



## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Dated 10 April 2006**

**Public Authority:** The Driving Standards Agency

**Address:** Stanley Street  
56 Talbot Street  
Nottingham  
NG1 5GU

### **Summary Decision and Action Required**

**The Commissioner's decision in this matter is that the Public Authority has dealt with the Complainant's request in accordance with Part I of the Act.**

**In the light of this decision, the Notice specifies no remedial steps to be taken by the public authority.**

#### **1. Freedom of Information Act 2000 (the 'Act') – Applications for a Decision and the Duty of the Commissioner**

1.1 The Information Commissioner (the 'Commissioner') has received an application for a decision whether, in any specified respect, the Complainant's request for information made to the Public Authority has been dealt with in accordance with the requirements of Part I of the Freedom of Information Act 2000 (the 'Act').

1.2 Where a complainant has made an application for a decision, unless:

- a complainant has failed to exhaust a local complaints procedure, or
- the application is frivolous or vexatious, or
- the application has been subject to undue delay, or
- the application has been withdrawn or abandoned,

the Commissioner is under a duty to make a decision.

- 1.3 The Commissioner shall either notify the complainant that he has not made a decision (and his grounds for not doing so) or shall serve a notice of his decision on both the complainant and the public authority.

## **2. The Complaint**

- 2.1 The Complainant has advised that on 22 June 2005 the following information was requested from the Public Authority in accordance with section 1 of the Act:
  - 2.2 “details of any and all internal DSA papers, emails, files, memos, minutes, etc and/or any material relating to the guidelines by which the ADI registrar exercises discretion, and any and all DSA papers, including all of the above, but not necessarily limited to the above specified types of files, records, however kept, on guidelines on what constitutes, or does not constitute in the view of the ADI registrar a ‘fit and proper’/qualified person.”
  - 2.2 On 20 July 2005 the Public Authority advised the complainant that the Approved Driving Instructors Registrar made decisions on the suitability of candidates based on the information available to him including representations made by the applicant and by reference to relevant legislation such as the Rehabilitation of Offenders Act. The Public Authority also explained that there is no definitive answer as to what constitutes a “fit and proper person” but that the term is referred to in the Road Traffic Act 1998. It supplied the complainant with the relevant extract. However, the complainant considered that the information provided did not meet his request and that additional information was being withheld, and on 30 August 2005, made a complaint to the Commissioner. The complainant argued that the Public Authority had failed to provide him with the information he requested and had prevaricated by attempting to define the term “fit and proper” rather than providing information on what constitutes a “fit and proper” person in the view of the ADI registrar.

## **3. Relevant Statutory Obligations under the Act**

- 3.1 **Section 1(1)** provides 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.”

#### **4. Review of the case**

- 4.1 The Commissioner contacted the Public Authority seeking further explanation as to why the Public Authority was unable to supply the complainant with the information he requested. The Commissioner also stressed to the Public Authority that the complainant was not requesting the definition, legal or otherwise, of a fit and proper person but rather any information the Public Authority holds in relation to how the registrar exercises his discretion when deciding what constitutes a fit and proper person.
- 4.2 The public authority responded by providing further information on why it was unable to supply the information that was requested. The Public Authority explained that the ADI registrar makes decisions on whether an applicant constitutes a fit and proper person based on the merits of the case. The Public Authority also explained that the registrar takes all relevant and known circumstances into account when making his decision and refers to the Road Traffic Act and Rehabilitation of Offenders Act for guidance. The Public Authority further explained that it did not hold the information requested because any set policy or guidelines on how the registrar exercises discretion or what constitutes a fit and proper person would be too restrictive on the work of the registrar.
- 4.3 However the Public Authority decided, after being contacted by the Commissioner, that it did hold a copy of a Transport Tribunal Hearing that involved appellants who had received 6 penalty points for speeding. The Public Authority acknowledged that the acceptance of these appeals is reflected in the approach of the registrar to cases involving applicants with 6 penalty points. Nevertheless the Public Authority reiterated that the circumstances of an individual case were the key factor in how the registrar exercised his discretion and his decision as to whether an applicant would constitute a fit and proper person, rather than decisions in previous transport tribunal hearings. The Commissioner arranged for this extra information to be supplied to the complainant, though the complainant maintained that this failed to meet his request for information and stated that he did not wish to withdraw his complaint.

#### **5. The Commissioner's Decision**

- 5.1 The Commissioner is satisfied by the Public Authority's assurances that it does not hold any further information, other than that supplied to the complainant, in relation to this request. Without any evidence to suggest that information was being deliberately withheld, the Commissioner is satisfied with the Public Authority's explanation that a set of guidelines or policy as to how the registrar exercises discretion, when deciding what constitutes a fit and proper person, would be too restrictive on the work of the registrar. Consequently it is the Commissioner's decision that the Public Authority have dealt with the complainant's request in accordance with the following requirements of Part 1 of the Act:
- 5.2 "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.”

**6. Action Required**

- 6.1 In the light of the matters set out above, the Commissioner requires no remedial steps to be taken by the Public Authority.

**7. Right of Appeal**

- 7.1 Either party has the right to appeal against this Decision Notice to the Information Tribunal (the “Tribunal”). Information about the appeals process may be obtained from:

Information Tribunal  
Arnhem House Support Centre  
PO Box 6987  
Leicester  
LE1 6ZX

Tel: 0845 600 0877  
Fax: 0116 249 4253  
Email: [informationtribunal@dca.gsi.gov.uk](mailto:informationtribunal@dca.gsi.gov.uk)

- 7.2 Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

**Dated the 10th day of April 2006**

**Signed .....**

**Graham smith  
Deputy Commissioner**

**Information Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**