

**FREEDOM OF INFORMATION ACT 2000 (SECTION 50)**

**DECISION NOTICE**

**Dated 29<sup>th</sup> November 2005**

**Name of Public Authority:** Oxford City Council

**Address of Public Authority:** St Aldate's Chambers  
109 – 113 St Aldate's  
Oxford  
OX1 1DS

**Nature of Complaint**

The Information Commissioner (the "Commissioner") has received a complaint which states that on 18<sup>th</sup> January 2005 the following information was requested by the Complainant from Oxford City Council (the 'Council') under section 1 of the Freedom of Information Act 2000 (the "Act"):

**Request One**

"a list of all motor vehicles currently licensed with the Driver & Vehicle Licensing Authority ("the DVLA") where the Registered Keeper of the vehicle is that of the Local Authority. The following information is requested:

1. Registration Mark of each motor vehicle;
2. Fleet number allocated (if any);
3. Department of the Local Authority to which the motor vehicle is allocated;
4. Make and Model/Type;
5. VIN (Vehicle Identification Number);
6. Type of Body fitted;
7. Date new or date of acquisition;"

**Request Two**

".....The Local Authority is requested to advise what historical information it holds on motor vehicles that have been sold and are not otherwise listed in Request 1".

It is alleged by the complainant that the council incorrectly applied the exemption in Section 31 (1) (a) of the Act to withhold the information on the basis that its disclosure would be likely to prejudice the prevention and detection of crime.

It is also alleged by the complainant that the council issued a refusal notice dated 24<sup>th</sup> January 2005 that did not comply with the requirements of Section

17 of the Act in that it did not state the council's reasons for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption in Section 31 (1) (a) of the Act outweighed the public interest in disclosing the information.

It is also alleged by the complainant that the council did not comply with Section 1 (1) (a) of the Act in that it failed to respond to the second request for information made by the complainant on 18<sup>th</sup> January 2005.

It is also alleged by the complainant that the council did not comply with the requirements of Section 16 of the Act in that it failed to provide reasonable advice and assistance in response to a modified request made by the complainant on 22<sup>nd</sup> January 2005 (the 'modified request').

### **The Commissioner's Decision**

Under Section 50(1) of the Act, except where a complainant has failed to exhaust a local complaints procedure, or where the complaint is frivolous or vexatious, subject to undue delay, or has been withdrawn, the Commissioner is under a duty to consider whether the request for information has been dealt with in accordance with the requirements of Part I of the Act and to issue a Decision Notice to both the complainant and the public authority.

### **Request One**

#### **Vehicle Identification Numbers**

In relation to that part of the information comprising vehicle identification numbers the Commissioner is satisfied that the disclosure of this information would be likely prejudice the prevention and detection of crime. He has reached this conclusion in the light of advice from Thames Valley Police and the DVLA that availability of vehicle identification numbers (VINs) to the public at large would be likely to increase the risk of vehicle cloning. Therefore the Commissioner is not satisfied that there is any obvious public interest in disclosing VINs.

The Commissioner is also satisfied that the public interest in maintaining the exemption in Section 31 (1) (a) of the Act in relation to the information about vehicle identification numbers outweighs the public interest in disclosing the information.

The Commissioner is therefore satisfied that the council has dealt with the request in accordance with the requirements of Part I of the Act in that it has applied the exemption in Section 31 (1) (a) of the Act correctly in withholding the information about vehicle identification numbers

In relation to the rest of the information contained in Request One the Commissioner is not satisfied that the disclosure of this information would be likely to prejudice the prevention and detection of crime.

The Commissioner is therefore not satisfied that the council dealt with this part of the request in accordance with the requirements of Part I of the Act in that it did not apply the exemption in Section 31 (1) (a) of the Act correctly in withholding the information in question.

Following the intervention of the Information Commissioner's Office, the council has since provided the complainant with the information he requested apart from that relating to vehicle identification numbers.

The council did not provide the complainant with information about vehicles used for covert surveillance work as he had excluded this information when he modified his request to the council on 22<sup>nd</sup> January 2005.

### **Refusal Notice**

In relation to the refusal notice issued by the council on 24<sup>th</sup> January 2005 the Commissioner is not satisfied that this complied with the requirements of Section 17 of the Act in that the notice failed to state the council's reasons for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption in Section 31 (1) (a) of the Act outweighed the public interest in disclosing the information. The Commissioner has since provided the council with advice as to what information should be included in refusal notices in order to comply with the requirements of Section 17 of the Act.

### **Request Two**

In relation to the second request for information that the complainant made on 18<sup>th</sup> January 2005 the Commissioner is satisfied that the council responded to this in its refusal notice dated 24<sup>th</sup> January 2005 and also in its letter of 24<sup>th</sup> February 2005. In these circumstances the Commissioner is satisfied that the council has dealt with this request in accordance with the requirements of Section 1 (1) (a) of the Act.

### **Modified Request**

In relation to the modified request that the complainant made on 22<sup>nd</sup> January 2005 the Commissioner is not satisfied that the council provided reasonable advice and assistance to the complainant in response to this request. In these circumstances the Commissioner is not satisfied that the council complied with the requirements of Section 16 of the Act.

The Commissioner has since provided the council with advice as to what Section 16 of the Act requires the council to provide in the way of advice and assistance to persons making requests for information.

## Right of Appeal

Either party has the right to appeal against this Decision Notice to the Information Tribunal (the "Tribunal"). Information about the appeals process can be obtained from:

Information Tribunal	Tel: 0845 6000 277
Arnhem House Support Centre	Fax: 0116 249 4253
PO Box 6987	Email: <a href="mailto:informationtribunal@dca.gsi.gov.uk">informationtribunal@dca.gsi.gov.uk</a>
Leicester	
LE1 6ZX	

Any Notice of Appeal should be served on the Tribunal within 28 days of the date on which this Decision Notice is served.

Dated the 29<sup>th</sup> day of November 2005

Signed: .....

Richard Thomas  
Information Commissioner

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

### **Statement of Reasons.**

The complainant requested the following information from the council on 18th January 2005.

“...a list of all motor vehicles currently licensed with the Driver & Vehicle Licensing Authority (“the DVLA”) where the Registered Keeper of the vehicle is that of the Local Authority”. The complainant also provided a list of the information details requested and this included such things as; the fleet number of the vehicle, the date the vehicle was acquired by the council, the make and model/type of vehicle, the VIN or vehicle identification number and the registration mark of each vehicle”

In addition the complainant also requested the council to advise what historical information was held by the council on motor vehicles that had been sold.

Oxford City Council withheld all the information requested under Section 31 (1) (a) of the Act on the basis that its disclosure would be likely to prejudice the prevention and detection of crime.

The complainant then made a complaint to the Information Commissioner alleging that the council had incorrectly applied the Section 31 exemption, had issued a refusal notice that did not comply with Section 17 of the Act, had failed to respond to a second request for information that was also made on 18th January 2005 and had failed to provide reasonable advice and assistance in response to a modified request for information that was made on 22<sup>nd</sup> January 2005

### **Request one**

In respect of Request One, the Commissioner has considered the application of s31 (1) to the information requested as follows;

1. Whether disclosure of the information requested by the complainant would, or would be likely to, prejudice the prevention or detection of crime and, if so,
2. whether in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

In respect of information about Vehicle Identification Numbers the Commissioner is satisfied that, from information supplied to the Commissioner by the council about advice the council obtained from Thames Valley Police and the DVLA, the council has correctly applied the provisions of s31(1)(a) and has established (1) that disclosure of this information would be likely to prejudice the prevention and detection of crime and (2) that the public interest in maintaining the exemption in Section 31 (1) (a) of the Act outweighs the public interest in disclosing the information relating to vehicle identification numbers.

In respect of the disclosure of information about Vehicle Identification Numbers, the Commissioner is therefore satisfied that the council applied the provisions of s31 (1) (a) of the Act correctly.

With regard to the other information requested in Request One, the Commissioner is not satisfied that the council has established that disclosure of all the other information requested would be likely to prejudice the prevention and detection of crime. This does not include information about vehicles used for covert surveillance work as the complainant excluded this information when he modified his request to the council on 22<sup>nd</sup> January 2005.

Accordingly, in respect of the disclosure of the remainder of the information contained in Request One the Commissioner is not satisfied that the council applied the provisions of s31 (1) (a) correctly.

### **Refusal Notice**

Section 17(3) of the Act provides that, in a refusal notice which relies upon the provisions of s(2) (2) (b), the refusal notice must state the reasons for claiming that, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information .

Having seen a copy of the refusal notice issued by the council on 24<sup>th</sup> January 2005 the Commissioner is satisfied that the refusal notice did not comply with Section 17 of the Act in that it did not state the reasons why the public interest in maintaining the exemption outweighed the public interest in disclosing the information.

### **Request Two**

From the information provided to the Commissioner by the council, the Commissioner is satisfied that the council had responded in accordance with Section 1 (1) (a) of the Act to the second request for information made on 18<sup>th</sup> January 2005 in the refusal notice that it issued on 24<sup>th</sup> February 2005 and its letter of 24<sup>th</sup> February 2005.

### **Modified Request**

To the extent that the council could have complied with Request One without the inclusion of the Vehicle Identification Numbers, the Commissioner has determined that the council failed to provide reasonable advice and assistance as required by Section 16 of the Act in failing to advise the complainant of this fact in its response to a modified request for information that was made on 22<sup>nd</sup> January 2005.