



## Department for Transport

Department for Transport  
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Mr Joe Rukin

[By email: [request-311536-d70f3f05@whatdotheyknow.com](mailto:request-311536-d70f3f05@whatdotheyknow.com)]

Web Site: [www.gov.uk/dft](http://www.gov.uk/dft)

Our Ref: F0013243

### Freedom of Information Act Request – Ref: F0013243

15<sup>th</sup> March 2016

Dear Mr Rukin,

Thank you for your email received on 19<sup>th</sup> January 2016, within which you requested the following information:

***“It has come to my attention that at some point in 2015 the Major Projects Authority stopped producing reports on the HS2 project as a whole, instead choosing to split the project into different sections, quite probably based on the different phases of the project, and conduct reviews and produce reports on this basis.***

***As such I wish to know:***

- 1) How the HS2 project was split up for purposes of MPA review and reports in 2015.***
- 2) The dates each review/report took place.***
- 3) The overall delivery confidence assessment or traffic light rating given in each of these reports.***
- 4) The recommendations made in each of these reports.***
- 5) The feedback given by HS2 Ltd regarding any such recommendations.***
- 6) The actual reports.”***

In relation to your first bullet requesting details on “how the HS2 project was split up for purposes of MPA review and reports in 2015”, the Department considers this to be a request for an explanation, rather than for information which the Department holds in recorded form. I am therefore responding to that question outside of the FOI regime on the basis as ‘business as usual correspondence’.

To clarify, the HS2 programme has not been split up for the purposes of MPA review and reports in 2015. The HS2 programme has been broadly split into two phases to support the overall management of the scheme: Phase One (London to Birmingham) and Phase Two (from Birmingham to Manchester and Leeds). Within Phase Two, the section from Fradley in the West Midlands to Crewe is being accelerated so it is delivered in 2027, six years earlier than planned. This is referred to as the “Phase 2a” scheme. The sections from Crewe to Manchester and Birmingham to Leeds are targeted for delivery in 2033 and are referred to as the “Phase 2b” scheme.

By way of explanation, Infrastructure and Projects Authority (IPA, formerly MPA) Project Assessment Reviews (PARs) are regularly used by major Government

projects as a flexible assurance tool where a project requires bespoke terms of reference or where needed to support HM Treasury approval points.

Due to the scale and complexity of HS2, IPA PARs are regularly used to provide assurance for both programme-wide and project-specific events. During 2015, major decision points included plans for Euston station, accelerating the route from West Midlands to Crewe (Phase 2a) and the start of the civil engineering procurement process in preparation for Phase One construction. Details of these and other HS2 announcements can be found via the following link:

<https://www.gov.uk/government/policies/hs2-high-speed-rail>

In relation to bullets 2 – 6 of your email (set out above), while you have requested this information under the EIR regime, the Department's view is that the information contained within the 2015 HS2 MPA reports is non-environmental in nature and therefore falls to be handled under the Freedom of Information Act 2000 ("the FOI Act").

The Freedom of Information Act 2000 ("the FOI Act") obliges us to respond to requests promptly, in any case no later than 20 working days after receiving the request. I contacted you on the 16th February in relation to this obligation. I explained that, when a qualified exemption applies to information, the public interest test needs to be considered, and that while the Department holds the information you are seeking, we required more time, due to the cross-departmental nature of the request, to complete public interest test considerations.

The qualified exemption that we consider applies to the information you have requested is section 35(1)(a) of the FOI Act, which exempts information held by a Government Department if it relates to the formulation or development of government policy.

We have now concluded these considerations in relation to bullets 2 to 6 of your request. I regret to inform you that, while the Department does hold information that is relevant to these requests it has decided that this information cannot be disclosed.

The reasons for this are that, in applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosure and, on balance, the arguments for withholding the information outweigh those for disclosure. We believe that releasing the information requested in bullets 2 – 6 would damage the safe space required for the IPA review process, and accordingly that the balance of the public interest falls against releasing it. The arguments for and against disclosure are attached at Annex A.

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](mailto: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,

Alex Kent

### **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: PUBLIC INTEREST TEST APPLIED TO F0013243:** “As such I wish to know: How the HS2 project was split up for purposes of MPA review and reports in 2015; The dates each review/report took place; The overall delivery confidence assessment or traffic light rating given in each of these reports; The recommendations made in each of these reports; The feedback given by HS2 Ltd regarding any such recommendations; The actual reports.”

<b>Exemption in full</b>	
<p align="center"><b>Section 35: Formulation and Development of Government Policy</b></p> <p>Section 35 is aimed at protecting the policy-making process in order to maintain the delivery of effective government. It only applies to government departments (including a Northern Ireland Government Department) and the Welsh Assembly Government.</p> <p>Section 35 covers information that ‘relates to’:</p> <ul style="list-style-type: none"> <li>- <b>formulation or development of government policy (section 35(1)(a)),</b></li> <li>- ministerial communications (section 35(1)(b)),</li> <li>- provision of advice by any of the Law Officers (section 35(1)(c)),</li> <li>- the operation of ministerial private offices (section 35(1)(d)).</li> </ul>	
<b>Public interest test factors for disclosure</b>	<b>Public interest test factors against disclosure</b>
<p>Disclosure of the detail of the 2015 MPA reports on HS2, including the reports themselves, would contribute to the Government’s wider transparency agenda.</p> <p>There is a clear public interest in the information relating to the formulation and development of Government policy surrounding HS2 Major Projects Authority (MPA) Reports. Release of the information would make it easier for the public to scrutinise the Department’s and HS2 Ltd’s actions and see that public money is being used effectively.</p> <p>Disclosure of the detail of the 2015 MPA reports on HS2, including the reports themselves, would increase the public’s understanding of the policy area.</p> <p>Disclosure of the detail of the 2015 MPA reports on HS2, including the reports themselves, would provide reassurance that major projects are subject to robust and appropriate levels of scrutiny in supporting the decision making process to help ensure successful delivery of the project.</p>	<p>Disclosure of the details of the 2015 MPA reports on HS2, including the reports themselves, would compromise the safe space within which officials can provide frank information and advice as part of the MPA review process - potentially having negative consequences for the taxpayer and adversely impacting on good decision-making by public bodies.</p> <p>Officials would be reluctant to provide detailed input into the MPA reports if they felt that these would be routinely released soon after completion. The loss of frankness and candour would damage the quality of advice and recommendations contained within these reports and lead to poorer decision-making.</p> <p>Disclosure of the details surrounding the 2015 MPA reports, including the reports themselves, on HS2 could lead to misinterpretation of information or the misleading of the public into thinking decisions have been made. This may have potentially negative implications for taxpayers and individuals living along or near the line of route as well as have an adverse effect on the public understanding of the HS2 programme.</p> <p>Protecting the safe space for good policy and decision making will result in a better quality of report. If the quality of the report is impaired, such a report will not contribute to the wider transparency agenda because it may not allow the public to fully understand the issues and so will not allow greater participation in the decision making process.</p>

### **Decision**

On balance the public interest arguments for withholding the information requested outweigh those for disclosure. The overall effect of releasing this sensitive information linked to the formulation and development of policy for HS2 would compromise the safe space required for the MPA review process.