



# TV Licensing Prosecution Code for Scotland

# Understanding our prosecution process

This leaflet gives you information about how TV Licence offences are investigated and prosecuted in Scotland. It outlines our prosecution process and covers how we make the decision to report cases to the Procurator Fiscal, how you can avoid being reported for prosecution, and what to expect if you are prosecuted.

## The law and you

**You need to be covered by a TV Licence to:**

- a) watch or record live TV programmes on any channel, or**
- b) download or watch BBC programmes on demand, including catch up TV, on BBC iPlayer.**

**This could be on any device, including a TV, desktop computer, laptop, mobile phone, tablet, games console, digital box or DVD/VHS recorder.**

Even if you access BBC iPlayer through another provider such as Sky, Virgin Media, Freeview or BT, you must be covered.

It is a criminal offence to use any TV receiving equipment in this way without a TV Licence.

# Enforcing the law

We want to explain to you the process we go through with everyone who needs to pay for a TV Licence.

We first send letters or emails to occupants of all properties to remind them of the need to be properly licensed. As well as sending frequent letters, we may also try to make contact by phone.

If a property remains unlicensed, we may send Enquiry Officers to investigate whether you are watching or recording live TV programmes on any channel, or downloading or watching BBC programmes on iPlayer illegally on any device.

We also have the authority to get a search warrant for an address if we have reasonable grounds to believe a TV receiver is being used illegally. We may also use detection equipment if other less intrusive and more cost-effective routes have been unsuccessful.

If we find evidence that you have been watching or recording live TV programmes on any channel, or downloading or watching BBC programmes on iPlayer illegally on any device, we will:

- **Conduct an interview** under caution.
- **Submit a report** of our findings to the Prosecution Team that reviews each case.

You can find out more about our enforcement and prosecution process at [tvlicensing.co.uk/visit](https://www.tvlicensing.co.uk/visit)

## The decision to report a case to the Procurator Fiscal

We only consider prosecution as a last resort when all other options have been exhausted. If it becomes necessary, we report cases for consideration to the Procurator Fiscal (Fiscal) who will decide what action to take, what charges should be brought, and in which court any prosecution should take place.

Our decision to report is based on our prosecution policy, which follows the principles of the Crown Prosecution Service (CPS) and, for the purpose of Scotland, also takes account of the Crown Office and Procurator Fiscal Service Code for Prosecutors.

Before we consider reporting a case, it must pass two tests:

- 1. An evidence test** - there must be sufficient admissible, reliable and credible corroborated evidence of a crime committed by the accused.
- 2. A public interest test**, which considers factors such as the personal circumstances of the individual – for example, their health – and whether an alternative to prosecution could be offered.

## The likelihood of prosecution

It is highly likely that you will be reported for prosecution – and still need to buy a TV Licence – if **any** of the following factors apply to you:

- You have a previous TV Licensing conviction or you have been considered for prosecution in the past.
- We have needed to use detection equipment and/or obtain a search warrant to gather evidence.
- You have made a false declaration of not needing a TV Licence.
- You have stated that you did not, or do not, intend to pay the licence fee when one was needed.

## Alternative to prosecution

We may offer you the option to buy a TV Licence as an alternative to being reported for prosecution. If we do, this will be confirmed in writing and you can then avoid being reported for prosecution if you either:

- Pay the licence fee in full, **OR**
- Set up a payment scheme and pay the minimum amounts shown in the table below.

**For details of our range of ways to pay**, please visit [tvlicensing.co.uk](http://tvlicensing.co.uk) or call 0300 790 6091.

If you set up a payment scheme, you will need to show you are committed to paying the full licence fee. Once you have paid the amounts shown in the table below, we will stop the prosecution process.

Payment scheme	Amount required	No. of weeks from visit date
Cash – weekly	£51.00	12 weeks
Cash – monthly	£53.00	12 weeks
Direct Debit – monthly	£53.00	12 weeks
Direct Debit – quarterly	£41.00	12 weeks
Simple Payment Plan – fortnightly	£24.58	12 weeks
Simple Payment Plan – monthly	£26.50	12 weeks

Remember, you need to continue meeting your payments. If you don't – or if you cancel your licence – we will continue with our investigation, which could lead to you being prosecuted.

For certain types of TV Licence, such as those for hotels, accommodation for residential care and multiple sites, the applicable licence fee(s) must be paid in full.

The prosecution will continue to the next stage if you have not paid the licence fee in full, or not made the minimum payments in the time period outlined in the table above, or if your licence is cancelled. If your case is reported to the Fiscal then we can no longer stop the prosecution, as the decision to prosecute is the Fiscal's and not ours.

## The prosecution process

In Scotland, all crime is prosecuted by the Procurator Fiscal, who is the public prosecutor. Procurators Fiscal receive reports from the police and from non-police reporting agencies such as TV Licensing. They decide whether or not to prosecute, having considered if there is sufficient evidence to gain a conviction, and whether prosecution is in the public interest.

The following options are available to a Fiscal considering the report of a crime:

- **Take no proceedings** (where there is insufficient evidence or where it is not in the public interest to take action).
- **Offer an alternative to prosecution** (e.g. a warning letter or Fiscal fine of between £50 and £300 and/or a compensation order).
- **Prosecute in the criminal court.**

The “summary procedure” is used for TV Licensing offences. This begins when a “complaint” is served on the accused and may lead to a trial before a Sheriff or Justice of the Peace Court.

The complaint will set out the charge and you will be provided with the evidence against you that the prosecution intend to rely on and any previous convictions that the court will take into consideration if you are found guilty.

At the start of a case you will be asked to plead to the charge. If you plead guilty, you will be sentenced and could be fined up to £1,000. If you plead not guilty, a date will be fixed for a trial when evidence in the case will be heard.

If you choose to plead not guilty, a hearing, called an intermediate diet, is set a couple

of weeks before the trial. This is to confirm that the trial is ready to go ahead on the allocated date. If for any reason the trial cannot go ahead as planned, a new date may be fixed at this stage.

At trial, you will be given the opportunity to challenge the prosecution evidence and to present your own evidence. You may also call any witnesses you would like to give evidence in support of your defence.

At the conclusion of the case, the judge will decide, based on the evidence, whether or not you are guilty of the charge.

If you are found guilty, you will be able to provide the court with any mitigating circumstances that you think the court should be aware of and a statement of your means.

## Sentencing

**If you are found guilty** of the offence of using television receiving equipment without a licence, the judge will decide the level of the fine. You may have to pay:

- A maximum fine of up to £1,000.
- Compensation for the period of unlicensed use.

You will also still have to buy a TV Licence, if you need one.



You cannot be sent to prison for a TV Licensing conviction. However, the court may decide to send you to prison for deliberately refusing to pay court fines.

## Help with managing debt

There are some not-for-profit organisations that could help you. Their advice is free, confidential and independent.

- **Citizens Advice** – visit [adviceguide.org.uk](http://adviceguide.org.uk) or call **03444 111 444** to find your local Citizens Advice.
- **National Debtline** – If you live in England, Wales or Scotland, call **0808 808 4000** or visit [nationaldebtline.org](http://nationaldebtline.org)
- **Money Advice Service** – go to [moneyadviceservice.org.uk](http://moneyadviceservice.org.uk) or call **0800 138 7777** for free, unbiased advice.

## Taking your personal circumstances into account

If you have recently been visited by Enquiry Officers, you may have told us about circumstances which you believe may be relevant. To ensure your circumstances can be considered, please provide written evidence within 21 days of the visit.

## What circumstances will be considered?

The circumstances need to be serious enough that they have prevented you from buying a TV Licence or managing your day-to-day affairs – an illness or disability, for example. Only in extreme cases will your financial circumstances be the only factor considered in the decision to report your case to the Fiscal.

## Who should provide the evidence?

All evidence must be in writing and provided by an independent person with expertise in that area, who will also need to provide their name, contact details and the capacity in which they are acting. For instance, if you have an illness or disability, the evidence must come from a qualified healthcare professional. The evidence should be provided on official documentation and must explain how your circumstances have prevented you from buying a TV Licence. The evidence may also explain any difficulties you have in managing your day-to-day affairs and the impact a prosecution could have on you.

## How should the evidence be sent?

Evidence can be sent via email or the post.

If you're sending documents by post, please only send copies (not originals), as we are not able to return them. Please fill in the form overleaf and include it with your evidence.

If you choose to email, please include the same details as on the form, scan your evidence and email it to: [visit@tvlicensing.co.uk](mailto:visit@tvlicensing.co.uk)

## What will happen after the evidence is sent?

Any evidence provided will be considered carefully before any decision to report is made. Please note, you may still be reported even if you have bought a TV Licence.

## Use this form if you are posting evidence of your personal circumstances to us

Complete this form, tear it off, and include it in the envelope when you post copies of your evidence to us.

**If you are sending us evidence by email, please also include the information below.**

**Interview reference number:**

\_\_\_\_\_

Found under the barcode on your Record of Interview form.

**Full name:**

\_\_\_\_\_

**Date of birth:** \_\_ / \_\_ / \_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Postcode:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_ / \_\_ / \_\_\_\_

Send copies of your evidence, together with this completed form, to:

**TV Licensing,  
Customer Service Centre,  
PO Box 88,  
Darwen BB3 1WZ**

TV Licensing (including the BBC as the data controller, and its suppliers) will only use the personal data you provide to help decide whether to report you to the local enforcement authority for the offence of using a TV receiver without a licence. That authority will decide on prosecution and will use your data in connection with that prosecution. We will not share your data with anyone else unless required or permitted to do so by law. To find out more, visit [tvlicensing.co.uk/privacypolicy](https://www.tvlicensing.co.uk/privacypolicy)

For further information regarding a visit from Enquiry Officers, or a potential prosecution for a TV Licensing offence, please visit **[tvlicensing.co.uk/visit](https://www.tvlicensing.co.uk/visit)**

If you have sight problems, you can get this information by email or in Braille, large print or audio by calling 0300 790 6076.

If you are deaf, hard of hearing or speech impaired, we support the Next Generation Text (NGT) Service. For more information see **[tvlicensing.co.uk/accessibility](https://www.tvlicensing.co.uk/accessibility)**