

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 19 March 2009

Public Authority: Driver and Vehicle Licensing Agency
(An Executive Agency of the Department for Transport)
Address: Longview Road
Swansea
SA6 7JL

Summary

The complainant asked the Driver and Vehicle Licensing Agency (the DVLA) for information relating to the number of surviving A40 Farinas (a classic compact car introduced by the British Motor Corporation in 1958). The Commissioner found that the DVLA acted correctly in refusing the request under section 12 of the Act as the appropriate limit would have been exceeded.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 6 January 2008 the complainant requested "*details of the numbers of surviving A40 Farinas*".
3. In a refusal notice dated 8 January 2008 the DVLA stated that:

"[t]he means previously used to extract this data is no longer available to us. The only method we now have of extracting this data is by a bespoke scan of the main file which would incur costs above the limit of £600 set for such enquiries."

The DVLA cited the exemption under section 12 of the Act.

4. The DVLA advised that the Department for Transport statistics section in London previously answered freedom of information requests where the request was for car details. However, this facility ceased to be available from 1 April 2007.
5. The DVLA therefore provided the complainant with details of commercial selling agents to whom it sells raw anonymised data, which it believed might be able to assist him. The selling agents have their own software which they run against the DVLA file to extract specific data.
6. In an email dated 18 January 2008 the DVLA notified the complainant that it was treating his response to its decision as a statement of dissatisfaction and a request for an internal review.
7. On 14 February 2008 the DVLA provided the complainant with the outcome of its internal review. The DVLA upheld its original decision not to provide the information to the complainant, stating that it had been advised that the process of setting up and running the scan would take approximately 6 staffing days.

The Investigation

Scope of the case

8. On 15 February 2008 the complainant contacted the Commissioner. After clarifying the issue with the complainant, the Commissioner has proceeded on the basis that the complainant disagreed with the DVLA's decision that section 12 applied.

Chronology

9. On 16 September 2008 the Commissioner contacted the DVLA and asked it to provide further clarification of the costs involved in locating, retrieving and extracting the information requested by the complainant. The Commissioner also requested clarification of the statement that the means previously used to extract the data was no longer available.
10. On the same date the Commissioner contacted the complainant seeking clarification of the scope of the complaint.
11. On 25 September 2008 the DVLA responded to the Commissioner's letter. It stated that, in order to collate the information requested, it would have to extrapolate information from its database, requiring it to run new data-sets which would involve extensive work for members of staff. It suggested that such work would take approximately 1 day's design work, 3 days' development and 2 days' unit testing.
12. On 13 October 2008 the Commissioner contacted the DVLA requesting clarification of the work required for each of the stages outlined in its

correspondence of 25 September 2008. In its response of 21 October the DVLA stated that its IT provider had advised that:

“...the 1 day design stage access [sic] exactly what type of parameters, coding, software, and script type would be required to run the scan against the DVLA database. The 3 days development stage is the actual physical writing/coding (development) of the scan script in the appropriate software tool that will be used. The 2 days unit testing is the stage whereby the scan is run in a test environment and the output checked to make sure it delivers what it has been designed to deliver.”

Analysis

Exemption - section 12

13. Section 12(1) of the Act states:

‘Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.’

14. Accordingly, section 12 provides that a public authority is not obliged to comply with a request for information if it estimates that meeting the request would exceed the appropriate cost limit. The appropriate limit is currently set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (‘the Regulations’). A public authority may only take into account the cost of determining whether it holds the information requested, locating, retrieving and extracting the requested information in performing its calculation. The cost limit is currently set at £600 for central government and equates to 3½ days’ work (24 hours) at a rate of £25 per hour.

15. In this case the DVLA informed the Commissioner in its letter of 25 September 2008 that, in order to collate the information requested, it would have to extract information from its database, requiring it to run new data-sets which would involve extensive work for members of staff. It estimated that such work would take approximately 1 day’s design work, 3 days’ development and 2 days’ unit testing. After the Commissioner asked for further clarification, the DVLA responded on 21 October 2008 that its IT provider had advised that:

“...the 1 day design stage access [sic] exactly what type of parameters, coding, software, and script type would be required to run the scan against the DVLA database. The 3 days development stage is the actual physical writing/coding (development) of the scan script in the appropriate software tool that will be used. The 2 days unit testing is the stage whereby the scan is run in a test environment and the output checked to make sure it delivers what it has been designed to deliver.”

16. In the present case the Commissioner considers that the process of designing, developing and testing such software represents time spent on locating and retrieving the requested information, and so can be considered when estimating the total time that would be spent for the purposes of the section 12 cost ceiling.
17. The Commissioner notes the Regulations in that the cost limit equates to 3½ days work for a public authority at £25 per hour. The DVLA has investigated the bespoke scan with its IT providers, and has been provided with an overall estimate of the time it would take together with a breakdown of the different elements involved. On the basis of this information the Commissioner accepts that it was reasonable for the DVLA to reach its conclusion that retrieving and locating the information would take over 3½ days (24 hours) of staff time.
18. The Commissioner also notes that the DVLA states it has no business need to be able to extract information from its database in the way that would be required in order to meet the complainant's request. The DVLA has made it clear that the purpose of the DVLA vehicle record is to access records of specific vehicles by the specified criteria for the specified purpose, and it stated that it was not the aim of the DVLA vehicle record database to be examined by queries in the form of that raised by the complainant.
19. In its response of 21 October 2008, the DVLA outlined that its vehicle records are designed specifically for the fast input and retrieval of two specific fields, the Vehicle Registration Mark (VRM) and Vehicle Identification Number (VIN). In order for the DVLA to obtain details of specific vehicle records (such as make and model) the record can only be accessed by inputting the VRM or VIN. In the absence of these two pieces of information, each of the records held (which at June 2008 was 39,667,960) would have to be interrogated to establish whether the make and model fields contained 'A40' and 'Farina'. It is this which would necessitate the development work described above.
20. Having considered the above information, the Commissioner is satisfied that the cost of locating, retrieving and extracting the requested information would exceed the appropriate limit, and that section 12(1) is engaged.

The Decision

21. The Commissioner's decision is that the public authority dealt with the request for information in accordance with the Act, and that it was justified in withholding the information by reference to section 12 (1) of the Act.

Steps Required

22. The Commissioner requires no steps to be taken.

Right of Appeal

23. Either party has the right to appeal against this Decision Notice to the Information 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@tribunals.gsi.gov.uk.
Website: www.informationtribunal.gov.uk

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.

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

Dated the 19 day of March 2009

Signed

**Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal annex

Exemption where cost of compliance exceeds appropriate limit

Section 12(1) provides that –

“Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.”

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (No. 3244)

Regulation 3 provides that –

“(1) This regulation has effect to prescribe the appropriate limit referred to in ... section 12(1) and (2) of the 2000 Act.

(2) In the case of a public authority which is listed in Part I of Schedule 1 to the 2000 Act, the appropriate limit is £600.”

Regulation 4 provides that –

“(1) This regulation has effect in any case in which a public authority proposes to estimate whether the cost of complying with a relevant request would exceed the appropriate limit.

(2) A relevant request is any request to the extent that it is a request– (a) for ...

(b) information to which section 1(1) of the 2000 Act would, apart from the appropriate limit, to any extent apply.

(3) In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in–

- (a) determining whether it holds the information,
- (b) locating the information, or a document which may contain the information,
- (c) retrieving the information, or a document which may contain the information, and
- (d) extracting the information from a document containing it.

(4) To the extent to which any of the costs which a public authority takes into account are attributable to the time which persons undertaking any of the activities mentioned in paragraph (3) on behalf of the authority are expected to spend on those activities, those costs are to be estimated at a rate of £25 per person per hour.”