

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 December 2020

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

**Address:** Longview Road  
Swansea  
SA6 7JL

### Decision (including any steps ordered)

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1. The complainant has requested information from the Driver and Vehicle Licensing Agency (DVLA) about sanction points accrued by private parking operators. DVLA's position is that it does not hold the information the complainant has requested, which the complainant disputes.
2. The Commissioner's decision is as follows:
  - On the balance of probabilities DVLA does not hold the requested information and has complied with section 1(1)(a) of the FOIA.
3. The Commissioner does not require DVLA to take any remedial steps.

### Request and response

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4. On 3 January 2020 the complainant wrote to DVLA through the WhatDoTheyKnow website and requested information in the following terms:

*"Please provide details of the process by which the DVLA is notified of sanction points which have been issued by the relevant Accredited Trade Association (ATA). Please include the process for "totting up" if the notifications are only for points accrued/lapsed."*

5. DVLA responded on 31 January 2020. It advised that it considered the request was not a request for recorded information and provided him with a response outside of the FOIA.
6. The complainant requested an internal review on 15 February 2020. He considered that DVLA would hold recorded information falling within the scope of his request and put forward a number of supporting arguments.
7. On 30 July 2020 the Commissioner wrote to DVLA and instructed it to provide the complainant with an internal review within 10 working days. DVLA did not go on to carry out a review and the complainant's case was accepted as eligible without one.

### **Scope of the case**

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8. The complainant first contacted the Commissioner on 17 March 2020 to complain about the way his request for information had been handled.
9. Having considered DVLA's submission and the complainant's arguments it was the Commissioner's view that DVLA did not hold the information being sought. She communicated this to the complainant and invited him to withdraw his complaint. The complainant preferred to conclude the case formally, through a decision notice.
10. The Commissioner's investigation has therefore focussed on whether DVLA has complied with section 1(1) of the FOIA ie whether, on the balance of probabilities, it holds information within the scope of the complainant's request. She has considered the matter of the internal review under 'Other matters'.

### **Reasons for decision**

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11. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to him or her if it is held and is not exempt information.
12. In its submission to the Commissioner, DVLA has provided the following explanation. For context, DVLA has first set out the respective roles of the DVLA and Accredited Trade Associations (ATAs) in the context of private parking management. It says that in order for a private parking operator to be permitted to request vehicle keeper information from the DVLA, they must be a member of an ATA. The ATAs are responsible for ensuring parking operators act in accordance with the relevant code of practice. For example, the British Parking Association enforces non-

compliance with its code of practice through a sanctions scheme. Sanction points are awarded according to the severity of the contravention.

13. The DVLA says it operates a range of safeguards to help ensure that those requesting vehicle keeper data are authorised to receive it. It conducts audits of parking operators to obtain assurance that sufficient evidence of a parking contravention exists to justify the lawful release of the information provided, and that the information is used only for the purpose it was provided for. This activity concentrates on the fair use of information received from DVLA records rather than on the level of compliance with the code of practice of the relevant ATA.
14. DVLA's submission then turns to the complainant's request and internal review request. In his request for a review, the complainant stated:

*"I do not believe that the DVLA documents processes by word of mouth, operating on an oral-history model of handing along critical knowledge from one generation of worker to another. I'm certain that meetings with "accredited" trade associations (for example) would be documented and minuted. There might even be some email swapped back and forth to iterate on a workable model - although I understand it might be somewhat embarrassing to reveal a tail wagging the dog. This would all be recorded information that the DVLA would hold. As would training materials and process flow models used to on-board new staff. Please have another look, promptly."*
15. DVLA noted that in its response of 31 January 2020, it had advised the complainant that an ATA would notify the DVLA if a parking operator accumulates 10 or more sanction points. As it explained above, the extent to which a private parking operator adheres to the relevant code of practice is a matter for the ATA to which it belongs.
16. DVLA says that, accordingly, there is no statutory obligation for the DVLA to record information that may be received from an ATA in this respect, and it holds no documented process for handling such notifications.
17. DVLA has confirmed that, in this case, the information the complainant is seeking, including meetings on a workable model, training materials and process flow charts/models is not held.
18. DVLA also clarified that it has conducted a thorough search for relevant information and confirmed that it does not hold information relevant to the request, including any e-mail exchanges with the ATAs about sanction points.
19. The complainant wrote to the Commissioner on 18 November 2020. This correspondence is not altogether clear as the complainant seems to

conflate this case with a second case the Commissioner considered separately: IC-45156-V4K6. However, the complainant appears to again dispute that DVLA would not hold information falling within the scope of the current request. He has referred to DVLA's Privacy Charter. He says the Charter makes numerous references to rigorous procedures "controlling release". With regard to ATAs he has noted the following point in the Charter:

*"... when appropriate, expel or suspend any member that fails to comply with the code of practice and tell us within 24 hours of the expulsion or suspension"*

20. The complainant says that, given that DVLA employs over 5,000 people across multiple sites, there has to be documented policy for how the DVLA receives, validates and records such notifications from an ATA by phone, Plaintext, email, letter for examples.
21. The Commissioner discussed this point in a conversation with DVLA on 1 December 2020. DVLA explained that there are currently two ATAs and occasions when either of them has notified DVLA of the expulsion of a member parking operator are rare: just one since 2012. DVLA noted that sanction points expire after 12 months and it would be unusual for a parking operator to accumulate 10 or more points in one 12 month period.
22. DVLA went on to explain that the Memorandum of Understanding (MOU) it has with both ATAs requires each to notify DVLA if a parking operator accumulates 10 or more sanction points. Those MOUs do not stipulate any particular process by which the ATAs should notify DVLA or by which DVLA will manage any notifications from the ATAs.
23. With regard to the part of the request for information on the process for "totting up" sanction points, DVLA confirmed that any such process would be carried out by the ATA concerned and not DVLA. As such, DVLA does not hold any information relevant to this part.
24. Having re-considered DVLA's submission and the complainant's arguments, and following discussion with DVLA, the Commissioner remains satisfied, on the balance of probabilities, that DVLA does not hold the information that has been requested, for the reasons it has given. The Commissioner finds that DVLA has complied with section 1(1)(a) of the FOIA.

## Other matters

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25. Provision of an internal review is not a requirement of the FOIA but is a matter of good practice. DVLA acknowledged in its submission to the Commissioner that it had not provided an internal review on this occasion. It explained that the complainant's request for a review was subject to an uncharacteristic oversight while DVLA's FOI team was (and is) working from home as a result of the Coronavirus restrictions.

## **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@justice.gov.uk](mailto:grc@justice.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**