

BBC Operations Group: Compliance Unit – Compliance Framework

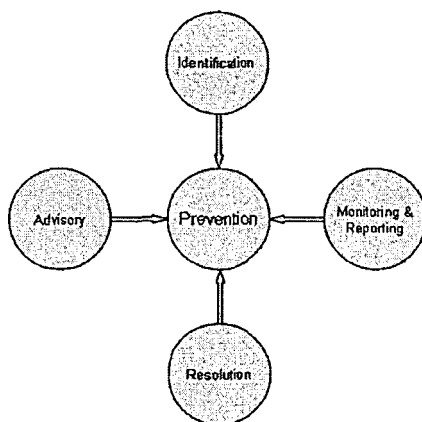
BBC Operations Group: Compliance Unit – Compliance Framework

Introduction

The BBC is subject to a large range of legal and regulatory obligations deriving from its Charter, Agreement and other relevant legislation.

Compliance with these obligations is of paramount importance as failure to comply could lead to serious consequences. In addition to potential damage to the BBC reputation and its brand, there may also be financial penalties and, in certain circumstances, personal liability.

The compliance framework aims to reduce the BBC's risk of breaching our legal and regulatory obligations by promoting a culture where day to day decision making and behaviour fits with our obligations and becomes an integral part of everyone's working practices. The model below shows the four key areas which help to reduce the risk of compliance failures.¹



Primary responsibility for compliance rests with individual members of staff who are responsible for compliance within their own area. However, the central Corporate Compliance Unit has specific responsibility for monitoring, improving and reporting on the BBC's compliance obligations. The Compliance Unit also gather and disseminate information about legislative, regulatory and voluntary changes that are likely to have an impact on the BBC.

The BBC is held accountable for compliance against its obligations by the BBC Trust which receives regular reports from the BBC Executive detailing performance against these requirements.

“It is becoming conceivable that with the shear volume of compliancy issues that companies who can show a good faith effort in complying will, even when they fall short, reduce the risks of fines; to do so they need to demonstrate that they had every intention of acting

¹ Source - <http://www.int-comp.org/compliance>

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within the spirit of the rules and that specific and timely action was being taken in relation to any failings or breaches. This is where the culture of the organisation is key.”²

Background

In January 2006, a paper was presented to the Executive Direction Group (EDG) which set out the conclusions of a review BBC's management of compliance and made recommendations regarding improvements to new governance arrangements and, in particular, the introduction of non-executive directors to the Management Board. The paper recommended a centralised approach for compliance management and proposed reporting arrangement for the Executive.

In June 2006 it was identified that the BBC had failed to obtain the necessary Public Entertainment Licences for a number of sites, including Television Centre. In response to this, Internal Audit undertook a review of the BBC's legal compliance framework (ref 06/046). As part of this review, it was identified that the BBC would benefit from a more co-ordinated approach to compliance.

The Controller, Fair Trading was appointed as BBC Compliance Officer from 1 October 2007 to provide a centralised and unified approach. The Compliance Unit was established shortly afterwards. The remit of the Compliance Unit included the monitoring and reporting of BBC compliance obligations with respect to all relevant legal, regulatory, independent, voluntary and internal policy requirements, with the exception of editorial policy and financial compliance.

Responsibilities

The Compliance Function is not responsible for delivering compliance but is responsible for ensuring that an appropriate framework is in place to minimise compliance failures by ensuring:

- That there is a process of identifying compliance obligations
- There is a system of monitoring of and reporting on key compliance areas
- Co-ordinating the resolution of potential compliance issues
- That advice is available for staff on compliance issues

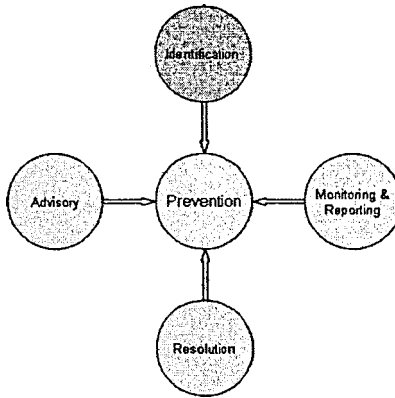
Both editorial policy compliance and financial compliance fall outside of the remit of the Compliance Function.

² Source – http://surveygalaxy.com/articles/article_0023.htm

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Identification

Like all organisations, the BBC needs to keep up to date of the necessary legal and regulatory requirements relating to every part of its business. Identifying and keeping abreast of these changes is a key part of the compliance regime – shown in the diagram below.



The “owners” of specific compliance obligations have the primary responsibility for ensuring that changes to the regulatory environment, legislation, codes of practice are considered by the specialists within their areas and notified to the Compliance Unit. Both the changes to existing legislation and the advance notice of new legislation which may impact on the BBC are required to be notified to the Compliance Unit. These are added to the map of the compliance obligations model as and when required.

The compliance obligations model is not designed to capture each and every possible obligation as the whole range of possible obligations is vast. The Compliance Unit expects the specialists and experts in each area to exercise a degree of judgement as to which particular obligation has the most significant relevance to the BBC using a risk based approach. Owners where compliance obligations extend beyond the UK are expected to use this approach for international operations.

Although this is an ongoing process throughout the year, a formal periodic review of the compliance obligations model ensures that “owners” focus on reviewing existing requirements to ensure that these are up to date for their specific areas.

Additional measures and checks supplement the above process and also provide a degree and assurance. These are detailed below.

1. Ongoing Monitoring and Notification by Owners

Changes in legislation, the regulatory environment, codes of practice as well as the BBC’s own internal policies could happen at any time. In most cases, changes will be known in advance, usually by the specific areas responsible for ensuring compliance for their particular discipline. These departments and specialist areas are responsible for providing notification to the Compliance Unit of these changes. In the majority of cases, this is well in advance of the changes coming into force allowing departments to prepare communications, educational

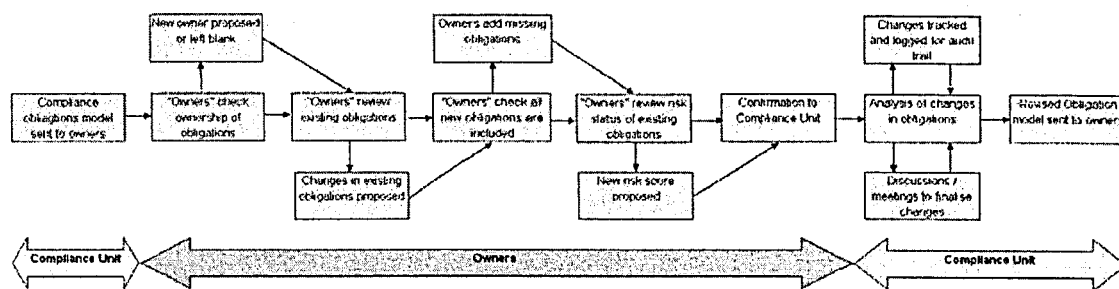
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and training programmes for staff as required. Changes are subsequently reflected in the compliance obligations model.

2. Annual Review of Compliance Obligations

Although the ongoing monitoring of compliance obligations by owners is expected to capture all new and revised legislation and regulations, the annual review is designed to supplement this and is an opportunity for owners to formally review and confirm the obligations as set out within the compliance obligations model. The review also ensures that any changes in ownership of the obligations, usually resulting from either a re-organisation within a division or a change of job function and responsibilities is captured.

The process for this review is shown as a flow chart below:



The complete compliance obligations model is sent to all owners – this allows owners not only to view their obligations but also those that could be related to their area of work. In many cases, there are often several owners, although there is usually one who has primary responsibility and is regarded as having overall responsibility. A case in point is compliance with health and safety legislation; all divisions have responsibility to ensure that staff comply with legislation, internal policies, best practice etc., however, the Head of Safety has primary responsibility to monitor this compliance.

Changes are received from the “owners” together with information about the current risk status of each particular compliance obligation. The latter is used to inform the monitoring programme – using a risk based approach. All changes to the model are recorded and when finalised, the compliance obligations model is sent to all owners for their records. “Owners” are reminded that ongoing notification of further changes throughout the year is an important part of their responsibilities.

3. Gateway - Legal Updates

A number of divisions and key compliance areas provide information on Gateway about changes to legislation and forthcoming legislation which has an impact on the BBC. This ranges in style and content depending on the target audience. For example, the information relating to health and safety which often applies to all staff is easily available on the widely publicised myRisks website. The same is true for changes in employment policies which are available on the BBC People web pages.

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As part of the process to ensure all changes are captured, the Compliance Unit periodically interrogates these web pages to ensure that any information that is relevant is incorporated into the compliance obligations model and also, if appropriate, highlighted in the “hot topics” section of the home page of the Compliance Portal. Some examples of websites that provide updates to compliance obligations are shown in Appendix A.

4. Research of External Internet Sites

A number of organisations provide information on upcoming changes to legislation and also the regulatory environment. These vary in terms of content and usefulness, but periodic checks are made to ensure that any changes have been captured. These are invariably picked up by various departments relevant to their specialism, but these independent checks by the Compliance Unit provide assurance and act as a further “safety net”.

5. Subscription to Legal Update Websites

A number of specialist areas in the BBC subscribe to updates from legal firms, usually without cost. The updates are generally tailored for their specific areas of expertise, so BBC People may get updates on employment law, FM&T on technology regulations and legislation, BBC Finance on procurement, tax etc. legislation. An example of updates sent to various divisions within the BBC by Field Fisher Waterhouse LLP is given in Appendix B.

BBC Legal also receives various legal online updates, with services supplied by PLC, Lexis, Lawtel and Westlaw as examples of these providers.

6. Professional Networks – Internal and External

BBC Legal use panel firms which provide specialist advice updates these include:

- Olswang
- Field Fisher Waterhouse
- Bristows (not on the panel but they specialise in Trademarks)
- SJ Berwin (for Competition Law)
- Bond Pearce (Property Outsourcing)
- Lovells (Property cases)
- Baker & McKenzie (BBC Trust work)

7. Meetings with Key Stakeholders

The objective of these meetings is to monitor how the various departments which have responsibility for monitoring specific compliance areas keep up to date with legal and regulatory changes and updates.

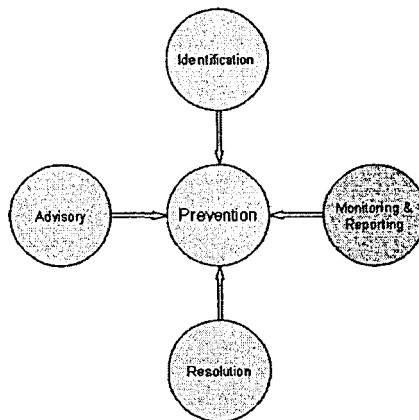
This varies from department to department, but generally tends to be through a mix of professional journals, magazines, specific related websites, personal knowledge and experience, peers etc. It is expected that, where appropriate, specific areas will provide examples such as websites used for reference, journals, membership of professional bodies

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etc. An example of a response showing the processes of keeping up to date with new and upcoming legislation is shown in Appendix C.

Monitoring and Reporting

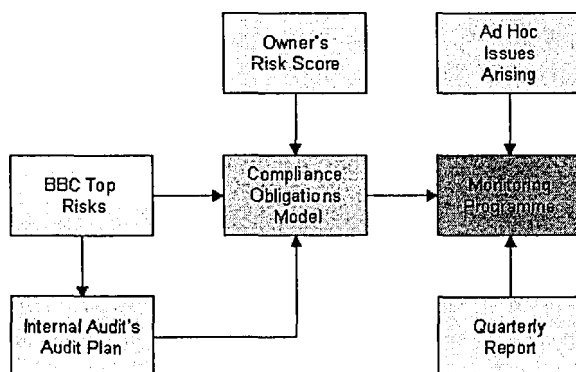
Monitoring and reporting compliance is done periodically and forms an essential part of the compliance framework to minimise compliance failures (shown in the diagram below).



I. Monitoring

The Compliance Unit has established processes to ensure that a programme of continuous monitoring primarily using a risk based approach is implemented. Owners of the various compliance obligations are required to assess the risk of non-compliance based on the BBC’s risk scoring methodology.

The monitoring model also relies in input from the BBC’s Internal Audit’s annual audit plan. This plan is formulated using a risk based approach and any compliance areas which are included in the plan would necessarily be excluded from the Compliance Unit’s monitoring programme. The third input, primarily used a sense check, is the BBC’s risk register where the top risks are considered against the risk scores from compliance obligation owners.



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In addition to the above “system” and process inputs to the monitoring model, ad hoc issues will inevitably arise, either from the assurance checks of the quarterly reports or from issues arising during the year.

It should be noted that risk scoring is very subjective and although the risk scores indicate which areas should be included in the monitoring programme, the process does rely heavily on perceptions of risk for a particular owner.

“The complexity and uncertainty sometimes involved in attempting to comply with external regulatory obligations means that people within the BBC frequently have to take finely balanced decisions where certainty on compliance is difficult to achieve and calculated risks appropriate. It is not always clear that people find it easy to discern the BBC’s attitude to compliance risk and, as in any organisation, there is always a danger of that attitude being formulated retrospectively according to whether taking the risk resulted in success or failure.

This is a difficult area where it is hard to put forward a general solution since assessments of risk are best made in the light of all the circumstances rather than according to an abstract assessment of risk appetite. Moreover, this question touches on sensitive aspects of the culture of the BBC which combines elements of the risk averse, highly scrutinised, public body together with other elements of the buccaneering spirit vital to succeed in cut throat commercial markets.”³

2. Reporting

The principle reporting timetable is on a quarterly basis for the BBC Executive and bi-annual to the BBC Trust and its Finance and Compliance Committee (FCC). A template is sent to nominated contacts for the different areas of compliance, the responses of which are compiled for the report. A summary of the key issues for each quarter is added as well as a tabulated summary sheet of all issues, colour coded for ease.

Nominated contacts are required to ensure that the data that they provide is accurate and verifiable and is able to withstand independent scrutiny. Contributors to the report are required to ensure that they maintain an auditable record of the data provided for a minimum period of twelve months following submission. Where the source of data is a live, continually updating system, printing, or screen printing, source data at the point of extraction is recommended.

The Compliance Unit is responsible for undertaking detailed check of the responses, ensuring that errors and omissions are clarified with contributors and data in tables is reviewed for “totals” and other sanity checks.

There may be instances where additional ad hoc reporting may be appropriate, in particular for updating one or more of the senior management, the Executive Board, the Trust and/or the Trust’s FCC. In most cases, this will be to address any serious issues raised through the reporting and/or monitoring process.

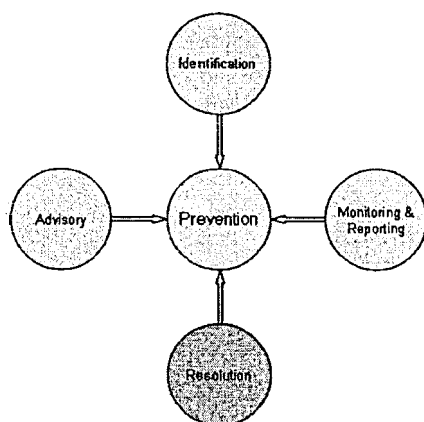
³ Source – EDG Paper EDG_06_4 - Compliance

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At two yearly intervals, the Compliance Unit conducts a review of the content and format of the quarterly report.

Resolution

From time to time issues may arise, either through the monitoring of the compliance obligations or through the quarterly reporting process, where co-ordination remedial measures are necessary. Resolution of these issues and any lessons learnt through this process help the prevention of future compliance failures.

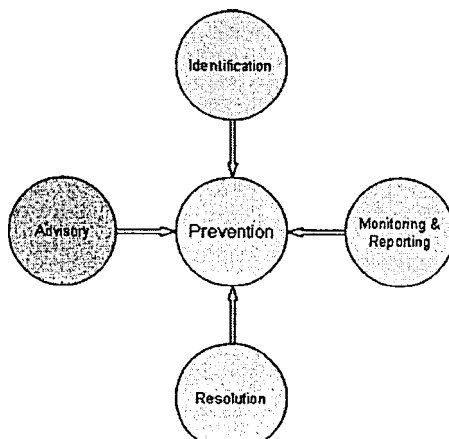


Issues may arise on an ad hoc basis during the period between formal quarterly reports and in some cases of obligations which are too specific to include in the compliance obligations model and/or the quarterly report.

The Compliance Unit is responsible for ensuring that owners of the obligation(s) take responsibility for resolving and improving compliance. In this capacity, the Compliance Unit will advise on actions, propose remedies and check that processes are in place to either prevent or improve compliance issues. The Compliance Unit will report on progress to relevant senior managers and/or through the quarterly reporting process.

Advisory

An important function of the Compliance Unit is to ensure that staff have an easy to find place for any compliance queries and are able to obtain help and advice. The advisory function in the final part of the framework – see below.



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The Compliance Portal on Gateway allows users to find out where to go for general compliance queries. The pages give basic information for a broad range of compliance enquiries and also provide links to more detailed information about specific areas of compliance.

The site is made easy to navigate, and most importantly, to find on Gateway. To ensure the former, the Compliance Unit conducts a annual survey of the effectiveness of the Compliance Portal. In addition, monthly analysis of usage provides useful data to enable improvements that may be required. The Compliance Portal is a Gateway “best bet” ensuring that users can easily find information on who to contact for advice.

The Compliance Unit provides advice on general compliance issues and for more complex enquiries facilitates contact with the correct source, either internal/external webpage links or a contact within a specific area of the BBC.

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Appendix A

As part of the process to ensure all changes are captured, the Compliance Unit periodically interrogates these web pages to ensure that any information that is relevant is incorporated into the compliance obligations model and also, if appropriate, highlighted in the “hot topics” section of the home page of the Compliance Portal. Some examples of websites that provide updates to compliance obligations are shown below.

http://explore.gateway.bbc.co.uk/myrisks/myrisks_home/safety_news/legal_updates/artificial_optical_radiation.aspx (An example of this is shown in the following pages)

http://explore.gateway.bbc.co.uk/peoplepolicies/people_policies/employment_policy_updates.aspx (An example of this is shown in the following pages)

http://legal.gateway.bbc.co.uk/legal_warnings/warnings.html

http://legal.gateway.bbc.co.uk/reporting_restrictions/restrictions.html

<http://comp.tv.bbc.co.uk/>

Appendix A (cont.)


myRisks | Gateway | Search

Legal Updates

You are in: myRisks Home > Safety News > Legal Updates

This page summarises new developments in health and safety legislation, case law and enforcement guidance that are considered relevant to the BBC. Whilst every effort is made to keep the news and information current it is not always possible to track developments immediately.

Legal Updates

<p>Driver CPC New road traffic legislation from September 2009</p>	<p>Artificial Optical Radiation (AOR) New Control of Artificial Optical Radiation at Work Regulations planned for April 2010</p>	
<p>HSE Publications Details about how to access the HSE's free publications.</p>	<p>First Aid at Work Changes to the First Aid at Work training regime from 1 Oct 2009</p>	<p>Corporate manslaughter Corporate manslaughter and corporate manslaughter updates.</p>
<p>Corporate manslaughter sentencing Definitive sentencing guidelines issued for corporate manslaughter and health and safety offences proved to have caused death</p>	<p>Corporate manslaughter prosecution First prosecution under the Corporate Manslaughter and Corporate Homicide Act 2007.</p>	<p>UK Working Time Opt-Out UK retain working time opt-out from maximum 48hr week as EU negotiations fail to reach agreement</p>
<p>'Notice of occupation' repealed Legislation that requires occupation of film studios and offices to be notified to the health and safety enforcing authority is abolished</p>	<p>Health and Safety Law Poster New health and safety law poster published by HSE</p>	<p>HSE 'shattered lives' campaign HSE to launch slips, trips and falls campaign...</p>

Navigation: A-Z Index, myRisks Home, Safety Advice Line, Safety News, Legal Updates, Driver CPC, Artificial Optical Radiation (AOR), HSE Publications, First Aid at Work, Corporate manslaughter, Corporate manslaughter sentencing, Corporate manslaughter prosecution, UK Working Time Opt-Out, Night work and breast cancer, Health and Safety (Offences) Act 2008, HSE 'shattered lives' campaign, 'Notice of occupation' repealed, Health and Safety Law Poster, Swine Flu Latest News, Safety Newsletter - May 2009, Safety Newsletter - October 2009, Safety Newsletter - February 2010, myRisks Updates and Changes, Safety Alerts

Search: Search myRisks, Search

Related Links: myRisks home, HSE Website

Contact BBC Safety

Appendix A (cont.)

The screenshot shows the BBC Gateway website's 'People-Policies' section. The main heading is 'Employment Policy Updates', dated Friday, 26th March 2010. A left-hand navigation menu lists various policy areas, with 'Employment Policy Updates' highlighted. The main content area features three update items:

- BBC Health and Sickness Absence Policy:** A new GP issued *Statement of Fitness to Work* (fit note) will replace the medical certificate (Med 3, 4 & 5) currently in use from 6 April 2010; A one page set of FAQ's will be available on the Health & Sickness Absence People Policies page on Gateway on 6 April 2010 and the *BBC Health & Sickness Absence Policy* will be updated to reflect the changes; Please click here to view a sample fit note.
- Right to Request Time off for Training:** From 6 April 2010 the right to request time off to undertake study or training is being introduced as a result of changes to the *Apprenticeships, Skills, Children and Learning Act 2009*; A document titled *How to Request Time off for Training* will be posted along with the *BBC External Education Assistance Policy* to the Education & Training People Policies page on Gateway.
- BBC Declaration of Personal Interests Policy:** A revised process has been devised following feedback from the business and changes include:
 - Only new joiners on continuing contracts and SMs (all contract types, new joiners and movers) will be required to complete the form and return it to HR Direct;
 - Internal movers (excluding SMs), fixed-

On the right side of the page, there are sections for 'BBC People Contacts', a search box, and 'Related Links' including 'BBC People Home Page', '159 Emergency Information', 'myDetails', 'myReward', 'myRisks (Health, Safety & Security)', and 'Acceptable Use Policy'.

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Appendix B

FFW Contact	Practice Group	Publication	Distribution list	Frequency
Louisa Albertini	IP/Technology Dispute Resolution	No regular alerts or newsletters If there is an important new judgment, then a newflash is circulated to clients.	Contacts in the BBC not specified	Rare
Dan Hooke	Corporate	Companies Act email-alerter This provides updates on the Companies Act 2006 including invitations to seminars. On the back of this, we issued a handbook and are intending to update this in April 2008 for those who came to our Companies Act Crammer in 2007. Various materials on the 2006 Act are made available to clients on a webpage.	BBC Worldwide Ltd (Josephine Warren, Kevin Langford, David Moody, Richard Parsons & James Stevenson) British Broadcasting Corporation (Nicola Cluer, Nicholas Eldred, Nicola Golia, Anne Howarth, Lindsey North & Peter Raynard)	Previously monthly, now less frequently
Penny Wootton/Graeme Nuttall	Tax	Update on charity law developments	Sheri Margolis	Fortnightly
Louise Fernandes	Employment	Fortnightly alerters on employment law (recent cases, legislation and general HR developments) Regular newsletter (twice a year, articles focusing on recent developments) Invitations to our events (we have an annual training prospectus, offering seminars and practical workshops on employment law developments. www.employmentlaw.com, our dedicated employment website. This provides access to a client zone containing over 50 briefing notes, an archive of all our alerters and newsletters and provides a legislation tracker. None of the BBC contacts have access to Clientzone at present. Can provide a tailored alerter on the employment law developments of most interest to a client with a jargonbuster and meet the team section. This is sent in addition to the fortnightly alerter for all our other Employment clients/contacts.	Nicholas Eldred Jenny Lewis Jenny McCarthy Kirsten Sparrow	Fortnightly
Marcus Turle	Technology	Privacy & Information Law Newsletter - email only.		
Emily Parns	Technology	Techbytes Newsletter Updates to certain individuals from time to time about developments in the field of data protection law.	British Broadcasting Corporation Julie Alden Susan Binney Angelique Brook Warwick Cross Nicholas Eldred Jim Hemmington David Hudson Ela Jastrzebska Sarah Jones Roger Law Hugo Lindsay Elizabeth Martin Eduard Murray Valerie Nazareth Lindsay North Jill Simpson Effic Smith Elizabeth Stephen Elise Verger Anthony Vitamin BBC Worldwide Martin Freeman Raymond Gay Sarah Gordon-Walker Gill Pritchard.	3 times a year

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Appendix C – Example of response

“Hi Kaush

Essentially myself and my team belong to a number of professional bodies and generally keep abreast of changes through these and various subscriptions to trade journals and professional institutions. My postman hates me for the number of trade journals he has to deliver each week.

On top of this we have access to a number of websites who provide alert systems to relevant issues of the day and changes to legislation for example, I along with 4 others in Workplace are members of the Workplace Law Group and have access to regular bulletins, access to information and articles and have also got access to a legal panel of workplace lawyers who provide advice and support through a help desk service.

Example attached.



Workplace Law
Work Premium

Through our accreditations and membership of professional institutes we receive online and various publications.

In addition we have access to the obvious sites such as Communities.Gov, HSE, Environment Agency site and others. We also have password access to sites that maintain statutory legislation for reference.

<http://www.communities.gov.uk/planningandbuilding/>

<http://www.hse.gov.uk/legislation/index.htm>

<http://www.environment-agency.gov.uk/research/library/publications/default.aspx>

We also have of course the likes of BBC Safety who employ an ex HSE expert whose job it is to interpret H&S legislation and communicate changes through Richard Perry's team. I often liaise with Debbie Hughes in Richards team on various matters and she sends out regular bulletins on significant changes which may affect the BBC.

The above applies also in respect of environment legislation, general risk management and industry practice.

With environment we pay Bureau Veritas to provide us with legal updates on a quarterly basis. These are posted on myRisks and we review this when the updates come in to understand the potential impact on the BBC. Below is a link which takes you to the register and you will see the last update was Sept 09. We should get the next one this month.

http://explore.gateway.bbc.co.uk/myrisks/Docs/Safety-BBC_Environment_RoL_Sept_2009.pdf

Hope that helps.

Andy

Andy Bello

Head of Occupational Risk Management, BBC Workplace”