

## **Regulation 12(4)(d) – Material in the course of completion, unfinished documents and incomplete data**

Regulation 12(4)(d) of the Environmental Information Regulations 2004 (‘the Regulations’) provides that a public authority may refuse to disclose information “to the extent that the request relates to material, which is still in the course of completion, to unfinished documents or to incomplete data”. If the information falls into any one of these categories, then the exception is potentially engaged (subject to a consideration of where the public interest lies).

The following link sets out regulation 12(4)(d) in full:

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>

### **Factors supporting disclosure**

- Disclosure of information would provide greater transparency, visibility and accountability of public bodies.
- Releasing information could contribute to public understanding of a large publicly funded project.

### **Factors supporting non-disclosure**

- Providing the information in its current format, would mean release without the necessary quality assurance needed to make it fit for purpose for public consumption and scrutiny.
- There is a strong public interest in ensuring that public officials have a safe space to work candidly and freely, without being concerned that early release of information could mislead the public.
- Releasing a design that is still being reviewed would be likely to lead to confusion and ill-informed debate, misleading the public regarding the HS2 programme.
- Disclosure of information that is still under consideration would lead to the diversion of resources to explain issues and engage in public debate regarding matters that are still under consideration.

### **Conclusion**

The issues of transparency and openness are noted. However, on balance it is considered that the public interest in providing the information is outweighed by the potential impact release would have on decision-making processes.

Release of the requested information into the public domain without the appropriate level of review, would lead to misinformed public debate. This, in turn, would lead to the diversion of public resources, thus affecting the timeline of the HS2 project, whilst causing unnecessary concern on issues that are still under consideration.

Allowing HS2 Ltd the space to appropriately review the design and to avoid the burden of needing to regularly prepare specific data for each ad hoc information request far outweighs any public interest in transparency.

There is a strong public interest in ensuring that public authorities are able to make informed decisions, without concern that the public debate could be skewed by the early release of draft information. Consequently, we believe the reasons against disclosure outweigh the public interest in releasing the information.