no more men would be employed by the BBC until at least 2020.*
 - 2. This would include all Regional and National employment and include promotions by Gender to become any form of "Presenter" (ie visible doing so on the TV screen) or similar job. And any employment of*

Females where men were not involved as applicants at all eg Newsnight in its current form, and females heading or reporting/presenting the News that have started doing so since 2016, and males similarly.'

4. On 17 September 2019 the BBC responded with information on joiners and leavers to the BBC by gender by providing links to reports for the last 3 financial years.
5. On 17 September 2019 the complainant wrote '*would you answer the question eg 550 women, men nil*'.
6. On 19 September 2019 the BBC responded that it had '*provided links to our annual report, which provide information on the incoming staff broken down by gender*' and asked if the complainant wished the BBC to conduct an internal review. The complainant confirmed that he did.
7. The BBC sent the outcome of its internal review on 22 October 2019. The BBC understood the request to be for recorded data about the breakdown between men and women employed across the BBC and had provided links to published information that lists data relevant to parts of the request. However, it found that the BBC held information relevant to the second paragraph of the request (Q2) but to locate, extract and compile the information would take in excess of the statutory time frame. The BBC explained that the information was held across a number of systems. It refused to provide the requested information at Q2 citing Section 12 of FOIA as it estimated that the cost of determining whether it held the information would exceed the cost threshold of £450. The BBC suggested that it may be able to consider a refined request about the gender split between men and women who are employed as presenters.

Scope of the case

8. On 18 November 2019, the complainant contacted the Information Commissioner to complain about the way the request for information had been handled. He argued that the '*BBC has an annual turnover of in excess of £5 Billion (mostly licence fee payers money) and thus assume its Human Resources would have the information requested to hand...'*
9. The Commissioner's investigation has focussed on whether the BBC correctly applied section 12 to Q2 of the request. She has also considered whether the BBC met its obligation to offer advice and assistance, under section 16.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

10. Section 12 of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
 - either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
11. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to the BBC.
12. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
 - determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.
13. Where a public authority claims that section 12 of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit, in line with section 16 of the FOIA.

Would the cost of compliance exceed the appropriate limit?

14. As is the practice in a case such as this, the Commissioner asked the BBC to confirm if the information is held, and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
15. In its submission to the Commissioner the BBC stated that it had considered the request to be for all 'direct and indirect employment' split by gender across the entire BBC workforce since 2016 including:
 - All regional and national employment (staff, freelancers and contractors),
 - Promotions by gender to the role of 'Presenter' or to 'similar jobs',
 - Any employment of women where men were not applicants, and

- Women who report or 'present' the News.
16. The BBC considered that the volume of the request is significant due to its scope and timeframe.
 17. The BBC explained that it has a 'workforce' in excess of 50,000 and holds information relevant to the request across 2 main systems: BBC Human Resources (HR) systems and a third party recruitment platform that the BBC uses to support the BBC Careers Search website. This website advertises both internal and external recruitment opportunities. Job advertisements are listed with a unique reference number and are not tracked by reference to a job title.
 18. As the jobs are tracked using a unique reference number, *'the HR case files for each person who was successful in applying for a BBC position would need to be manually searched to check if the job advertisement to which they applied matched their current job title...'*
 19. The BBC also explained that the workforce records are held in different systems depending on the nature of a person's employment – whether they are freelance, staff or contractor. The BBC has 3 separate systems for *'contributors, agency workers and staff'*.
 20. The request specifically asked about individuals who were promoted to the role of 'Presenter' but 'Presenter' is not a job title at the BBC. *'The type of work that it implies (namely on-camera reporting of news and current affairs programmes) can be attributed to multiple job titles. While individuals may 'report' or 'present' news or current affairs programmes or segments within those programmes, they will have different job titles including but not limited to Broadcast Journalist, Senior Broadcast Journalist, correspondent, Political Editor, country-specific Editor like the American Editor, or issue-specific roles like Crime Reporter. This means that the Personnel files of each person who holds a job title that might capture activities like 'presenting' or 'reporting' the news would have to be checked manually to determine a) their gender and b) whether they had been promoted or were a new joiner.'*
 21. The BBC further explained that even if it had a consistent job title that matched the request the BBC had undergone a significant job re-mapping exercise in 2018 called the Career Path Framework to streamline job families, job titles and pay grades. This cuts across the time period of the request increasing the difficulty in reconciling job applications and gender.
 22. Finally, the BBC explained that the request referred to specific programmes and the BBC does not hold HR information by programme, partly because individuals may work across multiple programmes.

23. The Commissioner notes that the complainant considers that '*Human Resources would have the information requested to hand...*'. However, the Commissioner understands that the specific requested information in Q2 is not held in a single system and is not trackable by programme or job title.
24. The BBC stated that there were 11,093 new joiners over the past 3 financial years and '*complying with the request would involve manually cross-referencing application records held in BBC Careers with files held in one of 3 BBC HR systems.*' It estimated that to search each personnel file for those 11,093 workers would take one minute per file or 184 hours.
25. Given the specific and detailed information requested by the complainant and the difficulty in tracking this information across multiple systems the Commissioner is prepared to accept that the BBC would take more than the 18 hour limit to respond to the request. She is therefore satisfied that the BBC is correct to apply section 12(1) to the request.

Section 16(1) – The duty to provide advice and assistance

26. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice (the "code")¹ in providing advice and assistance, it will have complied with section 16(1).
27. The Commissioner notes that the BBC suggested to the complainant that it '*could consider a refined request for information about the gender split between men and women who are employed as presenters at the BBC*'. Therefore, the Commissioner is satisfied that the BBC complied with section 16.

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

Right of appeal

28. If 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.

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

29. 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.
30. 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

Pamela Clements
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