



Department for Transport

Edward Williams
[By email: request-557563-
d7d2eb8f@whatdotheyknow.com]

INTERNATIONAL RAIL
RAIL GROUP
DEPARTMENT FOR TRANSPORT
GREAT MINSTER HOUSE
33 HORSEFERRY ROAD
LONDON
SW1P 4DR

Web Site: www.dft.gov.uk

Our Ref: F0017180

19 June 2019

Dear Mr Williams,

Freedom of Information Act Request - F0017180

I am writing further to my letter of 1 April 2019, when we provided a response to your information request of 1 March 2019 concerning the settlement between the Department for Transport and Eurotunnel. You requested a schedule setting out the legal fees paid. At that time, the Department did not hold a final breakdown of these costs, and we also informed you that were it available, we would have to give consideration as to the applicability of the exemption at 43(2) of the FOI Act in case disclosure would be likely to prejudice the commercial interests of suppliers.

We have subsequently received a separate information request asking for information about organisations which legal fees were paid to. The Department holds this information, and, having undertaken a public interest test, has responded today including a high level breakdown of the fees paid to each organisation for legal services. In the interests of transparency, I am sending a copy of this breakdown to you as well.

As section 43(2) is a qualified exemption, we are required to balance the public interest in disclosing the information against that for withholding it. The full text of this exemption and details of why, on balance, the public interest test favours releasing part of this information (as opposed to a detailed schedule) can be found at **Annex A**.

A high-level breakdown of the fees paid to each organisation has been included below:

| Organisation | Fees paid (exclusive of VAT) |
|-----------------------------------|------------------------------|
| Government Legal Department (GLD) | £143,939.20 |
| Slaughter and May ¹ | £710,933.48 |
| Counsel | £83,716.25 |
| Total | £938,588.93 |

¹ Please note that the fees paid include third party litigation support costs.

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 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,
International Rail, Rail Group

Annex A

FOI Act Section 43

(1) Information is exempt information if it constitutes a trade secret.

(2) 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).

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

| Public interest test factors for disclosure | Public interest test factors against disclosure |
|--|--|
| <ul style="list-style-type: none">• Disclosure would allow the requestor and the public to scrutinise the spending of public money.• Greater transparency of this information makes Government more accountable to the electorate and increases trust that the DfT is working efficiently.• Disclosure of the amount paid to organisations which have worked on the Eurotunnel Settlement Agreement in this case would contribute to the Government's wider transparency agenda. | <ul style="list-style-type: none">• Disclosure of detailed schedule information would be likely to prejudice the DfT's ability to achieve value for money in relation to future procurement activities in relation to legal advice – with negative consequences on value for money for the taxpayer.• Releasing information which is commercially sensitive would damage the reputation of the DfT as it would affect the confidence that current and future suppliers have in the ability of the DfT to keep this information confidential which may in turn affect their willingness to provide legal services in the future and the terms on which they might do so. This would not be in the public interest.• Significant public scrutiny of the DfT's expenditure on legal services has already been provided for with the disclosure of an estimated upper limit and a high-level breakdown of the costs (which includes the costs of counsel advice) |

Decision

The Department has considered the arguments outlined in this public interest test and has decided that releasing part of the information requested was appropriate in these circumstances – the release of detailed schedule information would be likely to prejudice the commercial interests of the Department and suppliers of the Department's legal services in securing value for money.