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Department for Transport
First Floor
55 Victoria Street
London SW1H 0EU

Tel : 020 XXXXX
Fax : 020 XXXXX
E-mail : XXXXX@dft.gsi.gov.uk
Web site: www.dft.gov.uk

22 FEBRUARY 2011

Dear XXXXX

Freedom of Information Request F0007310

I refer to your request under the Freedom of Information Act 2000 for information regarding the names of any MPs or peers who have or have had security passes and / or clearance to walk round unaccompanied the Transport Department since the coalition was formed.

The department is responsible for managing access to its estate in line with standards set out in the HMG Security Policy Framework, published by Cabinet Office. Passes may be issued to individuals who are required to make frequent visits to specific Government sites to meet business requirements, subject to the usual security checks. However, the department cannot provide information about specific security controls as such information could undermine their effectiveness, highlight vulnerabilities and put the department and its staff at risk.

The information you have requested has been withheld under sections 24(1) (national security), 31(1)(a) (law enforcement) and 38(1)(a) and (b) (health and safety) of the Act. The full text of these exemptions is included in an annex to this letter.

In applying exemptions under section 24(1), 31(1)(a) and 38(1)(a) and (b) we have had to balance the public interest for and against releasing the information held on the names of MPs and peers who have or have had security passes and / or clearance to walk round unaccompanied the Transport Department since the coalition was formed. It was determined that in this case, to release this information may prejudice national security, the prevention or detection of a crime or the physical wellbeing of individuals to which the Department has a duty of care. This is not in the public interest.

The release of information detailing specific aspects of the security arrangements for the department's buildings could assist those seeking to determine and exploit any vulnerabilities in those arrangements.

Such exploitation would be likely to pose a threat to national security as it risks compromising the security of the department's buildings. There is a risk that would-be criminals could find it useful to know who may have access to these buildings by way of a pass and target those individuals. Release could also undermine measures taken to safeguard the physical security, and hence the wellbeing of individuals in those buildings, to whom the department has a duty of care.

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 Departments 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 DfTs complaints procedure and your right to complain to the Information Commissioner.

If you have any queries about this letter, please contact Rachel Hersey on 020 7944 3232. Please remember to quote the reference number above in any future communications.

Yours sincerely

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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 A

Section 24 provides that;

1. Information which does not fall within section 23(1) is exempt information if exemption from section 1(1)(b) is required for the purpose of safeguarding national security.
2. The duty to confirm or deny does not arise if, or to the extent that, exemption from section 1(1)(a) is required for the purpose of safeguarding national security.
3. A certificate signed by a Minister of the Crown certifying that exemption from section 1(1)(b), or from section 1(1)(a) and (b), is, or at any time was, required for the purpose of safeguarding national security shall, subject to section 60, be conclusive evidence of that fact.
4. A certificate under subsection 3 may identify the information to which it applies by means of a general description and may be expressed to have prospective effect.

Section 31 of the Freedom of Information Act provides that:

1. Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice-
 - (a) the prevention or detection of crime,
 - (b) the apprehension or prosecution of offenders,
 - (c) the administration of justice,
 - (d) the assessment or collection of any tax or duty or of any imposition of a similar nature,
 - (e) the operation of the immigration controls,
 - (f) the maintenance of security and good order in prisons or in other institutions where persons are lawfully detained,
 - (g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),
 - (h) any civil proceedings which are brought by or on behalf of a public authority and arise out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment, or
 - (i) any inquiry held under the Fatal Accidents and Sudden Deaths Inquiries (Scotland) Act 1976 to the extent that the inquiry arises out of an investigation conducted, for any of the purposes specified in subsection (2), by or on behalf of the authority by virtue of Her Majesty's prerogative or by virtue of powers conferred by or under an enactment.
2. The purposes referred to in subsection (1)(g) to (i) are-

- (a) the purpose of ascertaining whether any person has failed to comply with the law,
 - (b) the purpose of ascertaining whether any person is responsible for any conduct which is improper,
 - (c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,
 - (d) the purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or other activity which he is, or seeks to become, authorised to carry on,
 - (e) the purpose of ascertaining the cause of an accident,
 - (f) the purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration,
 - (g) the purpose of protecting the property of charities from loss or misapplication,
 - (h) the purpose of recovering the property of charities,
 - (i) the purpose of securing the health, safety and welfare of persons at work, and
 - (j) the purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work.
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 any of the matters mentioned in subsection(1).

Section 38 provides that:

1. Information is exempt information if its disclosure under this Act would, or would be likely to:
 - (a) endanger the physical or mental health of any individual, or
 - (b) endanger the safety of any individual.
2. 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, have either of the effects mentioned in subsection (1).