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FOI Advice Team  
Department for Transport

By email to FOI-Advice-Team-DFT@dft.gov.uk

Your ref: **F0020605**

**FOI and RoPSIR requests for number of licensed vehicles in UK by Output Area – Internal Review**

Dear FOI Advice Team,

I would like to request an internal review of DfT's response to the FOI and RoPSIR requests that I submitted on 21 December 2021.

I have forwarded to you, under cover of the same email to which this letter is attached, a copy of my requests, DfT's response of 26 January 2022, and a further exchange of emails on 27 January 2022 with [REDACTED], Head of Vehicles, Drivers and Access to Services Statistics.

DfT has disclosed most of the information within scope of my request, as two tables of statistics in an XLSX file. I am requesting the internal review in respect of two aspects of DfT's response. Firstly, DfT has suppressed values between 1 and 4 in cells at OA level, with secondary suppression at LSOA level, on the basis that this information is personal data and exempt from disclosure under section 40(2) of the FOIA Act. I believe DfT is mistaken in its application of this exemption. Secondly, DfT has not provided a clear statement of permission and/or conditions for my re-use of the disclosed information.

Please consider in particular the following points:

1. The information I requested was counts of registered vehicles that are (a) cars, (b) motorcycles, and (c) others, in each Output Area (OA) of the UK, along with counts for the same types of registered vehicle in larger geographies. In its response, DfT maintained that where any of those values was between 1 and 4 inclusive for any OA the information was personal data and exempt from disclosure.

DfT's rationale was given as follows:

"Due to the small number of vehicles registered in particular areas, release of information would be likely to lead to identification of individuals if pieced together with other information. The mosaic effect of combining information may potentially identify individuals who have a reasonable expectation that information about them is not placed into the public domain."

In my view, the suppressed numbers are not personal data. None of the information I have requested can be used to identify any individual, either by itself or by combining it with other information that is available to me or to a third party.

2. In its response, DfT said "This approach is consistent with all the statistical outputs that DfT produces from its extract of DVLA data." That suggests to me that DfT has applied a blanket policy on disclosure control, without considering the particular information within scope of my FOI request.

I draw your attention to the following in the ICO's [Code of Practice on Anonymisation](#) (page 31):

"Small numbers in small geographical areas present increased risk, but this does not mean that small numbers should always be removed automatically. For example, always removing numbers relating to five or 10 individuals or fewer may be a reasonable rule of thumb for minimising the risk of identification in a proactive disclosure scenario, but in the context of a specific freedom of information request a different approach may be possible, based on an application of the tests in the DPA."

3. I also draw your attention to the Upper Tribunal's recent decision in [NHS Business Services Authority v Information Commissioner and Spivack \[2021\] UKUT 192 \(AAC\)](#) – a recent judgment that deals with identifiability, suppression of small numbers, and the application of section 40(2) – as well as the 2019 [ICO decision notice](#) in the same case.
4. Output Areas (OAs), the smallest area of geography in my information request, are a [Census geography](#) with a confidentiality threshold of 100 persons and 40 households. In 2011, the average OA had a population of more than 300 persons.

The body types for which I have requested counts (car, motorcycle, others) are highly generic. It is not possible to derive any more specific information about individual vehicles, such as make or model, from the information I have requested.

Accordingly, I argue that even a known count of one vehicle of a particular body type in a particular Output Area cannot be used to identify any registered vehicle, or to identify any individual associated with that vehicle (such as the registered keeper). Such identification is only possible from access to additional information that would be sufficient by itself, rather than in combination with, the information I have requested.

5. If DfT still considers, following its internal review, that the suppressed values are personal data, it would be helpful to have some further explanation of the means that DfT considers are reasonably likely to be used by a motivated inquirer to identify individuals, should the information be disclosed.
6. My FOI request was accompanied by a request for permission to re-use the disclosed information under the terms of the [Open Government Licence v3](#). In its response of 26 January, DfT said that the dataset “can be freely used and shared openly”.

In follow-up correspondence, responding to my further request for confirmation that DfT was granting me permission to re-use the information in the data file under the terms of the OGL, Stephen Reynolds also said:

“Yes I can confirm that the data can be used for any purpose by any person or organisation. For the vehicles data the only licences we usually issue are those that restrict use to particular projects or purposes.”

Neither of those responses is sufficiently clear to comply with the requirements in [regulation 8 of The Re-use of Public Sector Information Regulations 2015](#). As the disclosed information is a work product of DfT, it will be subject to Crown copyright and/or database rights. I cannot re-use the information for my intended purpose, which includes making the information available to third parties under an open licence, without a record of permission from DfT.

Please provide a clear statement that DfT is granting me permission to re-use the information under the terms of the OGL v3, or a statement of any conditions of re-use that apply.

Thank you for your attention to this internal review request.

Yours faithfully,

Owen Boswarva