

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 January 2023

Public Authority: Driver and Vehicle Licensing Agency
(Department for Transport)

Address: Longview Road
Morrison
Swansea SA6 7JL

Decision

1. The Commissioner's decision is that the Driver and Vehicle Licensing Agency (DVLA) has correctly applied section 31 of FOIA (law enforcement) to a request for blank letter templates. DVLA now intends to disclose one document it had previously withheld and so breached section 10(1) in that regard as it did not communicate this information within 20 working days of the request.

Request and response

2. The complainant made the following information request to the Driver and Vehicle Licensing Agency (DVLA) on 19 October 2022:

"In reference to the Re-use of Public Sector Information Regulations 2015

Please could you provide me with the following:

A copy of the current INF32 leaflet which is attached to a clamped vehicle.

A copy of the late licensing penalty (LLP) letter served in respect of 'Being the registered keeper of an untaxed vehicle' offences.

A copy of the out of court settlement (OCS) letter served in respect of 'Using an untaxed vehicle on a public road without a SORN' offences.

A copy of the out of court settlement (OCS) letter served in respect of 'Using an untaxed vehicle on a public road with a SORN in force' offences.

A copy of the out of court settlement (OCS) letter served in respect of 'Keeping an untaxed vehicle' offences.

A copy of the out of court settlement (OCS) letter served in respect of 'Enforcement of registration' offences.

A copy of the fixed penalty notice (FPN) served in respect of 'Enforcement of vehicle insurance' offences.

And also provide copies of any other documents which would be enclosed with the documents and copies of any follow-up letters that would be sent."

3. DVLA's final position was to withhold the requested information under sections 31(1)(a) and 31(1)(d) of FOIA.

Reasons for decision

4. In its submission to the Commissioner, DVLA has said that on reconsideration, one document it withheld can be disclosed and it intends to provide this to the complainant. Under section 10(1) of FOIA a public authority must communicate information, if it is not exempt information, within 20 working days of the request for it. DVLA has therefore breached section 10(1) with regards to the document it now intends to disclose.
5. DVLA maintains its reliance on section 31 in respect of the remaining information in scope. This reasoning therefore focusses on DVLA's application of section 31 of FOIA to the remainder of the information relevant to the complainant's request.
6. Sections 31(1)(a) and 31(1)(d) of FOIA allow a public authority to withhold information that would make it more difficult for law enforcement bodies to prevent or detect crime, or to assess or collect tax or duty.
7. With regard to section 31(1)(a), DVLA has explained that it considers that releasing into the public domain the full suite of blank template vehicle excise duty (VED) and insurance enforcement letters, accessible

electronically in bulk, would be likely to prejudice its ability to prevent and detect crime and negatively impact its ability to collect VED. DVLA considers that releasing the information in scope is likely to assist motivated individuals to disrupt the collection of VED and is also likely to result in vehicle keepers being more vulnerable to fraud.

8. As a government agency, DVLA says it has a responsibility to ensure that one of its key statutory functions - collecting VED - is not disrupted and that it does not disclose information that would make it easier for fraudulent activity to take place.
9. DVLA says it is already aware of a number of "scam" websites which, for example, falsely ask drivers to verify their driving licence details, offer VED refunds or highlight a failed VED payment. These websites ask for personal information, including bank details, by asking the recipient to click on a link. DVLA understands that by clicking this link, malware could be downloaded onto a person's device. It is widely reported that scammers can put malware inside hyperlinks that are automatically downloaded without the user knowing. This malware can steal bank details or other personal information. This fraudulent activity is growing, as explained on the GOV.UK website. DVLA has provided the Commissioner with several links to press coverage of this matter.
10. DVLA is also very aware of the impact that scam websites and fraudulent letters or text messages can have on consumers. It has proactively issued its own information and advice on this matter.
11. While appreciating that the letters requested will have been issued to many individual vehicle keepers as part of its enforcement activities, DVLA says these letters would have been sent out separately to specific customers to address issues arising in their particular, personal circumstances. DVLA considers it is very unlikely that any one individual would possess the full suite of letters.
12. Additionally, the letters would have been sent in hard copy rather than electronically and would have been populated with individual customer information. The letters would not have been sent out as blank templates and are therefore not currently accessible electronically in one place as a comprehensive suite of documents.
13. Issuing the full set of letters as blank electronic pdf templates would make it easier for someone to manipulate the templates and use them to create 'scam' letters. As can be seen from the press coverage, this would make it easier for motivated individuals to attempt to trick members of the public into divulging their personal details and banking information, to make payments via fraudulent websites or make expensive calls to false premium rate telephone lines.

14. A number of the template letters encourage recipients to settle their penalties by visiting specific websites and entering their case reference details. Using the information disclosed under FOIA, counterfeit letters could very easily be created, directing unsuspecting individuals to spoof web sites to pay false fines directly to criminals.
15. The possibly large-scale production and deployment of convincing false enforcement letters is also likely to erode public trust in the DVLA and may cause motorists to ignore genuine correspondence from it. If the public came to mistrust or ignore genuine DVLA letters, individuals could inadvertently fail to comply with their legal responsibilities and become subject to enforcement action.
16. If released, the template letters would become universally available to enable fraudulent use, rather than for their intended purpose. Protecting against this threat is particularly important now at a time when fraudulent activity is known to be increasing. At the same time, DVLA says it is seeking to build customer confidence and increase take-up of its expanding range of digital services while making greater use of digital channels to communicate with customers.
17. With regard to section 31(1)(d), DVLA has explained that it collects around £7 billion in VED every year on behalf of HM Treasury.
18. It considers that releasing the template letters requested would impact on DVLA's ability to collect this key source of government revenue and potentially expose customers to further enforcement action by causing confusion among the public. As already mentioned, this is also at a time when DVLA is increasing its communications with customers by email/online in terms of VED collection and enforcement.
19. Disrupting DVLA's move to more online/email communications would dilute the benefits in efficient performance of government functions and would be contrary to the public interest.
20. Conversely, DVLA says, it does not consider that there is any public interest in releasing the blank template letters in scope of the request. Appropriate information explaining the DVLA's overall enforcement processes is already publicly available GOV.UK. More specific information is provided to vehicle keepers as needed and in line with their individual circumstances.
21. Issuing the full suite of letter templates, out of context, is likely to cause confusion were they to be published online, for example on 'WhatDoTheyKnow' or a similar website.

22. Another significant concern DVLA has is based on a possible increase in VED evasion. Given the content of the suite of letters, which reveal more about its enforcement processes and timings of its enforcement action, vehicle keepers may be tempted to delay taxing their vehicle. DVLA says it already sees many instances where there are one-month gaps in vehicle licensing before a registered keeper pays the VED due.
23. While one-month gaps are sometimes caused by forgetfulness, DVLA's experience shows very clearly that more deliberate evaders do actively seek ways to avoid properly paying their VED on time.
24. Releasing the template letters in bulk will enable those who wish to evade paying VED the ability to compare its enforcement reminders. DVLA has discussed some of the letters in scope of the request and explained how they could be used to evade or delay taxing a vehicle and frustrate DVLA's enforcement process. The Commissioner does not intend to reproduce that discussion here.
25. DVLA concludes by saying that effectively publishing information that makes it easier to know with greater certainty the steps that DVLA's enforcement process follows is likely to encourage more evaders to take the chance. The potential for such non-compliance to grow is a very real threat, especially given the current cost of living crisis. Given the £7 billion in revenue collected from the keepers of 40 million UK-registered vehicles, DVLA notes that even a very small increase in non-compliance would result in significant financial loss to the government.
26. The Commissioner accepts DVLA's reasoning which he considers is clearly explained and to which he has nothing to add. The Commissioner is satisfied that disclosing the full suite of electronic letter templates would be likely to prejudice the prevention and detection of crime and make it more difficult for DVLA to assess and collect tax. His decision is therefore that section 31(1) is engaged.
27. Regarding the public interest, the Commissioner agrees with DVLA that there is little wider public interest in the letter templates; the complainant has certainly not put forward any arguments for the information's disclosure. There is far greater public interest in the risk of crime and fraud against members of the public being reduced; in DVLA's collection of vehicle tax not being frustrated and in DVLA being able to maintain and grow public confidence in its services. The Commissioner is satisfied that there is greater public interest in this case in withholding the information to which section 31 of FOIA is engaged.

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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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