



Department
for Transport

Department for Transport
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Our Ref: FOI F0015994

24 May 2018

Dr Paul Thornton

[Response by email to: request-481687-c8394f85@whatdotheyknow.com]

Freedom of Information (FOI) Act Request – F0015994

Extension of time – public interest test

Thank you for your request for information which we received on 1 May 2018. The Department for Transport does hold some of the information you are seeking.

The FOI Act obliges us to respond to requests promptly, in any case no later than 20 working days after receiving your request. However, when a qualified exemption applies to the information, the public interest test needs to be considered. We are not required to comply with your request until such time as is reasonable in the circumstances. We do, of course, aim to make all decisions within 20 working days, including in cases where we need to consider where the public interest lies in respect of a request for exempt information. Your request, however, raises complex public interest considerations which must be analysed before we can come to a decision on releasing the information.

The exemptions that applies are Section 22 and Section 43(2) of the FOI Act (outlined below in [Annex A](#)) to the information you have requested. The information is commercially sensitive and is part of the HS2 Rolling Stock Invitation to Tender which is currently being prepared. We will explain further in our full response.

In your case we need to extend our response time limit by ten working days in order to assess whether the public interest is in withholding the information or disclosing it. Therefore, we plan to let you have a response by 15 June 2018. If there is a need for any further delay we will keep you informed.

Applicability of Environmental Information Regulations (EIR)

The EIR also apply to your request, specifically Regulation 12 (4) (d) of the EIR, due to the material in question still being in the course of completion and unfinished. Please see below [Annex B](#) for the definition of Regulation 12 (4) (d) of the EIR.

There is some overlap here with Section 22 of the FOI Act. A public interest test is also being conducted for this regulation as it is a qualified exception under EIR.

If you have any queries about this letter, please contact me at the highspeedrail@dft.gov.uk marking it for my attention. Please remember to quote the reference number above in any future communications.

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.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,

David Coles

Deputy Director, Technical Strategy, High Speed & Major Rail Projects Group – Department for Transport

Email: highspeedrail@dft.gov.uk

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 - FOI

Section 43 (2) of the Act sets out 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).

Section 22 of the Act sets out Information is exempt information if—

- (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*
- (b) the information was already held with a view to such publication at the time when the request for information was made, and*
- (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a).*

Annex B – EIR

Regulation 12(4)(d) is engaged when the request relates to material that is still in the course of completion, unfinished documents or incomplete data.