



Information Rights

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Karin Mabberley

Via email: [request-465438-531e6cd4@whatdotheyknow.com](mailto:request-465438-531e6cd4@whatdotheyknow.com)  
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16 March 2018

Dear Karin Mabberley

**Request for Information – RFI20180311 and RFI20180321**

Thank you for your requests of 20<sup>th</sup> February 2018 under the Freedom of Information Act 2000 ('the Act') seeking the following information. As these pertain to similar subject matter I am providing you with a combined response.

**RFI20180311**

*TVL has previously confirmed that a television not connected to power and an aerial is not a television receiver and does not require a licence. See TVL email here*

*<https://drive.google.com/file/d/0B0eNVR3Ar16ZYWRZazZ5NlZiMkE/edit>*

*The author of that email, Alison Roberts, advised that it might be a sensible precaution to unplug the power and aerial, in order to guard against adverse inference being drawn from having these items connected but that such action was **\*\*not mandatory\*\*** since a TV licence is only required to watch or record live programmes.*

*I was very disturbed then to observe the execution of a search warrant on this video*

*<https://www.youtube.com/watch?v=4QnFwLqCQ24> in which the television is not connected to either power or mains. You will observe that the Capita employee first attempts to coerce the occupier to install the television to receive live broadcasts and thus commit a licence evasion offence. Secondly the Capita employee himself attempts to install the television and thirdly the occupier is threatened and charged for "obstruction" of the warrant for refusing to commit the offence demanded by the Capita employee by installing his television.*

*Under the FOIA please state:*

- 1. Are Capita employees trained and made aware that a TV licence is only required to watch or record live programmes +iPlayer?*
- 2. Are they aware that a TV which is turned off, even if connected to power and aerial, cannot be evidence of licence evasion and that, at worst, a court may draw an adverse inference, if the TV remains connected to an aerial?*
- 3. During the execution of a search warrant, are Capita instructed to attempt to coerce occupiers into illegally installing TV receiving apparatus?*

4. During the execution of a search warrant, are Capita instructed to themselves install or attempt to install TV receiving apparatus?
5. In the event that no evidence of evasion is found upon search under warrant, are Capita instructed to go for a charge of "Obstruction" as the consolation prize? See [https://www.youtube.com/watch?v=WQDqEVpM1\\_c](https://www.youtube.com/watch?v=WQDqEVpM1_c) for another example of this behaviour.
6. What is the BBC going to do to address this kind of malpractice by Capita employees acting on behalf of TVL/BBC?

RFI20180321

TVL email reference 523312 confirms that there is no legal requirement to have a TV licence simply to own or operate an internet-enabled computer, mobile phone or tablet unless the equipment is used to receive or record live television broadcasts. It is the act of receiving TV programme services that matters - not the capability to do so. (Email available online at <https://tv-licensing.blogspot.co.uk/2011/09/tv-licensing-simple-questions-and.html> )

However, in this YouTube clip of a TVL search warrant execution ( <https://www.youtube.com/watch?v=MxkicyM0qu4> ) Capita employees can clearly be heard at 10.30-11.00 alleging that the mere capability for an internet connected device to navigate to a website on which live streamed content is available requires a TV licence.

This was obviously very distressing and upsetting for the householder concerned as well as totally contrary to the advice provided by TVL in email 523312.

There are also, if you care to look, a great many videos available on YouTube showing Capita employees themselves installing TV receiving equipment which was not previously installed – plugging in equipment that was not in use, plugging in leads which were disconnected and tuning in channels which were not tuned in – and then asserting that their actions prove the householder was guilty of licence evasion.

So naturally, in view of the above, I have grave concerns about the potential for abuse by Capita employees in the event that you obtain a search warrant to search my home. It would not seem at all beyond the bounds of possibility to imagine a Capita employee typing and navigating to a URL containing a live stream on a computer connected to a television and then triumphantly alleging license fee evasion, or taking action to install a television as a television receiver.

Under the FOIA please confirm:

1) A search warrant issued under Section 366 of Communications Act 2003 authorises entry to search the premises and examine and test any television receiver found there. A computer connected to the internet and to a television clearly has the capability to be a television receiver depending on what URLs are entered into the browser address bar but unless and until such URLs are entered and the relevant web pages opened, a computer is not a television receiving device (as confirmed by your email 523312). Please confirm, therefore, that Capita employees may not, during the execution of such a warrant, take any action that causes a computer to act as a television receiver, including but not limited to:

- i. requiring the legal occupier (LO) to bring a computer into operation or doing so themselves
- ii. requiring the LO to enter a URL into the browser and navigate to that URL or doing so themselves.

2) Please also confirm that any search of files or personal data including internet browsing history contained on a computer would not be permitted by a search warrant issued under Section 366 of Communications Act 2003.

3) *A search warrant issued under Section 366 of Communications Act 2003 authorises entry to search the premises and examine and test any television receiver found there. A television that is not connected to both a mains power supply and an aerial cannot, by the legal definition of the term, be installed as a television receiver and therefore, under the terms of the warrant cannot be subject to further examination and testing. The warrant clearly states that television receivers may be tested and examined - not any equipment that has the potential to be installed as a television receiver. Please confirm, therefore, that Capita employees may not, during the execution of a search warrant, take any action that causes a television not installed as a television receiver to become a television receiver, including but not limited to:*

- i. Requiring the LO to connect a television to a mains power supply or doing so themselves*
- ii. Requiring the LO to connect a television to an aerial or doing so themselves (whilst many LO's choose to remove redundant aerials and cables, it is not always possible for them to do so, for example in the case of rented accommodation)*
- iii. Requiring the LO to tune or otherwise navigate the television to receive broadcast channels or doing so themselves*

Please note that "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 ('Capita'). Over-the-counter services are provided by PayPoint plc ('PayPoint') in the UK, and by the Post Office in the Isle of Man and Channel Islands. Marketing and printing services are contracted to Proximity London Ltd. Media services are contracted to Media Planning Limited trading as Havas Media UK. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

Firstly, please be advised that the Act gives a general right of access to all types of recorded information held by public authorities; and we are not required to create new information to respond to a request, or give a judgement or opinion that is not already recorded. As these are a series of queries – some of which are predicated on hypothetical scenarios – they fall outside the scope of the Act.

However, I am mindful of our duty to advise and assist you under section 16 of the Act, and can tell you that we do hold recorded information comprising guidance provided to TV Licensing enquiry officers conducting visits and/or executing search warrants. We would be happy to consider a revised request for this information, however, please note that a considerable number of sections will be withheld in line with specific exemptions under the Act.

I can also confirm outside the scope of the Act that TV Licensing enquiry officers receive comprehensive and ongoing training and are fully up to date with the law in respect of TV Licensing. As outlined on the TV Licensing website at <http://www.tvlicensing.co.uk/about/foi-administering-the-licence-fee-AB20>, enquiry officers must abide by strict rules of conduct and TV Licensing uses various measures to ensure that officers are undertaking their responsibilities appropriately. Any complaints made about enquiry officers' conduct are investigated thoroughly and appropriate action taken.

## **Appeal Rights**

If you are not satisfied that the BBC has 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 under the Act and including your reference number. If you are not satisfied with the internal review, you can appeal to the Information Commissioner. The contact details are: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow SK9 5AF. Tel: 0303 123 1113 (local rate) or 01625 545 745 (national rate) or see <http://www.ico.gov.uk/>.

Kind regards

Rupinder Panesar

**Freedom of Information Advisor, TV Licensing Management Team**

