

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

Regulation 12(4)(d) of the Environmental Information Regulations 2004 (‘the Regulations’) provides that a public authority may refuse to disclose information “to the extent that the request relates to material, which is still in the course of completion, to unfinished documents or to incomplete data”. If the information falls into any one of these categories, then the exception is potentially engaged (subject to a consideration of where the public interest lies).

The following link sets out regulation12(4)(d) in full:

<http://www.legislation.gov.uk/ukxi/2004/3391/regulation/12/made>

Harm

Only survey data that has been assured by HS2 Ltd is provided within each data release. The data associated with continued surveys will also be released, via data.gov.uk following HS2 Ltd’s vetting and assurance of the data.

Data that has been collected and has not yet been published via the link above, is currently being assured by HS2 Ltd with the intention that it will be made available on the data.gov.uk shortly.

To release data which has not yet been assured and vetted would mislead the public and cause confusion and ill-informed public debate.

Factors supporting disclosure

- Disclosure of information would provide greater transparency, visibility, and accountability of public bodies.
- Releasing information could contribute to public understanding of a large publicly funded project.

Factors supporting non-disclosure

- There is a strong public interest in ensuring that public officials have a safe space to work candidly and freely, without being concerned that early release of information could mislead the public.
- Releasing data that is still being reviewed would be likely to lead to confusion and ill-informed debate, misleading the public regarding the HS2 programme and its impacts.
- Disclosure of information that is still under consideration would lead to the diversion of resources to explain issues and engage in public debate regarding matters that are still under consideration.

Conclusion

The issues of transparency and openness 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 decision-making processes.

Release of the requested information into the public domain while unvetted would lead to misinformed public debate. This, in turn, would lead to the diversion of public resources, thus affecting the timeline of the HS2 project, whilst causing unnecessary concern on issues that are still under consideration.

Allowing HS2 Ltd the space to appropriately examine the information prior to publication would avoid the burden of needing to regularly clarify information on an ad-hoc basis. This far outweighs any public interest in transparency.

There is a strong public interest in ensuring that public authorities can make informed decisions, without concern that the public debate could be skewed by the release of data prior to appropriate vetting and assurance. Consequently, we believe the reasons against disclosure outweigh the public interest in releasing the information.