



Department
for Culture
Media & Sport

TV Licence Enforcement Review

Consultation

12 February 2015

Contents

Summary

Policy background

Motivations for change

Policy options in detail

How to respond

Annexes - Terms of reference of the Review; Evidence base; Jurisdictional differences table

Summary

The Review into TV Licence Enforcement was announced on the 9th September 2014 and is led by Independent Reviewer, David Perry QC. The Review has been established to consider whether the sanctions currently in place for failure to hold a TV licence are appropriate and fair, and whether the current regime represents value for money for licence fee payers and taxpayers.

The Review will identify and assess options for amending the current enforcement regime, including those for decriminalisation of TV licence evasion offences, and whether these options would represent an improvement, based on the key considerations set out in the Terms of Reference (Annex A).

This consultation sets out six policy options and invites evidence and views on each:

1. **Do nothing:** to retain the current criminal enforcement system.
2. **Reform of current system:** leave the current offence as it stands but reform the current criminal enforcement system.
3. **Out of court settlement:** retention of the criminal offence, with an option for disposal by way of an out of court settlement.
4. **Fixed monetary penalty:** retention of the criminal offence, with an option for disposal by way of a fixed monetary penalty.
5. **Civil monetary penalty:** decriminalise and enforce via a civil infraction.
6. **Civil debt:** decriminalise and enforce as a civil debt.

The Review's primary focus is on the current legislative framework, however, when considering changes to the current system it is important to consider what effect these changes will have in terms of enforcement. This is because any changes to the legislative framework may require different enforcement mechanisms, depending on the nature of any change. However the Review and this consultation are not inviting views about operational decisions made by TV Licensing in the enforcement of the current legislation.

There are a number of changes proposed to the current enforcement system, e.g. the Criminal Courts and Justice Bill, and the impact of these changes will be considered when assessing any potential option for change.

Following the consultation period, the views expressed in the consultation will be considered and will inform the final report to Ministers. The Review will report by the end of June 2015 and findings will be presented to Parliament and the BBC Trust.

Owing to the independent nature of this Review an Impact Assessment has not been carried out in advance of this consultation, however some assessment of the impact of the various options is set out at Annex B. It will be the responsibility of the Department for Culture, Media and Sport to carry out an Impact Assessment ahead of any recommendations of this Review being implemented, should the Secretary of State choose to accept them.

Policy Background

BACKGROUND

The television licence fee was introduced in June 1946 to cover the costs of operation of the 405-line (monochrome analogue television) service. Prior to this, the licence fee covered radio service only. In 1968 a colour television supplement was added to the licence fee, following the commencement of colour transmissions. In 1991 the BBC took over collection and enforcement of the television licence fee from the Home Office. The BBC does this work under the trademark of "TV Licensing".

The current cost of a colour TV licence is £145.50 and the cost of a black and white licence is £49.00. Concessions are available for blind people, those aged 75 and over, and those living in qualifying residential care accommodation. The level of the television licence fee, concessions and payment plans are set out in regulations.¹ The current licence fee has been frozen at £145.50 since 2010/11 and will be held at this level until the 31st March 2017. The BBC conducts negotiations with the Government over the level of the licence fee and any changes that may be required.

Everyone in the UK who watches or records TV as it is broadcast, whether on computers, mobile telephones, or other devices, needs to be covered by a TV licence. The BBC uses the income from the licence fee to pay for its programmes and services, including the World Service. The licence fee is also used to fund other services such as S4C, Local TV build out, and Broadband roll out.

The BBC Trust is responsible for overseeing the licence fee collection arrangements put in place by BBC management, and ensuring they are "efficient, appropriate and proportionate". This responsibility was set out for the first time in the 2006 Royal Charter. The Trust reports on licence fee collection each year in their Annual Report.

CURRENT ENFORCEMENT REGIME

A person who installs or uses a television receiver without a TV licence is guilty of a criminal offence under the Communications Act 2003² and is liable to a level 3 fine (currently a maximum of £1000). This means that anyone who watches or records TV as it is being broadcast must be covered by a valid TV licence. This includes the use of devices such as a computer, laptop, mobile phone or DVD/video recorder.

Failure to be covered by a TV licence where one is required will result in enforcement activity being carried out by TV Licensing. This may involve a number of contacts by letter as well as a visit by a 'visiting officer' to confirm whether or not a licence is required at a particular property. TV Licensing currently contract with Capita Business Services Ltd to act as their

¹ Communication (Television Licensing) Regulations 2004 (as amended).

² Part 4 of the Act replaced the TV licence provisions of the Wireless Telegraphy Act 1949 with effect from 1 April 2004

enforcement officers and all enquiries are undertaken following relevant guidance derived from the Police and Criminal Evidence Act 1984, and also in accordance with the TV Licensing Standard of Conduct. The Enquiry Officer works with a form used to record the Statement of Facts. TV Licensing exhausts all other routes before considering a prosecution. A criminal prosecution will be brought in a magistrates' court if there is sufficient evidence to provide a realistic prospect of conviction and if the public interest test has been satisfied.

In 2013 in England and Wales 153,354 people were found guilty and, of these, 152,649 were fined for watching or recording live TV without a TV licence.³ This is not a recordable offence so those found guilty do not receive a centrally recorded criminal record, but a record is maintained at the court. Non-payment of a fine imposed by the court may result in the court ordering a period of imprisonment in default of payment. Imprisonment may only be imposed by a magistrate where there is a wilful refusal to pay or culpable neglect, and where all other enforcement methods have been tried or at least considered.⁴

In Scotland, the method of enforcement differs from that of England and Wales, and licence fee evasion cases can be disposed of via an out of court fine, avoiding the necessity of a court hearing. Significantly fewer cases are dealt with via the courts, and instead the majority utilise this disposal option offered by the Procurator Fiscal's Office.

In Northern Ireland and the Crown Dependencies, (Guernsey, Jersey, and the Isle of Man) there are slight differences in the enforcement regime under which TV Licensing operates. TV licence evasion is largely dealt with in the same manner and leads to the same sort of sentencing outcomes as in England and Wales. Annex C shows these differences in more detail.

Although enforcement may vary in the Devolved Administrations and Crown Dependencies, all jurisdictions rely on the provisions of the Communications Act 2003 as broadcasting is not a devolved activity. The Review will therefore need to consider the impact of any changes to this legislation in each of the jurisdictions when making recommendations for any future change.

³ Data provided by the Ministry of Justice for offences 2009 - 2013 under Wireless Telegraphy Acts 1949 to 1967 and Communications Act 2003 which came into effect 1st April 2004.

⁴ Section 82(4) of the Magistrates Court Act 1980. See also the sentencing guidelines: http://www.sentencingcouncil.org.uk/wp-content/uploads/MCSG_web_-_October_2014.pdf

Motivations for this review

The current Government made clear its commitment to a review of the sanctions surrounding TV Licence evasion in an amendment to the Deregulation Bill. There was strong support from backbenchers for such a review. One of the key issues raised during debates on the Deregulation Bill was the concern that the criminal nature of the current regime is not proportionate; on the basis that the sanctions (a criminal conviction and the possibility of imprisonment for non-payment of fines) are not comparable to the sanctions for the non-payment of services e.g. utility bills.⁵ There are also concerns surrounding the impact of current sanctions on certain demographic groups, particularly those on low incomes and single parent families.

On the other hand, the current enforcement system is considered to have a low evasion rate which has been maintained at c.5% for the past 5 years.⁶ This means that the majority of the funds available to pay for the BBC's programmes and services are collected and available to the BBC. Any change to the enforcement system will need to consider the impact upon evasion and the level of licence fee income collected as any increase in evasion results in lost revenue for the BBC. One consideration in relation to the rate of evasion is the fairness to those who pay the licence fee in funding services which evaders are also able to watch.

Other considerations that have led to the review of the current regime are a desire to increase efficiency in the courts system, and perceptions concerning the fairness of the current enforcement regime. This Review also takes place in the context of the approaching BBC Charter Review which is due to take place after the General Election in May 2015. The conclusions reached in this Review will no doubt be taken into account in the wider BBC Charter Review.

The current prosecutions for failure to hold a TV licence in 2012 represented approximately 13% of all defendants proceeded against before a magistrates' court.⁷ Whilst they make up a significant percentage of court volume, TV Licensing cases account for 0.3% of court time on the most recent figures available.⁸ There could potentially be time and cost savings to the public purse from a change in the sanctions regime. An example of where this is already the case is in Scotland, where, as noted, there is an alternative fiscal fines system in place for cases of TV licence evasion. Whilst the fiscal fines system does not change the nature of the offence, it allows for an out of court disposal and thus reduces the number of cases coming before the courts. Any change in the sanctions regime would need to take into account the impact this will have on whether the enforcement regime provides an appropriate deterrent

⁵ The licence fee is not a payment for services, rather it is a regulatory charge for permission to use TV receiving equipment. The BBC is currently prohibited from charging for provision of UK public services.

⁶ A 5% evasion rate represents a loss of £200m lost revenue, TV Licensing Annual Review 2013/14.

⁷ Data on total magistrates' court cases in 2012 from Ministry of Justice Criminal Justice Statistics: <https://www.gov.uk/government/statistics/criminal-justice-statistics-quarterly-update-to-december-2012> and data on volumes of TV licence evasion offences provided by Ministry of Justice for 2012.

⁸ Figures provided to the BBC by the Department of Constitutional Affairs in 2005.

for what is currently an offence. It will also be necessary to consider the impact of any change upon evasion and licence fee revenue.

Some commentators have questioned whether, with advances in new technology, there may be the possibility that supply for television could be disconnected for those without a TV licence (although this would involve large-scale investment and roll-out of infrastructure), and this has led some to question whether the current criminal deterrent continues to be necessary.

Finally, the current legislative regime has been in place since 2004, and remains relatively unchanged since the previous legislation was introduced in 1949, although previous Government reviews have touched on this issue⁹; it is therefore appropriate that it should be reviewed in order to ascertain whether it is still appropriate and properly serves the public interest, given the changing nature of society and technological innovation.

⁹ For example, the [Criminal Court's Review](#), 2001 and the last BBC Charter Review in 2006. The definition of licensable viewing was changed in 2004 to cover live TV on any device.

Policy options in detail

The Review wishes to take views on six approaches, which are set out below.

1. Do nothing: to retain the current criminal enforcement system.

- 1.1 Failure to hold a TV licence when one is required is currently a criminal offence under the Communications Act 2003. Whilst the offence is subject to a maximum penalty of a fine of £1000 in England and Wales (details of maximum penalties in other jurisdictions can be found at Annex C), the average fine in 2013/14 was £170 and as the level of fines is generally linked to means, may be reduced for those on lower incomes.
- 1.2 The BBC, under the brand name TV Licensing, is responsible for the collection and enforcement of the licence fee. As noted above, under the current system evasion has remained at c.5% for the past five years.¹⁰
- 1.3 Under this option the current system would be retained, the offence will remain a criminal offence and will be enforced as it is at present, subject to procedural changes which are currently being introduced by the Ministry of Justice in the Criminal Justice and Courts Bill.

Process of enforcement

- 1.4 The decision to prosecute is based on the sufficiency of evidence and importantly whether the prosecution is in the public interest. The primary aim is to ensure that a property is licensed rather than to bring a prosecution. TV Licensing take into account a number of considerations when deciding whether to bring a prosecution and provide a significant number of opportunities for households to purchase a licence before the case is brought to court.¹¹
- 1.5 TV licence evasion cases make up approximately 13% of magistrates' court cases; however, this represents less time in courts as a result of a number of similar cases being heard in the course of a single court session. As noted above, TV Licensing cases account for 0.3% of court time. The majority of defendants do not attend court to contest

¹⁰ <http://www.tvlicensing.co.uk/cs/media-centre/news/view.app?id=1362435051910>

¹¹ The Review has been provided with access to information provided by the BBC regarding their contact strategies for TV licence enforcement and it is clear that individuals are given ample opportunities to avoid a prosecution being taken forward.

their case, but submit a written plea of guilty. In an average court session between 60-80 cases are heard, usually in the course of a morning or afternoon sitting.¹²

Changes to the current system

1.6 The Ministry of Justice is in the process of introducing legislation which will alter the operation of the current enforcement system. When looking at the impact of retaining the current system, the review will take into account the following:

- Criminal Justice and Courts Bill - The Bill will introduce measures to streamline 'high-volume, low-level regulatory cases' in magistrates' courts. The 'regulatory cases', which it seeks to reform, are those summary-only non-imprisonable cases, of which magistrates' courts hear a large number each year, but which almost exclusively result in a financial penalty. TV licence evasion is among those cases characterised by a large number of uncontested cases and predictable penalties, imposed in accordance with Sentencing Guidelines. In many 'regulatory cases' defendants do not engage with the court process at all. The Bill seeks to introduce a single justice procedure to improve the efficiency of dealing with such cases and this will reduce the costs to courts of processing TV licence evasion cases.
- Legal-Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) - the Act provides powers to increase the maximum fine level for offences in the same band as TV licence evasion from £1000 to £4000. The Government now has no immediate plans to change Levels 1-4. There may be a consideration of these matters in the next Parliament.

Question 1 – Do you think failure to hold a TV licence when one is needed should remain a criminal offence?

Question 2 – What are the advantages and disadvantages of the current system?

Question 3 – To what degree do you think the current system delivers against the key criteria for this Review (as set out in the terms of reference at Annex A)?

Question 4 – We would welcome evidence that supports these views.

Question 5 – We would welcome views and evidence on the impact of retaining the current enforcement sanctions for the BBC, the licence fee payer and the taxpayer.

¹² This is based on anecdotal evidence from attendance and observation of TV licence hearings at magistrates' Courts and from TV Licensing.

2. Reform of current system: leave the current offence as it stands but reform the current criminal enforcement system.

- 2.1 This option involves retaining the current criminal offence, as described in option 1, whilst introducing some changes to the enforcement system which may improve further the way in which the current system operates or address the factors giving rise to the review and which are set out above.
- 2.2 These changes could be used to address, for example:
- Efficiency in the process of enforcement;
 - An apparent gender disparity of people fined for TV licence evasion¹³;
 - The absence of any requirement to buy a licence as part of the current penalty for the offence, with the result that an evader may remain unlicensed even after a finding of guilt;
 - Allowing the BBC to impose charges for periods when the evader was unlicensed;
 - Giving the BBC access to additional data sources; and
 - Introducing a requirement to notify the BBC if a TV Licence is not required for a household as is currently the requirement for untaxed vehicles (through a Statutory Off Road Notice)¹⁴.
- 2.3 Some improvement options may require legislation to effect the changes.
- 2.4 We would welcome views on how the current system could be improved if the offence is to be kept in its current form. However it is important to note that the Review is primarily concerned with the legislative framework for TV licence enforcement rather than the way in which the framework is interpreted in an operational context by TV Licensing. Therefore suggestions relating to an improvement to the way in which TV Licensing operates will only be considered in relation to the legislative framework itself.

Question 6 – We would welcome suggestions on whether and how the current criminal enforcement system could be improved.

Question 7 – What are the advantages and disadvantages of this option?

Question 8 – To what degree do you think this option delivers against the key criteria for this Review (as set out in the terms of reference at Annex A)?

Question 9 – We would welcome evidence that supports these views.

¹³ Proportion of fines imposed for failure to hold a TV licence in 2012 by gender was 32% male 68% female - table B4a from: <https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-july-to-september-2014>

¹⁴ Please refer to the Vehicle Enforcement Policy Table:
<https://www.gov.uk/government/publications/vehicle-enforcement-policy>

Question 10 - We would welcome views and evidence on the impact of improving the current enforcement sanctions for the BBC, the licence fee payer and the taxpayer.

3. Out of Court Settlement: retention of the criminal offence, with an option for disposal by way of an out of court settlement.

- 3.1 This option would retain television licence evasion as a criminal offence whilst allowing a civil variable monetary penalty to be imposed in relation to a TV licensing offence. An Out of Court Settlement Scheme (OCS) is used both by the DVLA for motoring offences and the Scottish Government in relation to TV licence evasion offences. Under such a scheme the prosecuting authority is able to offer individuals an opportunity to settle the matter without any intervention by a court. i.e. it is an alternative to prosecution. If the individual chooses not to accept the offer, the case will then proceed through the court system as it would under the current scheme.
- 3.2 The process for OCS as operated by the DVLA is as follows:
- The individual who is alleged to have committed the offence is sent a statement to establish the facts of the case and is required to complete and return the statement.
 - The agency is empowered to offer an out of court settlement which is lower than the level of any fine likely to be imposed if the case proceeded to a court hearing.
 - If the defendant accepts the offer, the proceedings are brought to an end when payment is made. If the defendant does not accept the offer or wants to contest the case, the case will then be heard in court.
 - The DVLA does not offer any periodic payment scheme. This is because it is not able to take the matter back to court in the event of default of payment.
- 3.3 The process for the OCS as operated in Scotland for TV licence evasion cases is similar to the DVLA scheme:
- TV Licensing gather evidence for the case and provide this to the Procurator Fiscal's Office.
 - The Procurator Fiscal then decides whether to offer an out of court settlement in the form of a fiscal fine and, if so issues such an offer to the defendant.
 - If the defendant accepts the offer the fine is lower than the level of fine likely to be imposed by a court. If the defendant does not accept the offer or wants to contest the case, the case will then proceed to a court hearing.
- 3.4 If an OCS scheme were to be introduced for TV licence evasion cases, a suitable agency would need to act as the agency dealing with the out of court settlements. For the motoring offences above this is the DVLA and for TV licence evasion in Scotland this is the Procurator Fiscal's office. However no precise equivalent of the Procurator Fiscal's office exists in England and Wales or other jurisdictions. TV Licensing could act in this respect if given the relevant powers through legislation, or as an alternative, another agency could be used to perform the role. The Review will need to take evidence on this issue.
- 3.5 Under an OCS scheme there would be no obligation for the individual to purchase a licence as part of the punitive measure. Therefore the feasibility of such a scheme would

need to consider whether the fine should be set at a level to provide a sufficient deterrent, whilst not being so high as to discourage the use of the system as an alternative to a court hearing.

- 3.6 The OCS in Scotland allows individuals to pay in instalments provided the amount is paid within 28 days. If an OCS were to be adopted for TV licence evasion offences, it will be necessary to consider whether an instalment scheme would be effective in terms of collection and enforcement and whether it would encourage individuals to purchase a licence.

Question 11 – What are the advantages and disadvantages of this option?

Question 12 – To what degree do you think this option delivers against the key criteria for this Review (as set out in the terms of reference)?

Question 13 – We would welcome evidence that supports these views.

Question 14 – We would also welcome further views and evidence regarding any transitional considerations the Review should consider.

Question 15 - We would welcome views and evidence on the impact of introducing and OCS scheme on the BBC, the licence fee payer, and the taxpayer.

4. Fixed monetary penalty: retention of the criminal offence, with an option for disposal by way of a fixed monetary penalty.

- 4.1 This option would retain TV licence evasion as a criminal offence whilst allowing a fixed monetary penalty to be imposed in relation to the offence as an alternative to prosecution. Such a penalty would not be a fine or criminal conviction, but rather a civil penalty used to enforce the criminal offence. Examples of offences which are currently dealt with via a fixed monetary penalty (through a Fixed Penalty Notice (FPN)) are public littering and throwing fireworks. FPNs when used by the police for certain criminal offences are also known as Penalty Notices for Disorder (PND). They are described by the Ministry of Justice as a quick and effective alternative disposal option for dealing with low-level offending.¹⁵ Currently, there are two tiers of fine for PNDs depending on the nature of the offence. An individual has 21 days from the point of enforcement to either pay a PND, or request a court hearing if they wish to contest the case. No admission of guilt is required before a PND is issued, and when a person pays the amount in full, they are discharged of any liability. Paying the PND is not an admission of guilt.
- 4.2 If an individual requests a hearing in court, that is after being given a PND, the Crown Prosecutor will apply the evidential and public interest tests¹⁶ in order to decide whether to proceed to prosecution (as well as if a person does not pay the full amount within 21 days), in which case, in the event of conviction, a fine amount of one and a half times the

¹⁵ Ministry of Justice Guidance, *Penalty Notices for Disorder (PNDs)*, Commencement Date: 24 June 2014, <http://www.justice.gov.uk/downloads/oocd/pnd-guidance-oocd.pdf>

¹⁶ http://www.cps.gov.uk/publications/code_for_crown_prosecutors/codetest.html

original amount claimed will be registered in the magistrates' court for enforcement of the fine.

4.3 A fixed monetary penalty could be used as an alternative model for failure to hold a TV licence. This would remove cases from the courts (in the first instance) as individuals would have the opportunity to pay the penalty, or if they wished to contest the case it would only then proceed to a court hearing. The enforcement system could allow the individual to have the opportunity for a reduced penalty or no penalty at all in the case of prompt purchase of a TV licence. A penalty notice would be issued by the authorised enforcement agency (TV Licensing) at the point of determined infraction. i.e. at the point that the offence is considered to take place, for example, when a TV Licensing visiting officer witnesses the offence taking place.

4.4 In the case of late or non-payment of a penalty notice (in the existing schemes payment is usually required within 21 working days), TV Licensing would have the option to pursue the case in the magistrates' court and individuals would receive a fine from the court in the usual manner. Individuals, therefore, could still, as a last resort, be pursued through the court system and ultimately imprisoned for non-payment of a court registered fine.

Question 16 - What are the advantages and disadvantages of this option?

Question 17 – To what degree do you think this option delivers against the key criteria for this Review (as set out in the terms of reference at Annex A)?

Question 18 – We would welcome evidence that supports these views.

Question 19 – We would also welcome further views and evidence regarding any transitional considerations the Review should consider.

Question 20 - We would welcome views and evidence on the impact of introducing a fixed monetary penalty on the BBC, the licence fee payer, and the taxpayer.

5. Civil monetary penalty: decriminalise and enforce via a civil infraction.

5.1 This option would replace the TV licensing offences with a statutory requirement to have a TV licence. Failure to comply with this requirement would be enforced through the imposition of civil monetary penalties (i.e. a civil infraction). A civil monetary penalty is neither a fine nor a criminal conviction, it is instead a penalty for failing to comply with a statutory requirement.

5.2 In this option, a civil monetary penalty for TV licence evasion would be characterised as a civil matter. For example, local authorities have the power to issue monetary penalties (penalty charge notices - PCNs) to individuals for contravening parking regulations in their local area. Individuals have 28 days in which to pay the amount claimed, or may receive a 50% reduction on the amount if it is paid within 14 days. The relevant Secretary of State sets the levels of the penalty. If left unpaid, the penalty is treated as a civil debt and local authorities can use recovery methods in the county courts, which may include

options such as the employment of bailiffs to recover the amount owed. An individual may make informal and formal challenges to the local authority against a PCN. If a formal challenge is unsuccessful the individual may appeal to an independent adjudicator.

5.3 A civil monetary penalty could be used as an alternative model for TV licence evasion. This would remove cases from the courts (in the first instance) as individuals would have the opportunity to pay the penalty, or to appeal the penalty to an independent appeals body. Court proceedings would only arise, in the cases of non-payment, to recover the penalty as a civil debt. An individual could have the opportunity for a reduced penalty for early payment or no penalty at all in the case of prompt purchase of a TV licence. A penalty notice would be issued by the authorised enforcement agency (TV Licensing) at the point of infraction. If the individual failed to pay the penalty, it would be treated as a civil debt and recoverable through proceedings in the civil courts. As with parking infractions, the enforcement agency would have a number of options for enforcing the penalty in the civil courts system including but not limited to; employment of bailiffs, seizure of property, use of attachment of earnings and charging orders. Under a decriminalised system of enforcement, TV licensing would be liable for all costs of enforcement until they were recovered against the defendant. The defendant could also, ultimately, still be imprisoned for failure to comply with a court order although imprisonment for failure to pay a debt is rare and limited to priority debts.

Question 21 – What are the advantages and disadvantages of this option?

Question 22 – To what degree do you think this option delivers against the key criteria for this Review (as set out in the terms of reference)?

Question 23 – We would welcome evidence that supports these views.

Question 24 – We would also welcome further views and evidence regarding any transitional considerations the Review should consider.

Question 25 - We would welcome views and evidence on the impact of introducing a civil fixed monetary penalty on the BBC, the licence fee payer, and the taxpayer.

6. Civil debt: decriminalise and enforce as a civil debt.

- 6.1 Contractual arrangements establish the liability for an individual to pay a certain amount for the product received or services provided. If such amounts are not paid the individual, or organisation, to whom the debt is owed can take the debtor to court for non-payment of that debt in order to recover the amount owing. This is currently the position for non-payment of utility bills, where legal proceedings may be used to recover unpaid debts.
- 6.2 Whilst the TV Licence is, as the name suggests, a licence and not a payment for services, if this option were to be considered, it would require legislation to allow the licence fee to be treated as a civil debt. TV Licensing would only be able to bring proceedings to recover the debt for the period of time that evasion had been established by satisfactory proof. However, legislation could also provide TV Licensing with the ability to assume a period of unlicensed time; in effect providing TV Licensing with the ability to pursue funds for the length of time a property had been without a licence.
- 6.3 TV Licensing would have a number of options for pursuing the debt, including but not limited to; employment of bailiffs, seizure of property, use of attachment of earnings and charging orders. Under a decriminalised system of enforcement, TV licensing would be liable for all costs of enforcement until they were recovered against the defendant. The defendant could also, ultimately, still be imprisoned for failure to comply with a court order (via wilful refusal and culpable neglect) if the debt were considered a priority debt.

Question 26 – What are the advantages and disadvantages of this option?

Question 27 – To what degree do you think this option delivers against the key criteria for this Review (as set out in the terms of reference)?

Question 28 – We would welcome evidence that supports these views.

Question 29 – We would also welcome further views and evidence regarding any transitional considerations the Review should consider?

Question 30 - We would welcome views and evidence on the impact of introducing a civil debt agreement on the BBC, the licence fee payer, and the taxpayer.

7. Other options.

Question 31 – Are there any options for a change in TV licence enforcement regime that we haven't considered? Where you identify an alternative option, please provide:

- The advantages and disadvantages of any other options;
- To what degree you think any other options deliver against the key criteria for this Review (as set out in the terms of reference);
- Views and evidence regarding any transitional considerations the Review should consider; and
- Any evidence to supports these views.

Fairness considerations

- 7.1 Under the current system individuals found guilty of failure to hold a TV licence do not receive a criminal record as the offence is not a recordable offence and therefore does not appear on the Police National Computer.
- 7.2 Under certain civil regimes (where outstanding amounts are treated as a civil debt) there may be an impact on an individual's credit rating if the court judgement is registered in the Register of Judgements, Orders and Fines. This may then affect an individual's future ability to obtain credit.
- 7.3 Non-payment of a fine is enforced through the criminal courts. The consequence of non-payment of a fine for a criminal offence can ultimately be a period of imprisonment. As stated above, imprisonment can be imposed by a Magistrates' Court only where there is wilful refusal to pay or where non-payment arises from culpable neglect, and where all other enforcement methods have been tried or at least considered.
- 7.4 Non-payment of a civil debt can be enforced through the civil courts in a number of ways, including use of a bailiff, seizure of property, attachment of earnings¹⁷ or a charging order.¹⁸ In limited circumstances, a period of imprisonment may be an option for failure to pay a court registered priority debt on the basis of wilful refusal and culpable neglect.
- 7.5 The equality impacts of the different options will need to be considered as part of this review.

Question 32 – Do you think the current system provides a deterrent for non-payment of the licence-fee?

Question 33 - Do you think the alternative options presented in this document present more, less or a similar level of deterrent?

¹⁷ Attachment of earnings is described here: https://www.justice.gov.uk/downloads/courts/centralised-attachment-earnings-payment/ae_e0507.pdf

¹⁸ Charging order is described here: <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part73>

Question 34 – Under a civil system of enforcement, a civil debt may impact upon an individual's credit rating, which is not the case under a criminal system. We would welcome views and evidence on whether this is more or less appropriate than the penalties under the current system of enforcement.

How to respond

In responding, please explain your reasoning for your preferred option, referring where relevant/possible to any evidence that may support this.

We are particularly interested in any evidence that could help us make an assessment of the competitive and commercial impact of each option. We would also welcome any additional wider views relevant to the issues raised in this consultation.

Please email your response to **perry.review@culture.gov.uk**. Alternatively, post it to **TV Licence Fee Enforcement Review, BBC Policy Team, Department of Culture, Media and Sport, 100 Parliament Street, London, SW1A 2BQ**, marked for the attention of Sophie Marment.

This consultation will close on 1 May 2015.

In addition to the written consultation, we will be organising meetings to elicit the views of industry and the public on the options set out in this consultation document. A session which is open to the public will take place in March 2015 with a location to be confirmed. Full details will be available shortly. If you would like to attend one of these sessions please contact us on **perry.review@culture.gov.uk** by 27 February 2015.

Please note all information in responses, including personal information, may be subject to publication or disclosure under the Freedom of Information Act 2000. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation.

Next steps

A summary of responses and a report on the way forward will be published in due course following the closure of the consultation. The Review's response will take all responses submitted to this consultation into account, and will be based on a careful consideration of the points made in consultation responses, not the number of responses received.

Further information on the consultation principles can be found at <http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>.

Views are invited on all aspects of the consultation paper.

How to Make Your Views Known

Responding to this consultation document is your first and main opportunity to make your views known to the relevant department as part of the consultation process. You should send your views to the contact named in the consultation document in this case Sophie Marment.

Non-disclosure of responses

Section 14(3) of the LRRRA provides what should happen when someone responding to the consultation exercise on a proposed LRO requests that their response should not be disclosed. The name of the person who has made representations will always be disclosed to Parliament. If you ask for your representation not to be disclosed, the Minister should not disclose the content of that representation without your express consent and, if the representation relates to a third party, their consent too. Alternatively, the Minister may disclose the content of the representation in such a way as to preserve your anonymity and that of any third party involved.

Information about Third Parties

If you give information about a third party which the Minister believes may be damaging to the interests of that third party, the Minister does not have to pass on such information to Parliament if he does not believe it is true or he is unable to obtain the consent of the third party to disclose. This applies whether or not you ask for your representation not to be disclosed. The Scrutiny Committees may, however, be given access on request to all representations as originally submitted, as a safeguard against improper influence being brought to bear on Ministers in their formulation of legislative reform orders.

Annexes -

ANNEX A: TERMS OF REFERENCE – REVIEW OF TV LICENCE FEE ENFORCEMENT

Background

A Television Licence is required to watch all live or nearly-live broadcast television content on any device in the UK. The BBC is tasked with collection of the Licence Fee, a function currently subcontracted to a private company under the brand 'TV Licensing'. Failure to have a TV Licence is an offence under section 363 of the Communications Act 2003 punishable by a fine.

1. Objectives

- a. To conduct a review into the enforcement regime for failure to have a TV Licence to
 - examine whether the sanctions for contravening this offence are appropriate, fair and whether the regime represents value for money for licence fee payers and taxpayers; and
 - identify and assess options for amending the current enforcement regime, including those for decriminalisation of TV licensing offences, and whether these options would represent an improvement, based on the key considerations below (2a-e)
- b. To make recommendations to the Government by the end of June 2015

2. Key considerations

In assessing the objectives above (1a –b), the review will consider the following factors:

- a. Value for money for Licence Fee payers and taxpayers in enforcement of the failure to have a TV Licence, including operational, revenue and investment costs of the enforcement regime to the BBC and to the court system
- b. Fairness for all Licence Fee payers, and effectiveness in deterring evasion
- c. Proportionality and ease of enforcement
- d. Degree to which the regime is easy to understand by all
- e. Where appropriate, practical considerations for effective transition from the current regime to a different one

3. Process

The review should seek evidence from a wide range of stakeholders, including the public, the BBC, Government stakeholders, the Courts, and other interested parties.

4. Output

A report setting out an assessment of the current and proposed enforcement regimes, key findings, conclusions and any other supporting information to be submitted to the Government by the end of **June 2015**. The Secretary of State will lay this report before both Houses of Parliament and present it to the BBC Trust.

ANNEX B: EVIDENCE BASE

Foreword

This document is intended to provide qualitative and quantitative analysis to inform the consultation for the TV Licence Enforcement Review. The options and analyses are provisional at this stage and may change as a result of the consultation. A full cost benefit analysis will be produced at a later stage following the consultation in order to inform the Review's final recommendations. We have noted where costs and benefits have not been quantified, so that a broad indication can be given at this stage.

It is important to note that the evidence set out in this analysis is only illustrative, as all the costs and benefits of each option may not be included. At this point, we do not have the sufficient information necessary to calculate a full cost benefit analysis; one of the purposes of this consultation is to gather the information and data required to be able fully to quantify the costs and benefits of each option. The Review will also be commissioning independent research into the behavioural impacts of the changes to enforcement and prosecution suggested in each option.

Methodology

The foundation of the analysis is the different *process* underlying each option. The process, from investigation, to prosecution, to outcome, has distinctive cost and benefits under each option. By estimating the individual costs and benefits at each point we can build a picture of the overall net impact of the individual options to each affected group. The groups primarily affected are the Government (of each jurisdiction), the BBC¹⁹, and the licence fee payer (individual). Businesses are affected, but to a much lesser extent, and only a small number of businesses are prosecuted each year. We are discounting this aspect in the analysis.

Number of people prosecuted

A crucial underlying figure of the analysis is the number of individuals prosecuted for TV licence evasion. Between 2010 and 2012, this averaged just over 150,000²⁰, and for the purpose of this investigation we assume that this number stays constant over time.

Each of the alternative options involve changes in the way evaders are either caught, prosecuted or penalised. There is likely to be some behavioural change as a result, which in turn would affect the number of people prosecuted. These types of changes are inherently difficult to quantify, so, again, we will assume no change in evasion numbers for this initial investigation. A brief review of the existing literature on the relationship between law formulation changes and crime rates suggests that the formulation of the law does not have a discernible deterrent effect²¹. Rather, it is the methods of enforcement and likelihood of being caught that have most impact.

¹⁹ TV licence fee evasion is dealt with by the TV Licensing, a registered brand name of the BBC. We refer to this as the BBC for simplicity.

²⁰ http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131128w0001.htm#w_a_st_43

²¹ *Robinson, Paul, "Does Criminal Law Deter? A Behavioral Science Investigation" (2004). Faculty Scholarship. Paper 31. http://scholarship.law.upenn.edu/faculty_scholarship/31*

We will be commissioning research into the relationship between law changes and behaviour, in order to better measure this variable. This will be specific to TV licensing sanctions.

Impact on licence fee revenue

The current rate of evasion in England and Wales is c. 5%²². This equates to approximately £200m of lost income to the BBC, based on the current level of the licence fee at £145.50. For the purpose of this evaluation, we do not count lost revenue as a cost, as we are assuming that evasion rates do not change within each option.

Option 1. Do Nothing

Economic Considerations

Under the current system, the case is prosecuted by the BBC (via an agent), which incurs standard court costs (£25)²³, after the BBC has investigated the defendant privately (which attracts its own costs). The case is then heard with other similar cases in a magistrates' court (after which around 15% of cases are withdrawn²⁴), which has a cost and time implication for the court. Of the defendants that are found guilty, around 99.5% are fined²⁵. The court incurs cost of enforcement, but also receives the fine revenue. Not all fines are successfully enforced, so although the court will incur enforcement costs for all cases, they receive fine revenue from only a portion of cases. The BBC is able to apply for a refund of their court costs (except in Scotland), which are added to the amount the defendant has to pay (costs are not always awarded by courts, so the BBC will not recover its full costs).

The defendant is not required to pay any backdated, outstanding licence fee as part of the punitive measure, thus the BBC does not recoup lost licence fee revenue.

Cost to the Government

- **Court Costs** - To measure this we have estimated the average cost to the court system of each TV licence evasion case under the current system. For criminal cases (that go through the magistrates' courts), the review has taken the sitting costs of one day in court (2013-14)²⁶. We then factored in a number of time factors to reach the total cost of magistrates' courts in a year. Using the total number of TV licensing cases heard in a year we can estimate an average cost per case to be heard in a court, which came to £66.54²⁷. To find the cost of enforcement for the magistrates' courts we used the total cost of enforcement in a year and the number of cases being enforced to find a per-case-per-year cost²⁸. We then factored in the average time taken to enforce, which

²² <http://www.tvlicensing.co.uk/cs/media-centre/news/view.app?id=1362435051910>

²³ <https://www.gov.uk/make-court-claim-for-money/court-fees>

²⁴ http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131128w0001.htm#wa_st_43

²⁵ http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131128w0001.htm#wa_st_43

²⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323112/hmcts-annual-report-2013-14.PDF

²⁷ Cost of a case in court = [Average staff and judicial cost per sitting day in magistrates' courts cost (£1,111)] / [cases heard in year (1.6m) / number of courts and days sat (79200)] = **£54.99**

²⁸ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/323112/hmcts-annual-report-2013-14.PDF

gave an average cost of enforcement per case, £58.71²⁹. Simply summing the two gives the average cost of a case to the court system of £113.70. Thus we estimate that TV licence enforcement costs the court system £17.00m a year (based on 150,000 cases).

- Costs of imprisonment – On average, 39 licence fee offenders a year³⁰ are sentenced to prison for non-payment of their fine. The average cost of holding a prisoner for one year has been estimated at £37,000³¹. The length of time a licence fee offender spends in prison is proportional to the fine amount.³² The cost implication for the prison service is dependent on the average prison term for offenders. We estimate the cost of imprisonment for non-payment of fines awarded for TV licence evasion cases would be approximately £100 per person per day³³.
- Refunds – Anecdotally we are aware that the courts will award costs to the prosecutor (BBC) in a portion of cases.

Benefits to the Government.

- Fine revenue - In 2013 the average fine was £169.37³⁴, and the percentage of those prosecuted that are then fined is 99.5%³⁵. Of these there are a portion that fail to pay the fine, thus we cannot estimate accurately the exact total benefit to the Government at this stage.
- Fee revenue from the BBC. The prosecutor must pay a £25 court fee in order to prosecute. This benefits the Government £3.75m a year (based on 150,000 cases).

Cost to the BBC.

- Costs of investigation and prosecution – The BBC will incur costs for prosecution and investigation of an offence. This will vary depending upon the details of the case.

Benefits to the BBC.

- The BBC applies for a refund of its court costs, which is granted to them by the courts in a portion of cases.

Cost to the individual

- Fine – This is essentially a transfer from the individual to the courts, and once again, due to the uncertainty over how many fail to pay the fine, the annual cost to individuals is not certain.
- Costs – Individuals found guilty of the offence will be liable to pay the costs of prosecution (which the BBC can apply to the court for) on top of the fine amount, as well as a victim surcharge.

²⁹ Enforcement costs = cost of enforcement per year (47.1m) / no. of cases being heard (1.2m) * time taken to enforce (1.5 years) = **£58.71**

³⁰ Between the years 2008 and 2012 the number of people imprisoned for non-payment of the fine associated with TV licensing offences is on average 39:
http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140403/text/140403w0001.htm#140403w0001.htm_spnew48

³¹ <http://www.justice.gov.uk/downloads/information-access-rights/foi-disclosure-log/prison-probation/foi-76133.doc>

³² http://www.magistrates-association.org.uk/dox/consultations/127459934_short_custodial_sentences_policy_11_may_2010.pdf

³³ £37,000 / 365 = £101

³⁴ <https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-july-to-september-2014>

³⁵ http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/131128w0001.htm#wast_43

- Time – travel, loss of income from attending court, etc.

We have decided not to produce a net benefit figure for this option, or for any subsequent options. As stated previously, this is not a complete analysis, and some costs and benefits will be missing / have not been quantified. As some of these costs are effectively transfers from one party to another, there is also a risk of double counting. Therefore, to provide a net cost at this stage would be misleading. Any net cost estimated directly from the above calculations is not representative of what could be the true cost to any party.

Option 2. Reform of the current system: leave the current offence as it stands but reform the current criminal enforcement system.

Option 2 will not make substantive changes to the process of enforcement, rather it could make some improvements around efficiency, gender disparity etc. The exact nature of the changes are not yet specified; this consultation will be used to help shape the specifics.

Option 3. Out of court settlement: retention of the criminal offence, with an option for disposal by way of an out of court settlement.

Economic Considerations

This option will give individuals the option of agreeing to an out of court settlement, before they are taken to court. It allows individuals an extra opportunity to avoid going to court, by paying the BBC an agreed amount. If the individual decides not to pay an out of court settlement, then the BBC will pursue the case through the courts in the usual manner.

There is uncertainty over the proportion of individuals that are likely to accept an out of court settlement at the first stage, and this will have a significant bearing on the eventual costs. The penalty amount could be set by the prosecutor (the BBC), within the guidelines of the scheme which can be set by Government, so it is hard to estimate what this figure will be. A figure would need to be used that is large enough to disincentivise evasion, but reasonable enough that individuals are likely to pay rather than choose to go to court. As a comparative example, in most parking and waiting offence cases, the maximum level of penalty is £70-£100.³⁶

If the individual chooses not to accept the settlement, they will then be prosecuted in the normal way through the court system. It is hard to say what percentage of individuals this will be, and comparisons with similar systems in current use are difficult, as data is fragmented. It will also depend on the behavioural effects on individuals. However, this option is likely to substantially reduce the burden on the court system.

The Scottish Government currently use a comparable system for TV licence evasion. However, direct comparison will be misleading, as there are fundamental differences in social factors between England and Wales and Scotland that will undermine the value of any comparison.

Costs to the government.

³⁶ In the case of parking related PCNs, the offence is halved if paid within 14 days.
http://www.theaa.com/motoring_advice/legal-advice/penalty-charge-notice.html

- The percentage of people who either decline the out of court settlement or subsequently renege, multiplied by the average court costs established earlier (£114). This will almost certainly be lower than the current system.
- Any costs paid back to the BBC.

Benefits to the Government

- Fine revenue. The fine level multiplied by the number of people who pay it.

Cost to the individual

- This depends on what the agreed settlement is. If it is less than the current court imposed fine then this would represent a saving.

Benefits to the individual

- Those who agree an out of court settlement will not have to pay court costs in addition to any fine.
- Individuals will not be impacted by loss of income or travel costs from attending court.

Cost to the BBC

- The BBC would be liable for initial court costs if the case proceeds through the court system, as in the current system of enforcement.
- There would likely be some transition and administration costs as the BBC implements a new system.
- There would likely be on-going costs associated with administration of the out of court settlement.

Benefits to the BBC

- The potential ability to set their own settlement level. Assuming they could estimate the percentage they would get back in costs refunds, the BBC could potentially budget their settlement revenue more efficiently.

Option 4 - Fixed monetary penalty: retention of the criminal offence, with an option for disposal by way of a fixed monetary penalty

Economic Considerations

In this option, having investigated individuals in the usual way, the BBC could issue a fixed monetary penalty notice to the individual. If the individual fails to pay the penalty, they would then be prosecuted by the courts in the usual way. If found guilty of the offence the individual would then pay the penalty (plus court costs) to the courts, who would in turn reimburse the BBC for any costs awarded.

The crucial point in the process is the proportion of individuals who pay the penalty. Individuals who pay the fixed monetary penalty will not go through the court system, so this will represent a saving to the government. The higher this figure the more of a saving this option will generate.

Cost to the Government

- The court system will incur costs of enforcement for any cases that are prosecuted through the court. We can assume that the cost of this system will be the same as the current system - £114 per case.
- The courts reimburse the prosecutor (BBC).

Benefits to the Government

- Revenue from the penalty paid into the consolidated fund (the Government's general bank account).³⁷ It is uncertain at this stage what the level of the penalty could be.

Cost to the BBC

- Investigation and enforcement costs in all cases.
- In some cases, the BBC will use the court system, becoming liable for standard court costs.
- There would likely be some transition and administration costs as the BBC implements a new system.
- There would likely be on-going costs associated with administration of the fixed monetary penalty.

Benefits to the BBC

- Reimbursement of costs from the courts.

Option 5 – Civil monetary penalty: decriminalise and enforce via a civil infraction.

Economic Considerations

This option would replace the TV licensing offences with a statutory requirement to have a TV licence. Failure to comply with this requirement would be enforced through the imposition of civil monetary penalties (i.e. a civil infraction). The main difference between this and the fixed penalty notice is that the act of not having a licence fee will no longer be a criminal offence; this has significant cost implications for all parties.

The other significant difference is that, as a civil debt, in the event of non-payment, the defendant is pursued through the process by the civil claimant (the BBC) as opposed to the court in relation to the collection of fines. This means the BBC is liable for all costs, including enforcement; they can seek to recover their costs, but these come directly from the individual, not from the courts. The high cost of enforcement means there is an added risk for the civil claimant in pursuing the case beyond the first claim stage. The percentage of individuals who pay after the first claim is made is important here, as it has an impact on the overall costs and benefits to all parties, particularly for the BBC.

Having investigated the individual in the usual manner, the BBC would apply a civil monetary penalty to the individual for non-payment of the licence fee, and for breaking the statutory obligation to have a TV licence. In the case of non-payment, the BBC would apply to the courts for a money claim, which incurs an administrative fee. If the claim is granted and the individual pays, then the case is over. If the individual does not reply to the money claim, the BBC will apply for judgment, which incurs another administration fee. If the individual does not pay after this stage, the BBC could request a hearing, involving additional costs. After this stage, the BBC could employ a selection of methods of enforcement, which have different costs. The crucial point here is that the BBC would have to make a judgment about whether to continue

³⁷ <http://www.parliament.uk/site-information/glossary/consolidated-fund/>

to pursue the individual. There will be a point where the cost of the process outweighs the benefit (the likelihood of successfully enforcing the fine).

Data from other civil claims made in this way (for example a fixed monetary penalty) suggests around 65%³⁸ of individuals pay the claim at the first stage. If this holds true, then there could be a potential net benefit to the BBC by the adoption of this system. There would be a potential change in long term behavioural patterns associated with this option as a result of increased risk for the BBC and decreased risk for the consumer. This question falls under our forthcoming behavioural analysis, which will cover longer term trends in behaviour.

The burden on the court system would be much reduced. The cost is more administrative, in terms of processing the money claim and monitoring the process. There will also be costs for each case that the BBC pursues through the civil courts. This cost would be significant as the BBC would need to fund all methods of enforcement of the debt. Furthermore, the court would not have to refund the BBC its costs – this would come directly from the individual when the debt was enforced.

The exact value of the penalty would be dependent upon the detailed consideration of any system put in place.

Cost to the Government

- There will be a small administrative cost of processing claims from the BBC for the civil courts.

Benefits to the Government

- It would free up time in the court to focus on other cases, improving efficiency.
- As the courts provide the framework for pursuing debts, as opposed to pursuing them themselves, they would receive revenue for providing this framework, and would, in effect, be monetising this debt.
- There would be a lower administrative burden on the courts system as the BBC would some of these costs.

Cost to the BBC

- Investigation costs.
- Costs of pursuing the debt, including court costs which, under a decriminalised system of enforcement, would all need to be met by the BBC (these costs would vary depending on how far the case goes through the process, as set out above).
- Enforcement costs which, under a decriminalised system of enforcement, would all need to be met by the BBC (depending on the system of enforcement of the debt).
- There would likely be some transition and administration costs as the BBC implements a new system.
- There would likely be on-going costs associated with administration of the civil monetary penalty.

Benefits to the BBC

- Potential change in licence fee evasion.

Costs to the individual.

³⁸ 2010 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115726/fixed-penalty-notice-1011-tabs.xls

- The point in the process at which individuals pay the fine determines the additional costs levied, thus the total cost to individuals is worked out by taking the cost at each stage times the percentage who pay at that stage.

Option 6 – Civil debt: decriminalise and enforce as a civil debt.

Economic Considerations

The process for this option is relatively uncertain at this point - the review will need to explore different legislative options that could define the licence fee as a civil debt. What is likely under such an option is that the BBC would be responsible for bringing proceedings via the court system to recover the debt. As it is a civil debt, and not a criminal fine, the BBC would have to drive the enforcement process for recovering any outstanding amounts. In this way it is similar to option 5, in that the burden of cost is mainly with the BBC, and there is an inherent risk of not receiving revenue should enforcement fail.

We have not listed quantified or qualified costs and benefits in this document for option 6, as, depending on the specifics of the option, there is too much uncertainty. For reference, illustrative comparisons may be drawn with option 5 to get an indication of costs, but comparison at this stage is tenuous and unreliable.

Risks and assumptions.

In calculating the costs and benefits, there are a number of factors yet to be accounted for. These include:

- Population growth
- Inflation
- Changes in the BBC's enforcement processes
- Technological change

We believe these would have a negligible effect. We have assumed a number of variables will remain constant, including: levels of fines imposed on the individual by the court, court costs and wages, etc.

We have used data for England and Wales to inform this analysis. There are a number of differences between the England and Wales system and others (Scotland, NI, Crown Dependencies), particularly around evasion rates and consumer behaviour. Using data for England and Wales alone has helped focus this consultation, as well as making comparison between options easier. However, understanding the impact on other jurisdictions is important, and this analysis will continue to be updated throughout the consultation as evidence becomes available. Further details relating to jurisdictional differences can be found at Annex C.

ANNEX C: JURISDICTIONAL DIFFERENCES TABLE

	England and Wales	Scotland	Northern Ireland	Jersey	Guernsey	Isle of Man
Investigating authority	TV Licensing	TV Licensing who pass information to Procurator Fiscal who decides whether or not to prosecute.	TV Licensing	TV Licensing pass information onto police who conduct their own investigation.	TV Licensing pass cases to an Inspector in the Guernsey prosecution unit. Evidence reviewed by law officers.	TV Licensing
Prosecuting authority	TV Licensing	Procurator Fiscal	TV Licensing	Centenier	Police and law officers	The Manx Advocate
Relevant Legislation	Communications Act 2003 Police and Criminal Evidence Act 1984	Communications Act 2003 Criminal Procedure (Scotland) Act 1995	Communications Act 2003 Police and Criminal Evidence Order 1989	Broadcasting & Communications (Jersey) Order 2004 Police Powers and Criminal Evidence (Jersey) Law 2003	Communications (Balliwick of Guernsey) Order 2004 Police Powers and Criminal Evidence (Balliwick of Guernsey) 2003.	Communications (Isle of Man) Order 2003 Police Powers and Procedures Act 1998
Maximum fine level	£1000	£1000	£1000	£500	£2000	£1000
Case heard by?	Magistrates court	Sheriffs Court	District judge	Magistrates court	Magistrates Court	Magistrates Court
Can the BBC recover costs?	Yes	No	Yes	No	No	Yes
Can the offence be disposed of outside of court?	No	Yes	No	No	No	No



Department
for Culture
Media & Sport