

TV licence payment evasion (Revised 2017)

Communications act 2003, s.363

Effective from: 24 April 2017

Triable only summarily:

Maximum: Level 3 fine

Offence range: Band A fine – Band B fine

Step 1 – Determining the offence category

The Court should determine the offence category using the table below.

Category 1 Higher culpability **and** greater harm

Category 2 Higher culpability **and** lesser harm **or** lower culpability **and** greater harm

Category 3 Lower culpability **and** lesser harm

The court should determine the offender's culpability and the harm caused with reference **only** to the factors below. Where an offence does not fall squarely into a category, individual factors may require a degree of weighting before making an overall assessment and determining the appropriate offence category.

CULPABILITY demonstrated by one or more of the following:

Factors indicating higher culpability

- No attempt to obtain TV Licence
- Had additional subscription television service
- Attempts made to evade detection

Factors indicating lower culpability

- Accidental oversight or belief licence held (eg failure of financial arrangement)
- Confusion of responsibility
- Licence immediately obtained
- Significant efforts made to be licensed

HARM demonstrated by one or more of the following:

Factor indicating greater harm

- Prolonged period without TV licence (over 6 months unlicensed use)

Factors indicating lesser harm

- Short period without television licence (under 6 months unlicensed use)

Step 2 – Starting point and category range

Having determined the category at step one, the court should use the starting point to reach a sentence within the appropriate category range in the table below. The starting point applies to all offenders irrespective of plea or previous convictions.

Offence Category	Starting Point	Range
Category 1	Band B fine	Band B fine
Category 2	Band B fine	Band A fine – Band B fine
Category 3	Band A fine	Conditional discharge – Band A fine

The court should then consider adjustment for any aggravating or mitigating factors. The following is a **non-exhaustive** list of additional factual elements providing the context of the offence and factors relating to the offender. Identify whether any combination of these, or other relevant factors, should result in an upward or downward adjustment from the sentence arrived at so far.

Factors increasing seriousness

Statutory aggravating factors:

- Previous convictions, having regard to a) the **nature** of the offence to which the conviction relates and its **relevance** to the current offence; and b) the **time** that has elapsed since the conviction
- Offence committed whilst on bail

Other aggravating factors:

- Failure to comply with current court orders
- Offence committed on licence or post sentence supervision

Factors reducing seriousness or reflecting personal mitigation

- No previous convictions **or** no relevant/recent convictions
- Remorse, especially if evidenced by immediate purchase of television licence
- Good character and/or exemplary conduct
- Age and/or lack of maturity where it affects the responsibility of the offender
- Mental disorder or learning disability
- Offender experiencing significant financial hardship at time of offence due to **exceptional** circumstances

Step 3 – Consider any factors which indicate a reduction, such as assistance to the prosecution

The court should take into account sections 73 and 74 of the Serious Organised Crime and Police Act 2005 (assistance by defendants: reduction or review of sentence) and any other rule of law by virtue of which an offender may receive a discounted sentence in consequence of assistance given (or offered) to the prosecutor or investigator.

Step 4 – Reduction for guilty pleas

The court should take account of any potential reduction for a guilty plea in accordance with section 144 of the Criminal Justice Act 2003 and the *Guilty Plea* guideline.

Step 5 – Totality principle

If sentencing an offender for more than one offence, or where the offender is already serving a sentence, consider whether the total sentence is just and proportionate to the overall offending behaviour in accordance with the *Offences Taken into Consideration and Totality* guideline.

Step 6 – Compensation and ancillary orders

In all cases, the court should consider whether to make compensation and/or other ancillary orders.

Step 7 – Reasons

Section 174 of the Criminal Justice Act 2003 imposes a duty to give reasons for, and explain the effect of, the sentence.