

Annex A – Public Interest Test

Regulation 12(4)(d) – Material in the course of completion, unfinished documents and incomplete data

Factors supporting disclosure

- Disclosure of information would help to ensure transparency and visibility of public bodies
- There is a general public interest in facilitating public understanding of an important public project and matters of public concern.

Factors supporting non-disclosure

- Producing reports for the options being considered is part of the process informing an eventual decision and announcement on these aspects of the project. There is a public interest in ensuring that public officials have a safe space to work candidly and freely without being concerned that information could be released that could be potentially misleading.
- It is in the public interest that public authorities and stakeholders are able to express opinions, play devil's advocate and provide free and frank advice during discussions. If such free and frank views were disclosed, this would inhibit that process to the public detriment if officials felt pressurised not to express such views in future.
- HS2 Ltd is subject to debate in the national press and attracts a great deal of interest and debate from action groups, major organisations and members of the public. While we are aware that we can contextualise information to highlight any potential inaccuracies we are not confident that this will be sufficient to correct any misleading impressions or confusion that could be created publically if this information were released and used in the national debate surrounding HS2, especially without policy-makers being able to make a clear rebuttal based on further analysis of the options being considered. This could damage decision-making in what is a difficult and sensitive policy area.
- Decision-makers should be judged on the final decision and their reasons for it, not on what might have been considered or recommended by others in draft or preliminary documents.
- There is a public interest in favour of ensuring that a public authority does not have to expend resources on justifying information in early draft or preliminary documents.

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Balance Test

The issues of transparency and awareness are noted. However, on balance it is considered that the public interest in providing the information is outweighed by the potential impact release would have on the decision making processes. It is noted that release into the public domain at this time is likely to lead to misinformed public debate. This, in turn, would lead to the diversion of public resources in order to address issues that are still under consideration.

There is strong public interest in ensuring that public authorities are given space to develop policies and make informed decisions, without concern that the public debate could be skewed by the early release of unfinished analyses. Consequently we believe the reasons against disclosure outweigh the public interest in releasing the information.

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Regulation 12(4)(e) - Internal Communications

Factors supporting disclosure

- The public needs to understand how and why decisions have been taken and the factors taken into account by decision makers.
- Disclosure would help facilitate public understanding of an important public project and matters of public concern.

Factors supporting non-disclosure

- Public authorities need the space to “think in private” and to safeguard the space needed for internal deliberation and the decision making process.
- HS2 Ltd is mindful of the need for officers to have a safe space to exchange free and frank views in future which allows them to develop ideas, debate live issues and reach decisions away from external interference and distraction.
- Disclosure of the information would have a negative impact on the provision of advice and introduces the risk of decisions being made without the knowledge of all known facts

Balance Test

It is acknowledged that the release of this information would increase transparency and has the potential to increase understanding of this major public project. However disclosure would prejudice the free and frank exchange of views and the ability to reach fully informed decisions. It is in the public interest to preserve a ‘safe space’ in which public authorities can debate issues away from public scrutiny.

Release of this information would have a ‘chilling effect’ on the free and frank exchange of views in the future. It is important that officials can provide information and views without fear that the public debate could be unduly influenced by the premature release of preliminary options.

For these reasons the public interest test favours withholding the requested information.