

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 May 2018

Public Authority: Driver and Vehicle Licensing Agency

Address: Longview Road
Morrison
Swansea SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested from the Driver and Vehicle Licensing Agency (DVLA) its entire vehicle database. DVLA refused to comply with the request under section 12(1) of the FOIA as to do so would exceed the appropriate cost limit.
2. The Commissioner's decision is that section 12(1) releases the DVLA from its obligation to comply with the request as to do so would exceed the appropriate cost limit. The Commissioner has also decided that DVLA has not breached section 16(1)(advice and assistance) in its handling of this request.
3. The Commissioner does not require DVLA to take any steps in order to ensure compliance with the legislation.

Request and response

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

"Under the FOIA please provide the digital copy of the entire DVLA vehicle database in its state at the time of making the copy, ignoring potential data consistency issues."

Please redact any information which is exempt under FOIA preserving all existing relations between records ... Should such relations preservation be impossible please fulfil the FOI request ignoring this requirement."

5. DVLA responded on 14 July 2017, its reference FOIR6086. It refused to comply with the request under section 12(1) of the FOIA as it said the cost of complying with the request would exceed the appropriate limit of £600.
6. The complainant requested an internal review on 18 July 2017. DVLA provided a review on 20 September 2017. It upheld its original position, confirming that to comply with the request would take at least 30 hours and exceed the appropriate cost limit of £600. DVLA also discussed a relevant First Tier Tribunal (FTT) (Information Rights) decision (EA/2016/0268¹). In this decision the FTT upheld the Commissioner's decision in a separate complaint from the complainant that concerned DVLA's application of section 12 to a similar request (FS50628411²). DVLA noted that the current request is for more information than the complainant had asked for in the request that was the subject of the FTT decision.

Scope of the case

7. The complainant contacted the Commissioner on 19 October 2017 to complain about the way his request for information had been handled.
8. The Commissioner's investigation has focussed on whether DVLA is entitled to rely on section 12(1) of the FOIA to refuse to comply with the complainant's request, and whether or not it has breached section 16(1).

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[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2055/Matveyev,%20Pa%20EA-2016-0268%20\(25.09.17\)%20AMENDED%20DECISION.pdf](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2055/Matveyev,%20Pa%20EA-2016-0268%20(25.09.17)%20AMENDED%20DECISION.pdf)

² <https://ico.org.uk/media/action-weve-taken/decision-notice/2016/1625245/fs50628411.pdf>

Reasons for decision

Section 12 – cost exceeds the appropriate limit

9. 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 cost limit to comply with the request in its entirety.
10. 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; 24 hours work in accordance with the appropriate limit of £600 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:
 - determine whether it holds the information
 - locate the information, or a document which may contain the
 - information
 - retrieve the information, or a document which may contain the
 - information, and
 - extract the information from a document containing it.
11. 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, in line with section 16(1) of the FOIA.
12. In its submission to the Commissioner DVLA has noted that, in recent years, the complainant has submitted a number of complaints to the Commissioner and that these complaints concern his requests to DVLA that follow a similar theme; namely requests for extracts of DVLA's vehicle database (VSS) or details of VSS's design/schema.
13. DVLA has discussed the Commissioner's decision in FS50628411. FS50628411 concerned a request to DVLA from the complainant for various items of vehicle information; the Commissioner upheld DVLA's application of section 12(1) in that case. DVLA has also discussed the resulting FTT oral hearing in which the complainant's appeal was dismissed. The complainant's subsequent application to appeal the FTT decision was refused, as was his application to the Upper Tier Tribunal (UTT). The UTT had commented that the complainant's application had "*no merit whatsoever*".

14. As it has done in submissions associated with other of the complainant's complaints, DVLA explained that VSS holds the details of all vehicles registered (currently and previously) in the United Kingdom. Holding more than 110 million vehicle records (of which around 39 million are currently active), VSS is a large database containing a significant amount of data.
15. In FS50628411 the complainant had requested a specific extract of VSS. In the current case the complainant has requested the "*digital copy of the entire DVLA vehicle database*". The complainant has placed a condition on the current request, namely that DVLA should "*redact any information which is exempt under FOIA preserving all existing relations between records*". This particular matter – that is, a similar condition placed on a request - was discussed in a separate complaint that the complainant had submitted to the Commissioner – FS50688833³. In that case, the Commissioner had been doubtful that that particular request, as it had been expressed, was a valid request. However, as DVLA has noted, in the current request the complainant has gone on to add: "*Should such relations preservations be impossible please fulfil the FOIA request ignoring [the above mentioned] requirement.*" DVLA considered the request on that basis.
16. In its submission DVLA confirmed that it considers that the cost limit applies and provided the Commissioner with a copy of the estimate it produced at the time of the request. DVLA had estimated that the time to retrieve and extract information would be 30 hours which equates to £750 (£25 pph x 30 = £750), thereby exceeding the appropriate cost limit under section 12 of the FOIA of £600.
17. The estimate provided to the Commissioner gives a breakdown of each of the activities necessary to comply with the request along with the time it would take to carry out each activity. Activities include: 'Raise Small Change Request' (2 hours) , 'Perform Database extract' (3 hours), 'Develop SQL script to extract to CSV' (6 hours) and 'Format to requirements and despatch' (4 hours), with the estimated cumulative total hours being 30.
18. DVLA notes that the estimated time for redacting exempt information from VSS (other than the requirement stipulated by the complainant)

³ <https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2172945/fs50688833.pdf>

would be 72 hours. DVLA says it appreciates that redaction time cannot be taken into consideration when estimating the cost limit. However it says that taking three days of DVLA time away from its core business could be considered to be vexatious under section 14(1) of the FOIA.

19. DVLA says that the time estimate that it has provided (for retrieving and extracting the information) was produced by its witness at the FTT hearing. The FTT's decision referred to this witness's oral evidence during the hearing, stating that it probed the witness *"to a significant degree on every part of the estimate and as to the reasonableness of the estimate provided. On balance, we found his responses withstood the probing and were compelling, serious, sincere, patient and professional."*
20. DVLA has highlighted that, in its decision, the FTT said that the complainant *"seems to have requested a copy of a substantial amount of DVLA's database for his project. It seems more likely than not that such a request would be complex to comply with in the circumstances. [DVLA's witness] explained why the process to retrieve and extract the data was not simply about adding a line of code as the Appellant appeared to assume"*. DVLA has observed that in the current complaint, the complainant wants a digital copy of the *"entire"* vehicle database not just a substantial amount of the database.
21. In its submission, DVLA has noted that the UTT also commented on the evidence of DVLA's witness stating in its decision that the FTT had noted that the witness *"was not an IT expert but [someone] who had significant knowledge of the management of the DVLA IT system"* before accepting that the estimate the witness had put forward would exceed the cost limit. More importantly, according to DVLA, the UTT noted that the FTT *"accepted the estimate put forward on the basis that it was sensible, realistic, and supported by cogent evidence"* such that it would meet the test used in FTT case: *Randall v Information Commissioner EA/2007/0004*.
22. DVLA concluded its submission to the Commissioner by advising her that its cost estimate with regard to retrieving and extracting a digital copy of the entire VSS database has been provided by someone who both the FTT and UTT have found to be compelling and professional, and who has provided a cost estimate that is not perverse and which would meet the *Randall* test.
23. The Commissioner has reviewed her decision in FS50628411. In that case the complainant had requested a substantial extract of the VSS. The Commissioner found that DVLA could rely on section 12(1) with regard to that request; a decision that was upheld by the FTT, which found DVLA's cost estimate to be compelling. The current request is for

the digital copy of the *entire* VSS. The Commissioner understands that DVLA has not, in the interim, introduced any new, perhaps more efficient, systems that would enable the information to be retrieved and extracted more quickly than at the time of the previous request. She is therefore satisfied that to comply with the current request would also exceed the appropriate cost limit and DVLA is entitled to rely on section 12(1).

Section 16 – duty to provide advice and assistance

24. DVLA has not referred to section 16 in its submission to the Commissioner or in its communications to the complainant. However, section 16(1) places a duty on a public authority to offer an applicant advice and assistance *so far as it would be reasonable to expect the authority to do so*.
25. In FS50628411 the Commissioner found that DVLA had complied with section 16(1). She agreed that if DVLA had suggested to the complainant how the request might be narrowed so that it could be complied with within the cost limit, any information provided would have fallen considerably short of what the complainant was seeking. DVLA had also explained that even if the request was narrowed considerably, it would have made no difference because a scan of the vehicle record would still have been required, and carrying this out would have exceeded the cost limit. It was for those reasons that DVLA had not suggested that the complainant narrow his request.
26. The same circumstances apply here. In addition, given the background to this request – the complainant's previous requests to DVLA for similar information and his communications with DVLA, the Commissioner the FTT and UTT – the Commissioner considers that the complainant would have had sufficient understanding of the situation to enable him to have submitted a more refined request on 23 May 2017, if this had been possible. DVLA might also have assumed this. Nonetheless, in the Commissioner's view, in its communications to the complainant DVLA might still have referred to section 16(1) and confirmed that it was unable to provide advice and assistance for the same reasons as in FS50628411.
27. Notwithstanding this, the Commissioner has decided that DVLA has not breached section 16(1) of the FOIA as, in the circumstances of this case, it would not have been reasonable to expect DVLA to have offered the complainant advice and assistance on this occasion.

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@hmcts.gsi.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

Pamela Clements
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