

24 January 2024

Mike

fyi-request-25040-ff139d1d@requests.fyi.org.nz

REF: OIA-14226

Dear Mike

Request made under the Official Information Act 1982

Thank you for your email of 5 December 2023 requesting information relating to access to Personally Identifiable Information (PII) in the Motor Vehicle Register (MVR) under the Official Information Act 1982 (the Act).

Before I respond to your request for information, below is some context about Motochek, which is a service provided by NZ Transport Agency Waka Kotahi (NZTA), to allow users to access certain information from the MVR.

Please see examples of what information is received via a Motochek search in **Attachment 1**.

The information Motochek users can access depends on the access group they are allocated when they register.

The two main access groups are:

- Standard access Motochek account – no personal information is provided, and the search query will return “information not available”. Only if the registered person is a body corporate will it come up with the registered person name (company name).
- Authorised access under section 241 of the Land Transport Act 1998 – they will receive the name and address of current registered persons who are individuals (unless the individual has opted out), and name and address of current and historic registered persons where those persons are a body corporate.

Standard access is assigned to customers/companies initially when they are granted an account through the Regulatory, Commercial Services team at NZTA. If a customer wants personal information through Motochek (which requires Authorised access, outlined above), they would need to make a further application for this through the Exemptions and Registers Integrity team at NZTA.

Motochek keeps a record (held for three months) of who has performed a query on a vehicle. These records can be accessed by Motochek account holders or NZTA. Once the Motochek account has been created by NZTA, the account holder adds the individual users. The users log in via a RealMe account and then that user is identified when a query is made.

When a query is made it will record:

- the time the query was made
- what type of query it was
- the plate they queried
- the Motochek User who made the query

The MVR itself also records a basic record of information, which is retained for 36 months.

This includes:

- the time and date of the query
- the Motochek account number
- the plate number queried
- the enquiry type.

With the above in mind, I have responded to each part of your request in turn below.

1. Record keeping...

1a. Do you keep a record each time any one of those organisations request PII from the MVR?...

Yes.

1b. If not, why not keeping in mind your responsibilities and accountabilities under the Privacy Act 2020, the Public Records Act 2005 (PRA)?

Not applicable. Please refer to my answer for question 1a.

1c. If so, how long do you keep that record for?

There is a record held in the MVR for 36 months which shows the account number of the company that has made a query via Motochek.

Motochek will retain information of the user that made a query for 3 months.

However, if the Motochek account number belongs to a portal (eg Carjam), NZTA does not have visibility of who the portal end user is, and in those situations we would need to contact the third party portal and ask them for the information. Otherwise, we search the Motochek system based on the customer number and company name, obtained from MVR.

1d. If so, what attributes are there in that record?...

Each record provides basic details of the query, which include:

- The date and time the query was made.
- The vehicle registration plate which was queried
- The type of enquiry. (e.g vehicle details, registered person history etc, bearing in mind that the type of access will depend on what is returned so if they completed a registered person and they only have standard access they would NOT get any personal details of registered owners.
- The Motochek account number and user who made the query

1e. If so, can the person who owns that PII make a privacy request under the Privacy Act 2020 for a "report" (or similar) that would show them each time their PII was accessed by one of the 1,848 organisations?...

Yes.

NZTA can provide a report to a person seeking information about who has accessed their details in the MVR. This can be run either by plate number or customer number to show all searches on any vehicle associated with that customer.

Should a customer wish to receive this report, they can make an enquiry via email to the following email address: info@nzta.govt.nz.

This information does not need to be requested under the Privacy Act 2020 and is built into business-as-usual processes. Requesting it under the Privacy Act is also an option if the customer wishes to receive further personal information held by NZTA.

2. Private parking enforcement...

2a. When considering a request by one of these parking enforcement organisations to be granted access to PII in the MVR what is the basis that NZTA is looking for to decide to use s 241 of the Land Transport Act 1998 to expose PII in an effort to uphold a claim of Contract law from a private parking enforcement organisation?...

In terms of parking enforcement as a reason for applying for section 241 access, when parking enforcement is required on a large scale, it is suitable for section 241 access to be granted.

Further to this, the underpinning public interest allowing authorisation is:

- Facilitating the efficient and orderly management of access to parking facilities;
- Enabling equal access to parking facilities – if some members of the public breach parking restrictions (for example, by overstaying the permitted time), it could impact unfairly on other members of the public in so far as they do not have equal access to parking facilities;
- Enforcing breaches of parking terms and conditions – unrecovered parking fees may mean that compliant car park users are required to cover the loss by way of higher parking fees;
- Facilitating the speedy, low-cost and low-level resolution of illegal parking, without having to resort to towing, which could increase costs to all users; and
- Enabling parking authorities to identify registered persons to recover legitimate costs incurred in clamping, moving or towing vehicles in breach of parking restrictions.

An example of terms and conditions for parking enforcement can be found on the NZTA website at the following link: www.nzta.govt.nz/assets/vehicle/docs/MVR-terms-and-conditions-care-park-nz-limited.pdf.

These conditions include the requirements to display clear signage which shows that information relating to the plate number may be accessed, including personal details. It also details staff training, system security and record keeping requirements.

NZTA is not involved in the setting of fees for parking breach infringement notices. If there is a dispute about what amount is fair or reasonable, this is a matter between the registered person and the parking company.

For further context regarding NZTA's process when considering a section 241 application, please follow the links below. NZTA considers their answers to the legislated questions about how they will protect privacy and ensure the information will be used appropriately.

- www.nzta.govt.nz/vehicles/how-the-motor-vehicle-register-affects-you/authorised-access-to-the-register/who-should-and-shouldnt-apply-and-how-to-apply/
- www.nzta.govt.nz/vehicles/how-the-motor-vehicle-register-affects-you/authorised-access-to-the-register/frequently-asked-questions/

2b. Has the agency taken legal advice on the use of s 241 of the Land Transport Act 1998 to assist private parking enforcement organisations trying to enforce a contract.

Yes.

3. Care Park NZ Limited
Gazette ID # 2022-au3717...

3a. Can you please provide a copy of those conditions that were published on your website and is referenced by the Gazette.

Please follow the below link to the NZTA website for the current Gazette notice for CarePark Limited.
www.nzta.govt.nz/assets/vehicle/docs/MVR-terms-and-conditions-care-park-nz-limited.pdf

The NZTA website also has links to the full terms and conditions for all applications granted under non-standard terms from 2021 onwards. Please follow the below link:
www.nzta.govt.nz/vehicles/how-the-motor-vehicle-register-affects-you/authorised-access-to-the-register/terms-and-conditions/

If you would like to discuss this reply with Waka Kotahi, please contact our Ministerial Services team, by email to official.correspondence@nzta.govt.nz.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tracy Moore', written over a horizontal line.

Tracy Moore
Head of Customer Operations