

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2017

Public Authority: Driver and Vehicle Licensing Agency

Address: Longview Road
Morrison
Swansea SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested information about a department of the Driver and Vehicle Licensing Agency (DVLA). DVLA released some information and has withheld the remainder which it says is exempt from release under section 40(2) of the FOIA because it is the personal data of third persons.
2. The Commissioner's decision is that the withheld information is the personal data of third persons and exempt from release under section 40(2).
3. The Commissioner does not require DVLA to take any steps to ensure compliance with the legislation.

Request and response

4. On 23 June 2017, the complainant wrote to DVLA and requested information in the following terms:

"I would now like the following:-

- 1. The full contact details of the Vehicle Services Department including email addresses, phone numbers etc. The name of the head of this department would also be very useful."*
5. DVLA responded on 17 July 2017. It released some information within the scope of the request; namely the name of the Vehicle Services Manager (Rohan Gye). DVLA explained that it was unable to provide the complainant with direct contact details of the rest of the department in question as this was the personal data of third persons and so exempt from release under section 40(2) of the FOIA.
 6. DVLA provided a review on 28 July 2017. It maintained its position.
 7. In later correspondence dated 8 August 2017, the complainant told DVLA that the name of the Vehicle Services Manager alone was not helpful. (The Commissioner has noted that in his request the complainant had only asked for the name of the head of the department – which is the Vehicle Services Manager in this case.) In this same correspondence the complainant went on to request the telephone number of the Vehicle Services Manager. DVLA confirmed that it would not disclose direct contact details and the matter was referred to the Commissioner.

Scope of the case

8. The complainant contacted the Commissioner on 28 July 2017 to complain about the way his request for information had been handled.
9. The Commissioner's investigation has focussed on whether DVLA is correct to apply section 40(2) to the information it is withholding.

Reasons for decision

10. Section 40(2) of the FOIA says that information is exempt from disclosure if it is the personal data of third persons, ie someone other than the requester, and the conditions under either section 40(3)(a) or 40(4) are also satisfied.
11. The Commissioner has therefore first considered whether the information DVLA has withheld is the personal data of third parties.
Is the information personal data?
12. The Data Protection Act (DPA) says that for data to constitute personal

data it must relate to a living individual and that individual must be identifiable.

13. The information withheld in this case is the full contact details of staff within a particular DVLA department including the telephone number of the head of this department. The name of the department head has been released to the complainant. The Commissioner understands 'full contact details' to include the names of the remaining members of the department as well as their email addresses and telephone numbers.
14. The Commissioner is satisfied that this information relates to living individuals and that the individuals can be identified from it. The Commissioner is therefore satisfied that the withheld information is the personal data of third persons. The Commissioner has gone on to consider whether any of the conditions under section 40(3) have been met.

Would disclosure breach one of the conditions under section 40(3)?

15. Section 40(3)(a) of the FOIA says that personal data of third persons is exempt from disclosure if disclosing it would contravene one of the data protection principles or would cause damage or distress and so breach section 10 of the DPA.
16. The Commissioner has considered whether disclosing the information would breach the first data protection principle: that personal data 'shall be processed fairly and lawfully...'
17. When considering whether disclosure would be unfair, and so breach the first principle, the Commissioner takes three factors into account:
 - Has the individual concerned (the data subject) given their consent to disclosure?
 - What reasonable expectation does the individual have about what will happen to their personal data?
 - What might be the likely consequences resulting from disclosure
18. Assessing fairness however, also involves balancing the individual's rights and freedoms against the legitimate interest in disclosure to the public. It may still be fair to disclose the information if there is an overriding legitimate interest in doing so. The Commissioner has therefore finally considered these interests.
19. With regard to the first of the three points at paragraph 17, DVLA has not confirmed whether or not the staff in the department in question

have given their consent to the release of their personal data. In the circumstances the Commissioner considers it likely that they have not.

20. With regard to the staff members' reasonable expectations, DVLA says that its general policy is that staff below a certain grade will have a general expectation of privacy and an expectation that their names are not disclosed into the public domain in response to a FOI request. For that reason, DVLA says it considered it appropriate to disclose just the name of the Vehicle Services Manager (Rohan Gye) rather than all those within his department.
21. DVLA says that the Vehicle Services department is not a customer facing area but is focussed on improving and delivering DVLA services by collaborating across all relevant DVLA business areas. While working to develop services to meet the needs of DVLA customers, the department does not have regular direct customer contact in a way that its complaints team or customer contact centre would.
22. On the basis of DVLA's submission, the Commissioner is satisfied that the staff in DVLA's Vehicle Services department, including the Vehicle Services Manager, would have the reasonable expectation that their personal data would not be disclosed to the wider world; this despite the request being for the staff members' professional contact details and not their personal contact details.
23. With regard to the third of the points at paragraph 17, DVLA has told the Commissioner that, in the past, it has experienced a number of individuals who have harassed it by dialling the first two common digits in DVLA telephone numbers before randomly choosing the four remaining digits, hoping for a connection. Each individual would seek access to DVLA to vent their grievances, regardless of who was at the other end of the phone line.
24. DVLA says that to put the direct contact details of Mr Gye and the department into the public domain (via the 'Whatdotheyknow' website, through which the request was submitted) would only provide additional scope to those individuals who wish to continue their practice of harassing DVLA staff.
25. The Commissioner is prepared to accept that a possible consequence of disclosing staff members' personal data is that these individuals could be harassed by those with a grievance against the DVLA, which would be likely to cause those staff members a degree of distress.
26. Despite the factors above, the requested information may still be disclosed if there is compelling public interest in doing so that would outweigh the legitimate interests of the data subjects.

27. The complainant has queried why the police have to release their personal data on request and has told the Commissioner that all public servants are required to release this information on request. This is not the case – all public servants are not required to release their personal data in response to a FOI request. While the withheld information may be of interest to the complainant, the Commissioner does not consider it to have any wider public interest such that it outweighs legitimate interests of the data subjects; that is the staff in the Vehicle Services department. (The Commissioner notes that, in the interest of customer service, DVLA has subsequently offered the complainant its generic email address as a means by which the complainant can put his query to Mr Gye.)
28. The Commissioner is therefore satisfied that DVLA is correct to withhold the information in question under section 40(2). It is the personal data of third persons and a condition under section 40(3) is satisfied because releasing it would breach the first data protection principle. Since a condition under section 40(3) has been met, it has not been necessary to consider the condition under section 40(4).

Right of appeal

29. 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

30. 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.
31. 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
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