



Information Rights

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Freedom of Information

Internal Review decision

Internal Reviewer	Lawyer – Legal Workplace and Information Rights
Reference	IR2017057 / RFI20171015
Date	30 August 2017

Requested information

On 13 July 2017, Mr M Whitfield (**the “applicant”**) made a request for information under the Freedom of Information Act 2000 (**the “FOIA”**) for the following information:

“Until March 2016, the TV Licensing website stated this:

“You need to be covered by a licence if you watch TV online at the same time as it's being broadcast on conventional TV in the UK or the Channel Islands”.

That then changed to this, which states the complete opposite:

“You need a TV Licence to watch or record live TV programmes on any channel or device, no matter where they are broadcast or distributed from. This includes satellite or online streamed programmes from outside the UK or Channel Islands, such as sporting events and foreign shows”.

By reference to internal memos, emails, policy documents and similar, please can you provide information about how and why this change was made given that as far as I am aware the law did not change.”

The BBC responded to this request for information on 9 August 2017:

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 there has been no change in the law, as you have asserted: the two statements you have cited are two separate statements on different aspects of the law in respect of TV Licensing and do not contradict each other. The first statement relates to watching live TV online in the UK and Channel Islands; whereas, the second is a statement of law as it relates to watching live TV on any channel or device in the UK and Channel Islands, irrespective of where that service originates.

I can confirm that the first statement was available on the TV Licensing website in a previous iteration of the current webpage (<http://www.tvlicensing.co.uk/check-if-you-need-one/topics/Live-TV-and-how-you-watch-it>) which contains the information in both statements. In line with constantly reviewing our website and improving our advice to customers, we updated and improved the page in question in 2014 to make it clearer to people about the law regarding watching or recording live TV in view of developments in online TV programme services and devices on which to do so.

On 10 August 2017 the applicant requested an internal review of the BBC's decision:

I am writing to request an internal review of British Broadcasting Corporation's handling of my FOI request 'TV Licensing advice on Streaming of non-UK live content'.

It seems like the member of staff who attempted to answer my question either did not understand it, or did not understand the question of fact that it addresses. I would also have hoped that even though I did not expressly request it, the duty of helpfulness would have provided a simple factual statement of the BBC's present interpretation of the law as it regards Internet streaming of live programming from outside the UK & CI (this being a good starting point from which to address the question).

To restate my question more fully for greater ease of understanding: historically, TVL accepted that Internet Streaming of live programming from outside UK & CI was lawful without a TV Licence. This statement disappeared from the TVL website in March 2016, and I was interested to know how and why this disappearance occurred - by reference to existing memos, emails, etc. I am happy that your respondent has confirmed my understanding that there was no corresponding change in the law, and I am therefore confused as to why TVL no longer states that Streaming from abroad is lawful, but appears to state the contrary.

If it would be helpful to raise a separate request asking for confirmation that streaming from abroad is, in fact lawful, I would be happy to do so.

Scope of this internal review

This internal review is limited to whether the BBC met its duty under 16 of the FOIA to provide reasonable advice and assistance to the requestor.

The test

Section 16(1) provides that a public authority should provide advice and assistance, 'so far as it would be reasonable to expect the public authority to do so', to a person who has made a request for information.

Decision

After reviewing the BBC's response to the requestor and liaising with the BBC's TV Licensing Management Team, I am satisfied that the BBC has met its section 16 duty. I can confirm that the BBC's initial response to the applicant contained the totality of information held by the BBC on this matter as there has been no change in the law or in BBC policy.

As was explained in the BBC's response on 9 August 2017, there has been no change in the law. Rather the BBC's statement on the TV Licensing website was an expression of a different aspect of the law. As such, the BBC does not hold any additional or supplementary information to assist the applicant.

Instead of merely explaining that the BBC did not hold the requested information under s 1(1) of the FOIA, the BBC made efforts to explain the fact that there had been no change in the law. As such, the BBC was acting consistently with its obligations to provide advice to the applicant. The BBC also included a hyper-link to the webpage that outlined the policy to which the applicant directed their request. As such the BBC was acting consistently with its obligations to provide assistance.

Appeal Rights

If you are not satisfied with the outcome of your 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; Telephone 01625 545 700 or www.ico.gov.uk