

Graeme Amis

Email: request-603956-e7e342ee@whatdotheyknow.com

Date as email

Dear Graeme Amis

FOI-19-3401-R – internal review response

I am writing in response to your concerns about HS2 Ltd's handling of your request for information (our reference: FOI-19-3401).

Your information request was handled by Alistair Hobbs, Briefings, Correspondence and FOI Adviser. I was appointed to carry out an independent review as a member of the HS2 Ltd Executive team.

In your request you asked for the following information:

As per point 9.3 of the Framework Document Between the Secretary of State for Transport and High Speed 2 Limited, dated 23rd May 2018, "Board minutes must be published on the HS2 Ltd pages of the GOV.UK website, within three months of the applicable Board meeting." This is listed as a core responsibility of the HS2 Ltd Board.

I understand that there was a Board Meeting on 29th May 2019. Please provide me with the following information:

- 1. Why these minutes were not published on time***
- 2. Any explanation of why the Board Minutes are so rarely published within three months, as per the agreement constituted by the Framework Document.***
- 3. Any recorded information/correspondence with the Board which you hold regarding this habitual tardiness.***
- 4. A copy of the latest Board Minutes***
- 5. Specific explanations for each redaction in the latest Board Minutes.***

Original decision

HS2 Ltd wrote to you 14 October 2019 advising that the time limit for responding needed to be extended. On 27 November 2019, HS2 Ltd provided a substantive response, confirming that HS2 Ltd held no recorded information for parts 1, 2, and 3 of your request. For part 4 of

the request, HS2 Ltd provided a link to the published Board Minutes; and for part 5 of your request HS2 Ltd provided the reasons for each redaction in the published minutes.

Internal review

On 05 December 2019, you contacted HS2 Ltd to request an internal review as you were not satisfied with the original response to the above request. Specifically, you asked:

- 1. Why this request took so long to answer and**
- 2. Whether a public interest test was ever required or conducted.**

Internal review response

Having reviewed the response, I make the following comments on each element of your original request:

- I believe that no recorded information is held for parts 1, 2 and 3 of your original request;
- Part 4 of your original request should have been refused by virtue of Section 22 (Information intended for future publication).
- At the time of your original request, the steps that are undertaken prior to publication of a set of minutes (which includes consideration of redactions) had not been completed. This is why the minutes had not been published. Accordingly, at the time of your request no data was held for part 5 of your original request.

However, I note the reason for your request and so, *on this occasion*, HS2 Ltd does not seek to rely upon section 22. Please note that some months ago HS2 Ltd reviewed its processes with respect to the publication of these minutes to ensure that HS2 Ltd is better able to comply with the timescales set out in the Framework Document.

In terms of the 27 November 2019 response that was provided, I conclude that Section 31, Section 36, Section 40, Section 42 and Section 43 were applied appropriately. However, whilst undertaking this review in response to your 5 December 2019 email, I have found certain issues. These are described here:

- The response was not issued within the required timescale. I apologise for this delay.
- With respect to the application of the Public Interest Test to your original request, it is necessary to explain that your request was considered to be for a copy of the latest HS2 Board minutes. As the Minutes were not available on-line at the time of receipt (and because HS2 Ltd is not seeking to rely upon Section 22 in declining to respond to part 4 of your original request), HS2 Ltd considered the full (unredacted) minutes for release. Consequently, a Public Interest Test was required in order to apply the exemptions to the information that needed to be withheld. This public interest test was conducted in parallel and separate from the publication process.

Whilst HS2 Ltd's 27 November 2019 response did provide the information to you as required by the legislation, upon reflection I understand that HS2 Ltd may have confused matters by cross referring to the sections that had been redacted online, rather than

supplying you with a hard copy of the minutes themselves. I have therefore attached a copy of the redacted minutes to this response.

- As explained above, a public interest test (PIT) was conducted and you were sent that PIT in HS2's 27 November 2019 response. As a consequence of this review, I have revisited the public interest arguments. I attach a copy of the PIT that I have conducted as part of this review.

Finally, I note that the extension letter sent on 11 November 2019 did not include the exemptions for which Public Interest Tests were taking place, which is a requirement of the legislation. I apologise for this. However, this error was rectified on 18 October 2019 in response to your request to be provided with the specific exemptions being considered.

I therefore trust that this is now clear, and this response addresses your concerns. If you are not content with the way I have handled this review, you may take this up in writing with the Information Commissioner, please see further details below.

Please remember to quote reference number **FOI-19-3401-R** in any future communication relating to this request.

Yours sincerely,

Nicole Geoghegan

General Counsel

High Speed Two (HS2) Limited

Your right to complain to HS2 Ltd and the Information Commissioner

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