

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 November 2022

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

Address: Longview Road
Morrison
Swansea
SA6 7JL

Note: The DVLA is not listed as a separate public authority in Schedule 1 of the FOIA because it is an Executive Agency of the Department for Transport. However, as it has its own FOI unit and as both the complainant and the Commissioner have corresponded with "the DVLA" during the course of the request and complaint, the Commissioner will refer to "the DVLA" for the purposes of this notice – although the public authority is, ultimately, the Department for Transport

Decision (including any steps ordered)

1. The complainant has requested the driving licence application for Elaine Parent. The DVLA confirmed it held the information but refused the request under section 41(1) of the FOIA.
2. The Commissioner's decision is that the DVLA has correctly applied the exemption and the public interest lies in withholding the information.

Request and response

3. On 8 May 2021 the complainant made a request to the DVLA for the driving licence application information of Elaine Parent. The specific wording of this request can be found in the Commissioner's decision notice [IC-115824-X0W0](#) in which he considered a decision by the DVLA

to refuse to confirm or deny if it held the information. The Commissioner concluded that the DVLA should confirm or deny if the information was held.

4. Following the decision notice the DVLA confirmed, on 30 March 2022, that it held information within the scope of the complainant's request but it was being withheld under section 41(1) of the FOIA. A position the DVLA upheld at internal review.

Reasons for decision

5. Section 41(1) of the FOIA states that information is exempt from disclosure if it was obtained from any other person and its disclosure by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
6. The decision notice referred to earlier concluded that the information would have been obtained by the DVLA by a third party, Elaine Parent. Regardless of whether the licence may have been obtained in a different name. This reasoning remains the same in this case.
7. For disclosure to constitute an actionable breach of confidence the information must have the necessary quality of confidence, have been communicated in circumstances importing an obligation of confidence and the disclosure of such information would cause a detriment to any party.
8. The previous decision concluded the information would have the necessary quality of confidence and be more than trivial for reasons the Commissioner does not intend to repeat here.
9. Similarly the earlier decision notice found that information provided in a driving license application is communicated in circumstances importing an obligation of confidence. Again, the Commissioner is not repeating these arguments here.
10. The issue in the previous decision was whether there could be an actionable breach of confidence by simply confirming or denying if the information was held – a position the Commissioner accepted in relation to potential damage to the estate of the deceased but not to the argument that it would damage the trust the public place in the DVLA. In this case the Commissioner is more minded to accept that as the issue at hand is disclosure of the information, the DVLA's arguments about erosion of public trust carry more weight as there is an implicit duty of confidence surrounding information provided as part of the

driving licence application process. Therefore the Commissioner considers the exemption is engaged.

11. Turning to the public interest test, again the arguments from both parties remain largely the same as in the previous decision.
12. The Commissioner places significance on the common law duty of confidence and the assumption that the confidence should be maintained unless the public interest in disclosure is exceptional. In the earlier case the fact the Commissioner did not accept confirming or denying if the information was held could impact on the public's trust in the DVLA was a deciding factor. In this case, the Commissioner accepts this argument as the issue is now to do with disclosing the information that is held and there is a real possibility that disclosing details obtained during a licence application process could undermine public trust in the DVLA.
13. The Commissioner echoes comments in his previous decision that disclosure may help to build a picture of how UK authorities dealt with Elaine Parent and there is public interest in the story. However, some of this public interest is met in the confirmation that the DVLA has the requested information. The DVLA is aware that there is an assertion that the information relates to a false identity but it argues it is not able to establish whether this is in fact the case. Taking this into account and the inherent public interest in preserving the principle of confidentiality, specifically where it relates to information obtained in a process that carries an assumption of confidentiality, the Commissioner considers the balance of the public interest lies in withholding the information.
14. Therefore, the Commissioner concludes that section 41(1) provides a basis for withholding the requested information.

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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
Senior Case Officer
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SK9 5AF