

5 September 2011

Dear XXXXX,

SS Richard Montgomery

I am writing to confirm that the Department does hold the information you requested on 5 August, namely:

Under the Freedom of Information Act, please could you provide me with copies of any reports or surveys prepared by or for your department since January 1 2009 which relate to the SS Richard Montgomery or the SS Castilian.

Please also provide copies of any internal correspondence on the same subjects during this period.

Please note that this request is to cover the DfT itself as well as its agencies, the Maritime and Coastguard Agency and the office of the Receiver of Wreck.

However, we have decided that some of this information cannot be disclosed for the reasons given below. The information that can be released is:

A summary report of the 2008 and 2009 SS Richard Montgomery surveys.

The information being withheld consists of the SS Richard Montgomery Survey Reports for 2008 and 2009 as they fall under the exemption in section 22 of the Freedom of Information Act 2000 as it will be published on the Maritime and Coastguard Agency website within the next eight weeks.

In applying this exemption 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 at the present time.

No reports or surveys have been prepared or carried out on the SS Castilian and accordingly there is no internal correspondence on such reports or surveys.

The internal correspondence we hold about SS Richard Montgomery consists of three emails which do not contain any information (apart from the names of officials) that is not contained in the summary report that is now being disclosed to you, and the fuller report

that will be published in eight weeks time. The names of the officials would, in any event, be withheld under the section 40(2) exemption, on the grounds that disclosure would breach the Data Protection Act 1998 (DPA). These officials are not in public facing roles and have no expectation that their names will be made public. Disclosure would therefore be unfair and in breach of the First Principle of the Data Protection Act.

The information supplied to you continues to be protected by the Copyright, Designs and Patents Act 1988. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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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

Your right to complain to [DfT/Agency] 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	
<p>(1) Information is exempt information if—</p> <p>(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),</p> <p>(b) the information was already held with a view to such publication at the time when the request for information was made, and</p> <p>(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).</p> <p>(2) 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 falls within subsection (1).</p>	
Public interest test factors for disclosure	Public interest test factors against disclosure
There is an understandable public interest in knowing about the current condition of the SS Richard Montgomery, which is why a summary report of the 2008 and 2009 SS Richard Montgomery surveys is now being disclosed, and why a fuller document will be published in eight weeks.	<p>In the next eight weeks a fuller document about the 2008 and 2009 surveys on the SS Richard Montgomery will be published on the MCA website.</p> <p>It would require a disproportionate effort to bring forward the publication date.</p>
<p><u>Decision</u></p> <p>The fuller documents summarising the surveys is being withheld at the current time as it would not be in the public interest for public servants to divert their efforts from other important work in order to bring forward the publication date by a matter of eight weeks. The information is therefore being withheld at the current time in reliance on the exemption at section 22 of the Freedom of Information Act 2000.</p>	