



Home Office

Information Access Team
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Mr Philip Collins
[Request-25196-829c3e24@whatdotheyknow.com](#)

Our Ref: 13700
Your ref:

Date: 3 March 2010

Dear Mr Collins

Freedom of Information request (our ref 13700): internal review

I am writing further to my e-mail of 3 February about your request for an internal review of our response to your Freedom of Information (Fol) request about vehicle clamping.

I have now completed the review. I have examined all the relevant papers and have consulted the policy unit which provided the original response. I have considered whether the correct procedures were followed and confirm that I was not involved in the initial handling of your request.

My findings are set out in the attached report. My main conclusion is that your request was a combination of requesting information under the Freedom of Information (Fol) Act and asking for general explanations. I would like to explain that the Act obliges public authorities to consider releasing information that is in written or electronic form, but as your request also asked for explanations rather than information, it should have been made clear which information was being supplied in accordance with the Act and which information was being offered as helpful explanations. I am sorry for this oversight and have brought it to the attention of the replying unit.

This completes the internal review process by the Home Office. If you remain dissatisfied with the response to your Fol request, you have the right of complaint to the Information

Commissioner at the following address:

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

Yours sincerely

A handwritten signature in black ink, appearing to read 'Steve Kirk', written in a cursive style.

Steve Kirk

Internal review report

Internal review of response to a request under the Freedom of Information (FoI) Act 2000 by Philip Collins, reference 13700

Responding Unit: Vetting and Safeguarding Policy Unit (VSPU)

Chronology

Original FoI request received: 29 December 2009
Target date to reply by: 27 January 2010
Response sent: 27 January 2010

Subject of request and VSPU response

These are listed within annex A.

Mr Collins's request for an internal review

1. Mr Collins submitted comments about the following responses to his request for information:

- In questions 1 and 2, he asked which government department was responsible for the size of signage displayed on private land and details of the relevant legislation. VSPU said they did not know which department had responsibility and continued by mentioning a Bill going through parliament which had no relevance to his question.
- Question 3 about a code of practice to be followed by those using wheel clamps on private land was replied to in a very vague manner and simply did not address the point.

Consideration of the response

2. I attended a meeting with the relevant staff in VSPU to discuss this case. I explained that in my view the vast majority of this request for information did not in fact fall within the scope of the FoI Act which requires public authorities to consider releasing information that is held in written or electronic form. The Act does not cover knowledge officials might have gained with experience, but when such information is included in a reply it should be made clear that that information is provided outside the scope of the Act.

3. I also explained that there was no requirement for the Home Office to ask, as in question 8 from Mr Collins, for any information from other public authorities, which in this case was the Driver and Vehicle Licensing Authority (DVLA). The reply to this point should have said that the Home Office does not hold the requested information advising Mr Collins to contact DVLA. It would also have been good practice to provide him with a postal and e-mail address to use. I have included this information within annex B to this report.

4. The appropriate combined reply to questions 1 and 2 should have been that the Home Office does not hold the requested information adding that unfortunately they could not offer any suggestion as to which public authority might hold the requested information.

5. Mr Collins's question 3 asked about Security Industry Authority (SIA) licences. As the

Home Office does not hold the requested information, it would have been appropriate to have directed Mr Collins to that authority, again providing him with the postal and e-mail addresses. This information is within annex B to this report.

6. In his request for an internal review, Mr Collins raised a fresh point asking what action motorists can take if they consider they have been unfairly treated by operators who have displayed unclear signage about parking on private land and will not release the vehicle without payment of a fee. Whilst this is beyond my remit as I am considering the handling of his earlier request for information, I asked VSPU if they hold any written or electronic information relevant to this point, but was told that they do not.

Conclusion

7. The VSPU team tried to deal with Mr Collins's correspondence in a helpful manner, but unfortunately did not specify which parts of that correspondence were being considered under the FoI Act and which were not valid FoI requests. There can be a fine line between what might be a valid request for information under the FoI Act and what ought to be treated as general correspondence, but in this instance it is my view that this case would have been best considered as general correspondence, particularly questions 4 to 7 inclusive.

Steve Kirk
Information Access Team

February 2010

Information requested:

- 1. Which government departments have the authority to regulate the size of a sign displayed by a landowner on private land?**
- 2. What law or legislation grants them this authority?**

Response

We are not aware of any Department with responsibility specifically for regulating signage used by vehicle-immobilisers.

Under the Private Security Industry Act 2001, the Home Office set up the Security Industry Authority. The SIA is a Non-Departmental Public Body.

Under the Crime and Security Bill, currently before Parliament, we plan to introduce a requirement for vehicle immobilisation businesses to be licensed by the Security Industry Authority (SIA). Proposals within the Bill will make it mandatory for vehicle immobilisation (VI) businesses and their employees seeking to be licensed to follow strict conditions set out in a code of practice by the SIA. Signage is one of the proposed areas where conditions would be set

Information requested:

- 3. Yes or No, will the requirement of an SIA licence obligate those engaged in the activity of clamping cars on private land to follow strict code of conduct regarding clear signage and the time taken to release the car and the size of release fees under penalty of criminal charges?**

Response:

These are all matters which are likely to be covered by the proposed code of practice

Information requested:

- 4. Will the 'independent appeals process' mentioned in recent government statements on this subject, be the course of action that will result in the criminal charges brought against the perpetrators of clamping that does not meet the code of conduct suggested in the same statements?**

Response:

The outcome of contested release fees would not necessarily lead to direct action against the business concerned. Responsibility for securing compliance with the conditions of a licence will continue to rest with the SIA and decisions on the appropriate action in relation to a business would be for the SIA to decide. The SIA's preferred option is to encourage compliance with the law rather than to prosecute. In deciding on the appropriate action in relation to a licence holder the SIA takes into account all the relevant evidence available to

them.

The penalties and powers available to the SIA for enforcement of business licensing would mirror those available in relation to individual licensing, including revocation or suspension of a licence and/or prosecution.

Information requested:

- 5. Will the granting of a licence from the SIA to clamping firms give them limited liability against criminal prosecution, if they fail to uphold an enforceable code of conduct regarding clarity of signage, amount of release fees?**

Response:

No. Adherence to the conditions of a licence will be required as part of the conditions for holding a licence, or having it renewed. However, as indicated above, the SIA will continue to exercise its discretion in enforcing licence conditions.

Information requested:

- 6. What justification is there for the police to refuse to get involved in cases of private clamping?**

Response:

This is a matter for which Chief Officers of Police are responsible, since they are responsible for the day to day management, use of resources, policies and deployment of staff are operational matters.

Any concerns about an individual case should be addressed to the Chief Officer of the force concerned. The Home Office has no power to intervene or act in such cases. Where a person is dissatisfied with the explanation received from the force, they may raise the matter with the local Police Authority.

Information requested:

- 7. Is the common law charge of extortion not applicable in this case? If not, why not?**

Response:

We are not aware of any decision of the courts in England and Wales to the effect that the law relating to extortion would prevent wheel-clamping. Only the courts could give a view on this matter.

Information requested:

- 8. What is the legal status of a car whilst it is on private land, owned by someone other than the owner of the car as compared to its legal status as a registered vehicle while it is on public roads?**

Response: (from the DVLA):

This would appear to be a question on which you would need to seek legal advice. One important issue, however, would be whether the vehicle was present on private land with or without the land-owner's permission.

Contact details for Driver and Vehicle Licensing Agency FoI Team

Freedom of Information D16
DVLA
Longview Road
Morrison
Swansea
SA6 7JL

E-mail: foi@dvla.gov.uk

Contact details for Security Industry Authority FoI Team

Freedom of Information
Security Industry Authority
PO Box 49768
London
WC1V 6WY

E-mail: foi@the-sia.org.uk