

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 17 July 2024

**Public Authority:** Driver and Vehicle Licensing Agency (DVLA)  
**Address:** Longview Road  
Morrison, Swansea, SA6 7JL

#### **Decision (including any steps ordered)**

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1. The complainant has requested DVLA to disclose the number of drivers in the past five years who have contacted it to inform it of an inability to drive due to hepatic encephalopathy or after an alcohol withdrawal seizure. They also asked how many accidents were attributed to the driver suffering such conditions. DVLA refused to comply with the first element of the request in accordance with section 12 of FOIA. With regards to the second element, DVLA advised that it does not hold this information.
2. The Commissioner's decision is that DVLA is entitled to refuse to comply with the first element of the request under section 12 of FOIA. In relation to the second element of the request, the Commissioner is satisfied that, on the balance of probabilities, DVLA does not hold the requested information. The Commissioner has however recorded a breach of section 16 of FOIA.
3. The Commissioner does not require any further steps to be taken.

#### **Request and response**

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4. On 17 September 2023, the complainant wrote to DVLA and requested information in the following terms:

"I am writing to request information related to the number of drivers in the past 5 years who have contacted the DVLA to inform yourselves about their inability due to drive due to hepatic encephalopathy or after an alcohol withdrawal seizure

Connected with this, I would also like to know how many accidents in the corresponding time frame were attributed to the driver suffering from said conditions."

5. DVLA responded on 5 October 2023. With regards to the first element of the request, it refused to comply with the request citing section 12 of FOIA. Regarding the second element of the request, DVLA confirmed that it does not hold the requested information.
6. The complainant requested an internal review on 2 November 2023.
7. As the complainant received no response, they referred the matter to the Commissioner on 8 February 2024.

### **Scope of the case**

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8. The Commissioner accepted the complaint for full investigation, without the benefit of DVLA's internal review response on 26 February 2024. The complainant disputes DVLA's application of section 12 of FOIA. They believe DVLA should comply with the request because they are of the view that the number of people contacting DVLA with this health condition is low and therefore it is a public health issue.
9. The Commissioner considers that the scope of his investigation is to establish whether or not DVLA is entitled to rely on section 12 of FOIA. He will also consider whether on the balance of probabilities DVLA holds any recorded information falling within the scope of the second element of the complainant's request.

### **Reasons for decision**

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#### **Section 12 of FOIA – cost limit**

10. This reasoning covers whether DVLA is entitled to rely on section 12(1) of FOIA to refuse the request and whether there was any breach of section 16(1).
11. Section 12 of FOIA concerns the cost of complying with a request. More detail about FOIA section 12 can be found in the Commissioner's ['Decision notice support materials'](#). To confirm, for DVLA the cost limit is

24 hours of work or £600, as it is part of a central government department.

12. In cases where it's relying on section 12, under section 16(1) of FOIA if it's reasonable to do so, a public authority should offer an applicant advice and assistance to help them refine their request.
13. DVLA explained that once it receives a notification that an applicant for a new driving licence or an existing licence holder has a medical condition, or perhaps more than one condition, a new case is opened on the casework system by one of its medical caseworkers. It said that the caseworker will select from a pre-determined list of medical conditions how to categorise the case. DVLA confirmed that given the range and complexity of many of the medical conditions, the list is not exhaustive and will not cover every condition.
14. DVLA stated to illustrate this point, the medical condition requested, hepatic encephalopathy, is not a medical condition that can be selected when a case is opened, or when a new condition is declared by an existing licence holder/third party. It confirmed that an image of the notification or paperwork is then scanned onto the casework system for the medical caseworker/doctor to review. It stated that a complex medical case can contain hundreds of paper images.
15. DVLA advised that it can run scans against its casework system to provide statistics to answer FOIA requests, however, any images that are scanned onto the system which will contain more detailed information, cannot be searched against, and extracted via a scan. It commented that a caseworker will need to interrogate each case to determine if for example, a licence holder has a medical condition(s), that fall outside the pre-determined list, as described above.
16. DVLA conducted a sampling exercise. It stated that over the past five years, there were 11,748 licence holders that notified DVLA of an alcohol withdrawal seizure. In order to determine the number of these licence holders that informed DVLA of their inability to drive due to hepatic encephalopathy would require a case by case analysis.
17. DVLA stated that on average a medical case takes around 3 minutes to interrogate (searching through images on the casework system) and it would have to keep a tally of any cases that contain the medical condition requested. Based on this estimate, it confirmed that it would be able to search around 20 cases per hour and over a 24 hour period it could review 480.
18. Additionally, it said that it should be noted that further work may be needed when reviewing complex medical cases. For example, it said a

DVLA doctor may need to review the paperwork to determine whether or not hepatic encephalopathy resulted in a licence holder's entitlement being revoked.

19. DVLA confirmed that given the above, it is quite clear that compliance with the request would well exceed the cost limit and therefore section 12 of FOIA applies.
20. The Commissioner is satisfied that DVLA has explained in detail why it would exceed the appropriate limit by a considerable margin if it were to comply with the request. It has explained how the information is held and what would be involved in order to locate, retrieve and extract the requested information. It has also confirmed exactly how many records it would have to go through and how in some cases due to the complexity of medical cases, it may need to consult a DVLA doctor in order to establish if it is a case that falls within the scope of the request or not.
21. DVLA has provided a realistic estimate of the time it would take and demonstrated how it could only realistically review 480 of the 11,748 records within 24 hours.
22. For the above reasons the Commissioner is satisfied that section 12 of FOIA applies.
23. The Commissioner notes that the complainant believes DVLA should comply with the request, as they believe the notification rate is low and therefore this is a public health issue. However, this is not something that can be taken into account when considering section 12 of FOIA. There is no public interest test. If a public authority can demonstrate that the cost to comply will exceed the cost limit, it is entitled to rely on this exemption.

### **Section 16 – advice and assistance**

24. Section 12 triggers the duty to provide advice and assistance to enable an applicant to frame a new request which could be considered under the cost limit, unless this is not possible. In cases where the public authority feels that there is no reasonable or practical advice and assistance that can be provided, it is still required to inform the applicant of this.
25. DVLA confirmed that it considers it has provided appropriate advice and assistance, as it provided the following information in its refusal notice to the complainant:

“In line with our duty under section 16 of the FOIA to provide advice and assistance, the information that can be provided shows that over the

past five calendar years, 11,748 licence holders notified the DVLA having experienced an alcohol withdrawal seizure. This is inclusive of both Group 1 (car/motorcycle) and Group 2 (bus/lorry), and is correct as of 2 October 2023”

26. The Commissioner does not consider this paragraph meets the requirements of section 16 of FOIA. Given the scale of the request and the very few records that could be reviewed within the cost limit, he considers DVLA should have informed the complainant that it was unable to provide any reasonable advice and assistance, which would allow them to refine their request so that it could be considered within the cost limit. This could then have been supported by providing the complainant with the cost estimate detailed above in paragraphs 16 and 17. Because it failed to do this, the Commissioner has recorded a breach of section 16.
27. The Commissioner does not however require any further steps to be taken.

### **Section 1 – right of access**

28. With regards to the second element of the request, DVLA advised the complainant that it does not hold this information.
29. In its submissions to the Commissioner, the DVLA confirmed that its primary responsibilities are to maintain accurate records for the 50 million drivers in the UK and more than 40 million vehicles across the country. It is also responsible for the collection and enforcement of Vehicle Excise Duty.
30. DVLA advised that there is no statutory obligation upon the DVLA to collect road accident statistics, nor is there any business need to do so. It therefore knows with confidence that it will not hold this information and therefore carried out no searches for this element of the request.
31. The Commissioner is satisfied that on the balance of probabilities DVLA does not hold this information. DVLA has explained what its main responsibilities are and how it has no statutory obligation to collate this information. It will therefore not hold it. The Commissioner has received no evidence to the contrary and has no reason to doubt the validity of DVLA’s position.

### **Other matters**

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32. The Section 45 Code of Practice advises public authorities to carry out internal reviews within 20 working days of receipt and certainly no later

than 40 working days from receipt. The additional 20 working days should only be used in the most complex and voluminous requests.

33. It is noted that this complaint was accepted for full investigation without the internal review being completed. The Commissioner has made a note of this for future monitoring purposes and recommends that DVLA recognises the importance of completing internal reviews in a timely manner and looks to ensure that it does so in the future.

## **Right of appeal**

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34. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

35. 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.
36. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Samantha Coward**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
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