



**Department  
for Transport**

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Our Ref: F0009407

29<sup>th</sup> November 2012

Dear XXXXXXXX

### **Freedom of Information request - F0009407**

Thank you for your revised request for information, originally sent on 28 October. In your original request you asked for "a record of expenditures made by the Department for Transport on legal advice sought in order to comply with Freedom of Information Act requests for each month starting September 2011". On 1 November, you clarified this as a request for :

- the costs involved in court actions on disclosure of information, both in engaging outside counsel and in time spent by in-house lawyers
- broken down by FOIs and EIRs
- relating to requests fielded by the Department itself and its executive agencies
- relating to all aspects of Fol requests and EIRs, including Internal Reviews; ICO appeals; Information Tribunal appeal cases

I am writing to confirm that the Department has now completed its search for the information. The information provided is for the whole Department including its Executive Agencies, our shared service centre (SSC) and the central Department.

The General Counsel's Office (GCO) is the Department's legal services Directorate. The GCO maintains a database in which its lawyers record their time spent against predefined work categories. The information provided in respect of time spent by DfT lawyers relates to time recorded against categories for all Fol, EIR and Data Protection related work broken down by month. The recorded work categories do not separate time spent as between work related to Fol, EIR or Data Protection issues nor do they distinguish between work relating to court actions, internal reviews, ICO appeals, Information Tribunal appeal cases or other types of Fol, EIR or Data Protection related work (for instance initial advice on the application of exemptions)

While some of this information *may* be available from notes or other records that might be held by individual DfT lawyers, it is unlikely that complete information will be held. In any event, obtaining any further information from any such individual notes or records that exist could only be done at disproportionate costs in excess of £600. Section 12 of the FOI Act does not oblige the Department to comply with requests that exceed this limit, and we are therefore refusing your request in so far as it relates to any such additional information that may be held locally. The annex A to this letter sets out the exemption in full.

You may wish to consider refining your request, perhaps by narrowing the time period in question, and by specifying a particular subject area, e.g., aviation or rail projects, in order

to bring the cost of determining whether the Department holds relevant information, locating, retrieving and extracting it, below the appropriate limit.

The table below summarises information available from the Department's central database for time spent by DfT lawyers on Fol, EIR and Data Protection. It also includes summary information on the cost of external legal support from Treasury Solicitors where this has been identified as relating to two cases (a single Fol case and a single EIR case) that were subject to appeals to the Information Commissioner's Office. In relation to these two cases and a further two Fol cases that were the subject of appeals to the Information Commissioner's Office no additional information was found to be held by individual DfT lawyers in relation to the time spent on these cases.

<b>Month</b>	<b>DfT lawyer hours recorded*</b>	<b>Treasury Solicitor's costs (Ex VAT) re Fol cases</b>	<b>Treasury Solicitor's costs (Ex VAT) re EIR cases</b>
Sept 11	14.5	-	-
Oct 11	39.7	-	-
Nov 11	3.7	-	-
Dec 11	3.7	-	-
Jan 12	1.0	-	-
Feb 12	29.0	-	-
Mar 12	17.5	-	-
Apr 12	0.2	£37.50	£187.00
May 12	53.0	-	£99.00
Jun 12	18.3	-	-
Jul 12	15.0	-	-
Aug 12	23.3	-	-
Sep 12	9.0	-	-
Oct 12	10.5	-	-

\* The DfT does not calculate internal charges for providing its legal services. However Treasury Solicitors charge between £95 and £125 per hour for lawyers between Grade 7 and SCS. These rates may be considered as broadly indicative of the costs for Government lawyers. Of the time recorded by DfT lawyers dealing with Fol, EIR or Data Protection cases it is likely that proportionately very little time spent will have been in respect of court proceedings.

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/01  
Ashdown House  
Sedlescombe Road North  
Hastings  
East Sussex TN37 7GA  
E-mail: [FOI-Advice-Team-DFT@dft.gsi.gov.uk](mailto: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

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## **Your right to complain to the 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 12 Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated

The “appropriate limit” for the purposes of subsection (3) of section 12 is prescribed as £600 under regulation 3 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.