

Your appeal against the way your recent Freedom of Information request has been dealt with has been considered by two independent members of the Joint Independent Audit and Ethics Committee.

You requested the following information: 'any ongoing or past infringement of any legal requirement for any person in your Department responsible for a vehicle without either road fund tax or insurance' and you were given a *neither confirm nor deny* response on 10 October and a further explanation on 12 October.

The members considered your appeal on the following two points:

1. That providing a *neither confirm nor deny* response to your request was unreasonable and ambiguous.
2. That our letter of 12 October failed to provide an explanation that you could understand.

The members considered the points in your appeal and concluded that providing a *neither confirm nor deny* response was appropriate in this case and your appeal has not been upheld. Members considered the Information Commissioner's guidance in reaching this conclusion and I am attaching a copy of this for your information.

On reflection, however, the members asked for further clarification to be provided to you.

The *neither confirm nor deny* response has been made because, to provide you with a response as to whether the information is held (which is our first obligation on receiving a request for information), would require us to search for and retrieve sensitive personal information which we can only do in circumstances which would not breach the Data Protection Act. This type of information is defined as sensitive because it relates to the commission of an offence.

We have concluded that searching for, extracting and disclosing the information that you have requested would breach the first principle of the Data Protection Act which states that personal information must be processed fairly. The information that you have requested, if it were held, would relate to individuals and their personal circumstances rather than their actions or decisions in carrying out their job and there is a greater expectation that a public authority would not disclose that such information exists.

This exemption relates to section 40(5) of the Freedom of Information Act which is an absolute exemption and does not require a public interest test to be carried out.