



Belinda Johnson  
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19<sup>th</sup> October 2016

Dear Ms Johnson,

**Information request**

**Reference number:** FOI2016/01048

Thank you for your email of 21<sup>st</sup> September 2016. You requested the following information:

*"Please could you provide me with a copy of Network Rail's response to the HMRC 'Off-payroll working in the public sector: reform of the intermediaries legislation' consultation that closed on 18th August 2016."*

I have processed your request under the terms of the Freedom of Information Act 2000 (FOIA).

I can confirm that we hold the information you have requested.

However, section 22 of the FOIA exempts this information from disclosure because the information is intended for publication at a future date. Our response to the 'HMRC Off-payroll working in the public sector: reform of the intermediaries legislation' is scheduled for publication on the [Gov.uk website](http://www.gov.uk) following analysis of the feedback received during the consultation process. We think, therefore that it is reasonable in all the circumstances of this case, to apply the exemption

Section 22 is a 'qualified exemption', which requires us to consider whether the public interest in disclosure outweighs the public interest in maintaining the exemption. We have set out our considerations below.

Arguments in favour of disclosure

We acknowledge the general benefits of transparency and openness on the basis that they lead to greater accountability and present the opportunity for public authorities to be held to account. In this instance, disclosure would allow for the public to have marginally earlier access to information used to make decisions that will impact employees across the country than it would otherwise have done.

### Arguments against disclosure

Disclosure of our response now would disrupt the HMRC publication schedule. It is in the public interest to keep to the publication schedule for this consultation, as this process allows time for the consultation feedback to be properly reviewed and assessed and conclusions formed before placing supporting documents into the public domain.

### Balance test

Our considerations relate solely to the timing of disclosure rather than the merit, and given that we expect HMRC to place the information in the public domain very soon, the arguments in favour of disclosure at this time are significantly reduced.

Under section 16 of the FOIA we have a responsibility to provide advice and assistance to all requestors so far as it is reasonable for us to do so. With this in mind, I thought it might be useful to suggest contacting the HMRC in order to find out their publication timetable for this consultation (See link below).

<https://www.gov.uk/government/organisations/hm-revenue-customs/about/publication-scheme#make-an-foi-request-to-hmrc>

If you have any enquiries about this response, please contact me in the first instance at [FOI@networkrail.co.uk](mailto:FOI@networkrail.co.uk) or on 01908 782405. Details of your appeal rights are below.

Yours sincerely

Robert Malcolm  
Information Officer

### **Appeal Rights**

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the FOI Compliance and Appeals Manager at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at [foi@networkrail.co.uk](mailto:foi@networkrail.co.uk). Your request must be submitted within 40 working days of receipt of this letter.

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

Please remember to quote the reference number at the top of this letter in all future communications.