



By email: [request-317030-107abfc1@whatdotheyknow.com](mailto:request-317030-107abfc1@whatdotheyknow.com)

Network Rail  
Freedom of Information  
The Quadrant  
Elder Gate  
Milton Keynes  
MK9 1EN

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14th April 2016

Dear Mr Stott

**Information request**

**Reference number:** FOI2016/00186

Thank you for your email of 17<sup>th</sup> February 2016. You requested the following information:

*Please supply an electronic copy of the current or latest version of each of the following manuals (or their successors by other or similar names):*

- (1) "Performance Manual"
- (2) "Performance Measurement Manual"
- (3) "Performance Measurement Process Manual"

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

I can confirm that we hold some of the information you requested.

To explain a little further, the "Performance Manual" referred to in part one of your requests has two parts:

- a) Performance improvement manual;
- b) Performance measurement process (referred to in part three of your request).

These two documents read in combination are what we term our performance manual.

The second part of your request refers to a 'Performance Measurement Manual' and we do not hold any information within scope of this aspect of your request, simply because we do not hold any documents referred to by this appellation.

Please find attached two documents respectively labelled ***“Performance improvement process.pdf”*** and ***“Performance measurement process.pdf”***.

You will note that we have redacted parts of these documents. This is because providing them without redaction would have entailed releasing personal information (exempt under s.40(2) of the FOIA) and information that would be prejudicial to the commercial interests of us and our business partners (exempt under s.43(2) of the FOIA).

I will explain the rationale for this decision further.

### **Section 40(2) – Personal Information**

We have redacted the files to remove the personal information of identifiable individuals. Section 40(2) of the FOIA allows us to withhold this type of information if its disclosure would contravene one or more of the data protection principles of the Data Protection Act 1998.

The first data protection principle states that personal information must be handled fairly and lawfully. In our view the disclosure of the information that you have requested would be unfair to the individuals concerned. This is because it constitutes the personal information of junior staff members and the individuals concerned would have had no expectation that such information would be disclosed.

In determining what is fair, we also need to balance the rights of the individuals with the legitimate interests in disclosure of the information. We recognise the legitimate interest in being accountable to the public and that releasing documents without redaction allows for greater accountability. However, it is our view that accountability in this instance applies to Network Rail as an organisation rather than the individuals in question. In simple terms these individuals were doing a job for which Network Rail is ultimately accountable. The effect of this is that any interest in accountability is met by the documents being provided in their redacted form.

Taking all of this into account and in the absence of any overriding legitimate interest in the release of this information under FOIA, we consider that the disclosure of the information you have requested would be unfair and breach the first data protection principle.

### **Section 43(2) – Prejudice to commercial interests**

Section 43(2) of the FOIA provides an exemption for information, the disclosure of which would or would be likely to prejudice the commercial interests of any person. Our decision is that disclosure of some of the information you have requested would be likely to prejudice the commercial interests of Network Rail and the Train and Freight operating companies as it provides detailed financial calculations involved in the performance compensation regime.

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 maintaining the exemption.

#### Factors in favour of disclosure

There is always a general presumption in favour of disclosure in the absence of any overriding factors as this is likely to make public authorities, like Network Rail, more open and accountable organisations.

In this particular instance disclosure of the requested information would permit greater scrutiny of a large public authority's spending of public money and encourage greater accountability.

#### Factors against disclosure

Providing the requested information in full would create a partial and potentially misleading, an indeed outdated, picture of compensation payments.

The train and freight operating companies would have had a legitimate expectation that the requested material would be treated by us as confidential. It is in the public interest to, wherever reasonably possible, retain and encourage intra-business trust. This is particularly so in relation to commercial interactions with large public authorities. In our case, undermining this trust and confidence would not only damage our relationship with any given company which was disadvantaged by disclosure but also with all other similar companies who would be less inclined to share information and engage positively with us.

Having considered both sides of the argument, we have concluded that the specific, tangible and potentially far reaching harm (to both Network Rail and our partners) that would be likely to stem from disclosure outweighs the more general of disclosure, particularly since the public benefit from providing a limited and misleading picture is likely to be extremely slight. As a result we do not intend to disclose any information in this document that contains financial calculations regarding compensation payments.

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

**Joanne West**  
**Information Officer**

#### **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 FOI Compliance and Appeals Manager 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 can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire SK9 5AF