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

FOI Ref: F0007010

Dear XXXXX

21 January 2011

## **REQUEST UNDER THE FREEDOM OF INFORMATION ACT 2000**

I refer to your request under the Freedom of Information Act 2000 dated 26 October and clarified on 5<sup>th</sup> November. In which you asked the following information:

*“Copies of all emails and letters sent by a Minister or official to East Midlands Trains regarding revenue protection matters at Sheffield station since 6<sup>th</sup> May this year.”*

I apologise for the delay in responding to your request. I am writing to confirm that the Department for Transport does hold the information but has decided that some of this information cannot be disclosed for the reasons given below. The information that can be released is:

A chain of emails and letters between East Midlands Trains and DfT relating the installation of ticket barriers and manual ticket checks at Sheffield Railway Station for the period 6 May (11 May) to 24 October 2010 (with redactions under section 43 (2) of the Freedom of Information Act).

The information being withheld falls under the exemptions in sections 43(2) and 40 of the Freedom of Information Act 2000.

In applying the exemption under section 43(2) we have had to balance the public interest in withholding the information against the public interest in disclosure. The attached annex A to this letter sets out the exemption in full and details why the public interest test favours withholding the information.

We have redacted personal information (such as names and telephone numbers) from the information released. They constitute personal data under the Data Protection Act and, as such, are exempt from disclosure under section 40 of the Freedom of Information Act.

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:

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

XXXXXX

## **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

The information which falls under Exemption 43(2) is EMT instructions to revenue protection staff for Sheffield Station. i.e. item 3, 4, 5, 6 and 7 of reasons to allow people overbridge.

### **Section 43 (2) exemption**

**Full text: section 43 of the Freedom of Information Act (commercial interests).**

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).

#### **Public interest test factors for disclosure**

Due to the considerable local public interest in the issue of public access over the footbridge, members of the public may be interested in knowing what criteria the revenue protection officers use to allow people to use the station footbridge.

Releasing the information would show the transparency of approach used by EMT.

#### **Public interest test factors against disclosure**

The instructions to revenue protection staff (reasons to allow people overbridge) contain information which if available in the public domain would provide would-be fare evaders with an extensive list of reasons that EMT considers sufficiently valid to allow somebody to pass through a ticket barrier, and then to travel on a train, without a valid ticket. Publishing the instructions in full would therefore assist dishonest passengers to commit unlawful acts.

If the redacted information became widely known, it would compromise EMT's ability to carry out effective revenue protection. This would directly prejudice the commercial interests of EMT, and could indirectly prejudice the commercial interests of the Department if lower revenue resulted in higher subsidy payments.

Disclosure would make it less likely that companies or individuals would provide the Department with commercially sensitive

	<p>information in the future and consequently undermine the ability of the Department to fulfil its role.</p> <p>Non disclosure would ensure the preservation of public and industry confidence in the ability of public authorities to protect confidential information.</p>
<p><b>Decision</b></p> <p>The opportunity for would be fare evaders to use these instructions to their advantage and EMT's legitimate right to protect its revenue and prevent unlawful travel indicates that the public interest would be best served by not releasing this information. I have weighed this against the public interest of making these details available. In our view there is little benefit to the public interest, as these details do not materially add to the public understanding of the debate around revenue protection at Sheffield Station.</p>	