



National Audit Office

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Reference FOI-1753

Date 25 October 2024

NATIONAL HIGHWAYS ANNUAL ACCOUNTS

Thank you for your email dated 1st October 2024 asking for information concerning our reports produced in relation to our audit of National Highways for 2023-24. Your request has been handled under the Freedom of Information Act 2000. Having checked our records, I can confirm that we do hold the information and I have attached the following documents within scope to this response:

- NH Audit Planning Report 2023-24
- NAO Audit Completion Report 2023-24
- Final NAO Audit Completion Report 2023-24

We have redacted a small amount of personal data under Section 40(2) of the FOI Act - Personal Information. Details of this exemption and how it applies can be found under **Annex A** of this letter.

While the FOIA provides a legal right of access to recorded information held by a public authority, it is subject to certain exemptions that may apply. We have provided most of the information within the scope of your request but have decided to withhold a small amount of information under Section 33 - the public audit exemption of the FOIA. The reasons for this and our consideration of the public interest test are explained below.

Section 33 Freedom of Information Act 2000 – Public Audit

Section 33 of the Freedom of Information Act 2000 (FOIA) provides that:

(1) This section applies to any public authority which has functions in relation to -

(a) the audit of the accounts of other public authorities, or

(b) the examination of the economy, efficiency and effectiveness with which other public authorities use their resources in discharging their functions.

(2) Information held by a public authority to which this section applies is exempt information if its disclosure would, or would be likely to, prejudice the exercise of any of the authority's functions in relation to any of the matters referred to in subsection (1).

In order for the NAO to carry out its statutory function, and to be able to engage in an effective and comprehensive audit, some information is required to be exchanged in confidence with the understanding that it would not be shared beyond that required for auditing purposes. Disclosure of such information would impair the provision of audit information in the future, and would reduce, if not cut off, critical information flows.

It is vital that we have a safe space to gather information and knowledge and engage in free and frank discussions with audited bodies. The potential release of this information would remove this safe space and would be likely to prejudice the effective performance of our public audit function going forward. This may also serve to challenge our access rights for audit information and would therefore require us to formally assert our statutory access rights, leading to significant delays and increased audit costs.

Section 17(3) of the Budget Responsibility and National Audit Act 2011 places a duty on the C&AG to “aim to carry out functions effectively and cost effectively”. Given the above factors, we consider that our disclosure of the information requested would be at odds with this statutory requirement – it would serve to undermine the effectiveness and increase the cost of the C&AG’s public audit functions.

The Public Interest Test

We recognise that there is a public interest in favour of public authorities promoting greater awareness, and knowing the use of public money is subject to appropriate levels of accountability and transparency. However, we consider the disclosure of the specific information we have withheld would be likely to reduce the effectiveness of the audit process for the reasons set out above. By carrying out our high-quality audits in a timely and efficient manner, we are able to put valuable information into the public domain and provide a landscape view on the use of public funds.

The NAO’s work helps Parliament hold government to account, and in our view, the balance of public interest rests with the NAO being able to deliver an effective and efficient public audit function and report our findings in public. Consequently, given the negative impact that would result from disclosure, we consider it appropriate to maintain the Section 33 public audit exemption.

Our policy is to respond to requests as helpfully and promptly as possible. I therefore hope you are happy with the way we have handled your request. If you are not happy with this response, you can ask for an internal review within 40 working days by writing to the NAO FOI Team at FOI@nao.org.uk or by post to: FOI Team, Green 2, National Audit Office, 157-197 Buckingham Palace Road, London, SW1W 9SP

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 primary way of escalating your concerns to the Information Commissioner is at: <https://ico.org.uk/foicomplaints>.

Yours sincerely,

NAO FOI Officer

Annex A

Section 40, Freedom of Information Act 2000 – Personal information

Section 40, paragraphs 1-4, of the Freedom of Information Act 2000 (FOIA) provides that:

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

(a) it constitutes personal data which does not fall within subsection (1), and

(b) the first, second or third condition below is satisfied.

(3A) The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

(a) would contravene any of the data protection principles, or

(b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

(4A) The third condition is that—

(a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or

(b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

Reasons why we have applied this exemption

We are not obliged under Section 40(2) of the FOIA to provide personal information about another person if releasing it would contravene any of the provisions of the Data Protection Act 2018.

We believe the release of names and direct contact details of National Audit Office and National Highways officers would contravene the first data protection principle, which is that the processing of personal data must be lawful, fair and transparent.

We have therefore redacted this information from the information we are releasing to you.