

xxxxxxx  
Email to: xxxxxxxx

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

Our Ref: F0008512

8 March 2012

Dear xxxxx,

### **Freedom of Information Request F0008512**

I am writing to confirm that the Department has now completed its search for the information which you requested on 11 January 2012. You asked for the following information with regard to the Department's consultation on the Traffic Signs (Amendment) (No.2) Regulations and General Directions 2011 –

- 1) *electronic copies of the Department's analysis of the responses to the consultation together with;***
- 2) *any other background papers of a factual or statistical nature that are relevant to the decision not to proceed with the earlier proposal to phase out imperial-only height and width restriction traffic signs.***

I last wrote to you on the 9<sup>th</sup> February 2012 to explain that we needed to extend our response time limit to 8<sup>th</sup> March 2012 as we were considering the public interest test in relation to the qualified exemption at 35(1)(a) of the Freedom of Information Act 2000. I can confirm that this test is now complete and was in favour of disclosure of the information.

I will answer your questions in the order that you raised them.

### **Question 1**

I am enclosing a copy of the Department's analysis of the responses to the consultation with some minor redactions for consultee and Departmental junior official's names. Please note that in the comment columns example references have been made to certain areas and authorities within England during some points of discussion and I would like to confirm that this does not imply any criticism about their signing schemes but more to emphasise the way in which local authorities implement signs and road markings prescribed in the Traffic Signs Regulations and General Directions 2002. These

comments were made to stimulate debate during the analysis of the consultation and do not necessarily represent the views of the DfT.

The names of consultees and Departmental junior officials, that is staff below the senior civil service, have been 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 is at Annex A). The consultees and the Department's junior officials, who are not in public facing roles, have an expectation that their names will not be put into the public domain therefore it would be unfair for us to release them and would contravene the first data protection principle of fairness.

As I mentioned in my reply to your first FOI request (reference number F0008317), I would inform you when the Department's formal response to the consultation was published on our website and I am pleased to confirm that this information is now available at - <http://www.dft.gov.uk/publications/signing-the-way> .

## **Question 2**

I can confirm that the only information we hold is a briefing paper dated 22<sup>nd</sup> July 2010 which was prepared for the Special Advisors to the (then) Secretary of State, Philip Hammond. I enclose a copy at Annex B. We do not hold any factual or statistical background papers on this subject.

## **Complaint**

On the 11 February 2012 you e-mailed the Department's Central FOI Team to complain about how your case had been handled and asked them to carry out an investigation and review the Department's decision. For completeness I enclose their findings below.

Your e-mail dated 10<sup>th</sup> December requesting a copy of the analysis of the responses to the consultation should have been logged as a new Freedom of Information request and following due consideration a response should have been issued to you in accordance with the Act. Clearly it was wrong of us to advise you that if you were to ask for this information under the FOI Act it would be withheld under the exemption at section 35(1)(a) relating to formulation of government policy. I apologise for this error.

Hopefully the points that you raise concerning the use of s35(1)(a) in conjunction with s35(2) and s35(4) of the Freedom of Information Act 2000 with regard to any statistical or factual information have been addressed by our confirmation that we don't hold any of these types of information other than the Special Advisors briefing paper which we are disclosing to you with this response.

With regard to your final point about the Department's timescales for responding to requests under the Act I can assure you that we do aim to issue all FOI responses promptly and within 20 working days where possible. Both of your requests have involved time in locating, retrieving, extracting and preparing the papers. This coupled with the Department's reduced staffing resources post spending review means that it is not always

possible to reply as quickly as we would like. Having said that it does not excuse the fact that we should have dealt with your e-mail dated 10<sup>th</sup> December 2011 as a formal FOI request for which I again apologise.

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/01  
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,

xxxxxxxxxxxx

### **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

# Fol section 40: full text of exemption

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 24 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 – Briefing Paper dated 22<sup>nd</sup> July 2010 for DfT Special Advisors**

### **Traffic Signs (Amendment) Regulations and General Directions 2010 – Phasing out of imperial-only vehicle height and width limit signing**

#### **Summary**

There are no legal or procedural reasons not to make a public announcement now regarding the withdrawal of the mandatory dual measurement height warning sign for low bridges from the proposed amendment regulations.

#### **Background**

Two versions of the width and height restriction signs currently appear in the regulations - one showing imperial-only units of measurement, and the others showing both imperial and metric units.

Highway authorities currently have the option of using imperial-only or the dual-unit alternative and this will remain the case following the Secretary States decision.

The phasing out of imperial height and width limit signs was identified as a means of reducing the risk of foreign drivers striking low bridges.

It is understood that the number of reported bridge strikes at Network Rail underline bridges was in the region of 2,000 p.a. over the last 5 years. Based on records from Network Rail's incident logs since April 2008, approximately 10 – 12% of bridge strikes involved foreign lorry drivers. This represents a disproportionately high number accounting for the number of lorries on our roads.

The Department's proposal for the mandatory dual measurement sign would have imposed an estimated total cost of £527K to local authorities over the proposed 4-year grace period.

It was considered that the costs of replacing the residual imperial-only signs would be balanced out by the potential savings in reducing the risk of a lorry damaging a rail bridge as a high speed train approaches above.

The amendment regulations were subject to a statutory 12 week consultation which closed on 24 December 2009. We have not discussed the outcome of these consultations with local authorities. We were intending to seek Ministerial approval for the consultation report when we submit the final submission to Ministers on the regulations (probably in September 2010).

#### **Presentation and handling**

The Secretary of State's decision is likely to attract opposition from the rail industry, which has supported these proposals through its representations to the Bridge Strike Prevention Group.

However, the decision will avoid imposing a cost burden on local authorities and in keeping with the localism agenda leave it for them to decide whether to change their signs or not.

The Department receives regular representations from proponents on both sides of the metrication argument, with a number of Parliamentary Questions - one of which is due for answer by Earl Attlee next week.