

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 November 2021

Public Authority: Driver & Vehicle Licensing Agency
(Department for Transport)

Address: Longview Road
Morrison
Swansea
SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested the Driver & Vehicle Licensing Agency (DVLA) to disclose the information it holds relating to two meetings it held on 10 April and 20 June 2019 with the Road Haulage Association (RHA) with regards to medicals. The DVLA responded, disclosing the recorded information it holds.
2. The complainant disputed that the DVLA had identified and disclosed all relevant recorded information. During the Commissioner's investigation further recorded information was identified and disclosed to the complainant. For this late disclosure, the Commissioner has found the DVLA in breach of section 1 and 10 of FOIA.
3. The Commissioner is satisfied that on the balance of probabilities all recorded information the DVLA holds, falling within the scope of the complainant's request, has now been identified and disclosed. She does not therefore require any further action to be taken.

Nomenclature

4. The DVLA is not listed as a separate public authority in Schedule 1 of the FOIA because it is an Executive Agency of the Department for Transport. However, as it has its own FOI unit and as both the complainant and the Commissioner have corresponded with "the DVLA" during the course of the request and complaint, the Commissioner will refer to "the DVLA" for

the purposes of this notice – although the public authority is, ultimately, the Department for Transport.

Request and response

5. On 10 November 2020, the complainant wrote to the DVLA and requested information in the following terms:

“On 10th April 2019 and 20th June 2019 the DVLA held meetings with the Road Haulage Association with regards to medicals.

May I please request all recorded information relating to these meetings including but not limited to:

- Emails requesting / arranging the meetings.
 - Emails as a consequence of the content of the meetings.
 - Emails relating to any follow up of the meetings.
 - Any printed material that was used in the meetings or was produced as a consequence of the meetings.
 - Any computer files that was used in the meetings or was produced as a consequence of the meetings.
 - Any sound or video recordings of the meetings.
 - Any press releases that were produced as a result of items discussed in the meetings.”
6. The DVLA responded on 7 December 2020. It confirmed that the only recorded information it holds in relation to the meetings on 10 April and 20 June 2019 are the Power Point presentations referred to at those meetings and these were provided to the complainant on 16 October 2020.
7. The complainant requested an internal review on 9 December 2020. He disputed that no further recorded information is held and suggested that the DVLA must hold further records, such as emails inviting individuals to the meeting, information relating to the request for the meetings, diary entries, visitor sign ins, notes taken of the meetings and follow ups to the subject matters discussed in the meetings.
8. The DVLA carried out an internal review and notified the complainant of its findings on 25 January 2020. It referred to a previous internal review response of 10 November 2020 and how all recorded information it holds has to date been provided.

Scope of the case

9. The complainant contacted the Commissioner on 8 January 2021 to complain about the way his request for information had been handled. At this time, the DVLA had not completed the internal review. The internal review was completed later that month and the complaint was accepted for full investigation on 7 June 2021.
10. During the Commissioner's investigation the DVLA identified some additional information, falling within the scope of the complainant's request. The DVLA disclosed this information to the complainant on 7 September 2021.
11. The remainder of this notice will therefore consider, whether on the balance of probabilities, the DVLA holds any further recorded information to that already identified and disclosed. It will also consider whether there has been any procedural breaches of FOIA.

Reasons for decision

Section 1 – general right of access to information

12. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled—

 - (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him.
13. Section 1(1) requires that any person making a request for information to a public authority must be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
14. In scenarios where there is some dispute between the amount of information located 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 (Information Rights) decisions, applies the civil standard of the balance of probabilities.
15. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a

public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

The complainant's position

16. The complainant believes the DVLA has either deleted the information or is withholding further recorded information, falling within the scope of his request, as it is in its interests to do so. He refers to a long running dispute with the DVLA in relation to one of his businesses and events concerning his business around the dates of the two meetings in question. In correspondence to the Commissioner the complainant refers to legal action being likely and therefore further information being held relating to this matter, which either has been destroyed or is still being withheld.
17. The complainant questions whether emails inviting individuals to the meetings, information relating to the request for the meetings, diary entries, visitor sign ins, notes taken of the meetings and follow ups to the subject matters discussed in the meetings are held. He also believes that information relating to his business (specifically refers to test purchases on his business) formed part of the meeting on 10 April 2019 and this information has not been disclosed to him.

The DVLA's position and the Commissioner's enquiries

18. The DVLA confirmed that the meeting on 10 April 2019 was to discuss issues raised by the RHA about the timeframes for renewing driving licences where the individual has a medical condition. The meeting on 20 June 2019 was part of a routine programme of meetings which the DVLA's Chief Executive undertakes with the Chief Executives of stakeholder organisations. It advised that it also formed part of the DVLA's regular contact with industry to provide an update on initiatives that may be of interest to them.
19. The DLVA confirmed who attended the meetings and that all attendees (and where relevant their Personal Assistants) were contacted and asked to provide any exchanges about those meetings and records of the meetings held. It confirmed that it does not hold a record of the requests made to the attendees as these communications will have been automatically deleted in accordance with its retention policy. It explained that after 180 days the majority of emails held by the DVLA are automatically deleted unless they have been stored in some other way. With regards to any minutes, the DVLA stated that all confirmed that it was their understanding that no minutes of the meetings were taken.

20. The DVLA advised that all information held within the scope of the complainant's request has been disclosed to him. It provided copies of the Power Point presentations used at the meetings on 16 October 2020. It did identify some additional information during the Commissioner's investigation relating to the follow up actions of the meeting on 10 April 2019 and it disclosed this to the complainant on 7 September 2021. But it advised again that no further recorded information is held.
21. With regards to the complainant's comment about legal action being likely, the DVLA said that it is not clear what legal action the complainant is referring to here. It confirmed that it has not instigated legal proceedings relating to the subject of the complainant's request.
22. The complainant also stated that he believes information relating to his business was presented at the meeting on 10 April 2019, including some test purchases that were carried out on his business on 27 March 2019. He commented that this information was used to instigate the events that followed.
23. In relation to this specific point, the DVLA confirmed that the meeting on 10 April 2019 was to discuss issues raised by the RHA about the length of time taken by the DVLA to process applications for driving licenses where the applicant has declared a medical condition. All attendees were contacted and asked to provide any and all exchanges about the meeting and any information held. It explained that the scope of the search was wide and would have included any information falling in the scope of the complainant's request. All such information that can be provided has been.
24. The DVLA advised that no information regarding the complainant's business or any test purchases were presented at the meeting on 10 April 2019. It does hold some information about test purchases but such information does not fall within the specific wording of the complainant's request.
25. The Commissioner checked with the DVLA again that the test purchases it does hold do not fall within any category of information listed in the seven bullet points of the complainant's request. The DVLA confirmed that the test results did not form part of the meetings in any way and so fall outside the scope of this request.

The Commissioner's decision

26. The Commissioner is satisfied that on the balance of probabilities the DVLA does not hold any further recorded information to that already identified and disclosed. The DVLA has therefore now met its obligations under FOIA in relation to this request.

27. The DVLA has explained the searches undertaken and how its retention policy dictates that email correspondence is automatically deleted after 180 days unless it is save elsewhere. All attendees of the meeting (and where relevant Personal Assistants) have been contacted and asked to carry out individual searches to identify any information held about the meetings. The information identified and therefore held has been disclosed.
28. With regards to any information presented at the meetings relating to the complainant's business, the DVLA has confirmed that none was presented and outlined again what the purpose of the meetings were and what records it does hold relating to them.
29. The test purchases referred to by the complainant did not form part of the meetings in anyway and therefore this information falls outside the scope of the complainant's request and this investigation. If the complainant requires access to this information, he will need to make a fresh request to the DVLA for that information.

Procedural matters

30. The Commissioner acknowledges that some additional information was identified late and disclosed to the complainant during the Commissioner's investigation. This is information that falls in the scope of the complainant's request, which should have been communicated to him under section 1 of FOIA within 20 working days of his request (by the timeframe specified in section 10 of FOIA). As it was not, the Commissioner has recorded a breach of section 1 and 10 of FOIA against the DVLA.

Right of appeal

31. 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@justice.gov.uk

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

32. 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.
33. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF