



Information Rights

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

Nick Waldron

Via email request-605051-3954029f@whatdotheyknow.com

17 October 2019

Dear Mr Waldron

Request for Information – RFI20191499

Thank you for your request to the BBC of 19th September 2019 under the Freedom of Information Act 2000 ('the Act') seeking the following information:

“Please could you provide the following information:

- 1. The number of enforcement officer visits made to student halls of residence in the past 12 months.*
- 2. The number of successful prosecutions in the past year against students living in halls of residence.*

Furthermore, in the letter to students living in halls, it is stated (with reference to students not requiring a licence) that they ‘should still tell us’. I am intrigued as to why the word ‘should’ is used as this implies a duty or obligation. Can you please confirm that there is no duty for a student, or anyone else, to inform TV Licensing that they do not require a licence?”

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. Target Group ('Target') is the supplier for the Simple Payment Plan trial. Marketing and printing services are contracted to Proximity London Ltd. Media services are contracted to Havas Media Limited. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

Please be advised the Act gives a general right of access to all types of recorded information held by public authorities; and that we are not required to create new information to respond to a request, or give a judgement or opinion that is not already recorded.

I shall address your requests in turn below.

Part 1

I can confirm under section 1(1) of the Act that we hold recorded information relevant to this part of your request. However, we consider that this information is exempt from disclosure under section 31(1)(a), (b), (d) and (g) and (2)(a) of the Act which relates to law enforcement; i.e. that disclosure would, or would be likely to, prejudice the prevention or detection of crime, the collection of the licence fee and the BBC's ability to discharge its public functions in respect of such matters. This is because such information would be of use to those considering evading paying the licence fee and/or assist others in evading paying 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.

Part 2

The BBC does not hold official statistics on the precise numbers of people actually prosecuted (or convicted) for evasion of the Television Licence Fee. For England and Wales this information is retained both by the Ministry of Justice and individual magistrates' courts; and can be requested using the following address - Data Access and Compliance Unit, Postal Point 6.25, Floor 6, 102 Petty France, London, SW1H 9AJ. For your information, prosecutions and convictions data for the period 2013 to 2018 (the most recent data available) can be found at the below link to the Criminal Justice System statistics publication:

<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2018>¹

For Northern Ireland, prosecutions and convictions information is retained by the Northern Ireland Department of Justice. This can be requested using the following address - Freedom of Information Team, Information Services Division, Block 2, Knockview Buildings, Ballymiscaw, Stormont, Belfast BT4 3SL.

For Scotland, figures are available from the Crown Office & Procurator Fiscal Office Scotland and can be requested from the following address - Criminal Justice and Disclosure Team, Crown Office, 25 Chambers Street, Edinburgh, EH1 1LA.

While the BBC does retain informal statistics on prosecution and conviction figures, this information is indicative only and has not been verified against the official figures. In any event, we consider the BBC's statistics which fall within the scope of this part of your request is exempt from disclosure for the same reasons given in my response to part 1 of your request.

¹ Select "Outcomes by Offence data tool" and from the "offence" drop down box select '191A Television licence evasion'.

Part 3

Whilst this is not a request for recorded information, I can tell you outside the scope of the Act that TV Licensing has a statutory duty to ensure that every address where television receiving equipment is installed or used to watch or record television programmes as they are being shown on TV is properly licensed. Therefore, TV Licensing writes to all addresses where there is no record of a licence or the current licensing requirements (if any) are unknown. Our address database is continually updated to ensure it is as accurate as possible at any point in time. TV Licensing relies on individuals to inform us if their details are not accurate or if their circumstances have changed.

I can tell you under our duty to advise and assist you, there is no legal obligation for people to inform TV Licensing whether or not they are watching or recording TV as it is being shown. However, in order to ascertain whether a licence is needed, we will continue to write to and visit unlicensed addresses which have not responded to our communications.

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/TV Licensing does not prosecute unless we have sufficient evidence to proceed and it is in the public interest to do so. If there are public interest factors against prosecution that outweigh those in favour of prosecution, then a prosecution will not take place. Culpability, age and ill health are amongst the factors considered. The importance of each factor and the individual circumstances of each case are taken into consideration.

These are key principles of the Crown Prosecution Guidelines which we publicly state that we adhere to. A further safeguard in place is that each case is determined by a magistrate whose role is to assess sufficiency of evidence and uphold the public interest in the judicial system.

5. 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.
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 2018/19. 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 strategy².

² 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.

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.

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 your reference number. A request for an internal review must be made within 40 working days of receiving the BBC's response to your original request.

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, Cheshire, SK9 5AF, Tel: 0303 123 1113 or see <https://ico.org.uk/>.

Yours sincerely

Rupinder Panesar

Freedom of Information Advisor, TV Licensing Management Team

