

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 09 November 2018

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 has requested information about the most recent version of the ASK Help Script for staff. The BBC says it is not obliged to comply with 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 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.

Background

3. The BBC provided the following as a background.
4. The BBC is required to issue television licences under the Communications Act 2003. The BBC has overall responsibility for the collection of television licence fees and the enforcement of the television licensing system, but it contracts the work of collection and enforcement to a number of companies who use the trade mark 'TV Licensing'.
5. The majority of the administration of TV Licensing is contracted to Capita Business Services Ltd (Capita). As part of this, Capita handles customer enquiries about TV Licensing.

6. The Ask Help Script is a computer based system designed as a source of quick help and advice for customer-facing staff at Capita, to assist with customer enquiries. It sets out frequently asked questions and responses, as well as practical advice, in relation to various categories of customer contact. Access to the system is restricted to Capita staff.
7. The Ask Help Script system is regularly updated and comprises a substantial number of screens. In particular, as at the time of the BBC's internal review decision, the system comprised 2305 screens. Currently, the system comprises 2309 screens. Archived versions of the system are not maintained.

Request and response

8. On 23 May 2018 the complainant made the following request for information under the FOIA:

*'[Request 1] I would like a copy of the most recent version of the ASK Help Script for staff please.
[Request 2] And also, copies of the TVL News articles issued over the last two years'*
9. On 20 June 2018 the BBC responded. It provided some information but refused to provide the requested information for the first request 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 provided a link in response to the second part of the request.
10. The BBC noted that the complainant had previously requested this information and confirmed that Capita held the information on the BBC's behalf. The BBC explained that *'the ASK Help Script is a system designed to provide reference and useful advice for customer facing staff that/who work for Capita in respect of TV Licensing. This computer-based system is updated and expanded on an ongoing basis to ensure its content is accurate and up to date.'*
11. On 20 June 2018 the complainant requested an internal review for the citing of section 12 to refuse the first request.
12. The BBC sent the outcome of its internal review on 17 July 2018 upholding its original position on section 12. The BBC further explained that the Capita system is regularly updated and currently *'comprises 2305 individual screens of information which can only be extracted individually it is not possible to extract the Ask Help Script in its entirety. The system screens are heavily interlinked and searches for specific topics can link to a substantial number of screens.'*

13. The BBC considered 2 possible ways to extract the information
- (i) by manually printing and retrieving one screen = 64 seconds x 2305 = an estimated total of 40 hours or
 - (ii) by copying, pasting and reformatting each screen into a word document = 126 seconds x 2305 = an estimated total of 80 hours
14. The BBC acknowledged that it had not provided advice and assistance under section 16. Due to the size and complexity of the way the system operates, the BBC was *'unable to provide meaningful advice and assistance to the applicant to narrow his request'*. However, if the applicant identified the information he was most interested in, the BBC could advise whether such information could be provided within the cost limit.

Scope of the case

15. On 25 July 2018, the complainant contacted the Information Commissioner to complain about the way the first request for information had been handled. He provided details of his previous successful requests for the same information which will have been updated with new information. He also suggested that the system should have export options.
16. The Commissioner's investigation has focused on whether the BBC correctly applied section 12 to the first request. She has also considered whether the BBC met its obligation under section 16, to offer advice and assistance.

Reasons for decision

Section 12 – cost exceeds the appropriate limit

17. 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.
18. 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.

19. 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.

20. 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?

21. 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.

22. In its submission to the Commissioner the BBC explained it had liaised with Capita, given fresh consideration to the activities needed and had revised the estimated breakdown of processing time.

23. The complainant requested a copy of the Ask Help Script in its entirety. The BBC stated that, contrary to the complainant's assertion, *'it is not possible to export the Ask Help Script using an automated process. Instead, to comply with the request, the information has to be manually extracted and compiled by either printing each screen or 'screen grabbing'.'*

24. The BBC provided a fresh estimate to the Commissioner based on a larger sample: *'some tasks underpinning the estimates could be carried out more quickly ...other tasks would take longer...and some processing tasks had not been accounted for in the initial estimate.'*

25. The BBC focused on the first method of printing each screen (as quicker) and accounted for other processing activities that would need to be carried out as part of compiling the information, which had not been accounted for in the initial estimate:

- reviewing the printed screens to ensure that nothing has been missed. This is necessary in light of the large number of pages

that would need to be printed and the risk of paper jams and other feed errors; and

- scanning the printed pages back into the system to generate a pdf document (so that any redactions can be made at a later stage).

26. For the new sampling exercise, Capita used a sample of 25 screens and the sampling exercise was repeated five times to obtain averages: *'as the Ask Help Script is continually updated, and archived versions are not retained, it is not possible to base the sampling on the number of screens as at the date when the FOI request was received.'*

Step	Task	Average time
1	Logging into the Ask application <input type="checkbox"/> Accessing the Google Chrome application <input type="checkbox"/> Selecting the saved link for Ask and waiting for the system to load	8.5 seconds
2	Selecting pages to be extracted (25 pages) <input type="checkbox"/> Selecting pages to be extracted, opening up all contents on each page so that will print correctly, pressing print for each page	162.8 seconds
3	Printing & review (25 pages) <input type="checkbox"/> Printing documents <input type="checkbox"/> Review of printed pages to ensure nothing is missed <input type="checkbox"/> Re-print of missing pages (selection & printing)	481.6 seconds
4	Scanning (25 pages)	195.2 seconds
Total average time (25 pages)		848.1 seconds
Total average time in minutes for 25 pages		14.1 minutes

27. Based on this sampling, the BBC calculated that 2309/25 screens = 92.36 screens x 14.1 minutes = 1302.27minutes/60 = an estimated total of 21.7 hours.
28. The BBC stated that there are other tasks to be completed for which no sampling exercise was completed such as saving scanned documentation and compiling documentation to enable it to be sent from Capita to the BBC and then to the complainant.
29. Given the specific information requested, the lack of an export option and the above estimated times that would be involved in responding to the complainant's request, the Commissioner is prepared to accept that the BBC would take more than the 18 hour limit to respond to the request as phrased. 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

30. 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).
31. The Commissioner notes that the BBC provided advice to the complainant during the internal review. 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

32. 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@hmcts.gsi.gov.uk

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

33. 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.
34. 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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