

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 February 2014

Public Authority: Driver and Vehicle Licensing Agency (An Executive Agency of the Department for Transport)

Address: Longview Road
Swansea
SA6 7JL

Decision (including any steps ordered)

1. The complainant requested information about a vehicle for which she is the registered keeper. The Driver and Vehicle Licensing Agency ('DVLA') refused to provide the information under sections 21 and 40 of the FOIA. The Commissioner has investigated and found that the requested information is the personal data of the complainant and therefore is exempt under section 40(1). The Commissioner requires no steps to be taken.

Request and response

2. The Commissioner notes that under the FOIA the DVLA is not a public authority itself, but is actually an executive agency of the Department for Transport which is responsible for the DVLA and therefore, the public authority in this case is actually the Department for Transport not the DVLA. However, for the sake of clarity, this decision notice refers to the DVLA as if it were the public authority.
3. On 25 July 2013, the complainant wrote to the DVLA and requested information in the following terms:

"As your records will show I am the Registered Keeper of vehicle registration number [Vehicle Registration mark ('VRM') redacted].

I require you to send me the dates and times of all queries against my VRN [VRM redacted] issued by Liverpool City Council since 22 June

2013. I also require the dates and times of the matching responses that you provided to Liverpool City Council.

This letter is not requesting personal information and so is not a Subject Access Request under the Data Protection legislation, therefore I believe no fee is payable ”.

4. The DVLA responded on 29 July 2013 stating that, as the request was for information about the complainant’s own vehicle record, it constituted a subject access request under section 7 of the Data Protection Act 1998 (‘the DPA’). The DVLA advised that she would need to re-submit the request together with the required fee of £5.00.
5. The complainant wrote to the DVLA on 29 July 2013 re-stating that her request had been made under the FOIA and not the DPA and, as such, she believed that no fee should be payable. She asked the DVLA to carry out an internal review of its handling of the request.
6. On 20 August 2013 the DVLA issued a refusal notice under the provisions of the FOIA, stating that it was refusing the request by virtue of section 21 as the information she requested was reasonably accessible by other means. The DVLA explained the process for accessing personal information and confirmed that a fee of £5.00 was payable.
7. The complainant wrote to the DVLA again on 20 August 2013 expressing dissatisfaction with its refusal to provide the information requested. She again re-iterated that she had not requested personal information relating to her vehicle, but rather “information relating to a third party request and DVLA’s response to that third party request”.
8. The DVLA treated the communication of 20 August 2013 as a request for an internal review and responded on 6 September 2013. It maintained that section 21 applied to the request as the information was reasonably accessible to the complainant under section 7 of the DPA. The DVLA also advised that it considered the information requested to be exempt under section 40(2) because the information requested related to the complainant who was the registered keeper of the vehicle in question.

Scope of the case

9. The complainant contacted the Commissioner on 18 November 2013 to complain about the way her request for information had been handled. She asked the Commissioner to investigate whether the information she had requested should be disclosed
10. During the course of the Commissioner's investigation the DVLA wrote to the complainant to advise that its internal review response should have referred to section 40(1) and not 40(2) as the information requested was considered to be the complainants own personal data.

Reasons for decision

Section 40 – the exemption for personal data - the complainant's own personal data

11. Under section 40(1) information that is requested that constitutes the applicant's 'personal data' is exempt information. This exemption is absolute and requires no public interest test to be conducted. In addition, in relation to such information public authorities are not obliged to comply with the obligation to confirm or deny whether they hold the requested information, by virtue of section 40(5)(a).
12. The request for information in this case relates to queries raised with the DVLA by Liverpool City Council about a particular vehicle of which the complainant has confirmed she is the registered keeper. The complainant argues that she has not requested any personal data relating to her, but rather information about third party queries made about the vehicle, and DVLA's responses to those queries.
13. The Commissioner has issued detailed guidance on determining what information constitutes personal data.¹ This guidance sets out several steps in establishing whether information is personal data, with the first step being whether an individual can be identified from the information and the second step being whether the information relates to the individual in some way, e.g. is it information which is obviously about a

1

http://www.ico.gov.uk/for_organisations/guidance_index/~media/documents/library/Data_Protection/Detailed_specialist_guides/determining_what_is_personal_data_quick_reference_guide.ashx

particular individual, is the information linked to an individual or is it information used to inform or influence actions or decisions affecting an identifiable individual.

14. The DVLA argued that it had previously been accepted by the Commissioner that VRMs were the personal data of the registered keeper of the vehicle. Therefore, in this case, the requested information (if held) would be the personal data of complainant who is the registered keeper of the vehicle identified in the request.
15. As the DVLA suggested, the Commissioner accepts that VRMs are the personal data of the vehicle's registered keeper. Furthermore, in the circumstances of this case the Commissioner accepts that the requested information (if held) would reveal biographical information about the registered keeper – the complainant. That is to say it would reveal whether Liverpool City Council had made any enquiries about the vehicle in question (which is registered in the complainant's name) and the dates and times of any queries.
16. Based on the above, the Commissioner is satisfied that any information which may be held would be complainant's own personal data. The Commissioner therefore finds that section 40(1) is engaged and as this is an absolute exemption there is no public interest test to apply. As section 40(1) applies the DVLA was not required to comply with section 1(1)(a) because section 40(5)(a) would apply.

Other matters

17. The Commissioner notes that, in its initial and follow-up responses to this request, the DVLA advised the complainant of her right to request her 'personal data' under the terms of the DPA and explained the relevant process. The Commissioner considers that this was an appropriate step for it to take.

Right of appeal

18. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF