

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 9 April 2020

Public Authority: Driver and Vehicle Licencing Agency (DVLA)
Address: Swansea
SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested information from the DVLA on vehicles that have been charged double payments for vehicle road fund licences. The DVLA initially stated this information was not held but after discussions with the Commissioner accepted that the information *may* be held but stated that it would exceed the appropriate cost limit to comply.
2. The Commissioner's decision is that the DVLA has correctly refused the request under section 12 of the FOIA. However, the DVLA has not provided any advice or assistance to the complainant and has therefore failed to comply with its duties under section 16 of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Consider if there is any meaningful advice or assistance that can be provided to the complainant.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 5 November 2018 the complainant made a request to the DVLA in the following terms:

"Please can you provide information on how many vehicles have been charged double payments of vehicle road fund licence, this is not in reference to the so-called overlapping payment as a vehicle changes hands keeper to a new keeper, this is in reference to subsequent payments being taken from the original keeper though the new keeper is paying the RFL."

6. The DVLA responded on 27 November 2018 and stated it did not hold any information within the scope of the request. It explained that it automatically cancels direct debits when keepers dispose of vehicles and although it would take existing payment for that month it would not take further payments.
7. On 14 January 2019 the DVLA conducted a review and wrote to the complainant upholding its decision. It explained that there is no operational requirement for the DVLA to hold the information.

Scope of the case

8. The complainant contacted the Commissioner on 7 March 2019 to complain about the way his request for information had been handled.
9. The Commissioner wrote to the DVLA asking questions around whether the information was ever held by the DVLA, for example where there were errors in charging and a previous keeper was charged as well as the new keeper in error.
10. The DVLA explained that it does not charge vehicles vehicle tax (or 'road fund licence') but charges vehicle keepers this fee and therefore no recorded information is held relevant to the scope of the request ("how many *vehicles* have been charged double payments"). The DVLA's vehicle register, direct debit payment system and non-direct debit system are three separate systems and the vehicle register only confirms if a vehicle is currently taxed but does not contain information about payments made for vehicle tax. The direct debit and non-direct debit payment systems only hold information about payments made in reference to the person who paid the fee.
11. The DVLA acknowledged that it did theoretically hold the building blocks to identify how many individuals have been double charged but this was

outside the scope of the request as the request asked for how many vehicles had been double charged.

12. The Commissioner asked the DVLA additional questions following this response; in particular she focused on trying to understand the information held on the different payment systems and whether they held information about the vehicle the vehicle tax was being paid for e.g. the registration number. The Commissioner also queried how the DVLA ensured that the direct debits related to the correct vehicle and how when one off payments are made the DVLA ensure the right vehicle is being paid for.
13. The DVLA confirmed the payment systems hold the vehicle registration number (VRN) but that staff would have to interrogate each payment record separately by VRN to determine whether an overlapping or double payment has been received.
14. The Commissioner responded to the DVLA indicating her understanding that it seemed the DVLA's payment system holds payment information in relation to vehicles (the VRN) and that in order to determine if the requested information is held the DVLA would have to go through each payment made and/or the VRN and check whether there has been any double payments and that this means the information is in fact held. The DVLA had indicated if this was the case then complying with the request would exceed the cost limit. The Commissioner therefore asked the DVLA questions about section 12 of the FOIA.
15. The Commissioner therefore considers the scope of her investigation to be to determine if the DVLA can refuse the request on the basis of section 12 of the FOIA.

Reasons for decision

Section 12 – cost of compliance exceeds the appropriate limit

16. Section 12 of the FOIA allows a public authority to refuse a deal with a request where it estimates that it would exceed the appropriate cost limit to comply with the request.
17. The estimate must be reasonable in the circumstances of the case. The appropriate limit is currently £600 for central government departments and £450 for all other public authorities. Public authorities can charge a maximum of £25 per hour to undertake work to comply with a request – 24 hours work for central government departments; 18 hours work for all other public authorities. If an authority estimates that complying with

a request may cost more than the cost limit, it can consider the time taken to:

- determine whether it holds the information
 - locate the information, or a document which may contain the information
 - retrieve the information, or a document which may contain the information, and
 - extract the information from a document containing it.
18. The appropriate limit for the DVLA is £600 as it is part of a central government department.
 19. The Commissioner's view, as previously stated is that the payment systems hold the VRN so therefore theoretically it is possible to investigate payment records by VRN to determine if overlapping or duplicate payments have been made.
 20. The DVLA explained that if a person is charged twice then the most likely reason is that two direct debit payments were taken instead of one. The DVLA has two separate electronic systems involved in the direct debit process – one is held by the DVLA's financial provider and one is the DVLA's own vehicle database (VSS).
 21. DVLA informed the Commissioner that the common factor that allows payment data to pass between the two systems is the VRN. There is no exchange of vehicle keeper details or details of who is making the payment. The financial system gathers the payment details and feeds information into the VSS which then updates the vehicle record to show that a VED has been paid for a specific period. When a direct debit is set up to pay for a licence that covers a 12 month period, the first direct debit payment would update VSS with the fact the payment has been received and the subsequent 11 payments would be collected via the financial system.
 22. The DVLA considers this goes some way to demonstrating the difficulties with establishing if double payments have been made. Determining if information in the scope of the request is held would require a bespoke scan of the two systems. A scan would only provide a snapshot in time because VSS is a live database and cannot provide historical data. The DVLA would not be able to provide the information held at the time of the request as that time has passed but could attempt to do this for a moment in time. The production of a scan would require work to be done by data analysts to raise a scan request through control processes governing the creation and testing of scans against DVLA records.

23. As this would be a bespoke scan there are likely to be a number of factors that would need to be considered as the scan criteria is considered and developed.
24. In addition to writing the scan, there is a set process that needs to be followed before a scan can proceed. This process has been explained to the Commissioner before in a previous decision notice¹ and this was also considered by the Information Tribunal² and the Upper Tribunal³ in relation to whether this was a reasonable cost that could be included in a cost estimate and whether the time taken to do this would exceed the cost limit. It was agreed by the Commissioner and both Tribunals that the DVLA's estimation of costs was reasonable. The DVLA has confirmed to the Commissioner that the process and time required would remain relevant to this scan.
25. In light of the submissions presented by the DVLA the Commissioner is satisfied that attempting to fulfil the request would exceed the appropriate cost limit. It is clear from previous cases that both the Commissioner and the Tribunals have accepted that the process that precedes a bespoke scan can be included in the cost limit and that this process is necessary in this case. Factoring in the scan itself, which includes identifying relevant criteria and building the scan and running the scan on the approximately 40 million records in the VSS, it is clear that it would exceed the cost limit to locate information within the scope of the request.
26. The Commissioner is therefore satisfied the DVLA has correctly refused to comply with the request under section 12 of the FOIA.

Section 16 - advice and assistance

27. As section 12 was applied during the Commissioner's investigation, no advice or assistance has, to the best of the Commissioner's knowledge, been provided to the complainant. It is not clear if any meaningful advice or assistance could be provided as it appears that running the scan and following the process preceding this is likely to significantly exceed the cost limit even if a timeframe is added to the request. However, the Commissioner expects the DVLA to consider if there is any

¹ FS50628411

² EA/2016/0268

³ GIA/2974/2017

Reference: FS50827751

meaningful advice or assistance that can be provided to the complainant.

Right of appeal

28. 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: 0870 739 5836

Email: grc@justice.gov.uk

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

29. 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.
30. 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

Jill Hulley
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