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Network Rail
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9th January 2016

Dear Ms Coles,

Information request

Reference number: FOI2016/01351

Thank you for your request of 6th December 2016. You requested the following information:

"In your response to my FOI request you noted: "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 following analysis of the feedback received during the consultation process". As this has not been the case, I would be grateful if you would forward a copy of your response."

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 requested. Please see the attached document.

It is important to note that personal information contained within these documents have been redacted. For more details please see Annex A.

Can I also apologise for not providing the information in the first place. The reason being that we mistakenly understood HMRC had an intention to publish, and that was why we claimed the S22 FOIA exemption.

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

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

Yours sincerely

Robert Malcolm
Information Officer

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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. 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

Annex A – Protecting Personal Data

Section 40(2) of the FOIA¹ provides an exemption to the duty to disclose information where:

- a) The information constitutes the personal information of identifiable individuals
- and**
- b) Its disclosure would contravene one or more of the data protection principles of the Data Protection Act 1998².

Personal information

In this instance, part of the information you have requested constitutes the personal information of living individuals who could be identified by its disclosure.

Contravention of the data protection principles

The first data protection principle states that personal information must be handled fairly and lawfully. In our view the disclosure of the information that you have requested would be unfair to the individuals concerned. This is because it constitutes the personal information of non-public facing members of staff and the individuals concerned would have had no expectation that such information would be disclosed.

In determining what is fair, we also need to balance the rights of the individuals with the legitimate interests in disclosure of the information. We recognise the legitimate interest in being accountable to the public and that releasing documents without redaction allows for greater accountability. However, we are unable to release the names of the staff included in these documents as they would have no reasonable expectation that this data would be made to the world at large, which disclosure under FOIA would be. Accordingly, we consider that the disclosure of the information you have requested would be unfair and breach the first data protection principle.

¹ See the Information Commissioner's website for further details regarding the legislation and what is meant by 'personal information of identifiable individuals': <https://ico.org.uk/media/1213/personal-information-section-40-and-regulation-13-foia-and-eir-guidance.pdf>

² For more details of the data protection principles please see: <https://www.gov.uk/data-protection/the-data-protection-act>