

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 December 2023

Public Authority: National Highways
Bridge House
1 Walnut Tree Close
Guilford
Surrey
GU1 4LZ

Decision (including any steps ordered)

1. The complainant has requested information relating to their speeding fine. National Highways ('NH') refused the request, citing section 31(1)(a), (b) and (c) (law enforcement) of FOIA.
2. The Commissioner's decision is that the requested information is exempt under section 31(1)(a), (b) and (c).
3. The Commissioner does not require further steps.

Request and response

4. On 3 August 2023, the complainant wrote to NH and requested:

"I am requesting information to clarify why the 40mph was on the motorway M60 between junction 16 and 17 on the 09/07/23 at 00:17am.

I was travelling with my partner in the car and the 40mph sign was on the bridge however my car was doing 48, I have received a speeding ticket that I am totally refuting.

At that time of night there was very little traffic, no accidents, collisions, no cones in force, the weather was dry there was no reason in my opinion and driving for 32 years as a professional driver on all types of motorways, I do believe that this was either left on after a previous incident in error or was activated in error.

I require the time this was put on and put off at on that date, and what was the actual reason the 40mph sign was put on a 70mph motorway when like I said there was no apparent reason for this.”

5. NH responded on 25 August 2023. It refused to provide the requested information, citing section 31(1)(a), (b) and (c).
6. The complainant requested an internal review on 29 August 2023.
7. NH provided the outcome to its internal review on 26 September 2023. It upheld its previous position.

Reasons for decision

Section 31 – law enforcement

8. Section 31(1) of FOIA states:

“Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice -

- (a) the prevention or detection of crime,
- (b) the apprehension or prosecution of offenders,
- (c) the administration of justice.”

9. NH are relying on all of the above to withhold the requested information.
10. There’s a lot of overlap between these exemptions which is logical. In order to prevent and detect crime, and administer justice, offenders must be prosecuted.
11. When applying any of the above, a public authority doesn’t need to have responsibilities to prevent or detect crime. However, it does have to demonstrate that disclosing the requested information would, or would be likely to, cause harm to law enforcement activity.

12. The Commissioner has dealt with a very similar complaint recently.¹ In both cases, the complainant is requesting variable speed limit ('VSL') settings, i.e. why a specific speed limit was set at a specific location and at a specific time.
13. Paragraphs 15-28 of IC-258440-X2D5 contain a detailed analysis as to why VSL setting information engages section 31(1)(a), (b) and (c). The Commissioner doesn't intend to replicate that whole analysis here.
14. To summarise, NH has previously provided the Commissioner with evidence of an email train, between a Police force, Road Safety Support 'RSS' and NH which demonstrates that disclosure of VLS setting information has directly prejudiced the Police's ability to prosecute an offender, and thus prejudicing the prevention or detection of crime and the administration of justice.
15. In that instance, NH's disclosure of the VSL setting information directly led to the NIP being withdrawn and, most importantly, in the Police's opinion, incorrectly.
16. The Commissioner understands that, in the past, it used to comply with requests for VSL settings. However it subsequently became aware of instances like the above, where doing so was directly impacting the Police's ability to prosecute speeding offences. Therefore, NH changed its processes.
17. This isn't about denying the complainant the right to appeal their offence. They should do so if they wish. However, since the Police has repeatedly informed NH that its ability to prosecute speeding offences was being compromised due to the information that NH was disclosing under FOIA, and the Commissioner has seen evidence of this, he has no choice but to find the exemption engaged at the lower threshold of prejudice.

¹ [ic-258440-x2d5.pdf \(ico.org.uk\)](#)

Public interest test

Factors in favour of maintaining the exemption

18. Ultimately, NH is concerned that disclosure would be likely to dilute the work the Police does to prosecute in such circumstances and:

“We need the enforcement and prosecution of speeding offences to be robust and effective to ensure the safety of our road users and operatives.”

Factors in favour of disclosure

19. There is always a public interest in transparency, openness and public authorities providing as much information as possible about their processes and work.

Balance of the public interest

20. The Commissioner has decided that the balance of the public interest lies in maintaining the exemption.

21. It's not the role of the Commissioner to comment on any offence that the complainant might have received. However, he notes that the complainant is trying to ascertain why a certain speed limit was in place at a specific location, date and time.

22. Ultimately, the Commissioner concurs with NH when it says:

“The police, RSS and NH share the view that it does not matter why a speed limit was set or cancelled - driving in excess of the displayed mandatory speed limit is a strict liability offence - drivers must comply with the speed limit regardless of why it was set. NH providing an explanation as to why the speed limit was set can cause drivers to challenge a Notice of Intended Prosecution (NIP) on the basis that they perceive that there was insufficient reason for the speed displayed. Such challenges waste police and court time, at significant cost to the public purse, when legally the reason behind a setting is of no consequence and strict liability applies.”

23. The Commissioner considers the requested information is of very limited public interest. It is relevant to the complainant and potentially any other individual who was caught speeding at the same time, date and in the same location as the complainant.

24. Furthermore, the Commissioner acknowledges that the VSL information may still be relevant to any appeal. However, it should be disclosed, if relevant, via the proper appeal channels and processes, whereas its

premature disclosure under FOIA could compromise law enforcement work.

25. Ultimately, it would be remiss of the Commissioner to ignore the fact that disclosure of VSL information has had such a detrimental effect on law enforcement activities, that the Police, RSS and NH all collaborated to introduce a change of process.
26. In line with this new process, the Commissioner is satisfied that the information requested has been correctly withheld under section 31(1)(a), (b) and (c).

Right of appeal

27. 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

28. 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.
29. 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

Alice Gradwell
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF