

Legal Services
Marie Kelly-Stone
Head of Legal Services

Please ask for: Marie Kelly-Stone
Direct Line: (01322) 343634
Direct Fax:
E-mail: marie.kelly-stone@dartford.gov.uk
DX: 142726 DARTFORD 7

We welcome calls via NGT Relay

Your Ref:
Our Ref: PMKS/

Date: 29 January 2019

Dear

RE: FREEDOM OF INFORMATION ACT 2000 – REVIEW OF DECISION

I refer to the Information Commissioner's notification received by the Council on 25 January 2019 advising the Council that you have complained about the handling of your FOI request dated 30 November 2018. I note that on 12 December 2018 you asked the Council to reconsider its decision [dated 12 December]. Unfortunately, your request to 'reconsider' was not dealt with in accordance with the Council's review procedure. I therefore intend to rectify this error by undertaking an independent review of the original decision to refuse your request.

You asked for:

Motor Vehicles registered for public hire i.e. Hackney Carriage or Private Hire relating to the period 31st July 2018 to the current date. Specifically, I would like to know: (If any of these elements are not available, please supply the ones that are):

Vehicle registration
Manufacturer (Make)
Model
Date at which they were first licensed
Date at which the license ceased

The following information is released, as attached, in response to your request:

Manufacturer (Make)
Model
Date at which they were first licensed
Date at which the license ceased

The information relating to vehicle registration numbers has been withheld applying the exemption referred to in Sections 40(2) and (3A) of the FOIA as disclosure would

breach the principle referred to in Article 5(1)a of the General Data Protection Regulation (GDPR), which requires that personal data relating to individuals is processed lawfully, fairly and in a transparent manner.

For clarification purposes, all vehicle registration numbers relate to living individuals and not registered companies.

My reasons for applying the exemption are as follows:

1. The licensing of hackney carriages is governed by section 42 of the Town Police Clauses Act 1847 (the 1847 Act) and the licensing of private hire vehicles, by section 51(3) of the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act). These Acts require the Council to maintain registers containing personal information such as names, licence numbers etc. These registers are available for inspection by members of the public, at the Council's offices.

2. The two main elements of personal data are that the information must 'relate' to a living person and that the person must be identifiable from it. In previous decision notices, the Commissioner has decided that a vehicle registration number is personal data [see FS50689632 and FS50755834]. Similar arguments apply here.

3. The Article 5(1)a principle requires that personal data be processed fairly and lawfully. I have considered the reasonable expectations of the licence holders, the potential consequences of disclosure and whether there is a legitimate public interest in disclosure of the information in question.

4. The licence holders' reasonable expectation is that their vehicle registration numbers are to be used solely to support licence applications to the Council. Licence holders have no reason to expect that their vehicle registration numbers would be disclosed further. Neither the 1847 Act nor the 1976 Act stipulates that the registers must include vehicle registration numbers and even if it were to do so, it would likely only be an expectation that such information would be available on inspection at the Council offices.

5. Seeking consent from licence holders to the release of their vehicle registration numbers would be a costly and onerous task for the Council.

6. You say that you wish to identify vehicles which have been used as either Private Hire or Hackney Carriage. I am not satisfied that your reasons for wanting disclosure of vehicle registration numbers is so compelling as to override the Council's duty to protect licence holders' personal data.

7. The fact that other local authorities have published the information on-line and/or disclosed the information does not oblige the Council to follow the same course. Given the importance of protecting an individual's personal data, the Council's 'default' position, in cases where section 40(2) of the FOIA is being cited, is in favour of protecting the privacy of the individuals. Therefore, in order to find in favour of disclosure, it would need to be shown that there is a more compelling interest in disclosure which would make it fair to do so.

8. I am satisfied, on balance, that such public interest as there may be in disclosure does not override the legitimate interests of the licence holders and that it would not be fair to disclose their vehicle registration numbers. As I have decided that disclosure

would be unfair (in contravention of Article 5(1)a of the GDPR), I have not considered whether or not disclosure would be lawful.

Should you remain dissatisfied with the decision on internal review, you may of course continue with your appeal to the Information Commissioner - Case Reference Number FS50812609.

Please familiarise yourself with the informative on the re-use of information, referred to below.

Yours sincerely

MARIE KELLY-STONE
HEAD OF LEGAL SERVICES

Cc ICO – case reference FS50812609 casework@ico.org.uk

INFORMATIVE

RE-USE OF INFORMATION (through Non-Commercial Government Licence) - Terms and Conditions and Copyright, Designs and Patents Act 1988 (as amended) and Re-Use of Public Sector Information Regulations 2005

Documents where the intellectual property rights are held by The Dartford Borough Council - For documents where the intellectual property rights (including but not limited to copyright) are held by The Dartford Borough Council, you are free to re-use any of the documents supplied in any format or medium for the following purposes: for personal use including non-commercial research purposes, private study, internal circulation within your organisation or for the purposes of news reporting. However this is subject to the information contained within the documents being used accurately and not in a misleading context. You should also identify The Dartford Borough Council as the source of the information.

If you would like to re-use our documents for other purposes e.g. publishing them or using them commercially, then you will need to ask for our consent. You can make a formal application for re-use by writing to or emailing:

The Freedom of Information Officer
Dartford Borough Council
Civic Centre
Home Gardens
Dartford
Kent DA1 1DR
DX: 142726 DARTFORD 7
Email: foi@dartford.gov.uk

Full guidance on how to make an application to re-use our information can be found in our Re-Use Policy at www.dartford.gov.uk

Documents where the intellectual property rights are held by a Third Party - For documents where an organisation or person other than The Dartford Borough Council holds the intellectual property rights, you will need to apply direct to the intellectual right property holder for consent to reuse the documents. Where possible, we can help you identify the intellectual property right holder and their contact details.

Compliance with intellectual property right legislation is solely your responsibility and Dartford Borough Council accepts no liability for infringement of any intellectual property rights, including but not limited to copyright.

Equality and Diversity - Dartford Borough Council aims to eliminate discrimination in respect of age, disability, gender assignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation and will ensure that its services are free from bias or discrimination and that all those involved in the licence application process are treated fairly and with respect and the process will be conducted in a manner appropriate to the individual, whatever their background.

Additional Help - If you need additional support, please let us know as soon as possible. If you have difficulty reading this Licence, we can make reasonable adjustments to assist you, in line with the requirements of the Equality Act 2010. We can also help if English is not your first language. Please contact our Customer Services on 01322 343434 or email customer.services@dartford.gov.uk We welcome calls via NGT Relay.