

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 October 2016

**Public Authority:** Driver & Vehicle Licensing Agency  
(An executive agency of the Department for Transport)

**Address:** Longview Road  
Morrison  
Swansea  
SA99 1AW

#### Decision (including any steps ordered)

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1. The complainant requested information on the authority to release private data. Driver & Vehicle Licensing Agency (DVLA) confirmed that it did not hold the requested information. The complainant considered that more information must be held. The Commissioner's decision is that DVLA does not hold any further information in this case. The Commissioner does not require DVLA to take any steps.

#### Request and response

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2. On 15 May 2016 the complainant requested the following information:

*'We require signed copy of any documents from the (Lord Chancellor Department), the (Data Protection Commission) and the (Secretary of State) or any other (Government) department taking full commercial liability, that your corporation DVLA has the authority to sell and regulate any private data of the Trust without consent from the Trust.'*

*We also require verifiable proof that the DVLA can ask for a signed copy of any agreement from any private corporation to discharge private data about the trust regarding commercial matters without having a contract with said Trust.'*

3. On 1 June 2016 DVLA responded that the information requested '*is not held by DVLA*'. DVLA explained:

*'DVLA vehicle keeper data can be disclosed where the law allows. For example, Regulation 27 (1) (e) of the Road Vehicles (Registration and Licensing) Regulations 2002 provides for the release of information to those who can demonstrate reasonable cause for receiving it and does not require the consent of the data subject concerned.*

*DVLA discloses data in accordance with the provisions of the Data Protection Act. The Information Commissioner's Office is fully aware that data held on DVLA records can be disclosed where the law allows.'*

4. The complainant expressed dissatisfaction with this response on 15 June 2016. DVLA's attempts to explain it *'has any authority to sell private data at £2.50 to third parties, is the law has not been proven...we still require any authority the DVLA has to give our private data indiscriminately.'*

5. On 12 July 2016 DVLA sent the outcome of its internal review upholding the decision that the information was not held. DVLA explained:

*'The FOIA is a means for individuals to request and receive recorded information held by a public authority including DVLA. It is not a requirement of the FOIA for the Agency to explain or prove its position on a particular matter. DVLA is therefore content that the reply issued to you on the 1 June was correct in that the information you requested on the 15 May is not held.'*

## Scope of the case

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6. On 17 June 2016 the complainant contacted the Commissioner and after completion of the internal review on 12 July 2016, the case was accepted. The complainant informed the Commissioner on the telephone that he wants to know on what legal basis the DVLA are able to sell data to third parties.
7. The Commissioner has considered that the scope of the case is whether section 1 of FOIA was applied correctly by DVLA.

## Reasons for decision

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8. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.

9. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.
10. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
11. In its submission to the Commissioner, DVLA responded to the complainant's comment to the Commissioner that he wants to know on what legal basis DVLA are able to sell data to third parties. DVLA stated that the original request made by the complainant '*sought specific documentation that the Agency maintains is not held. To be informed of any legal basis for DVLA's actions appears to be the underlying reason behind the request. In any event, (name redacted) was provided with the appropriate legal reference as to why the Agency is able to release vehicle keeper data:*  
<http://www.legislation.gov.uk/ukxi/2002/2742/regulation/27/made>  
<https://ico.org.uk/for-the-public/dvla/>
12. DVLA explained to the Commissioner that the request of 15 May was based on the complainant's understanding that "authority has to be given to the DVLA from the Lord Chancellor and the Data Protection Commission Office with the Secretary of State signature to perform these regulations". On that understanding the request was made for a copy of such authority.
13. However, DVLA explained to the Commissioner that to comply with the appropriate Regulations, to release vehicle keeper details, no such authority is required.  
  
*'No document exists where authority is given by both the Lord Chancellor and the ICO with a signature of the Secretary of State. Nor would the Agency have reason to ask for "a signed copy of any agreement from any private corporation to discharge private data about the Trust regarding commercial matters without having a contract with said Trust". Therefore the Agency does not hold "verifiable proof" that it can ask for such an agreement.'*
14. As is the practice in a case such as this, the Commissioner asked DVLA a number of questions to confirm/establish if further information is held.

15. In response to the Commissioner's questions about the location of, and searches for, the information, DVLA confirmed that it did not hold any further recorded information falling within the scope of the request.

*'With DVLA being able to release (rather than 'sell') vehicle keeper details under legislation ... the documents requested did not and do not exist. Therefore no searches were carried out. DVLA has never held the information in scope of the request.'*

16. Having considered DVLA's responses to the Commissioner's investigations, the Commissioner is satisfied that, on the balance of probabilities, DVLA does not hold any further recorded information within the scope of the request.
17. As the Commissioner's decision is that the information is not held, the Commissioner does not require DVLA to take any steps.

## Right of appeal

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18. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

19. 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.
20. 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**