

29 August 2013

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Fairfax Business Bureau
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Dear Richard

Request made under the Official Information Act 1982

Thank you for your email of 19 July 2013 requesting information under Official Information Act 1982. Further to your request of 7 June 2013 (OIA-1124) you requested answers to four questions regarding the release of registered person's details from the Motor Vehicle Register. Your questions and the NZ Transport Agency's responses are outlined below.

1. How many individual people have opted out of having their details available on the motor vehicle register to date?

Since the introduction of 'opt out' on 1 May 2011, 92,956 people have opted out from having their details released. I must reiterate my advice in my response letter to OIA-1124 that the opt-out facility does not mean that your information cannot be released. Rather, it is an instruction to the Transport Agency that you do not wish your information to be disclosed to a person who has been granted an authorisation without first having your privacy interest considered - this is part of the process for considering whether information may be released under the Official Information Act 1982.

2. Is there any particular reason why there are no records kept of the number of people who have had information released despite opting out?

Upon further investigation, we have ascertained that the number of people who have had their details released, via the pre-approved electronic streamlined approach, despite having opted out can be identified. Therefore I must refer back to part of your original OIA-1124 and re-answer the first two bullet points accordingly. Your original questions were as follows.

- ***How many MR31 requests (including preapproved electronic requests) to date have been made on persons who have opted out of having their details available on the motor vehicle register?***
- ***Of those requests, how many have resulted in the release of the information?***

Our answer regarding those requests made individually on an MR31 form remains the same:

'Between 1 May 2011 and 24 June 2013 a total of 2959 applications were made via the MR31 process. We are again unable to separate out the number of requests made for details about persons who had opted out verses those you had not opted out. However, we can advise that of these 2959 requests, 1949 were approved for release of details.'

However, we can now advise that since the implementation of 'opt out' a total of 276,178 pre-approved electronic requests (the streamlined approach) have been made for registered person details. Of these queries, 5,864 were made for opted out individuals. All 5,864 were approved for release of details.

We realise these figures differ greatly from those previously provided for the streamlined approach. We believe the figure quoted from our data analysis team was for all requests made, rather than just those for personal details. As a result of our investigation a new business process has been established, which the Transport Agency will use for any future requests of this nature. Please accept our sincerest apologies for the incorrect information supplied to you in our response of 11 July 2013 and for any resulting confusion this may have caused.

3. Can NZTA provide a copy of the document or guidelines staff use when determining whether to approve a non-streamlined MR31 request?

Please find enclosed a copy of the guidelines the Transport Agency staff use when determining whether to release registered person details when an application is made via the MR31 process.

4. Can NZTA supply a list of all organisations who have streamlined access to the register?

Currently, the following organisations have been granted pre-approved electronic (streamlined) access to the Motor Vehicle Register.

Blue Star Finance Limited
 Carjam Online Ltd
 Lemoncheck Limited
 Motorweb Services Limited
 Motortrade Finances Ltd
 Veda Advantage (NZ) Limited
 Information Logistics Company Ltd
 Mercedes-Benz Financial Services NZ Limited
 Avanti Finance Limited
 Bmw Financial Services New Zealand Limited
 Tower Insurance Limited
 Asset Finance Limited

Toyota Finance New Zealand Ltd
Shirley Finance Limited
Greymouth Car Centre Limited
Vero Insurance New Zealand Ltd
Mike King Limited
Instant Finance Limited
Tournament Parking Limited
Carnaby Cars 2006 Limited
Collier - David/Ernest
TASS Group Limited
Lumley General Insurance (NZ) LTD
Cheryl Renouf Limited
Marac Finance Ltd
Noel Johnston Limited
IAG NZ LTD
Myles & Fairhall Limited
Dean Paterson Limited
Paul A Robinson Limited
Johnston Hall Limited

If you would like to discuss this reply with the Transport Agency, please contact Andy Knackstedt, National Media Manager, by email to andrew.knackstedt@nzta.govt.nz or by phone on (04) 894 6285.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sue Hardiman', with a long horizontal line extending to the left.

Sue Hardiman
Manager, Customer Access
For Chief Executive

RELEASE OF REGISTERED PERSON NAME AND ADDRESS UNDER SECTION 237 LAND TRANSPORT ACT 1998

Guidance notes by Applicant type

Introduction

These guidelines are intended to assist decision making with respect to requests for information made under section 236 of the LTA and which is subsequently released under section 237. These are guidelines only as each request must be considered on its own merit with the circumstances specific to each request taken into consideration. The legislation was intended to prevent the use of information for illegitimate purposes (e.g. car theft, harassment) and mass direct marketing. The aim should be to protect an individual's privacy and prevent these types of activities occurring without compromising the legitimate role of the MVR in everyday business transactions relating to motor vehicles. Where the applicant has a s241 authorisation but they are seeking information for an opted out person consider that the opt-out is a specific instruction from that person that they do not wish their information to be disclosed as of right to an authorised person. This indicates that the individual has a strong privacy concern with the release of their details which must be taken into consideration when assessing the strength of the privacy interest.

Applicant	Reason for request	Public Interest v Privacy Interest
Insurer	Investigation and settlement of insurance claim	Efficient investigation of claims and recovery of damages from those who are at fault are in the public interest; an insured owner of a damaged vehicle is compensated for their loss under the terms of the contract with their insurer. The insurer needs to recover the cost from the offending driver (or their insurance company). If insurers cannot recover their costs then insurance premiums are likely to rise which would disadvantage the general public. The public interest in facilitating the identification of hit and run drivers would likely outweigh their privacy interest.
Motor Vehicle Trader	<ol style="list-style-type: none"> 1. Verifying ownership and ownership history 2. Verifying owners addresses for correspondence, recalls, parts and service information 3. Provision of new vehicle and finance information (marketing) 	<p>Contact with owners regarding warranty or service issues is of direct benefit to the individual vehicle owner and also in the interests of proper maintenance of vehicles on NZ roads.</p> <p>There is a strong public interest in ensuring that those conducting transactions in respect of motor vehicles have access to the best possible information to help minimise fraud and error.</p>
Finance Company	<ol style="list-style-type: none"> 1. Verify data provided in support of a credit application where finance relates to a vehicle being purchased or where the vehicle is 	Access to registered person information where the person seeking the information has a registered security interest under the Personal Properties Securities Act (PPSA) in the vehicle enables the applicant to pursue its rights as a registered security holder and take possession of the vehicle under the PPSA and thus uphold the maintenance of the

	<p>used as security</p> <ol style="list-style-type: none"> 2. Verify that client has not on-sold vehicle 3. Verify, in the case of vehicle purchase, the person selling the vehicle is the registered person and has rights to sell and receive funds from it 4. Locate owner of vehicle for purpose of repossession 5. Offering finance and want to confirm that the vendor is the legal owner of the vehicle but do not have their name or contact details 	<p>law</p> <p>There is a strong public interest in ensuring that those conducting transactions in respect of motor vehicles have access to the best possible information to help minimise fraud and error.</p>
Market Researcher	Undertake surveys	Consumer research becomes more expensive resulting on higher prices or products being less well aligned to consumer preferences. Consideration needs to be given as to whether a disclosure would result in an interference of privacy or merely an irritant.
Private investigator ¹	<ol style="list-style-type: none"> 1. To trace persons subject of investigation. 2. Identification verification of suspects/witnesses in fraud investigations, in particular insurance fraud and verifying legitimate entitlement under insurance contracts 3. Investigation of workplace theft 4. To identify who was at a specific place at a specific time 	<p>Private investigators seek, obtain and supply information for clients. They may conduct investigations for clients seeking personal information, information that is crime-related or difficult to locate, or missing persons.</p> <p>If personal information from the register is shared by the private investigator with clients, it could potentially be used in a manner that is detrimental to the individual concerned.</p> <p>Many investigations undertaken by private investigators may be criminal in nature and subsequent criminal complaints may be lodged with the Police or other law enforcement agencies. However, private investigators are not law enforcement agencies and while private investigations <i>may</i> serve the public interest the decision will be dependant on the case being investigated.</p>

¹ To work as a private investigator you must obtain a licence from the Ministry of Justice. A private investigator's licence can be issued either in the name of the individual or in the name of the company. If the licence is issued in the name of a company then all employees must obtain a Certificate of Approval as a Responsible Employee of a Licensed Private Investigator

<p>Parking (non-enforcement)</p>	<ol style="list-style-type: none"> 1. Collect unpaid parking charges 2. Identify the person responsible of illegally parked or abandoned vehicles 3. Identify vehicle owners in case of drive-away accidents and incidents of careless driving 4. Identify owner where animal suffering heat distress left in a locked vehicle 	<p>Facilitates the efficient and orderly management of access to parking facilities although access to registered person details does not prevent a parking authority from enforcing parking restrictions by other means</p> <p>Enables the parking authority to identify registered persons in order to recover legitimate costs incurred in clamping, moving or towing vehicles in breach of parking restrictions however, any issue of liability for costs incurred in clamping, storing or towing the vehicle can be raised directly with the driver when they claim the vehicle.</p> <p>Assuming illegal parking is relatively common, access to personal information helps facilitate the speedy, low cost and low-level resolution of that problem. There could be significant costs in a global sense, if towing became the only option for private property owners dealing with numerous instances of illegal parking.</p> <p>Further, If some members of the public breach parking restrictions ie overstay the permitted time, it could impact unfairly on other members of the public insofar as they do not have equal access to parking facilities. .</p> <p>Drive offs and careless driving are matters for the Police or the affected third party's insurance company</p> <p>Details of the owner where an animal is locked in a car do not preclude the parking authority taking action to rescue the animal. In fact, even with the registered persons details they may not be able to be contacted for several hours and it is unlikely the parking authority would wait to rescue the animal until they had contacted the registered person.</p>
<p>Vehicle information re-sellers</p>	<p>Provide reports so that members of the public and businesses can verify and authenticate ownership, primarily that of vehicle sellers</p>	<p>Enables vehicle purchasers to do due diligence, thereby minimising risk and facilitating vehicle related transactions. Provides a service to the public by assembling relevant information from different sources and making it available in one convenient place.</p> <p>Some resellers will have no controls around who may access this information which has the effect of open access, albeit at a cost. This is not consistent with the intent of legislative changes restricting access.</p>

		<p>Other resellers may operate on a subscriber basis only rather than making information available to the wider public.</p> <p>Details of sellers could be confirmed via the Registered Person Confirmation.</p>
Receiver/Liquidator	To confirm registration details for vehicles recovered during a liquidation/receivership process (may include historical registration details as vehicles are often transferred to another party just before liquidation).	Receivers have the power to manage property in receivership for the benefit of security holders (s14(2)(c) Receivership Act 1993) and the principal duty of a liquidator is to take possession of, protect, realise and distribute the assets of a company in liquidation (s253 Companies Act 1993). In order to manage and realise the property of a company in receivership or liquidation it may be necessary for the liquidator/receiver to have access to personal information and the public interest may outweigh the privacy interest of the individual concerned.
Tyre Distribution and Sales	To contact customers that have purchased tyres that have either been recalled or require physical inspection	Facilitating prompt and efficient contact with affected vehicle owners is a matter both public and private safety. It is of direct benefit to the individual vehicle owners and in the interests of the proper maintenance of vehicles on NZ roads. There is likely sufficient public interest to outweigh the privacy interest of the registered persons
Source and Supply of vehicles for use in film industry	To identify persons registered in respect of vehicles identified as suitable for film industry	<p>The information cannot always be collected directly from the individual concerned or from another source besides the MVR. While there may be some benefit to the individual concerned and some individuals may welcome contact from an auto modelling agency, others may object to being contacted for this purpose.</p> <p>Access to the information is clearly in the business interest of the applicant and this reflects a wider public interest in facilitating commerce however this may not be sufficient to outweigh the privacy interest of the individual concerned.</p> <p>Consideration could be given to passing on the auto modelling agency's details directly to the registered person. -</p>
Debt collection	Collection of unpaid charges	Debt collection, including recourse to the Courts cannot proceed unless the individual responsible for the debt can be identified. Where an individual responsible for payment cannot be identified by any other way (for example a person using a waste transfer station leaves the premises without paying) it is likely that fees and charges are increased which would disadvantage the general public. The public interest may, therefore, outweigh the privacy interest of the individual.

Oil company	To identify the person registered in respect of a vehicle where that person has left without paying or is unable to pay	As above
Other	Trace persons who have caused minor damage to vehicles and have left scene without giving name	Matters for Police
	Want to purchase vehicle	There is little public interest in favour of disclosing the information. A person wishing to sell their vehicle will make that fact known without the need for a person to make an unsolicited approach. There is a strong privacy interest in favour of withholding the information as there can be no way of verifying an applicants claim to be seeking the information to make an offer of purchase, ie the person could simply lie in order to obtain the information for illegitimate purposes.
	Identifying persons exhibiting suspicious behaviour	Matters for Police
	Identify owners of abandoned vehicles	There is a public interest where a person acting in an official capacity needs to identify the person registered in respect of an abandoned vehicle in order to make them take responsibility for their vehicles and/or recovery legitimate costs incurred in the removal and disposal of those vehicles. This would not necessarily be true of a person who finds a vehicle abandoned outside of their property - this should be a matter raised with the police or local authority so they can take relevant action.
	Identify owners for issue of trespass notices	The Trespass Act underpins private property rights. The effective operation of that Act depends on landowners being able to warn trespassers. If they are unable to issue an oral warning, they must be able to deliver or send a warning to the persons address. Provision of name and address information contributes to the maintenance of the law relating to trespass and the protection of private property rights by enabling private landowners to issue trespass notices
	Enforcement of a Court order	There is a strong public interest in enabling a court decision to be enforced. Consider whether information could be disclosed to the relevant lawyer or court directly in order to lessen the potential harm of releasing the information directly to the applicant.
	Road/Street maintenance	Vehicles parked on a road or street being resealed may need to be removed. Access to name and address information may be necessary in order to contact the individuals registered in respect of the vehicles and request them to move the vehicles. There are other options available, such as restricting access to the road, leafleting and canvassing

		a neighbourhood before the work progresses and towing any remaining vehicles still parked on the road. However, towing a number of vehicles that remain parked on the road would appear to be unduly onerous on both the road maintenance operator and the vehicle owner. Towing should be an option of last resort where relevant owners cannot be contacted.
	Network Utility incidents	Access to name and address may be sought to identify persons registered in respect of vehicles that have been involved in an accident causing damage to the property of a network utility company. Network technicians are unable to obtain relevant details from the responsible party at the time of the accident as often the vehicle has been abandoned. While there may be some occasions where the relevant information could be sought directly from the driver of the vehicle concerned it seems there are many cases it would be impossible to do this. The network utility company, or its insurer, will seek to recover the cost of the damage from the offending driver wherever possible. If these costs cannot be recovered then insurance and/or utility supply costs may rise which would in turn disadvantage the general public. In view of this the public interest in facilitating the identification of the registered person may outweigh their privacy interest.
	Historical research	There is an arguable public interest in access to official information for historical research. Whether this public interest outweighs the privacy interest will depend on the use of the information (e.g. will it be published?) and possibly even the age of the information. It would be unlikely that the public interest would be sufficiently strong to outweigh the privacy interest of the current registered persons.
	Traffic forecasting and modelling	Traffic engineering relies on accurate assessments. Decisions made can affect the lives of thousands of people and the effectiveness and efficiency of transport systems. There is a strong public interest favouring disclosure. Consider whether the release of the name is necessary for the purpose. Traffic forecasters and modellers may require access to address information only and this could be provided whilst withholding the individual's name thereby providing additional protection for personal privacy.

**RELEASE OF REGISTERED PERSON NAME AND ADDRESS UNDER SECTION 237 -LAND
TRANSPORT ACT 1998
Worksheet**

Introduction

The questions below are intended to assist the assessment of requests for information made under section 236 of the Land Transport Act 1998 and which may subsequently be released under section 237. There is no set outcome from the answers to the questions as each request must be considered on its own merit with the circumstances specific to each request taken into consideration.

Preliminary

1. Is the release of the individuals name and address consistent with the purposes of the register? If yes then the information may be disclosed. The purposes are to facilitate:
 - (a) enforcement of the law
 - (b) maintenance of the security of New Zealand
 - (c) Collection of charges imposed or authorised by an enactment, and
 - (d) Administration and development of transport law and policy.
2. Has the individual consented to the disclosure of their name and address?
If the individual has consented to the release of their name and address then their information may be disclosed. In the absence of a signed privacy consent it would be prudent to contact the individual to confirm they have given consent. Alternatively, if there is no consent from the individual it is possible to contact the registered person at any time during consideration of the request to ascertain whether they consent to their name and address being disclosed to the requester. However, if they do not consent this does not mean that they can veto any decision to release their name and address. Instead the strength of the privacy interest must be balanced against the public interest in favour of releasing the information but the fact that they do not consent is an important consideration.
3. Is the name and address necessary for the reason specified? If not consider declining the request.
4. Can the requester obtain the name and address from another source? If yes consider declining the request.
5. Are there alternatives to releasing the individuals name and address? For example, could statistical information be provided rather than the individual's information?
6. Has the requester consented to their own information being made available to the person concerned? If yes consider whether it is possible to forward the requesters details to the registered person so the registered person can contact them directly.

Use and management of information

11. Is there any control over how the name and address will be used, stored or disclosed? Consider whether the information will be used just once, or whether it will be re-used multiple times. Consider also whether the requester intends on disclosing the name and address details to a third party. Disclosure to a third party would likely strengthen the privacy interest and particularly more so if that third party can use the information without any restriction. If there are controls around the use, storage or disclosure consider what these might be. For example, is the third party bound by contract to the requester to use the information only for specified reasons. Consideration should be given to how securely the name and address may be held, or whether it will be destroyed after its use. If the request is consistent with a s241 authorisation consideration can be given to any conditions specified in that authorisation
12. Will the individual receive a benefit from the release of their name and address? If the individual will receive a benefit this would strengthen the favour for releasing the name and address but this must still be considered against all other factors. The extent of the benefit and whether the benefit would be such that the person would give their consent in order to receive it should also be considered.
13. Will the individual be contacted by a person as a result of the disclosure? Consider whether the individual will have an option not to participate with the reason for the contact (ie can they instruct the person not to contact them again)? If the individual has an ability to request the person contacting them cease any further contact or remove them from any database this will likely weigh in favour of disclosure but consideration also needs to be given as to whether the registered person has opted-out as this is a clear indication that they do not wish to be contacted and will weigh in favour of withholding.

Public interest

14. What is the public interest in favour of disclosing the information?
One of the factors which should be considered when considering whether it is desirable in the public interest to disclose information is whether the disclosure would promote the ability of the public to effectively participate in the making and administration of laws and policies? However, "Public interest" is not restricted and may encompass broad concepts but can be generally taken to mean for the common good, or general welfare of all. It may not necessarily be an action that benefits every single member of society and could be an action that benefits some of the population and harms none. Alternatively a public interest matter might be something that adversely affects any person at any time in their life in any situation if a core matter is not put into the public arena or handled in a more reasonable way when the problem clearly becomes evident as symptomatic of an underlying unreasonableness.

Consider whether the disclosure is of legitimate concern to the public rather than simply being of interest. Consider what harm may result from the disclosure of the registered persons name and address.