



Information Policy & Compliance

bbc.co.uk/foi

Mr Adam Bateman
request-1576-045b06e1@whatdotheyknow.com

01 September 2008

Dear Mr Bateman

Freedom of information request – FOI 20080836

Thank you for your request dated 3rd August 2008 seeking information about TV Licensing. Your request is being dealt with under the Freedom of Information Act 2000 (“the Act”).

Please note that “TV Licensing” is a trading name 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 (which undertakes the majority of the administration of the TV Licensing system), with the administration of our cash related payment schemes contracted to Revenues Management Services Ltd (RMS). PayPoint Network Ltd and PayPoint Collections Ltd are contracted to provide over-the-counter services. The marketing and public relations activities are contracted to the AMV Consortium. The consortium is made up of the following four companies: Abbott Mead Vickers BBDO Ltd, Fishburn Hedges Boys Williams Limited, PHD Media Limited and Proximity London Ltd. The BBC is a public authority in respect of its television licensing functions and retains overall responsibility.

In your request you asked the following (I have numbered your questions for ease of reference):

Please can you tell me

1. *How many people within the BBC have the power to authorise the use of The regulation of Investigatory Powers (British Broadcasting Corporation) Order 2001?*

As you know, TV Licensing’s use of detection equipment is strictly governed by the Regulation of Investigatory Powers Act 2000 (RIPA) and the Regulation of Investigatory Powers (British Broadcasting Corporation) Order 2001 (the Order). As you indicate in your request, RIPA and the Order outline how the relevant investigatory powers are to be used by the BBC and ensure compliance with human rights. Both pieces of legislation are publicly available online on the Office of Public Information website: <http://www.opsi.gov.uk/>.

In relation to your question, section 27A (2) of the Order states that anyone performing the role of Head of Sales or Head of Marketing within the Television Licensing Revenue Management Unit (i.e. the BBC’s TV Licensing Management Team, TVLMT) or anyone more senior in TVLMT can grant an authorisation related to the detection of television receivers.



In practice, this is limited to the Head of Sales, the Head of Marketing and the Head of Revenue Management, hence there would usually be three people who can grant authorisations. However, the roles of Head of Sales and Head of Marketing are currently combined within the TVLMT, hence there are currently two rather than three people who can grant authorisations.

2. *What training do the authorised people undergo?*

The BBC has a *BBC Policy on the Authorisation and Operation of Detection Equipment under the Regulation of Investigatory Powers Act 2000*. Those individuals who have the power to authorise the use of the Regulation of Investigatory Powers (British Broadcasting Corporation) Order 2001 are required to act in accordance with this policy, which is signed off by the BBC's legal advisers.

I have enclosed with this response a copy of the policy which, as you will see, contains guidance on the authorisation granting process, relevant considerations for granting authorisations and guidance on the review, expiry and cancellation of authorisations. However, please note that some parts of the policy have been redacted as I have determined to exempt the information 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. This is because they contain information which could be useful to people attempting to evade 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 exemptions (in relation to sections 31(1) and 42 of the Act) 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.

I would also add that the BBC's legal advisers carry out an audit of records relating to the use of RIPA at least once a year and this can produce training points to improve the BBC's application of RIPA. Finally, I should also highlight that the use of detection equipment is subject to audits by the Office of the Surveillance Commissioner to ensure that the equipment is only used according to the strict legal requirements set out in my answer to question 1 above.

3. *what legal advice if any is given in each request of the use of the RIPA law to make sure those authorised to use the powers are doing so within the law?*

Please see my answer to question 2 above.

4. *Is there a code of practice that is used for The Regulation of Investigatory Powers (British Broadcasting Corporation) Order 2001? and is it available for viewing by the public?*

Please see my answer to question 2 above for details of the BBC policy on this matter. In addition, the code of practice which is used in conjunction with the BBC's *Policy on the Authorisation and Operation of Detection Equipment under the Regulation of Investigatory Powers Act 2000* is the Home Office Code of Practice on Surveillance. This is available for viewing by the public at <http://security.homeoffice.gov.uk/ripa/publication-search/ripa-cop/covert-cop?view=Binary>.

Why information has been withheld

I am required under s 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, i.e. that people will not be unfairly subjected to detection;

2. ensuring that public funds are being appropriately applied, that is:
 - a. ensuring that the TV Licensing system is being efficiently run; and
 - b. ensuring that value for money is being obtained.

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

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. Without an effective deterrent, 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. It would also increase detection costs.
2. The Office of Surveillance Commissioners is an independent body which monitors the BBC's compliance with legislation regarding detection, hence the public interest in people not being unfairly subject to detection is satisfied.
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 http://www.nao.org.uk/publications/nao_reports/06-07/0607183.pdf.
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 from the Home Office, to 3.6% for the financial year 07/08. 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), the TV Licensing Annual Review and the *About TV Licensing* document (see <http://www.tvlicensing.co.uk/aboutus/index.jsp>). A key part of this success has been the use of detection as a significant deterrent element.

In this instance, the public interest is served by maintaining an effective deterrent to licence fee evasion and thus in turn protecting the BBC's revenue stream.

There is hence a greater public interest in ensuring the effective collection of the licence fee than in disclosing the information you have sought. 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 in disclosing the information.

Appeal rights

If you are not satisfied with this response you have the right to an internal review by a BBC senior manager or legal adviser. Please contact us at the address provided, explaining what you would like us to review 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, Cheshire, SK9 5AF, telephone 01625 545 700 or see <http://www.ico.gov.uk/>

I hope this response is helpful.

Yours sincerely,

Natalie Saunderson
Policy Adviser
BBC TV Licensing Management Team