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By e mail to: xxxxxxxxxx

Dear xxxxxxxxxx

XXXXX

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Department for Transport

Zone x/xx

Great Minster House

76 Marsham Street

London

SW1P 4DR

Direct Line: 020 7944 xxxx

E-mail: xxxxxxxxxx@dft.gsi.gov.uk

Web Site: www.dft.gov.uk

Our Ref: F0007361

9 March 2011

FOI Request – F0007361

Thank you for your request for information dated 9 February 2011.

In your e-mail, you requested all information from January 2010 to date, aural/written/electronic, pertaining to:

1. Discussion and correspondence, concerning the frequency of meetings and executive decision to wind it up, about the AHWG together with communications to AHWG members on these issues.
2. Discussion and correspondence concerning the proposed swab testing programme, selection of testing facilities, and awarding of the contract to the Institute of Occupational Medicine (IOM) in Edinburgh.

This letter responds to part 1 of your request, regarding the Aviation Health Working Group (AHWG). We will be responding separately to part 2 of your request, regarding the proposed swab testing programme.

Part 1 of your request has been considered under the Freedom of Information Act 2000.

The Department does hold information relevant to your request, which we have interpreted as referring to all relevant internal correspondence, as well as correspondence to or from any other Department or public body and correspondence to AHWG members.

I can confirm that the duty on the Secretary of State, established in the Civil Aviation Act 2006, to *“organise, carry out and encourage measures for the safeguarding of health of persons on board aircraft”* is now delivered through the Aviation Health Unit (AHU) of the Civil Aviation Authority. Section 16 of the Civil Aviation Act 1982 as amended by section 8 of the Civil Aviation Act 2006 provides for a *“continuous requirement on the CAA to provide advice and assistance”* in connection with that duty. In 2007, the House of Lords Science and Technology Committee recommended that the AHU should have a higher profile and should become the focus for airlines, passengers and health professionals. Closing down the AHWG enables this recommendation to be fulfilled.

The Department holds the following material, which refers to the closing down of the Aviation Health Working Group (AHWG). Copies are enclosed with this letter.

1. Submission to Theresa Villiers dated 13 January 2011 recommending that the Aviation Health Working Group be closed down (Annex A). The draft letter to Lord Krebs annexed to the submission has not been included as it is in identical terms to the letter described at (2) below. We have decided not to disclose Information on handling advice at paragraph 12 of the submission as it falls under the exemption in Section 35 (1) (a) of the FoI Act relating to the formulation or development of Government policy. Annex F sets out the exemption in full. In applying this exemption, we have had to balance the public interest in withholding the information against the public interest in disclosure. Annex G sets out the factors we have taken into account in applying the public interest test.
2. Letter from Theresa Villiers to Lord Krebs, Chairman of the House of Lords Committee on Science and Technology dated 20 January 2011 announcing the decision to close down the AHWG (Annex B).
3. Identical letter sent out to AHWG members on 1 February 2011 announcing the Government's decision to discontinue the AHWG (Annex C).

The last meeting of the AHWG was held on 18 February 2010 and the meeting minutes have been published on the DfT website at <http://www.dft.gov.uk/pgr/aviation/hci/ahwg/minutes-180210.pdf>. These indicate at item 7 that the next meeting of the AHWG would be confirmed, but no further meetings have in fact taken place. Under Section 21 of the FoI Act (see the extract from the Act at Annex D), we are not required to provide information which is already accessible to the public elsewhere.

The names of Departmental junior officials, that is staff below the senior civil service, have been redacted from the above documents in reliance on the personal information exemption at section 40(2) and 40(3) of the Freedom of Information Act 2000 (the full section 40 wording from the Act is attached at Annex E). These individuals are not in public facing roles and therefore have an expectation that their names will not be put into the public domain. It would be unfair for us to disclose their names and would contravene the first data protection principle. Contact e-mail addresses of AHWG members which are not already in the public domain have also been redacted for the same reasons where they appear.

In keeping with the spirit and effect of the Freedom of Information Act, all information is assumed to be releasable to the public unless exempt. A copy of this response and the information provided may now be published on our website together with any related information that will provide a key to its wider context.

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/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 have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely,

XXXXXXXXXX



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Division
Room 1/25
Department for Transport
Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 XXXX
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1 February 2011

Aviation Health Working Group

I am writing to let you know that the Government has decided to discontinue the Aviation Health Working Group.

I attach a copy of the Minister of State's letter of 20 January to Lord Krebs, Chairman of the House of Lords Science and Technology Committee, which gives the details.

As Chair of the AHWG for nearly 6 years I want to thank you, your organisation and in some cases your predecessor for your contributions and effort over that time. In particular, I think the AHWG has made a significant contribution by promoting research into deep vein thrombosis and cabin air, and through setting up the Aviation Health Unit in the CAA as the UK centre of expertise for aviation medicine. The cabin air research is in the peer review stage and will be published as soon as possible.

I am retiring from the Department for Transport in March so may I add a personal thank-you as I feel I have been fortunate to have such helpful and committed colleagues.

Yours sincerely

xxxx

Chair of the Aviation Health Working Group

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

To: Minister of State

From: XXXXXX
Aviation Regulatory and
Consumer Division (ARC)
Aviation Directorate
Location: Zone 1/25, GMH
Tel: 0207 944 XXXX
Date: 13 January 2011
Copies: PS/Secretary of State
Permanent Secretary
Richard Hatfield
Jonathan Moor
Sandra Webber
Kate Jennings
Lara Sherwin
XXXX
XXXX

CLOSING DOWN THE Aviation Health Working Group (AHWG)

Issue

1. Whether to close down the DfT chaired Aviation Health Working Group (AHWG) as part of our cost savings.

Recommendation

2. Close down the AHWG, which has arguably come to the end of its useful life. A letter for you to send to Lord Krebs, Chairman of the House of Lords Committee on Science & Technology, is attached - see Annex. The DfT chair (Sandra Webber, Head of Aviation Regulatory and Consumer Division) will write to members thanking them for their contributions over the years.

Timing

3. Routine.

Consideration

Background to the AHWG

4. The AHWG was set up in 2001 by the then Government following a report by the House of Lords Committee on Science & Technology into air travel and health. This report was prompted by then concern over the incidence of deep vein thrombosis (DVT) on long distance flights. Its membership includes representatives from airlines and trades unions, practitioners of aviation medicine, Government Departments and agencies, and the regulator - Civil Aviation Authority (CAA). As well as acting as a reporting and commissioning body for aviation health research, the AHWG caused the Aviation Health Unit (AHU) to be set up in the Medical Department of the CAA as a centre of expertise and information on aviation medicine.
5. The AHWG has the following terms of reference:

i Provide a forum for interested Government Departments and agencies to consider issues relevant to aviation health;

ii Provide an interface with the air transport industry, health experts and other interested parties on aviation health issues of mutual interest;

iii Evaluate the need for research into issues related to air travel and health, and consider the role of Government in supporting such research;

iv Ensure Ministers are kept informed and receive comprehensive advice on aviation health matters; and

v Monitor developments that impinge on the health of those travelling by air.

Present position

6. Over the years the Department has invested staff resource (holding AHWG meetings, producing and publishing minutes etc.) as well as funding research into air travel and health. The terms of reference could now largely be fulfilled away from the AHWG itself. Indeed the last meeting was in February 2010.
7. The AHU has established itself well and the duty on the Secretary of State, established in the Civil Aviation Act 2006, to "*organise, carry out and encourage measures for the safeguarding of health of persons on board aircraft*" is now delivered through the AHU. Section 16 of the Civil Aviation Act 1982 as amended by section 8 of the Civil Aviation Act 2006 provides for a "continuous requirement on the CAA to provide advice and assistance" in connection with that duty. Airline medical divisions have developed good links with the AHU and there are now more interfaces between airlines and doctors, including with other CAA medical panels which include the same stakeholders as AHWG. With these changes other Government Departments which were originally members (Department of Health and HSE) have either formally withdrawn or attend intermittently.
8. One of the AHWG's main tasks was to oversee and commission research into topical aviation health issues. In its early years it oversaw the WRIGHT research into DVT which cost DfT and the Dept Health jointly €1.8 million euros. The European Commission also contributed, but no other individual country. More recently the research work, project managed by Cranfield University, into allegations of cabin air contamination have required much effort by DfT in securing airline participants and security clearance. When the final projects are complete this research will have cost DfT almost £400,000. Again cabin air quality is a global issue but the UK took the initiative. Constraints in the Spending Review mean we will now no longer be able to finance such research (the third term of the AHWG's reference). This means that should there be pressure for further cabin air research after the report by Cranfield University is published later this year, our response will be that the UK taxpayer has made a significant financial contribution and that the AHU would need to justify the costs of further research to its industry charge payers and ensure a proportionate response. We would encourage the AHU to look to much greater international cooperation in respect of aviation health issues which are common to air travellers of all nationalities. The Department has contracts in place to complete the remaining cabin air research projects and these will be fulfilled.

9. Closing down the AHWG does not mean that expertise on aviation medicine will be lost, or that stakeholders lose the opportunity to have their voice heard. The establishment of the AHU and its good reputation mean that it is in many ways a natural successor to the AHWG. Indeed, the House of Lords Science and Technology Committee recommended in 2007 that the AHU should have a higher profile and should become the focus for airlines, passengers and health professionals. Closing down the AHWG and enabling the AHU *de facto* to come to the fore enables this recommendation now to be fulfilled.
10. We have a good understanding with the CAA and are confident the AHU will provide authoritative advice on aviation medicine, as well as a monitoring function on particular health issues (thus meeting the AHWG terms of reference at four & five).

Other options instead of winding up

11. We have considered with the CAA whether they would wish to take over running the AHWG in the Department's place, or whether the industry should run it. The CAA does not see a need to take on the AHWG given that the AHU is in place to handle aviation health issues with interested parties. That leaves the industry itself, but that option does not seem particularly attractive in this specialised field; and the current terms of reference don't lend themselves to an industry lead.

Handling

12. [Information withheld]
13. Press Office will develop lines to take to deal with any media enquiries.

Clearances

14. This submission has been cleared with Legal and Communications.

Conclusion

15. Ten years on our conclusion is that the AHWG has run its course and that the AHU is now established as the principal focus for aviation health. Given the severe constraints in the Department with regard to expenditure this body should be wound up. This change should take place immediately.

XXXXXXXXX

Annex B

Letter to Lord Krebs, Chairman of the House of Lords Committee on Science & Technology, House of Lords, London SW1A 0PW

I am writing to tell you that I am winding up the Aviation Health Working Group (AHWG), which is chaired by the Department of Transport, and which was set up in 2001 by the then Government on the recommendation of your Committee.

The AHWG has been a valuable and effective body, but has now come to the end of its useful life. In almost 10 years of existence it has fulfilled its remit, e.g. by acting as a reporting body for research into deep vein thrombosis and cabin air, and through setting up the Aviation Health Unit (AHU) in the Medical Department of the Civil Aviation Authority which is a UK centre of expertise for aviation medicine. As aviation medicine has developed and the AHU has established itself, stakeholders have developed good links with agencies, including the CAA, separate from the AHWG. Consequently, it has needed to meet far less frequently - the last meeting was in February 2010.

Closing down the AHWG does not mean that expertise on aviation medicine matters will be lost, or that stakeholders lose the opportunity to have their voice heard. The establishment of the AHU and its good reputation in the field of aviation medicine mean that it is in many ways a natural successor to the AHWG. The Science and Technology Committee recognised this when it recommended in 2007 (*Air Travel and Health: an Update - HL Paper 105*) that the AHU should have a higher profile and should become the focus for airlines, passengers and health professionals when seeking information on aviation medical issues. Closing down the AHWG and enabling the AHU *de facto* to come to the fore allows this recommendation to be fulfilled.

The Secretary of State's duty to have regard to the health of persons on board aircraft remains. Section 16 of the Civil Aviation Act 1982 as amended by section 8 of the Civil Aviation Act 2006 provides for a "continuous requirement on the CAA to provide advice and assistance" in connection with that duty. We have a good understanding with the CAA/AHU and are confident the CAA will provide authoritative advice on aviation medicine.

We will complete and publish the work we have undertaken on cabin air and thereafter submit the research reports to the Committee on Toxicity for consideration.

There are also, of course, pressing financial reasons behind my decision. Over the years we have spent considerable sums of public money; the DVT research cost the Department for Transport and the Department of Health

jointly €1.8 million euros, while the cabin air researches will have cost the Department of Transport some £400,000 on completion. In future we shall encourage the AHU to look to much greater international cooperation in respect of aviation health issues - which are common to air travellers of all nationalities.

The Chair of the AHWG will be sending valedictory letters to members shortly.

Rt. Hon Theresa Villiers

21. Information accessible to applicant by other means

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

40. Personal information

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which do not fall within subsection (1), and

(b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the [1998 c. 29.] Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

(i) any of the data protection principles, or

(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the [1998 c. 29.] Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the [1998 c. 29.] Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

(5) The duty to confirm or deny—

(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and

(b) does not arise in relation to other information if or to the extent that either—

(i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the [1998 c. 29.] Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or

(ii) by virtue of any provision of Part IV of the [1998 c. 29.] Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject’s right to be informed whether personal data being processed).

(6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the [1998 c. 29.] Data Protection Act 1998 shall be disregarded.

(7) In this section— “the data protection principles” means the principles set out in Part I of Schedule 1 to the [1998 c. 29.] Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

“data subject” has the same meaning as in section 1(1) of that Act;
“personal data” has the same meaning as in section 1(1) of that Act.

35. Formulation of Government policy

1. Information held by a government department or by the National Assembly for Wales is exempt information if it relates to:
 - (a) the formulation or development of government policy
 - (b) Ministerial communications
 - (c) the provision of advice by any of the Law Officers or any request for the provision of such advice, or
 - (d) the operation of any Ministerial private office.
2. Once a decision as to government policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded:
 - (a) for the purposes of subsection (1)(a), as relating to the formulation or development of government policy, or
 - (b) for the purposes of subsection (1)(b), as relating to Ministerial communications.
3. The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).
4. In making any determination required by section 2(1)(b) or (2)(b) in relation to information which is exempt information by virtue of subsection (1)(a), regard shall be had to the particular public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to decision-taking.
5. In this section:

"government policy" includes the policy of the Executive Committee of the Northern Ireland Assembly and the policy of the National Assembly for Wales;

"the Law Officers" means the Attorney General, the Solicitor General, the Advocate General for Scotland, the Lord Advocate, the Solicitor General for Scotland and the Attorney General for Northern Ireland;

"Ministerial communications" means any communications:

- (a) between Ministers of the Crown,
- (b) between Northern Ireland Ministers, including Northern Ireland junior Ministers,
- or
- (c) between Assembly Secretaries, including the Assembly First Secretary,

and includes, in particular, proceedings of the Cabinet or of any committee of the Cabinet, proceedings of the Executive Committee of the Northern Ireland Assembly, and proceedings of the executive committee of the National Assembly

for Wales;

"Ministerial private office" means any part of a government department which provides personal administrative support to a Minister of the Crown, to a Northern Ireland Minister or a Northern Ireland junior Minister or any part of the administration of the National Assembly for Wales providing personal administrative support to the Assembly First Secretary or an Assembly Secretary;

"Northern Ireland junior Minister" means a member of the Northern Ireland Assembly appointed as a junior Minister under section 19 of the Northern Ireland Act 1998.

Public Interest Test**Freedom of Information Act 2000****Section 35 1(a) – the request involves information relating to the formulation or development of Government Policy**

The following is a public interest test which has been carried out in order to decide whether it is in the public interest to release or withhold handling advice contained in the submission to Ministers of 13 January 2011 relating to the decision to close down the AHWG.

Factors for disclosure

- Release of information would promote accountability and transparency with the public, and inform those who have raised particular concerns about how policy is considered within Government.

Factors for withholding

- Department needs to be free to consider and develop government policy prior to engaging in public debate, without exposing that policy or to premature public debate, comment or ridicule;
- There needs to be free space in which it is possible within the development of government policy for officials to provide free and frank advice on handling strategy to Ministers and express opinions within the context of that strategy;
- Policy decision by Minister is very recent (January 2011), and is a live issue

Reason why the public interest favours withholding the information requested

The release of the withheld information would impact detrimentally on the Department's ability to consider handling advice in the context of policy development, through a free and frank exchange of views. On this basis, we conclude that the factors above outweigh the benefits of disclosure.