



Information Policy & Compliance  
[bbc.co.uk/foi](http://bbc.co.uk/foi)

'Watchkeeper'  
[request-15637-68c90011@whatdotheyknow.com](mailto:request-15637-68c90011@whatdotheyknow.com)

03 September 2009

Dear Sir/Madam,

**Request for Information – RFI 2009 1152**

Thank you for your email of 31 July 2009, requesting the following information under the terms of the Freedom of Information Act 2000 ("the Act"):

*"The BBC claims to hold data on individuals in a database kept for TV licensing purposes. Letters from "TV Licensing" ask non-licence holders for their names and other details so that this database can be kept up-to-date in accordance with the Data Protection Act. Schedule 1 of the Data Protection Act begins:*

*"SCHEDULE 1 The data protection principles Part 1 The principles*

*1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—  
(a) at least one of the conditions in Schedule 2 is met ..."*

*One of the conditions in Schedule 2 referred to is:*

*"SCHEDULE 2 Conditions relevant for purposes of the first principle: processing of any personal data  
1 The data subject has given his consent to the processing."*

*In other words, a data subject must give his consent for processing of his personal data before such processing can take place.*

*Can you confirm that if anyone advises the BBC that it does not have permission to process that person's personal data for TV licensing purposes and requests that such data as is held be removed from the database, then the BBC will comply with such a request?"*



We note your claim that “a data subject must give his consent for processing of his personal data before such processing can take place.” It is true that consent can be one condition that renders processing lawful. However, there are others that can also be used. Schedule 1 sets out that “at least one of the conditions in Schedule 2” needs to be met. Often in TVL processing, we will rely on the fact that processing is necessary for administering the TVL as set out in condition 3 (processing necessary to comply with a legal obligation) and condition 5(b) (processing necessary to exercise functions conferred under any enactment) of Schedule 2.

Please note that TVL and its agents are aware of the importance of obtaining consent from a data subject to the processing of his or her personal data wherever possible, taking into account our many statutory obligations and duties. In addition, I can confirm that the data held by TV Licensing in its database cannot be used for any purpose other than the administering of the TV Licensing system. Furthermore, I can advise you that TV licenses are licensed to a specific address and not to a specific individual. However, in order to assist the BBC to ensure that our TV Licensing database is kept up-to-date, to facilitate payments of TV licenses and for any other correspondence necessary for the maintenance of licenses we will always request the name of an individual who we can contact directly regarding TV licenses. Please note that the absence of a name on a TV licence application will not reduce the liability of the occupiers.

Your enquiry can also be interpreted as whether TV Licensing would, in response to a request from a member of the public made under Section 10 of the Data Protection Act 1998 (DPA) (right to prevent processing likely to cause damage or distress), stop processing that data which is/was collected for TV licensing purposes. We would like to advise you that the BBC takes its obligations under the DPA very seriously, including those obligations set out in Section 10 of the DPA.

Section 10(1) of the DPA provides that (subject to subsection 2) an individual may, by notice in writing, request that the processing of their data ceases “on the grounds that, ...:

- a) *the processing of those data or their processing for that purpose or in that manner is causing or is likely to cause substantial damage or substantial distress to him or to another, and*
- b) *that damage or distress is or would be unwarranted.”*

However, Section 10(2) provides that where the processing of the data meets any of the conditions in paragraphs 1 to 4 of Schedule 2, including, but not limited to the process being necessary for compliance with any legal obligation (condition 3), then the data controller is not obliged to comply with Section 10(1). As you may, or may not be aware, the BBC is required to administer and enforce television licensing under Part 4 of the Communications Act 2003. Accordingly, we believe that the processing of information which is necessary to carry out this statutory function is exempt from the Section 10(1) obligation.

I hope this response is helpful.

## **Your appeal rights**

This enquiry has been dealt with under the terms of the Freedom of Information Act (as indicated above). If you are not satisfied that we have complied with the Act in responding to your request, you have the right to an internal review by a BBC senior manager or legal adviser. Please contact us at the address above explaining what you would like us to review and including the reference number given at the start of this letter. If you are not satisfied with the internal review, you may appeal to the Information Commissioner, whose contact details are as follows: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF; telephone: 01625 545700; [www.ico.gov.uk](http://www.ico.gov.uk).

Yours sincerely,

Neil Gardner  
Senior Policy Adviser, TV Licensing Management Team

