

Our ref: CRS 768,172  
Your ref:

Highways England  
Second Floor  
Woodlands  
Manton Lane  
Bedford MK41 7LW

Email:

Direct Line:

18 January 2019

Dear

### **Freedom of Information Request M40 junctions 11 – 12**

Thank you for your email of 21 December requesting information about the M40 between junctions 11 and 12. We have now completed our search for the requested information. I have extracted each of your requests and respond as follows:

- 1. A list of reported incidents and the total number of other claims resulting from damage to vehicles on the hard shoulder of the M40 between J11 and J12 between 3rd September 2018 and 3rd November 2018.***

We are aware of only the one incident involving yourself.

- 2. All video available of my car travelling on the hard shoulder on this section of motorway that evening. Likely to be between 11:00 pm and 11:30 pm on Wednesday 3rd October 2018.***

Information not held. CCTV footage is only held for 7 days.

- 3. Your policy on the closing of all 3 lanes of the motorway, the opening of an emergency hard shoulder to traffic and the safety guidelines that should be followed in such cases.***

UK Highways Ltd, who operate the M40 motorway under a design, building, finance and operate (DBFO) contract on our behalf follow the guidance and requirements set out in the Traffic Signs Manual, Chapter 8. This can be found online.

- 4. We do not believe it was safe to route all traffic on the hard shoulder which had small debris and defects to at least one drain cover and would like an explanation as to why this was legally necessary to do so. We believe it would have been more suitable and safer to keep lane 1 open as there appeared to be no obvious reason why this wouldn't be possible.***

UK Highways has no formal policy for the closing of all 3 lanes of the M40. However, when work is needed to any lane of the M40, a safety zone clearance of 1.2 metres from live traffic is required by the Traffic Signs Manual, Chapter 8. Therefore, when work is required to lane 2 of this section of the M40, this gives two options: 1) close the relevant section of M40 or 2) close lanes 1, 2 and 3 and allow traffic to use the hard shoulder.

UK Highways preference is to keep traffic on the M40 rather than use lengthy diversions.

On 3 October 2018, UK Highways were carrying out work in lane 2. If they had opted to divert traffic and close the M40, the diversion route would take motorway traffic through Banbury and along the A4100 which are less suitable. The decision was therefore made to use the hard shoulder.

**5. Evidence of a risk assessment that took place prior to taking the decision to close all lanes of the motorway and to open a hard shoulder to all traffic.**

A specific risk assessment was not carried out. Closure of lanes is a standard procedure as set out in the Traffic Signs Manual, Chapter 8

**6. Your policy regarding the regularity of checks that should take place when opening a hard shoulder to traffic.**

The Traffic Signs Manual, Chapter 8 requires a check of the site every two hours.

**7. Your guidelines relating to the detail of checks that should take place before opening the hard shoulder. For example, should this take place on foot or by vehicle?**

The hard shoulder was swept on 30 September 2018 and included both a pre-sweep of the area and provision of an edge line. The hard shoulder was checked on the night of 3 October 2018 in a vehicle, by a qualified Traffic Safety and Control Officer (TSCO) approximately half an hour before the start of installation of traffic management at 10.00pm. This is in accordance with the requirements of the Traffic Signs Manual, Chapter 8.

**8. Evidence of any inspections that took place that evening prior to opening the hard shoulder and proof they were completed to the required standards.**

Please find attached at Annex A, a copy of the TSCO inspection sheet. Personal information has been redacted in reliance of Section 40(2) of the Freedom of Information Act.

**9. The names of the individuals who completed the checks and their qualifications that prove they were sufficiently trained to this role and evidence to show their training was kept up to date.**

Please find attached at Annex B, the qualifications of those who completed the checks in 8 above. However, personal information, including their names, have been redacted in reliance of Section 40(2) of the Freedom of Information Act.

**10. Information on the lux levels of lighting on the stretch of motorway in question that evening and evidence that it was sufficient to the regulations for passing through roadworks on a motorway.**

There is no lighting on this section of the M40.

I understand your claim for damages is being handled directly by UK Highways Limited.

If you are unhappy with the way we have handled your request you may ask for an internal review. Our internal review process is available at:

<https://www.gov.uk/government/organisations/highways-england/about/complaints-procedure>

If you require a print copy, please phone the Information Line on 0300 123 5000; or email [info@highwaysengland.co.uk](mailto:info@highwaysengland.co.uk). You should contact me if you wish to complain.

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 can be contacted at:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

If you have any queries about this letter, please contact me. Please remember to quote reference number 768,172 in any future communications.

Yours sincerely

Business Management Team Leader  
Operations (East)  
Email: