

Reference: 2171

17 May 2016

Information Requests  
Secretariat

[information.requests@ofcom.org.uk](mailto:information.requests@ofcom.org.uk)

## Freedom of Information: Right to know request

Thank you for your request for information regarding meetings and expenses of Ofcom's Chief Executive Sharon White over the past 12 months. Ofcom received your request on 19 April 2016 and has considered it under the Freedom of Information Act 2000 (the FoIA).

You asked for:

*"1) Over the last 12 months, details of every meeting that has taken place between Sharon White and senior representatives of Virgin Media, Sky, BT and Openreach. Details including dates, length of meetings, who else was involved, meeting agenda, meeting outcomes and setting of meeting (formal office meeting, lunch, dinner or drinks etc).*

*2) Expenses claimed by Sharon White and her team on all meetings with the senior representatives of Virgin Media, Sky, BT and Openreach. Both in amount of expenses, and what they have been spent on.*

*3) Over the last 12 months, details of every meeting that Sharon White has had with members of the public and consumer groups. Details including dates, length of meetings, who else was involved, meeting agenda, meeting outcomes and setting of meeting (formal office meeting, lunch, dinner or drinks etc).*

*4) Expenses claimed by Sharon White and her team on all meetings with members of the public and consumer groups. Both in amount of expenses, and what they have been spent on."*

Ofcom has given careful consideration to your request. We are unable to disclose the information you are seeking in questions 1, and 3, but are partially able to disclose the information you have requested in questions 2 and 4. We set out our reasons below.

### *Questions 1 and 3*

During the course of each year, Ms White meets with a considerable number of different people and organisations as Chief Executive of Ofcom including communications providers, consumer groups, Parliamentarians, broadcasters and other stakeholders. As a matter of policy, Ofcom

publishes certain information relating to its external engagement with stakeholders, including the meetings and events attended by Ms White. For example, Ms White's speeches to various stakeholders can be found here: <http://media.ofcom.org.uk/speeches/> and general news releases can be found here: <http://media.ofcom.org.uk/>. Further details of Ofcom's work can be found on our website generally, and in our various publications, including our consultation documents which often involve considerable stakeholder engagement – please see: <http://stakeholders.ofcom.org.uk/consultations/>

The detailed information you have requested (including, among other things, details as to the length of every meeting attended by Ms White over a 12 month period and its outcome), goes beyond that which we would ordinarily publish. It would take a substantial amount of time for a member of our staff to locate, identify and extract the relevant information to meet this request.

Under section 12(1) of the FoIA, Ofcom may refuse to deal with a request where we estimate that doing so would exceed the 'appropriate limit', as set out in The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, SI. 2004 No 3244. The appropriate limit for Ofcom is £450, calculated at a rate of £25 per person per hour; this equates to 18 hours of time.

We have estimated that, in order to provide you with the information you have requested for even one month, it would take at least 18 hours of time for one of our staff members to locate, identify and extract the relevant information, and to then check that the information was complete. First, meetings may have taken place on an ad hoc basis and therefore may not have been recorded in any diary system, making it difficult to locate any relevant records. It would also take a considerable amount of time to clarify the length of the meetings that had taken place – for those that were diarised, some may have been extended beyond the meeting time allocated, finished early, or been cancelled altogether. For those meetings that occurred on an ad hoc basis, it is likely to be even more difficult to ascertain the length of these (to the extent that such information has been recorded as is therefore held by Ofcom).

In addition, meeting agendas may or may not have existed, depending on the nature of the meeting, and it would likely take a significant amount of time to check this. Furthermore, meeting outcomes are not always recorded in one place, but may have implications for various areas of our work, such that we would need to check across a wide range of projects to ensure that we had captured the relevant actions or discussions. It would likely take the staff member who was tasked with this exercise considerable time in order to ascertain who (apart from Ms White) was involved in the meeting and to locate and identify any relevant notes that had been taken.

The task of locating, identifying and extracting the relevant material would also likely involve our staff member having to identify whether or not certain information included either personal data belonging to individuals, or the names of businesses, where this might need to be earmarked for further, separate consideration as to whether or not any of the exemptions apply (for example, section 40(2) in relation to personal data, or section 44 in circumstances where the information pertains to a business and is prohibited from being disclosed under section 393(1) of the Communications Act 2003). To be clear, the time taken to undertake this exercise would not include the time that would be needed in order for Ofcom to actually decide whether or not to

apply an exemption, but rather, to identify simply whether further consideration was required in order to avoid potentially disclosing information unlawfully (i.e. in breach of the Data Protection Act 1998 or the Communications Act 2003, both of which carry financial penalties),

For the reasons above, we therefore have decided to refuse your request on the basis of section 12 of the FoIA. We should note, however, that even if we were to undertake the task of locating, identifying and extracting the relevant information requested in questions 1 and 3, there are a number of exemptions which are likely to apply.

First, as referred to above, Ofcom is exempted from disclosing information under section 40(2) of the FoIA in circumstances where doing so would contravene the data protection principles under the Data Protection Act 1998. Under the first data protection principle ('DPP1'), Ofcom is required to process personal data in a way that is fair and lawful. Individual stakeholders who seek to engage with our Chief Executive do not necessarily have an expectation that their names will later be released to the general public, such that to do so may not be fair or, therefore, in accordance with DPP1.

Section 40(2) is an absolute exemption and is not subject to the public interest test.

Second, under section 393(1) of the Communications Act 2003, information which pertains to a business and which has been obtained by Ofcom in the course of undertaking its work is prohibited from disclosure unless that business consents or one of a number of other statutory gateways is met. In circumstances where section 393(1) of the Communications Act 2003 applies, so too will the exemption under section 44 of the FoIA. Section 44 of FoIA exempts from disclosure information which is prohibited from being disclosed by another enactment (in this case the Communications Act 2003.) We would need to give careful consideration to section 393(1) in circumstances where we were to determine whether or not to release the type of information you have requested.

It is possible that other exemptions may also apply.

#### *Questions 2 and 4*

In relation to questions 2 and 4, Ofcom publishes all Board and senior executive expenses as a matter of course on its website: <http://www.ofcom.org.uk/about/annual-reports-and-plans/board-and-executive-committee-expenses/>. These claims have been approved under our Expenses Policy, published here: <http://www.ofcom.org.uk/files/2011/08/expensespolicy.pdf>. The information published on our website includes all of Ms White's expenses which have been incurred over the last 12 months and will, therefore, include those expenses relating to meetings with our stakeholders. For the reasons above, we are unable to disclose the names of any businesses or individuals, where such information is exempted under sections 40(2) and 44 of the FoIA.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

## Julia Snape

If you are unhappy with the response or level of service you have received in relation to your request from Ofcom, you may ask for an internal review. If you ask us for an internal review of our decision, it will be treated as a formal complaint and will be subject to an independent review within Ofcom. We will acknowledge the complaint and inform you of the date by which you might expect to be told the outcome.

The following outcomes are possible:

- the original decision is upheld; or
- the original decision is reversed or modified.

### Timing

If you wish to exercise your right to an internal review **you should contact us within two months of the date of this letter**. There is no statutory deadline for undertaking internal reviews and it will depend upon the complexity of the case. However, we aim to conclude all such reviews within 20 working days, and up to 40 working days in exception cases. We will keep you informed of the progress of any such review. If you wish to request an internal review, you should contact:

Steve Gettings  
The Secretary to the Corporation  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

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