

## Annex A

<p>Section 35: Formulation of government policy. (1) Information held by a government department or by the National Assembly for Wales is exempt information if it relates to-</p> <p>(a), the formulation or development of government policy</p>	
<p><b>Public interest test factors for disclosure</b></p>	<p><b>Public interest test factors against disclosure</b></p>
<p>There is a general but not particular public interest in disclosure of information leading to the decision to adopt Delay/Repay.</p>	<p>The disclosure of the information relating to the formulation or development of Government policy will inhibit discussion within Government. This is still current policy.</p> <p>The quality of the formulation and development of future government policy should not be put at risk of having to be presented in any particular way were it to be the subject of scrutiny.</p> <p>Information leading to this policy is not considered to be of any specific public interest.</p>
<p><b>Decision</b> Disclosure will inhibit discussion within Government, and this is not outweighed by the public interest in disclosure.</p>	
<p><b>Exemption in full</b> Section 43 Commercial interests (2). Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).</p>	
<p><b>Public interest test factors for disclosure</b></p>	<p><b>Public interest test factors against disclosure</b></p>
<p>Previous system: There is a general but not particular public interest in disclosure of information on compensation paid, claims and complaints relating to Delay/Repay on TOCs which operated versions of Delay/Repay prior to the Department adopting the Delay/Repay policy.</p>	<p>Disclosure of the information would prejudice the commercial interests of the train operators. The information is commercially sensitive as train operators are private companies who operate in competition with coach and bus operators, airlines and sometimes each other. Disclosure of the information could adversely affect their competitive positions if detailed information on costs were made available to their competitors.</p>
<p><b>Decision</b> The requested information should not be released, on the grounds that the commercial interests of the train operators are not outweighed by any particular interest in the compensation figures.</p>	

Analysis on the formulation of policy is covered by section 35. In addition, some elements such as analysis of how Delay/Repay has turned out in practice would fall under section 43 as well as section 35 which covers all of this area.

The information we have on the effects of the scheme is based on the cost of compensation attributed to each TOC, so is exempt under section 43 as release would prejudice their commercial interests.

<p><b>Exemption in full</b>  <b>43 Commercial interests</b>          Section 43(2) of the Act. Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).</p>	
<p><b>Public interest test factors for disclosure</b></p>	<p><b>Public interest test factors against disclosure</b></p>
<p>There is a general but not particular public interest in disclosure of information on compensation paid under Delay/Repay on TOCs which operated versions of Delay/Repay and TOCs which have adopted the Department's Delay/Repay policy.</p>	<p>Disclosure of the information would prejudice the commercial interests of the train operators. The information is commercially sensitive as train operators are private companies who operate in competition with coach and bus operators, airlines and sometimes each other. Disclosure of the information could adversely affect their competitive positions if detailed information on costs were made available to their competitors.</p>
<p><b><u>Decision</u></b>          The requested information should not be released, on the grounds that the commercial interests of the train operators are not outweighed by any particular interest in the compensation figures.</p>	