



Information Policy & Compliance
bbc.co.uk/foi bbc.co.uk/privacy

Mr Hillas
Via email: request-245403-7b3fd7c7@whatdotheyknow.com

22nd January 2015

Dear Mr Hillas

Request for Information – RFI20142069

Thank you for your request of 22nd December 2014 under the Freedom of Information Act 2000 ('the Act') seeking the following information:

"As TV Licensing authority in the UK, the BBC publicly acknowledges that it has overall responsibility for all matters concerning the administration and enforcement of the TV licence, TV Licensing and the activities of all TV Licensing contractors.

I refer to the following article recently published here> <http://tv-licensing.blogspot.co.uk/2014/10/tv-licensing-where-theres-muck-theres.html> which explains how TV Licensing were successfully sued.

This is a request lodged under the Freedom of Information Act 2000 for full disclosure and publication of:

All the information the BBC holds in respect of the case mentioned above

and

Whether any further claims have been lodged against TV Licensing or the BBC since the case mentioned above"

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.

I shall address your requests in turn below.

Request 1

Firstly, I am interpreting your request as specifically relating to the case mentioned on www.tv-licensing.blogspot.co.uk. For your information, please be advised that in this case a judgement was entered in default simply because legal documents were redirected to the wrong office. No legal issues were considered by the court and this judgement does not set a precedent. Of the small number of previous cases which have been brought on similar grounds, none have been successful.

Please note that the vast majority of recorded information that we hold has already been published at the web-link you have provided and is therefore already in the public domain. I can confirm under section 1(1) of the Act that we hold additional recorded information that I consider relevant. I attach, as Disclosure Document 1, a copy of a letter from TV Licensing Customer Relations to the individual concerned. Please note that certain information has been redacted under section 40(2) of the Act because it constitutes personal information. This comprises of the name and address of the individual, complaint reference and the name of the TV Licensing Customer Relations staff member who wrote the letter. Neither individual has a reasonable expectation that their details will be disclosed in this context.

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 the individuals referred to above 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.

Please note that I am withholding the remaining additional recorded information because we consider that these documents to be exempt from disclosure under the following sections of the Act.

Section 32 - Information contained in court records

Some recorded information has been withheld under section 32 of the Act which relates to the exemption for information contained in a court record or a document created for the purpose of a statutory inquiry or arbitration. The information covered by this section of the Act is subject to an absolute exemption.

Section 42 - Legal professional privilege

The remaining recorded information has been withheld because it constitutes legal documents generated in preparation for litigation which I have determined to be exempt under section 42 of the Act which relates to legal professional privilege. Legal professional privilege covers amongst other things, confidential communications between lawyers, their clients and third parties for the purpose of seeking, obtaining and consulting on legal advice and between parties who share a common interest in the confidentiality of the communication.

As section 42 is a qualified exemption, I am required under section 2(2) of the Act to assess whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

I am satisfied in terms of section 2(2)(b) of the Act that in all the circumstances of the case, the public interest in maintaining the exemption at section 42 outweighs the public interest in disclosing the information. I have provided further explanation of my consideration of the public interest test below.

Section 42 – public interest test

I am required under section 2(2) of the Act to assess whether the public interest in maintaining the section 42 exemption outweighs the public interest in disclosing the information.

The following factors are in favour of disclosure:

1. That there is a public interest in the BBC being accountable for the decisions it makes, and demonstrating that recourse to legal proceedings is appropriate.
2. That releasing the information held would ensure that the public, including staff, understand the reasoning upon which the BBC is making decisions that have the potential to affect large numbers of people.

I consider that the following factors are in favour of withholding the information:

1. Legal professional privilege applies to a wide variety of information, including advice, correspondence, notes, evidence or reports. In Bellamy v Information Commissioner EA/2005/0023, the Information Tribunal described legal professional privilege as:

“a set of rules or principles which are designed to protect the confidentiality of legal or legally related communications and exchanges between the client and his, her or its lawyers, as well as exchanges which contain or refer to legal advice which might be imparted to the client, and even exchanges between the clients and third parties if such communications or exchanges come into being for the purposes of preparing for litigation.”
2. In order for the advice given to be valuable, it is crucial that the seeking and determination of such advice be carried out with absolute candour. This requires that the persons seeking and where appropriate sharing the legal advice are secure in the knowledge that the information that passes between them and their lawyers will be free from scrutiny by outsiders. As the Information Tribunal recognised in Bellamy v Information Commissioner:

“There is a strong element of public interest inbuilt into the privilege itself. At least equally strong countervailing considerations would need to be adduced to override that inbuilt public interest.”
3. Further guidance from the Department of Constitutional Affairs also states:

“given the very substantial public interest in maintaining the confidentiality of LPP [legal professional privilege] material, it is likely to be only in exceptional circumstances that it will give way to the public interest in disclosure.”

In this instance, there is no clear, compelling and specific justification for disclosure, so as to outweigh the public interest in safeguarding the confidentiality of legal communications prepared in relation to recent proceedings.

Request 2

I can confirm that that there has been one claim made against TV Licensing or the BBC since the case mentioned above. Please be advised that details of this subsequent case will be subject to the exemptions outlined above.

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

