

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 November 2016

Public Authority: Driver & Vehicle Licensing Agency
Address: Longview Road
Morrison
Swansea SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested information about vehicles and households within a particular Nottingham postcode area. Driver & Vehicle Licensing Agency (DVLA) released to the complainant information that it holds that falls within the scope of his request. DVLA has disputed that it holds the specific information requested and says that if it were to be found that it *does* hold the information, it is not obliged to comply with the request under section 12(1) of the FOIA (cost exceeds the appropriate limit). The complainant disputes both these points.
2. The Commissioner's decision is that DVLA does hold the specific information requested but that it is not required to comply with the request under section 12(1) of the FOIA.
3. The Commissioner considers that DVLA met its obligation under section 16(1) of the FOIA to provide advice and assistance.
4. The Commissioner does not require DVLA to take any steps.

Request and response

5. On 20 March 2016, the complainant wrote to DVLA and requested information in the following terms:
 - “1. The number of vehicles (excluding two wheeled) registered and currently taxed in each of the Nottingham postcodes beginning with NG3.*
 - 2. The number of households in each of the Nottingham postcodes beginning with NG3 where more than one vehicle, (again excluding two wheeled) is registered and currently taxed.”*
6. DVLA responded on 8 April 2016. With regard to part 1 of the request, it said that this information is held and maintained by the Department for Transport (DfT). DVLA provided the complainant with information on numbers of vehicles licenced by the 'NG3' postcode element, and other broad 'NG' postcodes, which DfT has published.
7. With regard to part 2 of the request, DVLA said it does not hold information on the number of vehicles registered to each household. It referred the complainant to the above information, for which DfT is responsible.
8. Following an internal review DVLA wrote to the complainant on 31 May 2016. It explained its relationship with DfT and how the FOIA operates including the fact that the Act does not require a public authority to create data/information in order to respond to a request. DVLA said that **if** the complainant was seeking information by individual postcodes, then it does not hold this information. Moreover, DVLA said that if it was to extract information by individual postcodes, then it is likely that this information would be exempt from disclosure under section 40(2) of the FOIA (third person personal data) as it may lead to individuals being identified.
9. With regard to part 2 of the request, DVLA confirmed that it does not hold vehicle data by individual postcodes. It said that while a vehicle record would hold the address of the registered keeper, detailed analysis of vehicles registered to individual postcodes has not been conducted. DVLA considered to do this would be the creation of new data and confirmed the FOIA does not require authorities to create new data/information in order to respond to a request. It said that some general analysis of vehicles registered to postcodes had been conducted and that this was the information it had provided to the complainant on 8 April 2016.
10. DVLA confirmed that the information it had provided to the complainant is all the information held by DVLA within the scope of the two parts of his request. It said that providing additional information over and above

what it had provided would require further scrutiny and analysis of DVLA's database ie would be creating new data just to respond to the complainant's request.

Scope of the case

11. The complainant contacted the Commissioner on 22 June 2016 to complain about the way his request for information had been handled. The complainant disputes that new data would have to be created to respond to his request. He considered that the request would simply necessitate creating a 'view' of existing data. The complainant also does not agree that it would exceed the cost limit to comply with the request.
12. The Commissioner's investigation has focussed on whether DVLA holds the information the complainant has requested, for the purposes of section 1(1) of the FOIA. If necessary, she has been prepared to consider whether section 12(1) (cost/time exceeds appropriate limit) would apply to the request and whether DVLA has met its obligation under section 16(1).

Reasons for decision

Section 1 – general right of access to information held by public authorities

13. Section 1(1) of the FOIA says that anyone requesting information from a public authority is entitled (a) to be informed whether the authority holds the requested information and (b) if it does, to have that information communicated to him or her.
14. DVLA's position is that it has released all the relevant information it holds within the scope of the request. In its internal review DVLA responded to a suggestion from the complainant that DVLA could simply query the data it *does* hold in order to provide a response. DVLA told the complainant that doing this would result in the creation of new information.
15. During her investigation, the complainant referred to DVLA's point regarding part 1 of this request. DVLA had confirmed that it does not hold this information but went on to say that, notwithstanding this, extracting individual postcode information could lead to individuals being identified so that it is likely such information would be exempt from disclosure under section 40(2) of the FOIA. This appears to have

suggested to the complainant that DVLA *does* in fact hold this particular information.

16. With regard to part 1 of the request, DVLA has confirmed to the Commissioner that it does not hold information by individual postcodes. It had provided information to the complainant that, although more general, it considered he might find useful. This information is held and published by DfT.
17. DVLA has clarified that when, in its internal review, it had discussed the likelihood of information being exempt under section 40(2); this was a general comment in view of the complainant's claim that the information with which he had been provided in response to this part was too general.
18. In his submissions to the Commissioner, the complainant has argued that new data would not have to be created to respond his request and that it is simply a case of viewing existing data. This is because a vehicle record would hold details of the vehicle's registered keeper's address (including the postcode).
19. The complainant has told the Commissioner that the number of postcodes involved is minimal and that two simple scans would recover all the data he is requesting. He says that, as someone with many years of corporate IT experience, his view is that the queries he requires do not require a high level of expertise to generate and would only take a few minutes to run – such a scan could be achieved over one lunchtime.
20. DVLA has told the Commissioner that its database of some 40 million vehicles registered in the UK is accessed, maintained and interrogated by a vehicle's unique Vehicle Identification Number (VIN) or Vehicle Registration Number. DVLA says that there is no requirement or business need to record or access details using details of the registered keeper or by specific postcodes.
21. DVLA maintains the database of vehicles registered, not the number of households to which they may be registered. It has confirmed that it is not possible to enter a specific postcode and then obtain the number of vehicles registered to that postcode. DVLA has confirmed that there is no business need for this capability.
22. Because no list of households to which vehicles are registered is readily available, DVLA argues that it would have to create the information that has been requested. This would involve first carrying out a bespoke scan of its vehicle database. DVLA considers that, because of the way data is held, the skill and judgement then needed to provide the

relevant information following the scan would result in the creation of new data.

23. The Commissioner has referred to her guidance on determining whether information is held¹. Paragraph 12 of the guidance discusses a specific example and concludes that extracting relevant information (the individual building blocks) and presenting it in a new way is not the creation of new information.
24. Paragraph 19 goes on to say that when information is held in electronic files and can be retrieved and manipulated using query tools or language within the software, that information is held for the purpose of the FOIA. The use of query tools or languages does not involve the creation of new information. Their use should be viewed simply as the means of retrieving information that already exists electronically.
25. The guidance goes on to explain that the degree of skill and judgement needed to extract and present, or summarise, information in order to respond to a request, will have a bearing on whether information is held. If answering a request involves exercising sophisticated judgement, the information will not be held. But if only a reasonable level of judgement is needed to identify the relevant building blocks, or manipulate those blocks, then the information will be held.
26. DVLA has argued that the skill and judgment needed to extract the requested information is such that it deems that information as 'not held'. The Commissioner disagrees with DVLA. She considers that the process of extracting the information does require a degree of judgment but that this is of a quantitative and factual nature and not of a qualitative nature. Judging information qualitatively is a sophisticated process; judging information quantitatively is more straightforward. That is not to say, however, that the extraction process, discussed below, would not be laborious.
27. The Commissioner notes that DVLA has released to the complainant the more general information it holds that was produced by DfT. With regard to the specific information that has been requested, the Commissioner is satisfied that DVLA can also be said to hold this information, under section 1(1) of the FOIA. However, she has gone on to consider whether complying with the specifics of the request would exceed the appropriate limit under section 12(1) of the Act.

¹ https://ico.org.uk/media/for-organisations/documents/1169/determining_whether_information_is_held_foi_eir.pdf

Section 12 – appropriate cost/time limit

28. Section 12(1) of the FOIA allows a public authority to refuse to deal with a request where it estimates that it would exceed the appropriate limit to:
- either comply with the request in its entirety, or
 - confirm or deny whether the requested information is held.
29. 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; 18 hours work in accordance with the appropriate limit of £450 set out above, which is the limit applicable to DVLA. If an authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken to:
- (a) determine whether it holds the information
 - (b) locate the information, or a document which may contain the information
 - (c) retrieve the information, or a document which may contain the information, and
 - (d) extract the information from a document containing it.
30. In line with section 16(1) of the FOIA, where a public authority claims that section 12(1) of the FOIA is engaged it should, where reasonable, provide advice and assistance to help the requester refine the request so that it can be dealt with under the appropriate limit.
31. DVLA has referred the Commissioner to some of her decisions in separate DVLA cases that also concerned undertaking a bespoke scan of its database: FS50345801, FS50544618 and FS50628411; and to the Information Tribunal's appeal decision in EA/2014/0212. In these cases it was agreed that carrying out a bespoke scan would exceed the appropriate limit and that DVLA was not obliged to comply with these requests.
32. The complainant has told the Commissioner that the number of postcodes involved is minimal. The Commissioner notes that in his request for an internal review, the complainant told DVLA that the figures he had received were "far too general" but did not go on to explain what specific information he was seeking. Consequently the Commissioner understands that the complainant is seeking information on all the postcodes beginning 'NG3'. The Commissioner understands

that the number of postcodes beginning 'NG3' is not minimal but may be over 1,300 separate postcodes (see paragraph 35.)

33. As discussed above, DVLA has explained that its vehicle database was not designed to generate management information. It was designed to hold details of vehicles. Information about a particular vehicle, which would include the vehicles registered keeper, is accessed by entering a vehicle's VIN into the database. DVLA has confirmed to the Commissioner that in the absence of the complainant providing specific postcodes, it would have to undertake a bespoke scan of its database to extract all the vehicles registered where NG3 is contained in the first part of the full postcode. The Commissioner's previous decisions and the Information Tribunal have found that carrying out the bespoke scan would exceed the cost limit.
34. DVLA has explained that even if the scan were possible within cost, it would then need to carry out further work as the scan would only produce a list of vehicles registered to an individual postcode. DVLA has confirmed to the Commissioner that the list would comprise over 18,000 vehicles. (DVLA has derived this figure from the work DfT had carried out; information about which it has provided to the complainant.) DVLA says it would take a manual interrogation of the results to then break the information down to individual households. This is because one postcode can cover a number of households, often a large number of households.
35. It would then be necessary to consider whether a household has more than one vehicle registered to it. DVLA estimates that this part of the process would itself exceed the cost limit. This is because, from the information it has provided to the complainant, 18,200 vehicles (excluding motorcycles) were registered in the NG3 area at the end of 2014. DVLA says a quick Google search indicates that there are potentially over 1,300 postcodes starting with NG3.
36. The Commissioner agrees with DVLA that, given the purpose for which the database was created and the number of vehicles and postcodes involved, extracting the requested information - which would have to be done manually - would not be possible within a one or two hour lunch break period. The Commissioner considers that, as in her previous decisions, to carry out the scan and to then drill down to extract information relating to individual households would take longer than the 18 hour (£450 cost) provision under section 12(1) of the FOIA. Consequently, she is satisfied that DVLA is not obliged to comply with this request.

Section 16 – advice and assistance

37. In its submission, DVLA has not referred to its obligation under section 16(1) of the FOIA to offer advice and assistance. In FS50628411 DVLA had told the Commissioner that it considered that that request had been specific. It explained that it would have been difficult to suggest how the request might have been narrowed. It had said that if it had done so, any information would have fallen considerably short of what the complainant was seeking. Even if the request had been narrowed considerably, DVLA had said that it would have made no difference because a scan of the vehicle database would still have been necessary, and to do this would exceed the cost limit.
38. The Commissioner considers a similar situation exists in this case. The complainant has requested specific information, ie information relating to all postcodes beginning 'NG3', and it is difficult to see how the request could be narrowed down to 2 or 3 full postcodes without the result falling short of what the complainant is apparently seeking. Consequently the Commissioner finds that there has been no breach of section 16(1) in DVLA's handling of this request.

Right of appeal

39. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

40. 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.
41. 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF