



Information Policy & Compliance
bbc.co.uk/foi

Peter Jones
request-69856-203d36f4@whatdotheyknow.com

31 May 2011

Dear Mr Jones,

Request for Information – RFI20110525

Thank you for your recent email, received 28 April 2011, requesting information under the terms of the Freedom of Information Act 2000 (“the Act”).

Before I respond to your questions, it may be helpful if I first explain the nature of the relationship between TV Licensing and the BBC. “TV Licensing” is a trade mark used by companies contracted by the BBC to administer the collection of television licence fees and enforcement of the television licensing system. The majority of the administration of TV Licensing is contracted to Capita Business Services Ltd (which undertakes the majority of the administration of the TV Licensing system), with the administration of our cash related payment schemes contracted to iQor UK Limited. PayPoint Network Ltd and PayPoint Collections Ltd are contracted to provide over-the-counter services. Marketing and printing services are contracted to Proximity London Ltd as are public relations and advertising services. The latter are subcontracted by Proximity to Fishburn Hedges Boys Williams Ltd, Abbott Mead Vickers BBDO Ltd and PHD Media Ltd. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

You have requested the following information:

- 1. The name or job title of the BBC/TV Licensing official or officials who can authorise the use of electronic TV detection equipment against a suspected licence fee evader.*

TV Licensing’s use of detection equipment is strictly governed by the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers (British Broadcasting Corporation) Order 2001 (“the Order”). Section 27A(2) of the Order states that anyone performing the role of Head of Sales or Head of Marketing within the Television Licensing Revenue Management Unit (i.e. the BBC’s TV



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Licensing Management Team (“TVLMT”)) or anyone more senior in the TVLMT can grant an authorisation related to the detection of television receivers.

In practice, this is limited to the Head of Sales, the Head of Marketing and the Head of Revenue Management, hence there would usually be three people who can grant authorisations. However, the roles of Head of Sales and Head of Marketing are currently combined within the TVLMT, hence there are currently two rather than three people who can grant authorisations.

2. *The format that a request to use electronic TV detection equipment takes. Is it a written request or verbal request? Is there an official form? If so please provide a copy of the form used.*

Applications for authorisations of detection are made via a written form. Please find attached a copy of the form. I note that the authorisation form refers to both general and specific detection. Specific detection is where authorisation has been granted to investigate a single address. General detection is where authorisation has been granted for two or more addresses within a specified postcode.

Some information has been redacted from the authorisation form under sections 31(1)(a), (b), (d) and (g) and (2)(a) of the Act which relate to law enforcement (specifically that disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, the collection of the licence fee and the BBC’s ability to discharge its public functions in respect of such matters.) This is because the information concerned could be useful to people attempting to evade the licence fee.

I am satisfied in terms of section 2(2) of the Act that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have considered the public interest test in the section on why information has been withheld below.

3. *What evidence is needed before the use of electronic TV detection equipment is authorised. Would the presence of a visible TV aerial on an unlicensed property be sufficient grounds for authorisation? Would the fact a property is unlicensed be sufficient grounds for authorisation?*

I can confirm that we do hold the information that you have requested in relation to evidential requirements for authorisation applications to use detection equipment. However, I am withholding this information under sections 31(1)(a),(b),(d) and (g) and (2)(a) of the Act which relate to law enforcement, specifically on the grounds that disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, the collection of the licence fee and the BBC’s ability to discharge its public functions in respect of such matters. This is because the information concerned could be useful to people attempting to evade the licence fee.

I am satisfied in terms of section 2(2) of the Act that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have provided further explanation of my consideration of the public interest test in the section ‘Why information has been withheld’ below.

4. *What percentage of search warrants obtained by TV Licensing have been granted on the basis of evidence obtained by electronic TV detection equipment. Note that I am only asking for a percentage here and not actually numbers.*

I can confirm that we do hold the information that you have requested. However, I am withholding this information under sections 31(1)(a),(b),(d) and (g) and (2)(a) of the Act which relate to law enforcement, specifically on the grounds that disclosure would, or would be likely to, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, the collection of the licence fee and the BBC's ability to discharge its public functions in respect of such matters. This is because the information concerned could be useful to people attempting to evade the licence fee.

I am satisfied in terms of section 2(2) of the Act that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. I have provided further explanation of my consideration of the public interest test in the section 'Why information has been withheld' below.

Why information has been withheld

I am required under section 2(2) of the Act to assess whether the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

The following factors are in favour of disclosure:

1. Ensuring that the licensing authority is exercising its functions appropriately and proportionately, i.e. that TV Licensing's strategy regarding detection is being applied honestly and that information gathered via detection is used for an appropriate purpose
2. Ensuring that public funds are being appropriately applied, that is:
 - a. ensuring that the TV Licensing system is being efficiently run; and
 - b. ensuring that value for money is being obtained.

I consider that the above public interest factors in favour of disclosure are served by the following:

1. The BBC/TV Licensing does not prosecute except where it is in the public interest to do so which includes having sufficient evidence. This is a key principle of the Crown Prosecution Guidelines which we publicly state that we adhere to. Further, a magistrate would not allow a prosecution to take place if there was not sufficient evidence and public interest.
2. The BBC is required to satisfy the National Audit Office ('NAO') as to the value for money of the collection and enforcement arrangements and is accountable for the economy, efficiency and effectiveness of such arrangements. NAO's most recent audit is published on the NAO website at www.nao.org.uk.

3. The BBC has reduced the cost of collection from 6.2% of the total licence fee collected in 1991/2, when it took over this responsibility from the Home Office, to 3.5% for the financial year 09/10. This demonstrates that the TV Licensing system is being efficiently run. This and further related information is available in the BBC's annual report (see www.bbc.co.uk) and the *TV Licensing Annual Review* (www.tvlicensing.co.uk/about/our-performance-AB6/).

In addition, the following factors are in favour of withholding the information:

1. The BBC has a duty to enforce the television licensing system and it is essential that effective deterrents against evasion are maintained for this purpose.
2. Without an effective deterrent to licence fee evasion, evasion would invariably increase. This would be to the detriment of the honest majority of people who are properly licensed and to the overall amount of revenue available to the BBC.
3. An increase in the rate of licence fee evasion would lead to an increase in detection costs.
4. An increase in the costs of detecting licence fee evasion would lead to a decrease in the available funds to be put towards producing the BBC's content.

In this instance, the public interest is served by maintaining an effective deterrent to licence fee evasion and thus in turn protecting the BBC's revenue stream to produce its output.

There is hence a greater public interest in ensuring the effective collection of the licence fee than in disclosing the information you have sought. I am therefore satisfied, in terms of section 2 of the Act, that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest (outlined above) in disclosing the information.

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.

Yours sincerely,

Dan McGregor
Senior Policy Adviser, TV Licensing Management Team