



Ein cyf/Our ref ATISN 10971

Michael Edwards
[request-375722-12acb828@whatdotheyknow.com](#)

23 January 2017

Dear Mr Edwards

Request for Information – ATISN 10971

I wrote to you on 6 January regarding your request for information. You asked for -

- Any information about complaints regarding the overcrowding on Arriva Trains Wales services from Wales to Birmingham International and also anything held about the alleviation of this overcrowding, such as discussions about the provision of more seats, additional services, more rolling stock, etc. Information to cover the calendar year, 2015.

I can confirm that we hold information relating to your request which has been enclosed. I have concluded, however that some of the information is exempt from disclosure under section 40 – Personal Information of the Freedom of Information Act 2000 (FOIA). Personal details have been redacted. Full reasoning for applying this exemption is provided at Annex A.

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit, Welsh Government, Cathays Park, Cardiff, CF10 3NQ or
FreedomOfInformationOfficer@wales.gsi.gov.uk.

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at: Information Commissioner's Office,



E&I FOI Team
Welsh Government
Treforest - QED Centre
Main Avenue
Treforest Industrial Estate
Pontypridd
CF37 5YR

EconomyandInfrastructure
FOI@wales.gsi.gov.uk
www.gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

James Ardern
Rail/Air Contracts Manager

Annex A

ATISN 10971 – Application for Exemption

Section 40(2) – Personal Data

Section 40(2) of FOIA requires third party personal data to be withheld in circumstances where its disclosure would breach any of the data protection principles set out in Schedule 1 of the Data Protection Act 1998 (DPA).

We consider that disclosure of this personal data would breach the first data protection principle. The first data protection principle requires that processing of personal data must be fair and lawful, in particular, that it should not be processed unless one of conditions set out in Schedule 2 of the DPA is met.

In determining whether disclosure would contravene the first data protection principle, we have considered whether disclosure would amount to fair and lawful processing of those individuals' personal data. The individuals concerned do not have public facing roles. We consider that those individuals would be under reasonable expectation that their information would remain confidential and not disclosed to the public at large. As such, we do not consider that disclosure of the withheld personal data would be fair.

Guidance from the Information Commissioner's Office (Personal information (Section 40 and regulation 13) v1.0 states:

"The public authority must decide whether it would be fair to disclose the personal data. If the public authority concludes that it would not be fair, then it must not disclose the information in response to the FOIA request"

In this instance, because the individuals would have had no expectation that their personal data would be released into the public domain, we believe that release of this information would be unfair and so breach the first data protection principle. For that reason, the information is being withheld under Section 40(2) of the Freedom of Information Act. This is an absolute exemption and not subject to public tests.