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XXXX
SCS Business Partner
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Direct line: 020 7944 XXXX
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17 February 2011

Dear XXXX

FOI F0007314: SCS Selection Process

I am writing to confirm that the Department has now completed its search for the information which you requested on 26th January 2011. You asked for the following information which we are responding to under the terms of the Freedom of Information Act 2000. I will respond separately on those questions you raised which are being answered under the Data Protection Act.

“Question 5 - Supply details of all other persons who were similarly required to attend interview (including the number of people interviewed and the ethnicity, age and sex of each person, together with their initial competence and performance scores).

Question 6 - Confirm that all persons who scored an initial total of 6 for competence and performance were requested to attend for interview.

Question 8 - Supply details of the extent to which the members of the interview panel knew the other persons who were interviewed.

Question 12 - Confirm the extent (if any) that DfT diversity policies affected the decision taken by the interview panel as respects any person interviewed.

Question 13 - Explain why no person on the interviewing panel was from Bronwyn Hill's Directorate (or therefore XXXXXXXX Directorate) when the DfT guidance clearly states “interviews will be competence-based and conducted by a panel consisting of the DG (or their nominated Director), HR and an independent member”.

Question 14 - Supply details regarding the equality proofing process that followed the Departments decision as to who was surplus. (specifically with regard to the sex or age of relevant persons).”

The answers to your questions are as follows:

Question 5 - 5 other candidates were required to attend for interview. While there is diversity data on a number of aspects of the process held in the EqIA to which I refer in my answers to Questions 12 and 14 below, diversity data on the invitees to interview is not held. Due to the small number of candidates interviewed, their scores are being withheld 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 A). If we were to disclose this information it could be used, coupled with information already in the public domain, or known to individuals within the department, to work out overall scoring patterns for some of the other participants in the selection process. These individuals have an expectation that information about their scores will not be put into the public domain. It would be unfair for us to do so and would contravene the first data protection principle.

Question 6 - All persons who scored an initial total of 6 for competence and performance were not requested to attend for interview.

Question 8 – This information is not held by the Department.

Question 12 - Under section 21 of the Act (the full text of the exemption is at Annex B), we are not required to provide information which is already reasonably accessible to you. The information you requested is publically available on the Department's website and is contained within the 'SCS Selection Process, Equality Impact Assessment' document which can be accessed at <http://www.dft.gov.uk/about/diversity/esmr/scsselectionimpactassessment/> .

Question 13 - This information is not held by the department. Steve Gooding, DG for MFS, attended in Bronwyn's place but there is no record of the basis for this decision.

Question 14 - Under section 21 of the Act (the full text of the exemption is at Annex B), we are not required to provide information which is already reasonably accessible to you. The information you requested is publically available on the Department's website and is contained within the 'SCS Selection Process, Equality Impact Assessment' document which can be accessed at <http://www.dft.gov.uk/about/diversity/esmr/scsselectionimpactassessment/> .

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,

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SCS HR Business Partner

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

Exemption in full

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 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 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 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 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 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 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 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.

Annex B

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.