

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 November 2023

Public Authority: Driver & Vehicle Licensing Agency
(an executive agency of the Department for Transport)

Address: Longview Road
Morrison
Swansea
SA6 7JL

Decision (including any steps ordered)

1. The complainant has requested information about Accredited Trade Associations. The Driver and Vehicle Licensing Agency ("DVLA") stated that it does not hold information within the scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the DVLA is correct when it says that it does not hold any information within the description set out in the request.
3. The Commissioner does not require the DVLA to take any further steps.

Request and response

4. On 4 May 2023, the complainant wrote to the DVLA and requested information in the following terms:

"Could you please provide

1. Details on how DVLA monitors and evaluates the effectiveness and performance of the Accredited Trade Associations
2. Supply copies of DVLA's records containing information on the British Parking Association's effectiveness and performance as an ATA during Jan 2020 – Jan 2023.

I only require information on the following ATA standards which relate to fair treatment of the motorist and their complaints

BPA accept their responsibility for policing their CoP

BPA ensure their AOS members comply with CoP

BPA deal with evidenced breaches of CoP

BPA handles motorist's complaints correctly appropriately and demonstrate impartiality

BPA ensure signs and correspondence still contain a contact (landline) number for enquiries and dispute discussions

BPA ensure there is no loss of the reduced penalty period or requirement to pay PCN before appeal concluded

This statement needs updated as BPA and POPLA state its "pay the reduced amount OR appeal to POPLA motorists can't do both."

BPA ensure where errors are revealed an apology is issued within 7 days and PCN withdrawn

BPA ensures house calls are undertaken before county court action

The UK Parliament website reveals Valerie Vaz MP tabled a written question on 23/3/2023 to ask Secretary of State for LUHC what information his dept holds on the parking charge notice practice of CP Plus Ltd. Dehenna Davidson under Secretary of State (DLUHC) reply states DVLA publishes the data on registered vehicle keeper requests made by private parking companies. I was unable to find this published data though I feel Dehenna Davidson may not have understood the question asked.

3. Therefore, could I ask you to please provide the number and subject of complaints/concerns DVLA has received about BPA AOS parking operators CP Plus, Group Nexus and Highview (same company) over past 5 years. I do not wish the number of reasonable cause data requests they made to DVLA as this provides no indication on the standard of PCN practice they deliver to PSN recipients."

5. The DVLA responded on 16 May 2023. It stated that it does not hold recorded information falling within the scope of parts 1 and 2 of the request. It disclosed the information requested at part 3.
6. The complainant wrote to the DVLA on 13 June 2023 to request an internal review in respect parts 1 and 2 of the request, which the DVLA did not provide a response to.

Reasons for decision

Section 1 – general right of access

7. Section 1(1) of FOIA provides that any person make a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to him.
8. FOIA provides a right of access to information which is held by a public authority in recorded form at the time when it receives the request. This does not extend to the right to ask questions, or to seek explanations or clarifications, unless those explanations or clarifications, etc. are already held by the public authority in recorded form. Nor does it extend to the right to dispute whether a public authority should record a particular type of information where it doesn't already do so.
9. In cases where a dispute arises over whether relevant recorded information is held by the public authority at the time of the request, the Commissioner – following the lead of a number of First-tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is more likely than not that the public authority holds information relevant to the complainant's request.
10. On receipt of the request, the DVLA liaised with its Data Assurance Team, which maintains contact with the Accredited Trade Associations (ATAs). It advised that the matters described by the complainant within the request are not within the DVLA's remit. There are no business purposes or statutory requirements for the requested information to be held.
11. The DVLA outlined to the Commissioner the respective roles of the DVLA and ATAs in the context of private parking management. It explained that in order for a private parking operator to request vehicle keeper information from the DVLA, they must be a member of one of the two private parking ATAs – the British Parking Association (BPA) or the

International Parking Community (IPC). The ATAs are responsible for ensuring that parking operators act in accordance with the relevant code of practice, but the DVLA has no direct influence over the ATAs in this regard.

12. The DVLA explained that the purpose of requiring a company to be a member of an ATA is to ensure that those who request vehicle keeper information from the DVLA are legitimate companies which operate within a relevant code of practice. The codes cover, amongst other things, signage, appeals processes and methods of contacting registered keepers.
13. The DVLA conducts audits of parking operators to obtain assurance that sufficient evidence of a parking contravention exists to justify the lawful release of vehicle keeper information, and that the information is used only for the purpose it was disclosed for. However, this audit activity concentrates on the fair use of information disclosed from DVLA records, rather than on the level of compliance with the code of practice of the relevant ATA.
14. The DVLA explained that it does not routinely monitor and record the ATAs effectiveness and performance. It holds regular meetings to discuss complaints received about the behaviour of private parking operators or when an operator's membership of the ATA has been suspended, resulting in them being unable to make requests for vehicle keeper information from the DVLA. The ATAs will also inform the DVLA of any changes to their codes of practice. However, the DVLA is not responsible for ensuring that ATA members adhere to the applicable code, this is the responsibility of the ATA itself. Accordingly, the DVLA has no requirement to record information about monitoring the effectiveness of the ATAs and, consequently, no information of the specific description set out in the request is held by the DVLA.
15. The Commissioner is satisfied that, on the balance of probabilities, the DVLA is correct when it says that it does not hold any relevant information within the description set out in parts 1 and 2 of the request.

Other matters

16. The Commissioner notes that the DVLA did not provide a response to the complainant's request for an internal review. Whilst there is no statutory timeframe under FOIA for a public authority to provide an internal review outcome, the Commissioner considers that internal review requests should normally be responded to within 20 working days, or 40 working days where the review is more complex, requires

consultation with third parties or involves consideration of large volumes of information. In these instances, the public authority should inform the requester of any such delay and provide a reasonable target date by which they expect to be able to provide the outcome of the internal review.

17. The section 45 code of practice¹ further sets out the standards which all public authorities should aim to meet in order to demonstrate best practice.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

Right of appeal

18. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

19. 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.
20. 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

Michael Lea
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF