



Mr R Moss-Eccardt

By email: request-381961-3f129379@whatdotheyknow.com

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Dear Mr Moss-Eccardt

Queen Adelaide risk assessments and supporting data

Internal Review reference number: FOI2017/00191

Original request reference numbers: FOI2017/00123

I am writing in response to your two emails of 14 February 2017, which requested an internal review of the handling of your request for information made on 28 January 2017:

If it is feasible within the resources you have reasonably available I should like all the support material you have indicated. However if that would take this request beyond the resources you must or choose to expend then I should like them in the following order of priority (first one mentioned being the highest):

All Level Crossing Risk Model (ALCRM) risk assessment results for various options Gap Analysis Summary Note Traffic flow analysis technical note Phase 2 Gap Analysis Report Traffic censuses Scheme Sketch

I see that you mention ALCRM. If other risk assessments have been performed they should also be included.

I should first note that there is a strong degree of correspondence between the information sought in the request presently under review here, and in your previous request FOI2016/01418; this refers particularly to the risk assessments for the renewal options for the three Queen Adelaide crossings, which fall within the scope of both

requests, and the supporting data for those risk assessments which was additionally sought in in FOI2017/00191.

As you will be aware, in my recent review of FOI2016/01418 (Internal Review FOI2017/00060), I supported the exceptions that had been applied to the five documents sought in that request. While I have considered whether any relevant circumstances have changed in the short period of time since reaching that decision, my view is that the risk assessments for the renewal options for the level crossings still constitute material in the course of completion, and that they should continue to be withheld. By extension, the supporting data for these risk assessments similarly falls within this exception.

I consider that the reasons for refusing this information were clearly set out in the original response to the present request, and in the previous review of FOI2016/01418; I will therefore add nothing more to those arguments at this stage.

However, I note that while the original response to your present request focused on the risk assessments for the renewal options for the Queen Adelaide crossings, my enquiries for this review have determined that we do hold additional risk assessments for these crossings which were not considered during the handling of the original request – these are the Narrative Risk Assessments for each of the three crossings, which are distinct from those risk assessments undertaken in respect of the renewal options.

The Narrative Risk Assessments address the question posed in your first email of 14 February 2017, where you asked:

Am I correct in interpreting your response to understand that there are no suitable and sufficient risk assessments current for the crossings in question?

I note that the wording of your request specifically mentioned ALCRM data and other risk assessments undertaken in respect of the crossings, and I offer my apology that these documents were not identified as relevant to your request in its initial processing.

I have reviewed the Narrative Risk Assessments and consider that they should be disclosed, subject to certain exceptions. Under Regulation 13(1) of the EIR, I have withheld the name and details of those undertaking the risk assessments as these constitute personal data, and a small amount of information which could lead to the identification of third-party individuals.

I have also withheld any information included in the Narrative Risk Assessments which has been extracted from the risk assessments for the renewal options, as these

extracts constitute the same information as previously withheld in FOI2016/01418 and the subsequent review, and therefore the same exceptions apply.

I have provided the Narrative Risk Assessments in the attachments to this letter.

Finally, I would note that your second email of 14 February 2017 asked:

I am writing to request an internal review of Network Rail Limited's handling of my FOI request 'Queen Adelaide B1382 Level Crossings Risk Assessment'.

I am told by Cambridgeshire County Council that you have asserted commercial confidentiality over these documents. Now you are asserting they aren't complete or useful. That seems a little at odds with your reported assertion.

At the same time the County Council is spending money on an assessment that relies on these documents you say are not complete.

There is a disconnect here and at least one statement must be false.

If you can confirm that the documents provided to Cambridgeshire are now superceded and incomplete then you need do nothing more. However if they have value and are suitable to inform the study then you must reconsider your reasons for refusal.

In appealing the initial decision applied to FOI2016/01418, you had raised a similar concern about the status of the requested information being unfinished or incomplete. In my previous review, I confirmed that the requested information had been refused because it was part of a body of 'material in the course of completion', rather than because the requested documents were unfinished or incomplete. The following explanation about the application of regulation 12(4)(d) to this information, contained in my previous review, continues to apply here:

Regulation 12(4)(d) can be applied when the request relates to material that is in the course of completion, unfinished documents or incomplete data. I note that the points raised in your appeal concerns the status of the risk assessments and whether they are 'unfinished' or 'incomplete'. However, I should explain that it is not necessary for information to be unfinished, incomplete **and** material in the course of completion for Regulation 12(4)(d) to be engaged – these three elements of the exception are entirely separate and the exception will be engaged if any one of the three elements applies. My colleague, Mr Bendall, correctly noted this point in his response to your request, where he drew attention to the following guidance from the Information Commissioner:

Material which is still in the course of completion

The fact that the exception refers to both **material** in the course of completion and unfinished **documents** implies that these terms are not necessarily synonymous. While a particular document may itself be finished, it may be part of material which is still in

the course of completion. An example of this could be where a public authority is formulating and developing policy...¹

The Information Commissioner's guidance further explains that:

Material which is still in the course of completion can include information created as part of the process of formulating and developing policy, where the process is not complete.²

I hope that this additional explanation clarifies the situation concerning the status of the risk assessments for the renewal options for the crossings (and the supporting data for these risk assessments).

Once again, I apologise that the Narrative Risk Assessments were not considered in the initial response to your request, and I hope that the information provided to you in this review is useful.

Yours sincerely

Lou Lander
FOI Manager – FOI and Transparency

Next steps

If you are not content with the outcome of this 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

Please quote the reference number at the top of this letter in all future communications.

¹ The Information Commissioner's guidance on this exception can be found on this link:
https://ico.org.uk/media/for-organisations/documents/1637/eir_material_in_the_course_of_completion.pdf

² See Footnote 1.