

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 May 2021

**Public Authority:** Driver & Vehicle Licensing Agency

**Address:** Great Minster House  
34 Horseferry Road  
London  
SW1P 4DR

#### **Decision (including any steps ordered)**

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1. The complainant has requested information associated with the revocation of Group 1 driving licences for failure to meet the minimum visual field standards. The Driver & Vehicle Licensing Agency (DVLA) has categorised the request, and five earlier requests broadly about the same matter, as vexatious requests under section 14(1) of the FOIA and has refused to comply with them.
2. The Commissioner's decision is as follows:
  - The complainant's six requests, detailed in this notice, can be categorised as vexatious requests under section 14(1) of the FOIA. DVLA is not required to comply with them.
3. The Commissioner does not require DVLA to take any remedial steps.

#### **Request and response**

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4. On 22 June 2020 the complainant wrote to DVLA and requested information in the following terms:

"Question How many Group 1 "exceptional case" drivers' licenses were restored in each of 2016, 2017, 2018, 2019 for the following age groups:

- a) below sixty;
- b) between sixty and sixty nine;
- b) seventy and above?

Group 1 "exceptional case" licenses restored for all ages were:  
2016 – 27  
2017 – 25  
2018 – 42  
2019 – 23."

5. On 22 June 2020 DVLA responded. It categorised this request and five previous requests the complainant had also submitted on 15 May, 5 June, 11 June and two on 19 June 2020 as vexatious requests under section 14(1) of the FOIA. The five other requests are detailed in the Appendix to this notice.
6. DVLA provided an internal review on 3 August 2020. It upheld its position that the six requests were vexatious requests under section 14(1) of the FOIA.

## Scope of the case

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7. The complainant contacted the Commissioner on 3 August 2020 to complain about the way their requests for information had been handled.
8. The Commissioner's investigation has focussed on whether the complainant's six requests can be considered to be vexatious requests under section 14(1) of the FOIA.

## Reasons for decision

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### Section 14– vexatious and repeat requests

9. Under section 14(1) of the FOIA a public authority is not obliged to comply with a request for information if the request is vexatious.
10. The term 'vexatious' is not defined in the FOIA, but the Commissioner has identified a number of 'indicators' which may be useful in identifying vexatious requests. These are set out in her published guidance and, in short, they include:
  - Abusive or aggressive language

- Burden on the authority – the guidance allows for public authorities to claim redaction as part of the burden
  - Personal grudges
  - Unreasonable persistence
  - Unfounded accusations
  - Intransigence
  - Frequent or overlapping requests
  - Deliberate intention to cause annoyance
11. The fact that a request contains one or more of these indicators will not necessarily mean that it must be vexatious. All the circumstances of a case will need to be considered in reaching a judgement as to whether a request is vexatious.
  12. The Commissioner's guidance goes on to suggest that, if a request is not patently vexatious, the key question the public authority must ask itself is whether the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. In doing this the Commissioner considers that a public authority should weigh the impact of the request on it and balance this against the purpose and value of the request.
  13. Where relevant, public authorities also need to take into account wider factors such as the background and history of the request.
  14. In its submission to the Commissioner DVLA has confirmed that it considers that section 14(1) is engaged. This, it says, is because the complainant's requests primarily concern an issue which is personal to them and their frequent and overlapping requests do not serve an objective wider public interest. DVLA says that, additionally, the frequency of their requests and correspondence in 2020 was beginning to impose a significant burden on it. DVLA has set out the context and background of the requests as well as a timeline of events.
  15. According to DVLA, the complainant's disputes with DVLA centre on the revocation of their driving entitlement in 2016 because they could not meet the required eyesight standard to hold a driving licence. Their application in March 2018 to regain their driving entitlement was refused.
  16. Between April 2018 and June 2018, the complainant wrote to the DVLA Complaints Team on six separate occasions about this matter and their case was subsequently referred to the Independent Complaints Assessor (ICA) in July 2018. On 3 September 2018, the ICA sent his report to the complainant. DVLA has provided the Commissioner with a copy of the report by the Public and Health Services Ombudsman (PHSO) to the complainant, which DVLA says provides a timeline of events.

17. In addition to the above, the complainant submitted three FOI requests to the DVLA in 2018, to which DVLA responded. These three requests all concerned Group 1 licences being revoked by DVLA for failing to meet the required visual standards to drive. DVLA has provided the Commissioner with a copy of its response to one of those requests.
18. DVLA has gone on to explain that in 2019, the complainant continued to dispute the decision to revoke their driving entitlement, submitting a further seven complaints to the DVLA Complaints Team about this matter. In addition the complainant submitted a further FOI request on 13 March 2019 (DVLA's reference FOIR7438), a copy of which DVLA has provided to the Commissioner.
19. The complainant continued corresponding with the DVLA about this matter in 2020. On 7 February 2020, they submitted another request (DVLA reference FOIR8249) which DVLA responded to. DVLA says that while it was managing the above request, the complainant submitted a further two requests (FOIR8275) and (FOIR8300) on 24 February 2020. The three requests again concerned Group 1 'exceptional case' matters and correspondence associated with the 'Vision Panel'. DVLA responded to these requests.
20. On 4 March 2020, the complainant wrote to the Secretary of State for Transport about provisional disability assessment licences (PDALs), which was passed to the DVLA to reply. The DVLA responded on 16 March 2020 by post.
21. On 24 March 2020, the complainant sent an e-mail to DVLA's Driver's Policy Group (DPG) about PDALs and visual field defects, writing in part;

"The DVLA Medical Group medical advisors are ordinary GPs and, are not qualified Ophthalmists [sic] (FOIR 7142).

It can be seen that the content of your letter and the assurance given to the then Under-Secretary of State for Transport - answer to written parliamentary question 146323 - differ from reality. I am not alone as the following typical example shows:

FOIR 7438 – year 2018, 8,076 Group 1 licences refused or revoked due to eyesight;  
FOIR 8275 – year 2018, 161 exceptional cases;  
FOIR 8275 – years 2016 to 2019 inclusive, no information on the number of PDALs granted for pre-assessment retraining"
22. In DVLA's view it is clear that the complainant is making use of the FOI process to pursue their dispute with the DVLA regarding their specific circumstances, as opposed to serving an objective of wider public

interest. DPG provided a response to the above correspondence on 2 April 2020, providing general guidance and information about PDALs.

23. On the same day (2 April 2020), the complainant submitted a further two emails to DPG about a variety of issues concerning visual field, writing in part:

“The DVLA have not stated in the reply to FOIR8300 nor the minutes of the Vision Panel meetings that they have not / will not implement items in the Vision Panel approved minutes.”

24. DVLA notes again, the reference to a recent FOI response the complainant had received. An additional response was provided to the complainant by email on 2 April 2020.

25. On 3 April and 14 April 2020, the complainant submitted two further FOI requests (FOIR8370 and FOIR8386). The requests again concerned ‘exceptional case’ and eyesight matters. Both were responded to, but DVLA again notes the short timeframe between these requests.

26. On 15 April 2020 the complainant wrote to DPG, in part:

“The number of Exceptional Cases from 2016 to 2019 – and therefore PDALs - are:

2016 – 105;  
2017 – 142;  
2018 – 161;  
2019 – 144.

There is no data available on the number of PDALs from 2016 to 2019 that were issued with time for pre-assessment driving tuition. Should Exceptional Case drivers whose PDALs were limited to the driving assessment, now be offered a PDAL with time for pre-assessment driving tuition and a driving reassessment?”

27. DVLA says the figures above are quoted from FOIR8275, and is another instance, in DVLA’s view, that the complainant is using the FOI process to obtain information to support additional complaints to DVLA about their particular case. The complainant then followed this with an email to DPG on 25 April 2020 about many of the issues described above. A response to the emails of 15 April and 25 April 2020 was provided to the complainant on 29 April 2020.

28. The complainant submitted a further request on 15 May 2020 (FOIR8437), which is one of the requests that are the subject of this notice, and two further enquiries on 19 May and 27 May 2020. The first, an email to DPG, the second a further email enquiry to the

Parliamentary Under-Secretary (Department for Transport). A reply to these was issued to the complainant on 10 June 2020.

29. This brings the correspondence up to the six requests that are the subject of this notice, submitted between 15 May 2020 to 22 June 2020.
30. DVLA is of the view that the burden being placed on its FOI Team, as well as other areas of the Agency, arising from the complainant's correspondence is excessive. It appears to DVLA that the complainant has escalated the volume of correspondence in 2020 and has submitted overlapping requests on more than one occasion. DVLA also considers that substantial information has already been provided to the complainant, as well as a great deal of advice and assistance to try to address their enquiries, both within and outside the provisions of the FOIA.

### *Conclusion*

31. The Commissioner has disregarded DVLA's argument that the complainant's requests are vexatious because their subject matter is personal to them and has no wider public interest. Given the gravity of the substantive matter to the complainant – the revocation of their driving entitlement – the Commissioner considers that there was likely to have been a valid purpose behind the complainant's requests and, as such and in terms of any public interest considerations, it is sufficient in this case that the information requested is of interest to the complainant.
32. However, the Commissioner has also considered the number and pattern of the complainant's requests, whether the complainant is using the FOIA to keep live a matter that has been resolved, and the impact of the resulting burden on DVLA.
33. In their complaint to her, the complainant has told the Commissioner that they had submitted requests about the revocation of Group 1 licences in order to understand the extent to which revocations are age related and to assure themselves that DVLA's data is correct. They referred to information DVLA released in response to a request submitted by another individual showing the number of drivers over the age of 70 whose licence was refused/revoked for not meeting the minimum visual field standards, in 2016. The complainant says information released in response to another request submitted by another individual, for simply the number of licenses refused/revoked, shows a different, smaller, figure for 2016.
34. The Commissioner has reviewed DVLA's responses to those two requests (FOIR8149 and FOIR7783), which she has found published on the

WhatDoTheyKnow website. The Commissioner notes that the figures in the two tables in question are different across all the years from 2014-2018. She asked DVLA to explain the difference and DVLA told the Commissioner that, broadly, the two sets of figures are not comparing like for like. For example, one set includes both Group 1 and Group 2 licences and one response gives a figure for all ages and one response gives figures for people over 70.

35. The complainant had been corresponding with DVLA for approximately four years prior to the requests that are the subject of this notice. In that period they had submitted three requests for information to DVLA in 2018, one request in 2019 and five requests for information in 2020, prior to the request of 15 May. From 15 May 2020 to 22 June 2020 the complainant submitted the six requests being discussed. All the requests are on broadly the same matter.
36. In addition, over the same period the complainant had submitted 13 complaints, other correspondence and queries to DVLA. The complainant's case had also been referred to PHSO and the complainant had written to the Secretary of State for Transport and the Parliamentary Under-Secretary about their concerns.
37. The Commissioner has reviewed PHSO's report, which is dated February 2020. The report did not uphold the complainant's complaint about DVLA. The decision made in the report was that DVLA followed its published processes and that, while there had been a short delay on DVLA's part, that delay had been identified and put right.
38. DVLA has noted that the complainant's requests for information increased in 2020 and this may have been as a result of their dissatisfaction with PHSO's findings. But whatever the reason, the complainant's requests did increase and become frequent and overlapping. The complainant submitted 11 requests from the period to 7 February 2020 to 22 June 2020, on broadly the same subject. At the point of its refusal of 22 June 2020, DVLA considered that continuing to respond to the complainant's requests had become a disproportionate burden to it.
39. The Commissioner considers that at the point of the requests that are the subject of this notice, the matter of the complainant's dissatisfaction with DVLA's decisions in 2016 and 2018 about their entitlement to a driving licence had been concluded. It had been concluded by PHSO's report in February 2020 which found that DVLA's handling of the matter had been satisfactory. The Commissioner appreciates that the loss of their driving licence is likely to have been a significant blow to the complainant. However, at the point of their request at paragraph 4 and the five requests listed in the Appendix, DVLA had exhaustively dealt

with the complainant's service complaints, other queries and correspondence to government officials. With PHSO's report in 2020, in the Commissioner's view the matter that had begun in 2016, concluded. And she has seen no evidence to suggest that the data that DVLA maintains on the matter of driving licence revocation is not robust.

40. The complainant's continued correspondence to DVLA therefore suggests unreasonable persistence on the complainant's part. The Commissioner has also noted DVLA's view that the complainant appeared to be using information released to them to support their further complaints to DVLA about the same matter. The Commissioner considers that that is a reasonable conclusion for DVLA to draw.
41. The Commissioner does not consider that the complainant was deliberately aiming to burden DVLA for no reason, as such. But, by 15 May 2020, that was the effect of their cumulative requests. And the Commissioner considers that at 22 June 2020, the burden to DVLA of complying with the six requests in question had become disproportionate to the requests' value.
42. The Commissioner has therefore decided that DVLA was entitled to rely on section 14(1) of the FOIA to refuse to comply with the complainant's six requests as they can be categorised as vexatious requests.

## **Right of appeal**

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43. 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)

44. 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.
45. 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**

## APPENDIX

Requests submitted 15 May 2020, 5 June 2020, 11 June 2020, 19 June 2020

**DVLA reference FOIR8437:** Between 2016 and 2019, how many exceptional case PDALs did not include pre-assessment or post-assessment tuition as the DVLA / DVLA Medical Group stated that they could not require that tuition was supervised by an ADI? Will the DVLA / DVLA Medical Group issue PDALs with pre-assessment tuition to exceptional case drivers who were denied pre or post-assessment tuition, as the DVLA could not require tuition with an ADI?

**DVLA reference FOIR8467:** Dear Driver and Vehicle Licensing Agency, how many exceptional case drivers with a PDAL that included pre-assessment training for up to three months, were successfully prosecuted in 2016, 2017, 2018, 2019, 2020 (to 30 April) for not being supervised by: \* an approved driving instructor (ADI); \* a qualified driver?

### Reason

To establish the number of "exceptional case" drivers with a PDAL that includes time for pre-assessment training, who drove without the required supervision.

In May 2018 the DVLA gave an assurance in the answer to parliamentary question 146323 that "exceptional case" PDALs would include up to three months' for refresher driving tuition before a driving assessment. That did not happen. The DVLA / DVLA Medical Group claimed that drivers with a PDAL that included time for pre-assessment training could drive without an approved driving instructor (ADI), and that was a "...huge risk...". In 2020, the DVLA replied on behalf of the Secretary of State for Transport, that the law did not require an ADI to supervise those "exceptional case" drivers. In 2020 the DVLA Page 2 of 4 / DVLA Medical Group stated that drivers with PDALs that included time for preassessment training were a "...huge risk...", as they may not be accompanied by a qualified driver

**DVLA reference FOIR8484:** Dear Driver and Vehicle Licensing Agency, Please provide the numbers of doctors in the vision section of the DVLA Medical Group who are responsible for determination of Group 1 licences and hold professional qualifications as:

Ophthalmologists;  
Approved Driving Instructors;  
Occupational Therapists;  
Solicitor or barrister specialising in driving legislation.

The request does not include members of the Secretary of State for Transport's Honorary Medical Advisory Panel on driving and visual disorders.

**DVLA reference FOIR8485:** Dear Driver and Vehicle Licensing Agency, How many Group 1 drivers' licenses were revoked or refused in each of 2016, 2017, 2018, 2019 as their field of vision was less than 120 degrees:

- a) below the age of seventy;
- b) the age of seventy and above.

**DVLA reference FOIR8504:** Dear Driver and Vehicle Licensing Agency, How many Group 1 "exceptional case" drivers aged seventy and over were:  
a) issued with a PDAL in each of 2016, 2017, 2018, 2019;  
b) relicensed in each of 2016, 2017, 2018, 2019?

Background from DVLA FOIRs: "Exceptional case"

PDALs issued for all ages:

2016 - 105, 2017 - 142, 2018 - 161, 2019 - 144.

"Exceptional case" drivers of all ages relicensed for Group 1:

2016 - 27, 2017 - 25, 2018 - 42, 2019 - 23.