

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

### **Decision notice**

**Date:** 31 May 2024

**Public Authority:** The Driver & Vehicle Standards Agency  
**Address:** (Executive Agency within the Department for Transport)  
Berkeley House  
Croydon Street  
Bristol  
BS5 0DA

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

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1. The complainant has requested the number of complaints received about driving vehicle examiners employed in a particular location. The Driver & Vehicle Standards Agency (DVSA) provided some information but refused other information, citing section 40(2) – personal information. Eventually the DVSA accepted that this exemption did not apply and provided the remaining information.
2. The Commissioner's decision is that the DVSA breached section 1(1)(b) and 10(1) of FOIA by providing information to which the complainant was entitled outside the statutory timeframe.
3. The Commissioner does not require further steps.

#### **Request and response**

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4. On 16 June 2023, the complainant wrote to the DVSA and requested information in the following terms:

"I'd like to know how many complaints you've received about driving test examiners employed at DVSA Ashford, Kent Test

Centre during the current and previous 5 years. I'd especially like to know the breakdown of these complaints, i.e. how many complaints were made against each individual examiner. Finally, I'd like to know how many of these complaints were upheld."

5. The complainant then sent several chasers to the DVSA, though the public authority was within the allowed timeframe.
6. On 30 June 2023 DVSA sent a response. It provided some information but withheld other information under section 40(2) of FOIA.
7. DVSA provided a second response on 21 July 2023 (dated 13 July 2023). This response still withheld the number of complaints against each instructor under section 40(2).
8. On 15 July 2023 the complainant requested an internal review. They sent several chasers before the DVSA sent an internal review on 18 September 2023. The review provided the requested information and accepted that section 40(2) of FOIA had not been cited correctly.
9. There followed a series of emails that fell under the normal course of business. The complainant asked the DVSA why it had responded incorrectly and raised further questions in an attempt to elicit how this had occurred, they also voiced concerns about the information itself.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 16 January 2024 to complain about the way their request for information had been handled.
11. The Commissioner wrote to the complainant on 8 May 2024 explaining that wider concerns about the information itself and the DVSA's complaint processes regarding examiners was outside the Commissioner's remit. He also explained that any subsequent requests to the DVSA would need to be submitted as complaints before they could be considered. Given the particular circumstances of this case and his limited resources, he considered that a decision notice would serve no useful purpose. An investigation would be futile because the information had already been disclosed. Although he intended to write to the DVSA regarding the procedural breaches that had occurred, he proposed to conclude the complaint and close the case.
12. However, the complainant set out their concerns in some detail and asked the Commissioner to issue a decision notice.

13. The following notice therefore records the DVSA's breaches of the legislation regarding this request.

### **Procedural matters**

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14. Under section 1(1) of FOIA a public authority must (a) confirm whether it holds information that has been requested and (b) communicate the information to the applicant if it is held and is not exempt information.
15. Under section 10(1) a public authority must comply with section 10(1) promptly and within 20 working days following the date of receipt of the request.
16. By not providing all the information to which the complainant was entitled within the statutory timeframe the DVSA breached sections 1(1)(b) and 10(1) of FOIA.

### **Other matters**

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17. The section 45 code of practice<sup>1</sup> recommends that public authorities complete the internal review process and notify the complainant of its findings within 20 working days, and certainly no later than 40 working days from the receipt.
18. In this case the DVSA did not provide an internal review until after the recommended timeframe.
19. The Commissioner notes that the complainant had to be the primary instigator in obtaining a response in line with the FOIA from the public authority. In fact the complainant told the Commissioner that they had spent time "trying to understand the complexities of the FOIA". They questioned, "How many other members of the public...would have the time or even the fortitude to question the expertise" of trained DVSA staff.
20. The Commissioner monitors breaches by public authorities and expects that the DVSA will take note of the issues raised by this complaint in its future responses under the legislation.

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<sup>1</sup> [CoP FOI Code of Practice - Minor Amendments 20180926 .pdf \(publishing.service.gov.uk\)](#)

## Right of appeal

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21. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

22. 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.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Janine Gregory**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**