

Dear XXXXXXXXXX,

Freedom of Information act 2000 (FOI Act 2000)

I am writing to confirm that the Department has now completed its search for the information which you requested (as below) on 13 and 14 November 2011. In your email you asked several questions. These are reproduced below in italics, together with our response:

(a) all documentation concerning the application made by Devon County Council for DPE

Please see attached pdf document containing details of Devon County Council's application.

(b) provide me with all documentation concerning any application made by all the districts within Devon, of which there are eight (8), who may also have applied for DPE powers for any on street function, for the same years as above.

The districts are:-

*Mid Devon District Council,
North Devon District Council,
East Devon District Council,
South Hams District Council,
Teignbridge District Council,
Exeter City Council (not a district as such, but classified as a district for DPE purposes),
West Devon District Council and
Torridge District Council,*

District councils are not eligible in the TMA 2004 to apply for CPE powers. Only county councils, unitary authorities and metropolitan district councils may apply to the Secretary of State to designate their administrative area as a civil enforcement area/special enforcement area (CEA/SEA). Devon County Council submitted an application to the Secretary of State to designate the county of Devon (which included all the districts) as a CEA/SEA.

Road Traffic Regulation Act 1984, Section 1(2)(a) defines that, other than trunk roads, only a County Council as having the power to make Traffic Regulation Orders for on-street restrictions of any kind.

This is in effect, what the legislation says. Under section 1 of the Road Traffic Regulation Act (RTRA) 1984 only local traffic authorities (such as county councils) may make traffic regulation orders (TROs) for example, to restrict parking on the public highway.

I notice on your web site there is a list, "List of local authorities with Civil Parking Enforcement (CPE) powers outside London". Can you please explain how many on this list have no power to make Traffic Regulation Orders, but are included as having enforcement powers? I can envisage that being the case for off-street car parks, but the heading appears to imply that it is a general power of district councils.

The title of the list should be renamed to say "List of areas where CPE is implemented" – we will rectify this as soon as possible. As noted earlier, district councils cannot apply for CPE powers. However, they can enforce parking restrictions on behalf of the county council through an agency agreement. They may also be involved in preparing the TRO, even though they can't actually make it themselves.

Please note that under the Formulation of government policy, etc exemption at section 35 of the FOI Act 2000 information relating to the formulation or development of government policy, Ministerial communications, the provision of advice by any of the Law Officers or any request for the provision of such advice and the operation of any Ministerial private office has been withheld. The full section 35 wording and the public interest test for withholding the information is at Annex A.

Please note that the names, addresses and contact telephone numbers of junior members of Department for Transport staff, members of the public, the names of junior company officials and all direct contact telephone numbers have been withheld in reliance on the personal information exemption at section 40(2) and 40(3) of the Freedom of Information Act 2000 (the full section 40 wording from the Act is attached at Annex A). These individuals have an expectation that their personal information will not be put into the public domain. It would therefore be unfair for us to disclose their personal information and would contravene the first data protection principle.

Please note that under the Legal professional privilege exemption at section 42 of the FOI Act 2000 information in respect of which a claim to legal professional privilege is exempt information. The full section 42 wording and the public interest test for withholding the information is at Annex A.

You will see from the information I have provided, that email disclaimers (e.g. the standard text which appears at the bottom of official emails) which are not part of your FOI request have been excluded. I should point out that under Freedom of Information Act 2000 you have the right to information but not to a document.

In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. The Department will, therefore,

be simultaneously releasing to the public the information you requested, together with any related information that will provide a key to its wider context.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's Information Rights Unit at:

Zone D/04
Ashdown House
Sedlescombe Road North
Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

XXXXXXXXXXXXX

Your right to complain to DfT and the Information Commissioner

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF