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Freedom of Information
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Darryl Chamberlain

By email: request-760339-106b8d87@whatdotheyknow.com

28 June 2021

Dear Darryl Chamberlain

Information request

Reference number: FOI2021/00818

Thank you for your email of 28 May 2021, in which you requested the following information:

In light of Network Rail's decision to close the Angerstein Wharf foot crossing in the Kent region, could you please tell me:

- a) How many safety incidents have been logged at the crossing in each calendar year since 1 January 2018 to the present day? If a financial year is more convenient, I am happy to accept that.*
- b) Please provide details of what happened in each incident.*
- c) Network Rail have stated that the crossing "currently registered as the most dangerous of nearly 350 level crossings which we operate in Kent". Could you please share the data this is based on?*
- d) If it is not covered in question c, could you please tell me where the Charlton Lane level crossing comes in the ranking of dangerous level crossings?*

I have processed your request under the Environmental Information Regulations 2004 (EIR) as this type of information, relating to the measures taken at a level crossing, is environmental according to the definition in regulation 2(1)(c) of the EIRs.¹

¹ Section 39 of the Freedom of Information Act 2000 (FOIA) exempts environmental information from the FOIA and requires us to consider it under the EIR. Regulation 2(1)(c) refers to information requested on *measures (including administrative measures), such as policies, legislation, plans, programmes, environmental*

I can confirm that we hold the information you requested. I will address each of your questions in turn.

a) How many safety incidents have been logged at the crossing in each calendar year since 1 January 2018 to the present day? If a financial year is more convenient, I am happy to accept that.

and

b) Please provide details of what happened in each incident.

In the period of 1 January 2018 to 28 May 2021, we had a total of 15 reported incidents on the Angerstein Wharf footpath crossing in Charlton; please find the details of 13 of these incidents in the attached Excel document titled *FOI202100818 Angerstein Wharf foot crossing incidents_redacted*. When reviewing the data provided in this document, please note that it is a combination of data taken from our Safety Management Intelligence System (SMIS) and details of any other specific incidents noted by the route level crossings team.

As well as the incidents listed in this Excel document, we did conduct a couple of census surveys through the level crossings team to understand crossing usage and to see if any misuse took place; this was in June 2019 and October - November 2019. While incidents were not recorded separately, it was noted that various misuse incidents took place, such as individuals stopping to take photographs on the track, loitering and trespass, including adults using the crossing to access the track. It was also noted that various vulnerable users were using the crossing, such as those with pushchairs. Our level crossings team have also advised that in 2019 we also increased the safety measures at the crossing by fitting wicket gates, as it was previously an 'open' crossing. However, these gates are subject to daily abuse - they are often wedged open by members of public and as such the closing mechanism needs to be regularly fixed.

I have withheld a small amount of information from this Excel document under regulation 13(1) of the EIR (personal data). This is denoted by ##### markings.

Regulation 13(1) allows us to withhold personal data where its disclosure would breach the data protection principles set out at Section 35 of the Data Protection Act 2018 and Article 5 of the General Data Protection Regulations. In this instance, publishing the personal data of our employees and third parties, such as job titles, acronyms for job titles and details related to personal circumstances, as well as SMIS, BTP and other system reference numbers, would breach the first principle, which states that data should be

agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements.

processed fairly and lawfully. The individuals in question would have had no reasonable expectation that their details would be provided to the world at large through the EIR and it would therefore not be fair for us to disclose them.

I am also withholding the date and details of two incidents that took place at this crossing during this timeframe under regulation 12(5)(a) of the EIR (public safety). I will explain why this is the case in more detail below.

Regulation 12(5)(a) of the EIR – public safety

This exception allows us to withhold information where we consider that its disclosure would adversely affect public safety.

The Regulations do not specify the meaning of ‘public safety’ but the Information Commissioner’s Office (ICO) makes it clear that the term is to be understood as having broad implications:

‘Public safety’ may be interpreted widely. The exception covers information that, if disclosed, would adversely affect the ability to protect the public, public buildings and industrial sites from accident or acts of sabotage; and where disclosing information would harm the public’s health and safety.

We do understand that there is a public interest in transparency and openness and Network Rail is committed to providing information where appropriate. However, on this occasion we consider that disclosing the date and type of these incidents would be likely to adversely affect public safety and endanger individuals as it may aid criminals in being able to be more targeted in their activities. We believe that the consequences of such activity would then also be likely to adversely affect public safety and endanger individuals.

When assessing the harm that a disclosure would be likely to cause, it is necessary to take into account the fact that disclosures made under the FOIA and the EIRs are public disclosures which are made to the ‘world at large’; any information disclosed is released into the wider public domain rather than simply to the person making the request. Because of this, we have to consider the wider impact of making information such as this available to ‘the world’ and whether any individual could then use the information to cause harm.

Public Interest Test

We are required to consider whether the public interest in disclosure outweighs the public interest in maintaining the exception. I consider that the factors in favour of disclosing the information are that it would increase transparency and public understanding of the incidents recorded at this crossing.

Set against this, I consider that there is a significant public interest in safeguarding the safety of people travelling and working on the rail network which is part of the critical national infrastructure. Disclosure of this details of these incidents could lead to others targeting this area in a similar way, in turn having a negative effect on public safety.

Having considered the above, I consider that the public interest is strongly in favour of withholding the information, owing to the fact that disclosure of the information regarding these two incidents could have a detrimental effect on the safety of individuals.

c) Network Rail have stated that the crossing "currently registered as the most dangerous of nearly 350 level crossings which we operate in Kent". Could you please share the data this is based on?

We do not hold the recorded information you are seeking in response to this part of your request²; this is because Angerstein Footpath Crossing is ranked 8th out of the 162 footpath crossings in Kent and 34th out of 341 crossings in Kent. It is the highest risk footpath in South East London, not in Kent – the statement was a miscommunication on our press release and we apologise for any confusion caused.

d) If it is not covered in question c, could you please tell me where the Charlton Lane level crossing comes in the ranking of dangerous level crossings?

Charlton Lane is ranked 43rd out of 341 for level crossing risk in Kent; however Charlton Lane is a fully protected, full barrier manned crossing which is one of the highest levels of protection for a level crossing.

I hope the information and explanations provided in this response are helpful. If you have any enquiries about this response, please contact me in the first instance at FOI@networkrail.co.uk. 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

Emma Meadows
Information Rights Specialist

² Strictly speaking, regulation 12(4)(a) of the EIRs requires that we carry out a public interest test to determine whether the requested information should be disclosed. However, as is recognised by the Information Commissioner's Office, it is obviously not possible to conduct a public interest test on disclosure when the information that has been requested is not held.

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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 Head of Freedom of Information at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at 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 (ICO) can be contacted at Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF or you can contact the ICO through the 'Make a Complaint' section of their website on this link: <https://ico.org.uk/make-a-complaint/>

The relevant section to select will be "Official or Public Information".