

## Annex A – FOI18-2121 – Public Interest Test

FOI18-2121:	HS2 Ltd Programme Committee minutes	
Date:	31 October 2018	
FOI Act 2000 – Section 43(2) - Commercial Information		
Factors supporting disclosure		Factors supporting non-disclosure
<ul style="list-style-type: none"><li>• Statutory responsibility to release information to the public in a timely manner as outlined in HS2 Ltd's publication scheme.</li><li>• Public interest in the disclosure of information to ensure transparency and visibility of public bodies being held to account regarding decisions made and use of funds.</li></ul>		<ul style="list-style-type: none"><li>• Discussions in the meetings provide an update to the Board on the current proposed approach to certain projects. Such approaches have not been fully determined and may alter based on further information.</li><li>• Discussions in the meetings relate to the conduct of live procurements by HS2 Ltd. As such the information is clearly confidential, and we are required to protect the confidentiality of that procurement.</li><li>• Discussions in the meetings relate to the conduct of live negotiations with contractors. As such the information is clearly confidential, and therefore we are required to protect the confidentiality of those negotiations.</li><li>• There is no foreseeable benefit to the public in releasing the information earlier. Disclosure at this early stage before negotiations are complete would adversely affect the finances for the HS2 Proposed Scheme and thus the public purse. It is important that HS2 Ltd protects its interests and its bargaining position in negotiations.</li></ul>

**Conclusion:**

The information requested relates to confidentiality of commercial or industrial information therefore section 43 of the Act can be considered.

Under ICO guidance we understand that we must consider whether it is reasonable in all circumstances to withhold this information before considering whether there is a public interest in disclosing it. The information relates to legitimate economic interests. Releasing this information would undermine HS2 Ltd's commercial bargaining position in future negotiations and adversely affect the finances for the HS2 Proposed Scheme and thus the public purse.

For these reasons we believe section 43(2) applies and the reasons against disclosure outweigh the public interest in releasing this information.