

XXX  
XXX  
XXX

[Via email XXXX@XXX]

Dear XXXX

**Freedom of Information Request – F0008006**

I am writing in regard to your Freedom of Information request about office space which we received on 17 August 2011. Firstly I would like to apologise for the problems that you experienced when trying to submit your request in July.

In your email you advised that you had received responses from other DfT Executive Agencies and that you were expecting a separate response from the Driving Standards Agency. Therefore, as requested, this response covers the central part of the Department for Transport (DfT(c)) and the Executive Agencies not covered by the earlier response: the Government Car and Despatch Agency (GCDA) and the Vehicle Certification Agency (VCA).

The main GCDA site is primarily used as non-office space and in line with your request has therefore been excluded from this response.

Data in respect of parts 1-4 for DfT(c) and the VCA is attached at Annex A.

The Department has decided not to disclose the information you have requested at parts 5 and 6. The Department considers that there are strong public interest arguments for withholding the cost information under the exemption at section 43(2) 'commercial interests' of the Freedom of Information Act 2000. The full text of the exemption is attached at Annex B.

The exemption at section 43(2) is qualified. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosing the information. The key public interest factors for and against disclosure are also attached at Annex B.

You may wish to be aware that the Government Property Unit in the Cabinet Office is currently working to provide a consistent method of reporting performance data for buildings on the Government's Civil Estate. This will be available for publication on-line via Direct.Gov from the end September 2011.

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:

XXXX  
XXXX  
Department for Transport  
Great Minster House  
Zone 3/31  
76 Marsham Street  
London SW1P 4DR

Web Site: [www.dft.gov.uk](http://www.dft.gov.uk)

15 September 2011

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 wish to discuss any of the above, please contact XXXX. Please remember to quote the reference number above in any future communications.

Yours sincerely,

**XXXX**

### **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

## Annex B

Section 43 of the Freedom of Information Act provides that:

1. Information is exempt information if it constitutes a trade secret
2. Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).
3. The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

### Your request:

You requested information on the approximate annual rental cost and annual operational costs (excluding rent) for each building used primarily as office space.

The Department considers that the information requested falls within the exemption in section 43(2) (Commercial Interests).

### The Public Interest Test:

The exemption in section 43(2) is qualified which means it's subject to the public interest balancing test.

### Public interest considerations favouring disclosure are:

- There is a public interest in transparency and accountability of government. The public should be allowed to know how public money is spent on the civil estate and to scrutinise that expenditure.
- There is a public interest in knowing that public money is being used effectively, and that departments are getting value for money in the provision of property and property services.
- There is a public interest in the publication of information about government property to inform debate

### Public interest considerations favouring non-disclosure are:

- There is a public interest in the efficient use of public resources. Disclosure of rent information would be likely to prejudice the commercial interests of the department(s) by affecting adversely their bargaining position during negotiations which would result in the less effective use of public money.
- The Government Property Unit (and departments) already disclose a significant amount of information in relation to the estate; in particular the annual "State of the Estate" report, required by the Climate Change Act 2008. Thus the public receives significant information on the civil estate performance, and comprehensive disclosure of individual property costs is not necessary to demonstrate good use of public funds.

- The provision of information on rent and other annual operational costs across the whole of the portfolio of departments' property holdings may enable private sector organisations to devise a property strategy which might be applied in a manner counter to the departments' own property strategies - this would be prejudicial to the commercial interests of Government and/or individual departments. For example, they can buy in key buildings and oppose renewals of key leases, or bring forward development opportunities that will displace government occupiers.
- This information may enable third parties to "reverse engineer" the property coordination process to drive up rents that government pay.
- The balance of the public interest may be satisfied by disclosing information on the total property costs, i.e. the aggregated costs per building<sup>1</sup>.

Outcome of the public interest test:

In all the circumstances of the case the Department considers that the public interest in maintaining the exemption outweighs the public interest in disclosure.

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<sup>1</sup> Through the Civil Estate Property Benchmarking Service the GPU uses metrics based on the "Total Property Cost". Specifically this includes a basket of "core" property costs defined on the basis that:

- a) they represent core and significant costs in most offices; and
- b) this set of data should be available to all estate managers for all buildings, so it facilitates direct "like for like" comparability to others and private sector.

The costs reflect actual costs incurred annually and specifically included in Total Property Costs are:

- Rent
- Rates
- Service Charges
- Utilities
- Revenue maintenance costs
- Cleaning
- Security