

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 December 2013

Public Authority: Law Commission
Address: Steel House
11 Tothill Street
London
SW1H 9LJ

Decision (including any steps ordered)

1. The complainant requested from the Law Commission copies of a Statutory Instrument and four named Acts of Parliament. The Law Commission refused the information request relying on the section 21(1) FOIA exemption.
2. The Information Commissioner's decision is that the Law Commission complied with the requirements of FOIA and does not need to take any further action.

Request and response

3. On 4 July 2013, the complainants wrote to the Law Commission to request information in the following terms:

We ... do hereby request that:-

1. *You should provide us with an up to date copy of the Vehicle Excise Duty (Immobilisation, Removal and Disposal of Vehicles) 1997 No 2439 as amended by the 2008 No 2266 which came into force on the 1st October 2008.*
2. *I believe that you do have a copy of the Finance Act 2008 Schedule 45.*

I am requesting that you provide us with an up to date copy of Schedule 2A of the Vehicle Excise and Registration Act 1994.

3. *The Protection of Freedoms Act 2012.
This had made some changes where Wheel Clamping had been abolished.*
4. *You do have a copy of Section 232 of the Highways Act 1980.*
5. *I am requesting the Law Commission should consider on the 12th Programme ... [not a request for information]*
6. *I am not responsible for updating the HMSO Legislation, as the Acts and Statutory Instruments have been amended by other Acts and Statutory Instruments.*

You do have access to the West Law Legislation and Statutory Instruments that has been updated.

4. The Law Commission responded on 8 July 2013 saying that the information requested was held by it but was exempt under section 21 FOIA because it was accessible to the complainants and was already available in the public domain.
5. Following an internal review the Law Commission wrote to the complainant on 29 July 2013 affirming its decision to exempt the information requested under section 21 FOIA. The Law Commission added that it did not have responsibility for updating the *legislation.gov.uk* website to which it had referred the complainants.

Scope of the case

6. The complainants contacted the Commissioner on 30 July 2013 to complain about the way their request for information had been handled.
7. The Commissioner considered the application by the Law Commission of section 21(1) FOIA.

Reasons for decision

Section 21 - Information accessible to the applicant by other means

8. Section 21(1) of FOIA states that information held is exempt from disclosure when it is reasonably accessible to the applicant (otherwise than under section 1 FOIA). The exemption is absolute and so there is no public interest test.

9. The Information Commissioner's guidance on section 21 explains that charges may be made in circumstances where there is a statutory scheme under which information is provided for a fee, or where the information is provided under the public authority's publication scheme and the scheme indicates that a charge may be made.
10. The Law Commission explained to the Information Commissioner, as it had already explained to the complainants, that the information requested was available free of charge on the *legislation.gov.uk* website or, on payment of the relevant charges, from on the Westlaw database which could be accessed via the British Library.
11. The Law Commission pointed out that the search facility provided by the *legislation.gov.uk* website was necessary to locate the current version of the text of the relevant legislation. The Law Commission considered that the website could be accessed and navigated with relative ease and that the information the complainants had requested was readily accessible to them or to any other applicant with internet access.
12. The Law Commission said, and the Information Commissioner has seen, that the complainants appeared to be able to access the internet.
13. On 10 October 2013, during the course of the Information Commissioner's investigation, the Law Commission provided the complainants with direct hyperlinks to the relevant legislative instruments within the *legislation.gov.uk* database.
14. The Information Commissioner concluded that the requested information was reasonably accessible to the complainants, otherwise than from the Law Commission, either free of charge from the *legislation.gov.uk* website or via the British Library on payment of the appropriate fee.

Right of appeal

15. 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: 0116 249 4253

Email: iGRC@hmcts.gsi.gov.uk

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

16. 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.
17. 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

Jon Manners
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