
Amateur Radio Guidance

Misuse and licence revocation

GUIDANCE:

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1. Dealing with misuse

- 1.1 Most radio amateurs play by the rules, to the benefit of the hobby as a whole. Occasionally, however, individuals will breach the rules and spoil others' enjoyment of the hobby. This guidance sets out what radio amateurs can do and what they may expect from Ofcom.
- 1.2 Misuse of amateur radio is designed either to deny access to the spectrum or to offend and annoy others, by causing deliberate interference, using offensive language, pirating call signs or keying out other users.
- 1.3 In the amateur service, this misuse is most commonly aimed at open access facilities such as voice repeater and packet networks. It is intended to cause a nuisance to the greatest possible number of people and attract attention. Less common, but just as serious, is misuse that targets individual operators or specific radio services.

Ofcom powers

- 1.4 The Wireless Telegraphy Act 2006 provides Ofcom with criminal investigation powers to support the management and protection of the radio spectrum. In some cases, the use of these legal powers may result in a prosecution. Penalties on conviction could result in an unlimited fine and/or a term of imprisonment, depending on the severity of the case. A conviction may also result in all or any of the apparatus of the station and other apparatus used in the commission of the offence to be forfeited.
- 1.5 Alternatively, or in addition to prosecution, Ofcom may seek to revoke the licence of any UK radio amateur responsible for misuse of radio. This is a separate procedure and it is quite distinct from any court action and is described below.
- 1.6 It is an offence under the Wireless Telegraphy (Content of Transmission) Regulations 1988 to send a message, communication or other matter that is grossly offensive or of an obscene or menacing character. However, prosecutions are very rare. It is important to remember that the courts need evidence that the language used in the alleged offence is worse than that encountered in everyday life.
- 1.7 Sadly, there are a small number of cases which occur each year that go beyond simple misuse and involve threatening violence, harassment, malicious communication or 'hate crime'¹. Any threats of immediate danger or violence should be referred directly to the local police. Ofcom will seek to support a police investigation and take steps when appropriate to revoke the licence of those involved with committing such an offence.

¹ <https://www.cps.gov.uk/hate-crime>

Expectations

- 1.8 Ofcom undertakes proportionate investigations to manage and protect the radio spectrum. Our resources are prioritised to the most serious cases. To progress a case to prosecution, requires evidence which is sufficient for such a purpose and to be admissible in judicial proceedings. Obtaining such evidence can be resource intensive and protracted. Consequently, for amateur radio misuse cases, the allocation of resources will be limited to cases posing a more serious risk to the radio spectrum.
- 1.9 Although radio amateurs are welcome to submit reports of misuse, we are normally unable to say anything about what has been done with the information, as investigations are confidential. For example, a prosecution (or other enforcement action) may be pending and the case will be under judicial deliberation until the conclusion of proceedings.

Reporting misuse

- 1.10 The Radio Society of Great Britain's Operating Advisory Service (<https://rsgb.org/main/operating/operating-advisory-service>) can advise radio amateurs on best operating practice, to reduce the risk of misuse or its impact.
- 1.11 Alternatively, use the following link if you would like to report the misuse directly to Ofcom: <https://ofcomforms.secure.force.com/formentry/SitesFormAmateurRadio>.

Role of the repeater keeper

- 1.12 For each repeater, Ofcom issues an NOV (Notice of Variation) to a particular licensed radio amateur (this person is known as the "Repeater Keeper"), providing Ofcom a single point of contact for a specific repeater. The NoV imposes responsibilities on the Repeater Keeper.
- 1.13 The NoV requires the Repeater Keeper to monitor the repeater from time to time and to take reasonable steps to minimise the risk of unsuitable content being transmitted. It is consequently their responsibility, if they hear misuse or are aware of persistent cases, to take action to address the misuse. Such action might include documenting or audio recording the incident or switching the Repeater off for a cooling off period.
- 1.14 Any records made of misuse could support any appropriate follow up action. For example, we may recommend or require that the repeater be shut down for a period.

What should I do if I encounter misuse?

- 1.15 While there is often little that Ofcom can do, the following measures may help to minimise the impact of misbehaviour by others.
- Do not respond to it. Experience teaches us that those responsible want an audience, so ignore them;
 - Do not correspond with those responsible;

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- You could place yourself in breach of your own licence conditions, if you correspond with someone who does not have a licence or if you try to deny them access by keying your microphone;
- Do not approach or confront them;
- If abuse occurs frequently, make a note of it:
 - Note details such as the date, time, frequency, location, mobile or fixed, what form the abuse took and any other factors that you think might be useful;
 - Maintain this log, to build up a pattern of the abuser's operations;
 - Make sure the information you collect is precise and accurate;
- If the misuse has become abusive, threatening or otherwise a 'hate-crime' then as well informing Ofcom you should consider reporting the matter to the local police; and
- Any threats of immediate danger or violence should be referred directly to the local police as well as to Ofcom.

2. The licence revocation process

Validity of licences

- 2.1 A licence remains valid unless the licensee surrenders it or we notify the licensee that we have formally revoked the licence. If we wish to revoke a licence, we must follow a prescribed process, laid down in Schedule 1 of the Wireless Telegraphy Act 2006 ('the Act').
- 2.2 The Act permits Ofcom to vary or revoke wireless telegraphy licences, including Amateur Radio Licences. We would normally seek to revoke a licence only if there had been a serious breach of the conditions of the Licence or a prolonged pattern of non-compliance.

Reason(s) for revocation

- 2.3 We issue licences (including Amateur Radio Licences), to help us to manage the radio spectrum, for the benefit of all users. This is increasingly important given the growing demand for spectrum from new technologies. We must ensure that everyone uses the spectrum responsibly. Happily, most radio amateurs operate responsibly but for the few who do not, we may consider revoking their licence, to protect the majority.
- 2.4 If we wish to revoke an amateur radio licence, we may do so only on the grounds listed in Clause 4 of the Licence, for example breaching licence conditions or being convicted of an offence under the Act. Clause 4 also permits us to revoke an Amateur Radio Licence to comply with a direction from ministers or to ensure that the UK complies with its international obligations.
- 2.5 Revoking a licence is quite separate from prosecuting someone for an offence or issuing a Fixed Penalty Notice ('FPN') under the Act. We may revoke a licence instead of - or in addition to - issuing an FPN or prosecuting an individual and regardless of the outcome of any prosecution.

Considerations

- 2.6 In considering whether to revoke, we might take the following factors (amongst others) into account:
- What has the person done and how did it affect other radio users?
 - What evidence is there that the grounds in Clause 4 of the Licence apply in this case?
 - Has the licensee been convicted of an offence under the Wireless Telegraphy Acts?
 - Were other people involved in the matter?
 - Is the proposal objectively justifiable (how have we handled any comparable cases)?
 - What has the licensee told us, for example:
 - Are there any mitigating factors, for example the age or the state of health of the licence holder?
 - What would the impact of revocation be? For example, is the licence holder disabled?

Procedure

- 2.7 Where we wish to revoke a licence, we must notify the licensee that we propose to do so. The notification must:
- State the grounds on which we propose to vary or revoke the licence;
 - Set out our evidence for relying on those grounds; and
 - Specify a period during which the licensee may make representations about the proposal.
- 2.8 The notification may also apply to other licences, if we consider that those licences should also be revoked in order to protect the spectrum. For example, if a radio amateur holds more than one Amateur Radio Licence, we may seek to revoke all of them.
- 2.9 We consider any representations from the licensee and reach a decision. We then notify the licensee of our decision, whether that is to revoke or not to revoke. If we decide to revoke the Licence, we may require the licensee to surrender any copy/ies to us. It is an offence to fail to do this, if we have required it.

Period of revocation

- 2.10 A licence is not revoked for a specified period. In principle, therefore, the individual may re-apply for the licence at any time. However, in considering the application, we shall assess the applicant's ability to comply with all of the Licence terms and conditions. If we believe that the licensee is likely to breach the licence terms and conditions, we may refuse the application.
- 2.11 If we decide to refuse an application, the individual will be notified and will have the opportunity to comment. If the decision is taken to issue a licence but we harbour doubts about the future conduct of the applicant, we may impose special conditions or qualifying criteria, such as:
- We may inspect the station and apparatus periodically, to satisfy ourselves that the equipment will not contravene the terms of the licence; and
 - We may impose restrictions on the licensee (such as reduced power levels).

Publishing details of revocation

- 2.12 If we revoke an Amateur Radio Licence, the former holder of that licence becomes a 'Disqualified Person', as defined in the Licence. We may publish the call sign associated with the Licence, to help other radio amateurs comply with Clause 3(3)(c)II of the Licence.

3. Further information

For more information please contact:

Ofcom

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E: spectrum.licensing@ofcom.org.uk

T: 020 7981 3131

OR

RSGB

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Fraser Road

Priory Business Park

Bedford MK44 3WH

<https://rsgb.org/main/operating/operating-advisory-service/contact-oas/>