

Department for Transport

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Our Ref: FIL F 009/005/003

17 March 2011

XXXXXXX

Send by email to:
xxxxx@xxxxxxxxxxxxxxxx

Dear xxxxx,

FREEDOM OF INFORMATION REQUEST - F0007399

Thank you for your Freedom of Information request which was dated and received on the 18 February 2011. You asked:

“I would like to receive all and any information (provided to date and by the time this request is processed), provided by the Transport Research Laboratory to the Department for Transport with regard to the recent contract about road accidents and vehicle defects (in connection with the proposed MOT review). I would like the information to include all and any results, analysis, conclusions and data which have been produced by TRL and communicated in final (in due course) or draft form to the Department. I would like this to include any TRL workings, the analytical methodology adopted, the source of the data, how its consistency and reliability was quality assured and how the data used relates to all accidents; all as conveyed to the DfT including specifically, but not exclusively any draft report and/or reports relating to the work which have been received by the Department in connection with this contract.”

I am writing to advise you that the Department for Transport does hold information that is relevant to your request but following careful consideration I must inform you that we have decided not to disclose some of this information.

The information that is being disclosed is attached at Annex A. This is a redacted copy of the TRL proposal document entitled “*Effect of Vehicle Defects in Road Accidents – December 2010*”.

The names of some TRL staff and Departmental junior officials, that is staff below the senior civil service, have been redacted from the document 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 B). These individuals are not in public facing roles and therefore have an expectation that their names will not be put into the public domain. It would be unfair for us to disclose their names and would contravene the first data protection principle.

The Department also considers that there are strong arguments for withholding some cost information contained within the proposal document under the commercial interests exemption at section 43(2) of the Freedom of Information Act 2000 (the full section 43 wording from the Act is attached at Annex B).

Section 43 is a qualified exemption and so in applying it I have had to balance the public interest in withholding the information against the public interest in disclosure. There is a clear public interest in road safety and in how the Department spends public monies in researching road accidents and vehicle defects in relation to the MOT test. The Department should be open, transparent and accountable to the public.

However, if we were to put this information into the public domain it would, or would be likely to, prejudice the commercial interests of the Department and our suppliers for the following reasons:

1. Our supplier's competitors would be able to use the information to their advantage to outbid them for work and thus undermine TRL's commercial interests.
2. The Department's commercial interests would also be harmed as companies bidding for our future contracts would know what we've paid in the past for work.
3. There would be prejudice to the Department's relationships with suppliers and future commercial interests if sensitive contractual information was disclosed.

Therefore we have decided that the public interest in maintaining the exemption outweighs the public interest in disclosing the specific cost information contained within the proposal document at this time.

In addition to the TRL proposal document the Department also holds the names of the Transport Research Laboratory contractors that are involved in this work along with their personal pen pictures and curriculum vitae, but this information is also 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 B. These individuals have an expectation that their names, personal pen pictures and CVs will not be put into the public domain. They've not given their consent for this information to be disclosed therefore it would be unfair to do so and would contravene the first data protection principle. However, I can advise that the authors of the final report along with major contributors to the work will enter the public domain when it is published.

You have requested the information to include all and any results, analysis, conclusions and data which have been produced by Transport Research Laboratory and communicated in final (in due course) or draft form to the Department. This information is being withheld in reliance on the exemption at section 22(1) of the Freedom of Information Act 2000 because the relevant information is intended for future publication in the form of a final report. The attached annex B to this letter sets out the exemption in full.

Section 22 is a qualified exemption and so in applying it I have had to balance the public interest in withholding the information against the public interest in

disclosure. As previously stated, there is a clear public interest in road safety and in how the Department spends public monies in researching road accidents and vehicle defects in relation to the MOT test. The Department should be open, transparent and accountable to the public.

However, it's also important that we are able to release this information in a manner, form and timing of our own choosing. The Department is currently preparing to publish a report which will include this information. We consider that publishing a single report having fully considered all of the relevant information is in the public interest. The remaining time before publication would be better spent preparing, compiling and arranging for the report to publish on the Department's website. Therefore we have decided that the public interest in maintaining the exemption outweighs the public interest in disclosing the information at this time.

I will happily notify you as soon as the report is published and respond to any additional queries that may arise as a result.

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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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

Redacted copy of the TRL proposal document:

“Effect of Vehicle Defects in Road Accidents – December 2010”

ANNEX B

FOI Exemptions in full:

Section 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 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.

Section 43 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).

Section 22 information intended for future publication

(1) Information is exempt information if—

(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),

(b) the information was already held with a view to such publication at the time when the request for information was made, and

(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).

(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).