

XXXX
[By e-mail:]

Web Site: www.dft.gov.uk

FOI Request F0007235

08 February 2011

Freedom of information request F0007235

Dear Mr XXXX

I am writing to confirm that the Department has now completed its search for the information which you requested on 7 January 2011. You asked:

“I would like the Department for Transport to provide me with a copy of the letter it sent to the Senior Traffic Commissioner, and copied to the other Traffic Commissioners, dated 26th November 2010.”

A copy of the letter is enclosed.

The names of 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 from the Act is attached at Annex A). 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.

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. The Department will, therefore, be simultaneously releasing to the public the information you requested, 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 Anna McCreddie, DfT Press Officer, on 020 7944 6898. Please remember to quote the reference number above in any future communications.

Yours sincerely

XXXX

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

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 [1998 c. 29.] 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 [1998 c. 29.] 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 [1998 c. 29.] 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 [1998 c. 29.] 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 [1998 c. 29.] 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 [1998 c. 29.] 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 [1998 c. 29.] 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.

XXXX
Deputy Head
Freight, Insurance and Licensing Division
Department for Transport
Direct Line: XXXX
email: XXXX@dft.gsi.gov.uk

XXXX
Senior Traffic Commissioner

Web Site: www.dft.gov.uk

26 November 2010

by email only

Dear XXXX

ACCOUNTING OFFICER ARRANGEMENTS FOR TRAFFIC COMMISSIONERS AND DEPUTY TRAFFIC COMMISSIONERS

The TC audit report earlier this year included a number of recommendations and generally identified the merits of greater clarification of the Accounting Officer arrangements in relation the traffic commissioners. I am writing to provide that clarity and also to set out some more detailed administrative changes. I mentioned I would be writing to you when we met last week.

The Secretary of State for Transport is aided in his office by the appointment of individuals, functions and roles to satisfy a variety of requirements - inclusive of Parliamentary accountability. The audit report references two key documents that set out guidance covering issues relating to corporate governance and managing public money. The latter contains, among other things, guidance which in practice means that the Secretary of State, or his appointed individuals, should be sensitive to the function of Traffic Commissioners in a way that allows them to render impartial and unbiased judgements essential to the proper conduct of their roles. Equally the guidance clearly requires the Secretary of State, or his appointed individuals, to ensure that processes and structures within the Department do not avoid or weaken the ability of Parliament to scrutinise and be adequately assured of compliance with its various guidance.

The Chief Executive of VOSA has the statutorily appointed role of Accounting Officer for traffic commissioners (and their deputies) and the responsibility for providing administrative support to them. This means that it is Alastair Peoples, as VOSA CEO, who must satisfy himself personally about - and is held responsible for - compliance with the guidance described in both Managing Public Money and Corporate governance in central government departments. Alastair is required to report against his Accounting Officer responsibilities to the Secretary of State (in practice via the Motoring and Freight Services Group governance processes and VOSA annual reports). The current exception to this general statement is in relation to the overall responsibility for recruitment, retention and monitoring of the personal performance of the traffic commissioners and their deputies, including the decision process for any removal from office. That responsibility remains with the Department and falls within the Additional Accounting Officer role held within the Department in respect of each Agency. The Department does, however, expect the VOSA CEO to contribute to the underpinning processes around recruitment, retention and monitoring of personal performance.

Turning to the detailed administrative changes, the Department has asked Alastair to devise and implement with you a process whereby he has visibility of the leave taken by individual traffic commissioners – whether that is annual leave, privilege or public holiday leave and any sick or other leave arrangements. The Department has also asked

Alastair to devise and implement with you a process whereby he has visibility of the hours worked by individual traffic commissioners.

These changes do not alter the terms and conditions of individual traffic commissioners. Instead, they provide the Department and VOSA with a more effective mechanism for ensuring its duty of care and welfare responsibilities are carried out.

In addition, we have asked Alastair to continue to ensure travel and subsistence claims comply with the terms applicable to individual traffic commissioners (as set out in the staff handbook extracts which XXXX recently provided to each traffic commissioner). He will also be monitoring with you the extent to which guidance on austerity measures issued to traffic commissioners is met (such as the Claire Moriarty note I forwarded in the summer).

Finally, we are putting in place two further changes. The first affects you as STC specifically in relation to the responsibility you have for monitoring traffic commissioner and deputy traffic commissioner conflicts of interest and including hospitality registers. Could you please provide the registers to Alastair in future rather than the Department as his Accounting Officer role requires him to manage financial risk. In the same vein, the Department is changing the general arrangements should an individual traffic commissioner or deputy wish to check whether they have a potential conflict which should be recorded. In future, individuals should contact Alastair Peoples direct rather than myself as the TC sponsor. Alastair will seek views from me on any areas where he feels a central Departmental steer is required.

These changes come into immediate effect. I am copying this letter to Alastair Peoples, XXXX and to individual traffic commissioners. Can you please arrange for deputy traffic commissioners to be informed as appropriate.

Please acknowledge receipt of this letter.

Best regards

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