



Vehicle & Operator Services Agency

**From: Information Access**  
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Our Ref: **F0002411**

Date: March 2010

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Dear

## **FREEDOM OF INFORMATION ACT 2000**

I refer to your e-mail of 2<sup>nd</sup> February 2010, which has been we have dealt with under the terms of the Freedom of Information Act 2000.

You asked for any unpublished correspondence or records of meetings between VOSA and Toyota or Honda since January 2009 relating to faults. This should include, but is not limited to minutes of meetings, background information, records or discussions, faxes, memos, emails and letters.

Please also provide any reports/assessments/analyses relating to faults with Toyota or Honda cars. Please search for this information from 1<sup>st</sup> January 2009.

I can confirm that VOSA does not hold information in respect of your request.

In addition, VOSA has concluded that if this information were held it would not be disclosed as it falls under the exemption in section 44 of the Freedom of Information Act 2000:

*Section 44(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it –*

*(a) is prohibited by or under any enactment*

VOSA believes that the Enterprise Act 2002 prohibits the disclosure of the requested information. The following should explain the application of this Act:

Under the General Product Safety Regulations 2005 (GPSR), producers shall not place a product on the market unless it is safe and distributors shall monitor the

safety of a product placed on the market. In addition, distributors shall cooperate with the enforcement authority to avoid risks. Failing to meet these duties is a criminal offence. As the authority responsible for vehicle safety, VOSA is considered an “enforcement authority” under these Regulations.

Based on the above, it is considered that information passed to VOSA by a producer for the purposes of any investigation into a potential safety defect has come to VOSA in connection with the functions it has by virtue of the GPSR. Information which comes to a public authority in connection with such a function constitutes “specified information” for the purposes of the Enterprise Act 2002. This is laid out in section 238(1) of the Enterprise Act.

The Enterprise Act (Section 237) makes it an offence to disclose specified information which relates to the affairs of an individual or the business of an undertaking whilst that individual/undertaking continues in existence.

In the case of a recall, where a safety defect has been identified, VOSA accepts that it has a responsibility to release certain information about that recall to the public. Section 39 of the GPSR states that an enforcement authority shall make available to the public such information relating to the nature of the risk, the product identification and the measures taken in respect of the risk. However, the Regulations state that this responsibility shall not apply to “any information obtained by an enforcement authority for the purposes of these Regulations which, by its nature, is covered by professional secrecy, unless the circumstances require such information to be made public in order to protect the health and safety of consumers”.

If you have any queries about this letter, please contact us, quoting reference **F002411**.

If you are unhappy with the response provided, you may ask for an internal review. To request an internal review, please write to:

VOSA Corporate Office,  
Berkeley House,  
Croydon Street,  
Bristol,  
BS5 0DA

or email [vosa.corporateoffice@vosa.gsi.gov.uk](mailto:vosa.corporateoffice@vosa.gsi.gov.uk)

giving the reasons for your dissatisfaction. It will help us if you quote the reference number for your case.

If you do not agree with the outcome of the internal review, you may lodge an appeal with the Information Commissioner ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)). The Information Commissioner is an independent official appointed by the Crown to oversee the Data Protection Act 1998, the Freedom of Information Act 2000 and the Environmental Information Regulations 2004.

The Information Commissioner can consider complaints about any aspect of the way in which requests for information have been handled. Please note: the Information Commissioner would be unlikely to consider your complaint if you have not first requested an internal review.

You can write to the Information Commissioner at:

The Information Commissioner's Office  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire  
SK9 5AF

Yours sincerely

VOSA Information Access