



Department
for Transport

Department for Transport
Zone 3/16
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Philip.Haslam@dft.gsi.gov.uk

Mr. Rukin
[By email: request-421641-
6c864116@whatdotheyknow.com]

Web Site: www.gov.uk/dft

Our Ref: F0015131

25 September 2017

Dear Mr Rukin,

Thank you for the two information requests you made to the Department on 28 July 2017 concerning the reports produced by the Infrastructure and Projects Authority on the HS2 Project and a report on HS2 conducted by Sir Jeremy Heywood. These have been grouped together and considered under the Freedom of Information Act ("FoIA") (2000). I can confirm that the Department holds all the information you have requested.

HS2 REPORTS CONDUCTED BY THE INFRASTRUCTURE AND PROJECTS AUTHORITY ("IPA")

I have considered your request for the publication of all Project Assessment Review reports since the Major Projects Authority became the Infrastructure and Projects Authority ("IPA"). For the avoidance of doubt, this includes all reports conducted by the IPA into HS2 during 2016 and 2017.

This information is being withheld under section 35(1)(a) (Formulation of Government Policy etc.) of the FoIA. Such information relates to the formulation or development of government policy on HS2, which is still on-going. Releasing this information from the Project Assessment Review ("PAR") process would damage the safe space required for the consideration of policy on HS2, and accordingly the balance of the public interest falls against releasing it. Disclosure of this information when such a limited period of time has passed since these PARs were undertaken, may also reduce the candour and frankness in future PAR reports thereby reducing the quality of advice given to senior officials and decision makers through the PAR process. This would harm decision-making across Government.

This exemption requires a public interest test, which is set out in the attached Annex A to this letter.

REPORTS ON HS2 CONDUCTED BY SIR JEREMY HEYWOOD (CABINET SECRETARY)

I have considered your request for the publication of the reports on HS2 conducted by Sir Jeremy Heywood in 2016. This information is being withheld under section 35(1)(a) (Formulation of Government Policy etc.) of the FoIA. Such information relates to the formulation or development of government policy on HS2, which is still on-going.

This exemption requires a public interest test, which is set out in the attached Annex A to this letter.

In keeping with the spirit and effect of the FoIA, all information is assumed to be releasable to the public unless exempt. A copy of this response and the information provided may now be published on the www.gov.uk web-site.

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.gsi.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,

Philip Haslam

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 – Public interest test – release of reports by the Infrastructure and Projects Authority and reports into HS2 by the Cabinet Secretary

Exemption 35 of the FOIA

Formulation of government policy, etc.

- 1. Information held by a government department or by the Welsh Assembly Government] is exempt information if it relates to—**
 - a. **the formulation or development of government policy,**
 - b. Ministerial communications,
 - c. the provision of advice by any of the Law Officers or any request for the provision of such advice, or
 - d. the operation of any Ministerial private office.
2. Once a decision as to government policy has been taken, any statistical information used to provide an informed background to the taking of the decision is not to be regarded—
 - a. for the purposes of subsection (1)(a), as relating to the formulation or development of government policy, or
 - b. for the purposes of subsection (1)(b), as relating to Ministerial communications.
3. The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).
4. In making any determination required by section 2(1)(b) or (2)(b) in relation to information which is exempt information by virtue of subsection (1)(a), regard shall be had to the particular public interest in the disclosure of factual information which has been used, or is intended to be used, to provide an informed background to decision-taking.

Public interest test factors for disclosure

The factors in favour of releasing this information are that it would:

- Promote transparency and accountability in decision-making. Releasing this information would provide reassurance to members of the public that officials and decision-makers understand programme risks and are taking active steps to manage these.
- Contribute to the Government's wider transparency agenda.

Public interest test factors against disclosure

The factors against releasing this information are that:

- The IPA Reports on HS2 since 2016 would compromise the safe space within which officials can provide frank information and advice as part of the IPA review process - potentially having negative consequences for the taxpayer.
- Officials would be reluctant to provide detailed input into the IPA reports if they felt that these would be routinely released soon after completion. The loss of frankness and candour would impact future Project Assessment Reviews, meaning that officials and decision makers would have access to lower quality of advice with regard to policy development and management of HS2. This would lead to poorer decision making across Government.

- Disclosure of the IPA Reports on HS2 since 2016 could lead to misinterpretation of information or the misleading of the public into thinking decisions have been made. This may have potentially negative implications for taxpayers and individuals living along or near the line of route.
- The reports by the Cabinet Secretary contain discussion of scenarios and options under discussion by officials. It is appropriate for officials to consider alternative policy options as part of an ordered process of decision-making. However, disclosure of these deliberations would, if disclosed, be likely to cause such intense criticism and attention that it would make deliberations much more difficult
- The reports by the Cabinet Secretary would adversely affect the policy making process with regarding to securing permissions to build future phases of HS2
- The reports by the Cabinet Secretary relate to live policy discussions which have yet to be finalised and withholding this information is necessary to preserve the safe space needed by officials and Ministers to freely consider these policy issues. Premature release of the information into the public domain could have the result of precluding consideration of other options.

Decision

This information should be withheld, which is necessary to preserve the safe space needed by officials and Ministers to freely consider issues. Releasing this information would also adversely affect the policy making process with regard to HS2 and compromise the safe space required for the IPA review process.