



Information Rights

bbc.co.uk/foi bbc.co.uk/privacy

Mr I Hilas

Via email: request-458370-cacf9192@whatdotheyknow.com

16 February 2018

Dear Mr Hillas

Request for Information – RFI20180101

Thank you for your request of 19th January 2018 under the Freedom of Information Act 2000 ('the Act') seeking the following information:

"This is a freedom of information request lodged under the Freedom of Information Act 2000 for full disclosure of the BBC's copy of the most recent inspection report from the Office of Surveillance Commissioners'/Investigatory Powers Commissioner's Office most recent inspection of the BBC."

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.

I enclose a copy of the 2016 Office of Surveillance Commissioners' Report on the BBC (TV Licensing). Please note that certain sections of this document have been redacted. This is because we consider the information contained therein to be exempt from disclosure under the sections of the Act outlined below. Each instance of redaction has been annotated to indicate which exemption has been applied.

Section 40 – Personal information

Information which constitutes personal information has been redacted. The redacted personal information comprises the names of BBC staff members who are not senior managers and individuals who do not work for the BBC; and therefore do not have a reasonable expectation that their details will be disclosed in this context. We are withholding this information under section 40(2) of the Act.

Personal information about living individuals is exempt under the Act if disclosure to a third party would breach one or more principles of the Data Protection Act 1998. As non-senior BBC staff and people who do not work for the BBC do not expect their details to be disclosed, to do so would be unfair; therefore, disclosure would breach the first principle of the Data Protection Act 1998 which requires data to be processed fairly and lawfully.

Section 31 – Law enforcement

The remainder of redacted information has been withheld 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.

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 exemptions 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 exemptions outweighs the public interest in disclosing the information. At the outset, we would like to note that it is likely to be only in the most exceptional circumstances that it will be appropriate to prejudice the discharge of a legal duty.

The BBC accepts that there is always a public interest in transparency, accountability and public understanding in respect of TV Licensing's operations. In this particular case the following factors are in favour of disclosure:

1. ensuring that the licensing authority is exercising its functions appropriately and proportionately;
2. that public funds are being appropriately applied, and specifically that:
 - a. the TV Licensing system is being efficiently run; and
 - b. value for money is being obtained.

However, I consider that the above public interest factors in favour of disclosure are adequately addressed by the following:

1. The substantial amount of information which the BBC publishes about TV Licensing's operations in its Annual Report and Accounts; on TV Licensing's website (www.tvlicensing.co.uk); in TV Licensing's Annual Review publications (www.tvlicensing.co.uk/about/our-performance-AB6); and in the National Audit Office's annual Licence Fee Settlement Statement released at the end of each financial year.

2. The BBC Board is specifically tasked under Article 20(7) of the BBC Charter with ensuring that the arrangements for the collection of the Licence Fee are efficient, appropriate and proportionate.
3. TV Licensing's functions are subject to external review through reports of the Comptroller and Auditor General to the House of Commons and directions given by the Treasury.
4. The BBC is required to satisfy the 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 at www.nao.org.uk.
5. The BBC is subject to the independent oversight of the Investigatory Powers Commissioner's Office in respect of its use of detection.
6. 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 below 3% for the financial year 2016/17. This demonstrates that the TV Licensing system is being efficiently run.

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 opportunities are not provided to potential or actual evaders to escape detection or prosecution. There is a strong public interest in ensuring that information which prejudices law enforcement is not disclosed.
2. There is a strong public interest in the BBC being able to collect all the licence fee money to which it is entitled to enable the BBC to provide the public with services that encompass its public mission to inform, educate and entertain.
3. Part of keeping evasion to a minimum is maintaining uncertainty as to TV Licensing's enforcement practices. This uncertainty contributes to the deterrent effect which is an important part of TV Licensing's enforcement strategy¹.
4. There is a strong public interest in ensuring the voluntary compliance with the licence fee regime. 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 who should not have to pay any more than is strictly necessary to ensure the compliance of those who deliberately evade paying the licence fee.
5. An increase in the rate of licence fee evasion would lead to an increase in enforcement costs and may lead to more prosecutions. There is a strong public interest in ensuring that the BBC can keep enforcement costs to a minimum, because any increase in enforcement costs will lead to a decrease in the funds available for producing the BBC's content.

¹ The Information Commissioner has acknowledged in his Decision Notice [FS50476136](#) that there is a very strong public interest in the BBC being able to enforce the television licensing system and in not disclosing information which could impede the deterrent effect.

If you plan to publish or broadcast a story using the information provided in this response, please include the following statement in full, attributable to a TV Licensing spokesperson:

“We use detection vans only where all other methods have been exhausted and for obvious reasons do not provide details. Our use of detection is strictly regulated by legislation and we are very pleased that the last Office of Surveillance Commissioners’ report noted that TV Licensing ‘continues to uses its RIPA powers both responsibly and to a high standard.”

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

