



Department
for Transport

Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Web Site: www.gov.uk/dft

Our Ref: F0013978

22 September 2016

Mr Harding

[By email: request-355856-11cf13b7@whatdotheyknow.com]

Dear Mr Harding,

Freedom of Information Act Request – F0013978

Thank you for your information request of 2 September 2016. Your request has been considered under the Freedom of Information (FOI) Act 2000. I am writing to confirm that the Department for Transport (DfT) has now completed its search for the information. Replies are provided under each of your requests below.

Today, September 1st, Govia Thameslink aka Southern Rail (hereafter known as GTR) were awarded approximately £20,000,000 (<http://www.bbc.co.uk/news/uk-england-37245163>) to "get a grip" on their services.

Please release reports, contracts, minutes, memorandums that detail:

- 1. Who requested this money be paid to GTR***
- 2. Who authorised that this money be paid to GTR***

This money is ***not*** being paid to GTR.

3. What talks and discussions took place between GTR before this money was authorised

The Secretary of State and Rail Minister have met regularly with both Network Rail and GTR since taking up their posts. Both organisations were fully consulted about these measures and are completely supportive of them.

With regard to any minutes of any such meeting, or copy of any consultation(s), Section 43(2) of the Act (see **Annex A** for the full text of the exemption) exempts information that constitutes a trade secret and information whose disclosure will/is likely to prejudice the commercial interests of any person (including DfT).

Section 43(2) is a qualified exemption, and therefore subject to the application of the public interest test. The public interest test arguments for and against are attached at **Annex B**.

4. Where this money is being targeted and how the figure was decided upon.

As can be seen in our announcement (<https://www.gov.uk/government/news/package-of-measures-announced-to-help-improve-resilience-of-southern-network>), some suggested areas of spend have been identified but these need to be ratified by the Project Board. Other targets have yet to be determined. The figure was decided upon as a result of Network Rail estimates into specific infrastructure concerns that can be fixed in the short-term.

5. What monitoring is being conducted to ensure that this is additional investment is spent by GTR in a way that benefits all commuters and passengers on this railway

The fund will be spent by Network Rail under the direction of a project board authority.

6. What discussions were had to secure this investment from GTR instead of the DfT/Taxpayer

No such discussions were held.

7. Whether removing GTR of the Southern Rail franchise was considered, and what discussions were made.

No such discussions were held. Schedule 10.2 of the TSGN Franchise Agreement (https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/488198/tsgn-franchise-agreement.pdf p.518) specifies how this franchise can be terminated by the Department.

To clarify any confusion, on the 1 September the Secretary of State announced a £20m fund, to help improve resilience of the Southern network (<https://www.gov.uk/government/news/package-of-measures-announced-to-help-improve-resilience-of-southern-network>). As was said at the time, this will be used to tackle network problems that are affecting GTR's performance.

As I have said above, this money is not going to GTR. The funds are being specifically allocated from Network Rail's budget, and will be overseen by a new project board. The head of that board, Chris Gibb, will be paid by GTR, using funds they are permitted to spend, with the DfT's approval, to improve the franchise. However, the Project Board will be working under the joint authority of Network Rail and GTR, and all expenditure will be subject to DfT's approval.

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 FOI Advice Team 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 send or copy any follow-up correspondence relating to this request to the FOI Advice Team to help ensure that it receives prompt attention. Please also remember to quote the reference number above in any future communications.

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

Yours sincerely

Jeaur Rahman

Correspondence Manager – Passenger Services

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

Fol section 43: full text of exemption

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).

Annex B

Public Interest Test Section 43

Factors for disclosure	Factors against disclosure
<ul style="list-style-type: none">- The general public interest in disclosure for the scrutiny and transparency of the Department's decisions related to large-scale public procurement such as rail franchising.- Disclosure of the full minutes or consultation records would demonstrate the seriousness with which Government regards rail issues that have an impact on the public and the efficacy with which it seeks to address those issues.- Disclosure would also contribute to the Government's wider transparency agenda, increase trust and allow the public to scrutinise discussions and decisions the Government and stakeholders make.	<ul style="list-style-type: none">- Disclosure would be likely to prejudice future bidding processes by undermining confidence that current and future franchise partners have in the Department maintaining necessary confidentiality e.g. they could stop supplying any information that they are not obliged to under the terms of their Franchise Agreements with the Department.- This would damage the Department's ability to carry out its policy and planning functions, and limit the information available to the Department when franchises are being let. Loss of confidence in the Department may also discourage companies from bidding altogether. Clearly this would not be in the public interest.- Appropriate expert advice would be less likely to be sought because of the reluctance of those who might supply it to engage in a debate where their contribution might be disclosable.- In order for the Department to be able to work as effectively as possible with franchised rail operators to secure the delivery of train services, operators must

	<p>feel that they can share and discuss highly sensitive commercial information to the Department without risk that this information will be disclosed to the public or competitors.</p> <p>-If operators do not have confidence that the Department will protect information provided to it, they would be likely to be reticent to provide information that they are not obliged to under the terms of their Franchise Agreements with the Department. This would be likely to prejudice the Department's ability to carry out its policy and planning functions, and limit the information available to the Department when monitoring the performance of train operators.</p>
Decision Reached	
<p>This information is being <u>withheld</u> as on balance the factors for withholding this information outweighs the factors for releasing it – the release of this information will prejudice the commercial interests of the train operator.</p>	