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10 September 2020

Dear D Verr

**Information request**

**Reference number:** FOI2020/00938

Thank you for your email of 12 August 2020, in which you requested the following information:

*"Network Rail states, 'We use the Hay job evaluation scheme to evaluate jobs that are carried out by employees across the organisation. This means that all roles are being considered in the same way by a cross-functional job evaluation panel. The Hay method assesses each job description and gives a score for three factors, the total of which give a total job score. It is this score that places the job in the band in the pay structure. The three factors are; know-how, problem solving and accountability.'"*

- 1. Please state the current process for undertaking this evaluation*
- 2. Please provide the documentation applied for undertaking that assessment."*

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

I have consulted with the relevant experts and can confirm that we hold the information you have requested. However, I am of the view that the Hay Evaluation documentation you have requested for part 2 of your request, is exempt from disclosure under Sections 41(1) (breach of confidence) and 43(2) (commercial prejudice) of the FOIA. Please see below for further detail of this and the response to part 1 of your request.

**1. Please state the current process for undertaking the Hay evaluation**

The Hay job evaluation scheme owned by Korn-Ferry uses three factors to determine Role Clarity (Bands 1 to 8) and executive level jobs, these three factors are 'know-how', 'problem solving and 'accountability'. Typically, the Hay evaluation is carried out in a series of steps, which include:

- Job role information is submitted to the Reward Team in Human Resources
- The role is evaluated by two Hay trained evaluators from within Network Rail at a job evaluation panel. The line manager is invited to attend the job evaluation panel to present the role and answer any questions the evaluators may have but is not present for the evaluation of the role
- The job evaluation panel evaluates the role using the Hay job evaluation methodology and the outcome of this assessment determines the pay band
- For Band 1 to 4 roles there is also an additional step of benchmarking a role using the 'Willis Towers-Watson' salary survey data to inform the decision on the pay range
- The Reward Team releases the outcome to the line manager. The line manager can challenge the pay band and/or pay range outcomes using the appeal process. The appeal process follows the above steps but involves a different team of evaluators. The decision of the appeal panel is final.

It is important to note that evaluators are trained in the Hay job evaluation methodology by Korn Ferry and in salary benchmarking by Willis Towers Watson.

Please see attached document labelled 'Hay Evaluation Guidance' which provides details of the process in undertaking the Hay Evaluation. This information has been put together by our Human Resources Rewards team and I hope it is helpful to give you an understanding of the Hay Evaluation process.

## **2. Please provide the documentation applied for undertaking that assessment**

As mentioned above, we do hold this information, but it is exempt from disclosure under Section 41(1) and 43(2) of the FOI. In the remainder of this letter I will explain how these parts of the law work and our reasons for believing them to be relevant to this part of your request.

### Section 41 – Information provided in confidence

Section 41 provides an exemption from disclosure for information that was provided to us in confidence, where disclosure would constitute an actionable breach of confidence. In other words, information is exempt from disclosure if by disclosing, another party could sue us for breach of confidence.<sup>1</sup>

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/41>

In this instance, The Hay Evaluation guidance documentation used to undertake the evaluation is copyright protected material, which has been provided to us by Korn Ferry. They own the intellectual property rights to this information. It has been provided to Network Rail on the basis that it is only used internally for the sole purpose of undertaking our job evaluations. We have a confidentiality agreement with Korn Ferry agreeing that we would not reprint, share or distribute the documentation with any third parties. Breaching this agreement would amount to an actionable breach of confidence, which may lead to legal action against Network Rail and it is for this reason that I have concluded that section 41 of the Act is relevant.

Section 41 of the FOIA is an absolute exemption, which means that there is no obligation under the Act to consider the public interest test (the arguments for and against the information being disclosed).

#### Section 43(2) - Prejudice to commercial interests

Section 43(2) of the FOIA provides an exemption for information, whereby the disclosure of information would or would be likely to prejudice the commercial interests of any person.<sup>2</sup>

Providing this information would give third parties an insight into the specifics of the methodology behind the Hay Evaluation scheme and this would severely undermine the market that Korn Ferry operate within. To explain this point further, the Hay Evaluation methodology can only be evaluated and applied by personnel who have been specifically trained by the data owners, Korn Ferry. As part of their business offerings, they provide substantive training sessions within the market, as part of the agreements in place with organisations using their evaluation. Providing the information under the FOI, would mean that information that they would usually use for commercial use, would be available for free in the public domain, which would have a negative impact on them as a business.

Furthermore, disclosure of such information in these circumstances would undermine Network Rail's standing as a trustworthy business partner, leading to a loss of confidence in our ability to appropriately protect the confidentiality of information provided to us by our partners.

Section 43(2) is a qualified exemption. This means that we are required to consider whether the public interest in disclosure outweighs the public interest in withholding the information. I have set out my considerations below.

#### Public Interest Test

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<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/43>

The factors in favour of disclosure are that there is always an argument in favour of providing information since this demonstrates openness and accountability. There is a public interest in providing information which gives greater insight into the way in which we evaluate job roles and the method of agreeing on job banding.

Set against this is the fact that it is in the public interest to permit the standard rules of commerce apply even when transactions involve public authorities. The public sector needs to work with private companies in order to deliver the best quality public services. By releasing commercially valuable information provided in confidence we would effectively deter private companies from ever doing business with us, thereby depriving us (and the public we serve) of the skills, knowledge and experience of the private sector. This is not in the public interest and is a stronger factor than any of those in favour of disclosure.

Having considered the public interest, our decision is to withhold this information and that Section 43(2) applies in this case. Any additional benefit in providing the information is substantially outweighed by the commercial prejudice that Network Rail and data owner, Korn Ferry would face if the information were to be disclosed.

Although I could not provide all the information you have requested, I hope this response is helpful. 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. Please remember to quote the reference number at the top of this letter in all future communications.

Yours sincerely

**Najea Begum**  
**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 Head of Freedom of Information 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 (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".