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Department for Transport
5/21 DfT Southside
105 Victoria Street
London SW1E 6DT
Direct Line: 020 xxxx

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[By e-mail: xxxx]

Our Ref: F0007532

28 July 2011

Dear xxxx

Freedom of Information Request F0007532 –Staff Internet Usage

Your refined Freedom of Information request received on 4 April 2011 asked for information about staff internet usage for the Department for Transport Centre for a period of one year (or less, if this is still prohibitive). This is a follow-up to your earlier request, reference number F0007424, that we refused on cost grounds on the 28 March 2011.

Our responses to your numbered questions, as far as we have been able to provide them, are set out below.

Q1. A breakdown of websites visited by staff in descending order from most to least visited (if possible, please include the number of hits each website received).

Q2. The total amount of time spent on each website listed in question 1 (if this is not possible on cost grounds, please proceed to answer the other questions).

The separate attachment lists the top 1,000 sites visited in descending order of number of hits (which is not the same as the number of visits to a website, as explained below) from 1 January 2011 to 31 May 2011. We do not have accurate information about the amount of time spent on each website.

The list includes a number of sites that are shown only by their Internet Protocol (IP) address. These are difficult for us to identify as some do not have a name and others may relate to content hosting sites which are accessed via a named internet site.

Please note that the “number of hits” does not indicate the number of times a particular page on a website has been visited but in many instances will include multiple components (e.g. text, images, videos) each of which are counted. For example, the BBC Home page includes content from the BBC component sites for news, sport, weather, TV and radio each of these will be counted as one hit even if only the home page is visited.

The department's internet access policy states that personal use of the internet by staff should be kept as short as possible and should not in any event exceed one hour each day made in their own time, e.g. meal breaks. Personal use should not place excessive demands on ICT facilities and should not detract from staff's performance of their duties.

Q3. A list of banned websites or details of bars on keywords. If this is monitored/performed by a third party, please provide the name of the company and the amount this service cost.

The Department has measures in place to prevent the inappropriate use of internet by staff, for example in relation to pornographic web sites. However the Department can neither confirm nor deny that it holds this information as the duty in section 1(1)(a) of the Freedom of Information Act 2000 does not apply, by virtue of the exemptions at:

Section 23(5) – 'information supplied by, or relating to, bodies dealing with security matters';

Section 24(2) – National Security;

Section 31(1)(a) – 'Law enforcement' in conjunction with section 31(3).

However, this should not be taken as conclusive evidence that the information you requested exists or does not exist. The department deploys appropriate safeguards and countermeasures to protect its ICT networks and the information they hold, in line with government best practice.

The exemptions at section 24(2) and 31(1)(a) in conjunction with section 31(3) are qualified which means we have had to balance the public interest for and against neither confirming nor denying that we hold the information requested.

The attached Annex A to this letter details why the public interest test favours neither confirming nor denying that we hold the information.

Q4. Details of disciplinary procedures brought against staff because of internet usage. Please includes the outcomes of these procedures. Please note, I do not require the names of staff, or any other information that may make staff identifiable.

The Central Department dealt with two staff disciplinary cases due to inappropriate internet usage during 2009-2010. Given the very small numbers involved the exact details of these cases including the outcomes are being withheld in reliance on the personal information exemption at section 40(2) & (3) of the FOI Act.

If we were to disclose this information it could be used coupled with information already in the public domain or known to individuals working within the department who may see this response to identify the staff involved.

These individuals have an expectation that personal details about their disciplinary cases will not be put into the public domain to do so would be unfair and would breach the first data protection principle.

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 the Department for Transport'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 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 - Public Interest Test Arguments

Qualified Exemptions at Section 31(1)(a) in conjunction with section 31(3) and Section 24(2)

In favour of release, we acknowledge that disclosure of information regarding banned websites or bars on keywords, and whether any advice is received from third parties would provide assurance that the Department is ensuring that its IT systems are used appropriately and not rendered unnecessarily vulnerable to attack.

However, in favour of not providing or confirming the existence of the information requested we consider that, in this case, public confirmation whether website sites or keywords are barred, and what those might be, would provide information useful to those wishing to harm the Department's IT systems. Attacks on the Department's IT systems could of themselves constitute a crime or create a vulnerability to criminal activity. Further knowledge of whether outside advice is sought, and who might provide that advice, could also give an indication of how the Department's systems are protected. Therefore, on the balance we have decided that it is not in the public interest to provide the confirmation that you seek.

In addition, in reliance on the exemptions under Section 23(5) and Section 24(2) of the Freedom of Information Act, I can neither confirm nor deny whether any of the information requested is subject to Section 23(1) or Section 24(1). To the extent that Section 24(2) applies, we have concluded that in all the circumstances of the case, the public interest in maintaining the exclusion of the duty to confirm or deny outweighs the public interest in confirming whether the information is held.

In certain circumstances government departments may prohibit access to certain websites in order to protect national security, which may in some cases be based on advice provided by one or more of the bodies listed at section 23(3) of the act. To give a statement of this could involve the disclosure of exempt information and would itself provide confirmation as to whether the Department has security-related concerns regarding the use of its systems, which of itself could be useful information to those seeking to harm them. This should not be taken as conclusive evidence that any further information that would meet your request does or does not exist.

Annex B – Full Text of FOIA Exemptions

Section 23 - Information supplied by, or relating to, bodies dealing with security matters.

(1) Information held by a public authority is exempt information if it was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

(2) A certificate signed by a Minister of the Crown certifying that the information to which it applies was directly or indirectly supplied by, or relates to, any of the bodies specified in subsection (3) shall, subject to section 60, be conclusive evidence of that fact.

(3) The bodies referred to in subsections (1) and (2) are—

- (a) the Security Service,
- (b) the Secret Intelligence Service,
- (c) the Government Communications Headquarters,
- (d) the special forces,
- (e) the Tribunal established under section 65 of the Regulation of Investigatory Powers Act 2000,
- (f) the Tribunal established under section 7 of the Interception of Communications Act 1985,
- (g) the Tribunal established under section 5 of the Security Service Act 1989,
- (h) the Tribunal established under section 9 of the Intelligence Services Act 1994,
- (i) the Security Vetting Appeals Panel,
- (j) the Security Commission,
- (k) the National Criminal Intelligence Service,
- (l) the Service Authority for the National Criminal Intelligence Service.
- (m) the Serious Organised Crime Agency.

(4) In subsection (3)(c) “the Government Communications Headquarters” includes any unit or part of a unit of the armed forces of the Crown which is for the time being required by the Secretary of State to assist the Government Communications Headquarters in carrying out its functions.

(5) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any

information (whether or not already recorded) which was directly or indirectly supplied to the public authority by, or relates to, any of the bodies specified in subsection (3).

Section 24 - National security.

(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.

31 Law enforcement.

(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).

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.