



Information Policy & Compliance  
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Neil Blood  
Via email: [request-209707-da29b6cd@whatdotheyknow.com](mailto:request-209707-da29b6cd@whatdotheyknow.com)

3 June 2014

Dear Mr Blood

**Request for Information – RFI20140687**

Thank you for your request of 5<sup>th</sup> May 2014 under the Freedom of Information Act 2000 ('the Act') seeking the following information:

*"I am making this request under the Freedom of Information Act 2000.*

*Chapter 16 section 2.11 of the TV Licensing Visiting Procedures contains the following bolded note:*

*"NB – a refusal to provide name, to cooperate with the interview or to otherwise be "difficult" does not amount to an obstruction of the warrant".*

*Under the terms of the Act please provide any information held by the BBC or TV Licensing that explains/defines what being "difficult" means in terms of potential search warrant obstruction.*

*also*

*In Chapter 16 section 1.3, it refers to "Search Warrant Application form HH50". Please provide a copy of form HH50 and all policy information surrounding its completion."*

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 Mediaedge:CIA International Limited ("MEC"). The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

**Request 1**

Firstly, please note that the section of the TV Licensing Visiting Procedures ('Procedures') to which you refer is redacted from the version of the Procedures that has been released into the public domain via the What Do They Know website. However, in line with our duty to advise and assist you under section 16 of the Act,

I can tell you that we do not hold any recorded information that defines “difficult” in the context of Chapter 16 Section 2.11 of the Procedures.

## **Request 2**

Please find attached as Disclosure Document 1 a redacted copy of the TV Licensing Search Warrants Policy. Please note that information which constitutes personal information has been redacted. The redacted information primarily consists of names of members of BBC and Capita staff who are not senior managers 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 Freedom of Information Act if disclosure to a third party would breach one or more principles of the Data Protection Act 1998. As junior members of staff and those 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.

Also attached as Disclosure Document 2 is a blank copy of the TV Licensing search warrant application form with one small redaction of information which we consider is exempt 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 it would provide information of use to those seeking to evade and/or assist others in evading paying the licence fee.

Please note in relation to Disclosure Document 2 that we are aware that a DVD player does not constitute receiving equipment and the introductory sentence is being reviewed.

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 relevant to this question. I have provided further explanation of my consideration of the public interest 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.

The following factors are in favour of disclosure:

1. ensuring that the licensing authority is exercising its functions appropriately and proportionately;
2. that search warrants are exercised in a fair and lawful manner, i.e. that warrants are not and will not be obtained except in exceptional circumstances;

3. 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.

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

1. Since search warrants are only issued by independent third parties (the magistrate or sheriff in Scotland) in accordance with strict legal requirements, the public interest in knowing that we are using our powers proportionately is satisfied.
2. 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.
3. 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 at [www.nao.org.uk](http://www.nao.org.uk)
4. 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% for the financial year 12/13. 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](http://www.bbc.co.uk)).

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. 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 strategy<sup>1</sup>.
3. 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.

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<sup>1</sup> The Information Commissioner 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. Search warrants are only ever used as a last resort, once all other available means of enforcement (most notably written correspondence) have been exhausted.
5. Revealing additional information about search warrants will provide information that could be of use to people who wish to avoid paying the television licence fee.
6. An increase in the rate of licence fee evasion would lead to an increase in enforcement costs and may lead to more prosecutions.
7. An increase in enforcement costs would lead to a decrease in the available funds to be put towards producing the BBC's content.

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.

### **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

Louise Wright

**Senior Policy Advisor, TV Licensing Management Team**

