

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 2 November 2015

**Public Authority:** Department for Transport  
**Address:** Great Minster House  
33 Horseferry Road  
London  
SW1P 4DR

#### Decision (including any steps ordered)

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1. The complainant has requested information about incidents on the road involving mobility scooters. The Department for Transport (DfT) released some information and says it does not hold the remainder.
2. The Commissioner's decision is that the DfT has released all the information that it holds that falls within the scope of the request and has met its obligations under section 1(1) of the FOIA.
3. He does not require the DfT to take any further steps.

#### Request and response

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4. On 12 May, the complainant wrote to the DfT and requested information in the following terms:
  1. *Why have only 24 Police reports been obtained on this subject?*
  2. *What is being done to obtain all the correct information from police forces in the UK?*
  3. *What figures have the DOT got from previous years and 2014?*
  4. *What advice if any has been passed on to the past/present Minister for Transport?*
  5. *Are there any future plans in place for the DOY to introduce any form of test of an understanding of the 'Highway Code for Mobility Scooter Users'?*
  6. *Is there any intention to enforce Insurance cover for Mobility users to protect themselves and the public in general?*

7. *Is it the intention of the DOT to ensure all suppliers of Mobility Scooters give proper training and a copy of the Highway Code for Mobility Scooter Users when selling them or hiring them a Mobility Scooter?*
5. The DfT responded on 10 June. It released information that it holds that relates to Q3 of the request. With regard to the remainder of the complainant's questions, it either provided narrative answers or confirmed that it did not hold relevant information.
6. Following an internal review the DfT wrote to the complainant on 23 July. With regard to the complainant's dissatisfaction with its response, the DfT said it appeared that the complainant was concerned with the action that the DfT is or is not taking with regard to mobility scooters, rather than its handling of the elements of his request under the FOIA.
7. DfT went on to explain to the complainant that the FOIA provides a right of access to information that public authorities hold in recorded form. It said its reviewer was satisfied that DfT had taken account of general information that it holds when it had answered the complainant's specific questions. DfT told the complainant that the relevant policy team would send the complainant a separate reply outside of the FOIA regime that would respond to his concerns about mobility scooter incidents. It did so on 31 July.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 11 June to complain about the way his request for information had been handled. He was critical of DfT's standard of reporting on motor scooter incidents and concerned that DfT appeared not to be taking action on this matter.
9. The Commissioner has explained to the complainant that it is not the Commissioner's role to investigate the action the DfT is or is not taking with regard to this particular policy issue. The focus of his investigation must be on the DfT's handling of his request for information under the FOIA.

### **Reasons for decision**

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10. Section 1(1) of the FOIA says that when a person submits a request for information to a public authority, that person is entitled to be informed in writing by the authority whether it holds the requested information and, if it does, to have that information communicated to them.

11. The DfT has cited the Commissioner's guidance to people making FOI requests:

*"Your request can be in the form of a question, rather than a request for specific documents, but the authority does not have to answer your question if this would mean creating new information or giving an opinion or judgment that is not already recorded."*

The DfT has told the Commissioner that it holds only very limited relevant information in recorded form. Two teams within DfT would hold this information: the Accessibility and Equalities Policy team and the Road Safety Statistics team. DfT has provided the Commissioner with a breakdown of these teams' files and documents where information relating to mobility scooters would be held, what information they contain and which of the complainant's questions any held information is relevant to. DfT has provided the Commissioner with an explanation of its response to the complainant's seven questions, as follows:

12. **Questions 1 and 2** – the DfT does not hold the specific information requested. It formulated a narrative response, outside of the FOIA, drawing on a particular published report<sup>1</sup> and data that it does hold.
13. As background, the DfT has told the Commissioner that the 2008 Review of the police-recorded road accident statistics (called Stats19) introduced a number of changes to the specification of data that the police should collect. One of these changes was to include the collection of data for any accident on the public highway involving a mobility scooter. This new specification was to become live as of the 1<sup>st</sup> January 2011 (this is what DfT refers to as the *2011 specification*).
14. At the same time as the Review, the Department was developing a new centralised data collection system called CRASH. It intended for this system to be used by all police forces that wanted it. The Review specified that if CRASH had not been rolled out to police forces by 1 January 2011 then police forces would be able to delay the implementation of the 2011 specification until they received CRASH.

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<http://webarchive.nationalarchives.gov.uk/20110503151558/http://dft.gov.uk/pgr/statistics/committeesusergroups/scras/2008reviewstats19/>

15. The DfT says that the number of police forces using the 2011 specification has increased over time. Therefore the information has been progressively improving since 2011, when the specification changed. The majority of the remaining forces that have not yet moved to the 2011 specification will do so when they receive the new CRASH system. The Home Office has a roll out schedule for 24 police forces between October 2015 and March 2016.
16. The table of statistics the DfT provided to the complainant included the number of forces who were supplying data each year. In its review it said that all forces will be supplying data during 2016. DfT has told the Commissioner that once CRASH has been rolled out to all 24 police forces that are taking it, all police forces in Great Britain will be supplying data to the 2011 specification.
17. **Question 3** – the DfT held some relevant information for the period 2011 – 2013 and released this to the complainant. It had explained to the complainant that 2011 was the first year in which these statistics were collated and it considered that it was therefore implicit that no information was held prior to this date. Having reconsidered its response to this question, the DfT acknowledges that this was not made explicitly clear at the time. It has confirmed to the Commissioner that it does not hold information prior to 2011.
18. With regard to data for 2014, the DfT says that at the time of the request, it had not collected all this data. DfT has acknowledged it had therefore not been correct when it had told the complainant that it did not hold information relating to 2014. In hindsight, it says that it should have explained to the complainant that its collection of the 2014 data was not yet complete and that it was withholding the partial data that it did hold under section 22 of the FOIA (information intended for future publication). This is because data for 2014 would be made available following the publication of the final Reporting Road Casualty Statistics 2014 later in 2015.
19. DfT says it recognises there is general public interest in a transparent and open government and in statistics relating to public safety. However, it says that the 2014 information that it held at the time of the request was only a partial picture based on submissions it had received at that point. It considers that pre-emptive disclosure of the partial information would have been misleading and gone against the strong public interest in ensuring that statistical data put into the public domain by the Department of State is accurate, confirmed, audited and complete before it is published. DfT has confirmed that the final statistics are published regularly on its website.

20. DfT has pointed out that, at the time of its policy letter to the complainant on 31 July, the process of gathering the data had been finalised and all the relevant data for 2014 was provided to the applicant in that correspondence.
21. **Question 4** – DfT has told the Commissioner that a search of the electronic files that its relevant policy unit holds (using search terms such as 'mobility scooters', 'data' or 'accident') did not retrieve any related information. It has confirmed it does not hold any information relevant to this question. DfT says that police reporting on mobility scooter accidents has been dealt with at official level. It has remained in contact with police forces and is content that police forces have been moving towards compliance with the 2011 specification.
22. **Questions 5, 6 and 7** – DfT has confirmed its view that these questions do not constitute valid requests for held information, under the FOIA. It does not consider it is possible to identify recorded information from these questions. However, in the interests of being as helpful as possible to the complainant, it chose not to refuse the request completely but instead, in its original response and its review, provided narrative responses to the best of its abilities, drawing on general related information that it holds. At the time, it considered that it had made its approach clear to the complainant – on reconsidering its responses, DfT acknowledges that it might have been clearer.
23. DfT has confirmed to the Commissioner that, having undertaken a search of its records (using the search terms 'highway code' and 'insurance'), it does not hold information that would fall within the scope of these three questions.
24. As discussed at paragraph 10, under section 1(1) of the FOIA, public authorities are obliged to confirm whether they hold requested information and, if so, to release it to a requester. The DfT has acknowledged that it might have more clearly explained to the complainant that, under the FOIA, it did not hold some of the specific information he had asked for but was nevertheless providing general answers to some of his questions in the interests of customer service. It has also acknowledged that it should have applied section 22 to information requested in part 3 of the request.
25. Having considered the DfT's submission and the evidence it has provided, the Commissioner is satisfied that the DfT has released to the complainant all the relevant information that it holds, that section 22 would have applied to some of the information. He notes the lessons that the DfT has learned from its handling of this request and considers that, on balance, it has handled the complainant's request satisfactorily.

## Right of appeal

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26. 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: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

27. 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.
28. 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**