

Marrk Keir
request-791454-23b657ca@whatdotheyknow.com

Date as email

Dear Marrk Keir,

FOI-21-4487-R – Internal Review response

I am writing in response to your concerns about HS2 Ltd's handling of your request for information (our reference: FOI-21-4487).

I am a member of the HS2 Ltd Senior Leadership Team appointed to carry out an independent review of the original decision made in relation to your request, and as someone that was not involved in the original decision.

This review of your original request is an entirely new and separate decision and is explained as such below.

Original request

In your original request received on 14 December 2021, you sought access to the following data:

Please go ahead with information you suggested, ie

- **Final outcome of court proceedings/hearings where HS2 Ltd is claimant or defendant from Financial year 2016/17 to date**
- **External legal costs associated with the above cases.**

Internal review

As part of this review response: I have considered the following to ensure that:

1. We appropriately responded within the statutory deadlines
2. We undertook appropriate searches to identify the requested data
3. That the exemption was correctly applied

Timeliness of response

The request was received on 14 December 2021, on 15 December 2021 the request was acknowledged. In this acknowledgement you were advised that a response would be sent on or before 14 January 2022.

On 14 January 2022 we wrote to you in accordance with Section 10(3) of the Freedom of Information Act ('the Act') to extend the time limit for responding to your request. Section 10(3) permits a public authority to extend the time limit for a further 20 working days where more time is required to consider the public interest test. A revised due date was given of 11 February 2022, and we responded to your request on 4 February 2022. Therefore, our response was sent in line with statutory timeframes and I find no error with point 1 above.

Identification of data requested

On investigation of this matter, I can confirm that appropriate searches were undertaken to identify relevant data held regarding the final outcomes of court proceedings/hearings from 2016/17 to date (financial year) where HS2 Ltd is a claimant or defendant.

Having found no error of judgment in point 1 and 2 above, I went on to consider the strength of the public interest test provided to you in our original response.

Engagement and application of Section 43(2)

Section 43(2) provides an exemption from the duty to make information available where a disclosure would, or would be likely to, prejudice the commercial interests of any person. In this instance if the requested information was to be released, it would undermine HS2 Ltd's commercial position, by jeopardising our ability to negotiate legal cost recovery.

While I recognise and support the general arguments made in favour of openness and transparency, having considered the factors for and against releasing the information, the balance of the public interest is in favour of withholding the information. Therefore, I uphold the decision provided in the original response and have provided our public interest considerations at **Annex A** for ease of reference.

Conclusion

I trust that this is now clear, and this response addresses your concerns. If you are not content with the way we have handled your review, you may take this up in writing with the Information Commissioner, please see further details below.

Please remember to quote reference number **FOI-21-4487-R** in any future communication relating to this request.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Richard Jordan', with a stylized, cursive script.

Richard Jordan

Interim Quality and Assurance Director

High Speed Two (HS2) Limited

Your right to complain to HS2 Ltd and the Information Commissioner

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