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8th August 2019

Dear Mr Popescu

Information request

Reference number: FOI2019/00771

Thank you for your request of 12th July 2019. You requested the following information:

'Please advise me on the number of CCTV cameras that you operate at Marylebone Station.'

I have processed your request under the terms of the Freedom of Information Act 2000 (FOIA).

I can confirm that we hold the information you requested. However, I believe this information is exempt from disclosure by virtue of section 31(1)(a) (prejudice to the prevention or detection of crime) and section 38(1) (a) and (b) (endangerment to the health and safety of any individual) of the FOIA. I will go on to explain what these parts of the FOIA mean and why they prevent us from disclosing the information you have requested.

When information is released under FOIA, it is effectively a disclosure of information to 'the world' and any information that is released can then be shared with anyone in the world, without any restrictions. This means that, if information is suitable for disclosure to one applicant under FOIA, it must also be disclosed to any other applicant who requests the same information, including anyone who may be intent on carrying out a terrorist attack or crime on the railway network.

Section 31(1)(a) – Prejudice to the prevention or detection of crime

Section 31(1)(a) of the FOIA exempts information from disclosure in circumstances where to place information in the public domain would be likely to prejudice the prevention or detection of crime. In this instance disclosure of the information requested would not only prejudice the prevention of crime, it would actively assist the commission of crime. Put simply, information about the number of CCTV cameras could be used to better plan terrorist attacks because it would provide information on the capacity of the CCTV system at a particular station.

Sections 38(1)(a) and (b) – Endangerment of health and safety

Section 38(1) (a) and (b) of the FOIA exempts information from disclosure in circumstances where to place information in the public domain would be likely to endanger the physical health of any individual or endanger the safety of any individual. In this instance we are of the view that disclosure of the information in question would be likely to endanger the health and safety of members of the public using the stations and station staff. Providing any information about the number of CCTV cameras at this station would be likely to put terrorists in a better position to plan attacks, thereby increasing the risk to the lives and safety of everyone accessing this station.

As with section 31(1)(a), sections 38(1)(a) and (b) of the FOIA are qualified exemptions which can only be applied in circumstances where the public interest favours doing so. Our consideration of the public interest and subsequent findings are set out below.

Why the exemptions apply

I should first explain here the station specified in your request is a major transport hub and major transport hubs are recognised as targets for terrorist and criminal activity. Our position was recently set out in some detail in arguments provided to the Information Commissioner for a similar request about CCTV at Edinburgh Waverley station.¹ I have set out these arguments below:

17. To support its position, Network Rail has explained the significance of Edinburgh Waverley station as a key transport hub, being Britain's largest train station outside of London. CCTV in the station is used for a wide variety of uses including deterring and preventing crime and terrorist activities, detecting crime and terrorist activities, assisting the emergency services and providing evidence in criminal proceedings.

¹ ICO Decision Notice FS50633090 issued 22nd February 2017, <https://ico.org.uk/media/action-weve-taken/decision-notice/2017/2013536/fs50633090.pdf>

18. Network Rail argues that rail stations have been recognised as targets for terrorism due to the potential for mass casualties and wider disruption. The British Transport Police (BTP) was established as a specialist police force for the railway and they work in partnership with Network Rail and other rail operators to provide efficient and effective railway policing. In written evidence to the Scottish Government Public Audit Committee in 2015, the BTP explained the threat to the rail network:

“The threat level to Britain’s railways is Severe, meaning an attack is highly likely, and attacks on public transport systems generally have long been seen as a priority and attractive to terrorists. Since 1970, for example, there have been more than 4,000 recorded attacks targeting public transport worldwide. Of which, those involving bombs placed on trains or on buses account for the largest (and most lethal) proportion (35%).”

19. The current threat level in the UK is severe and has remained at this level for some time. In addition to this, there have been attacks at transport hubs since the request was made, most notably at Brussels airport and Maalbeek metro station in central Brussels.

The Information Commissioner accepted our position in that case. I consider that this is extremely relevant to the present request, which asks for very similar information for Marylebone Station. I would also note in this respect that since the time of the Information Commissioner’s decision in FS50633090, there have been a significant number of further attacks:

- 1- the Westminster attacks in March 2017 in which more than 50 people were injured and four people were killed ²;
- 2- the Manchester Arena bombing that resulted in the deaths of 22 victims and 116 others injured in May 2017³;
- 3- the London Bridge terror attacks in June 2017, killing eight people and injuring 48 others⁴

In addition, there have been a number of terrorist attacks on public transport in the UK and other countries, including attacks in recent years; for example, the attack at Parsons Green station on 15 September 2017.

² <http://www.telegraph.co.uk/news/2017/03/22/westminster-terror-attack-everything-know-far/>

³ <http://www.bbc.co.uk/news/uk-england-manchester-40008389>

⁴ <http://www.bbc.co.uk/news/uk-40173157>

It is therefore our view that the applicability of the exemptions to CCTV camera details are even more valid and compelling now, given the frequency of attacks, the types of busy locations chosen for the large volumes of people in relatively small areas, and the sheer devastation that these attacks have caused since.

In FS50633090, the Commissioner went on to consider whether disclosing details of the CCTV cameras in operation at Waverley station would be likely to increase the risk of such an attack. Again, we provided detailed arguments demonstrating the link between the disclosure of information about arrangements for CCTV, and the prejudice we believed likely to occur:

The Commissioner summarised these arguments in the extracts below:

28. The Commissioner does recognise that the number of CCTV cameras in a station does not in itself seem to be information which would increase the likelihood of a terrorist attack should it be disclosed. However, Network Rail has provided convincing arguments supported by evidence from a number of sources that show the CCTV network and the way this operates is an integral part of rail stations protecting against terrorist attacks. The Commissioner particularly puts weight to the argument that if a motivated individual had to physically attend a rail station to map the locations and numbers of CCTV cameras this may arouse suspicion and lead to the detection and apprehension of the individual, therefore disclosing the number of cameras reduces the opportunity to detect suspicious behaviour...

29. For this reason the Commissioner accepts there is a link between the requested information – the number of CCTV cameras at Edinburgh Waverley station – and the increased likelihood of a terrorist attack and therefore the risk to national security.

Due to the strong similarity between the information considered by the Commissioner in FS50633090 and the information requested in the current request, we again consider that the Commissioner's findings are very relevant here. We consider that the requested information is of a type that would provide anyone planning an attack with valuable factual information which could be used to facilitate an attack. Given that London Marylebone had an excess of 16 million visitors in 2017-8⁵; it remains the case that this is a very busy transport hub where any attack would have the potential for large numbers of casualties.

The importance of CCTV in station security arrangements has been highlighted in the current "*See It. Say It. Sorted*" campaign, launched in November 2016 by the British Transport Police, the Department for Transport and the rail industry⁶. This awareness campaign encourages members of the public to report any unusual or suspicious

⁵ <https://dataportal.orr.gov.uk/media/1220/estimates-of-station-usage-2017-18.xlsx>

⁶ https://www.btp.police.uk/latest_news/see_it_say_it_sorted_new_natio.aspx

activity that they notice when using the rail network or railway stations. It is notable that this campaign highlights CCTV as an area of concern:

BTP Temporary Assistant Chief Constable Alun Thomas said:

“Don’t be afraid to report anything that feels out of place. We rely on information from the public to help us keep the rail network safe.

“It could be someone avoiding rail staff or police, leaving a bag on the railway, checking out security arrangements like CCTV or trying to access staff-only areas.”⁷

The public interest test

Sections 31(1) and 38(1) are both qualified exemptions and require consideration of the public interest to determine whether this favours disclosure or maintaining the exemptions. I have set out my findings below:

Factors in favour of disclosure

- There is a general presumption in favour of disclosure where this contributes towards greater openness and accountability.
- In this instance disclosure would demonstrate to the public that we have seriously considered the safety of our staff and passengers in our managed stations with the intention of preventing or reducing the opportunity for terrorist incidents, and have appropriate mechanisms in place to protect staff and the public from harm.
- There is a recognised public interest in the disclosure of information where it may contribute to informed public debate on matters of importance including the use of CCTV and privacy rights.
- Informing the public of the number of CCTV cameras at London Marylebone Station would assist the public scrutiny and evaluation of the effectiveness of CCTV cameras in preventing criminal activity and in this way provide a level of reassurance and sense of protection, particularly in light of recent terrorist incidents.

⁷ http://www.btp.police.uk/latest_news/see_it_say_it_sorted_new_natio.aspx

- Providing such information about our stations can aid the wider public to understand how we operate and our societal responsibilities as a public sector organisation.

Factors against disclosure

- As a large public-serving organisation, we are obliged to provide appropriate signage to advise the public that there is CCTV surveillance installed at our managed stations. We consider that this significantly reduces the public interest in disclosure of this information. Rather, we consider that any increase in public knowledge of the numbers of cameras can only come at the risk of increased harm to members of the public and to staff. There is a strong public interest in ensuring that we do not risk the safety of individuals, and in taking steps to ensure their protection – in this case, this public interest factor strongly favours maintaining the exemption to withhold this information.
- As explained earlier in this response, it must also be acknowledged that providing factual information regarding the number of CCTV cameras at major rail hubs into the public domain would be likely to increase the confidence of terrorists, undermine security and heighten the possibility of a future attack, which would not be in the public interest. This factor was recognised by the Information Commissioner in FS50633090:

“In the Commissioner’s opinion there is an obvious and weighty public interest in the safeguarding national security. In the particular circumstances of this case the Commissioner agrees with Network Rail that it would be firmly against the public interest to undermine security at a major UK transport hub given the current threat level.”⁸

- In FS50633090, the Commissioner also acknowledged that “*the information concerns security arrangements at a major transport hub at a time when the threat level for international terrorism is severe*” and went on to state that “*there is a clear public interest in maintaining security at the station and in avoiding prejudice to BTP’s ability to detect suspicious behaviour.*”⁹ As noted previously, due to the similarity of subject matter between that considered in FS50633090 and the present case, we consider that this is again an extremely strong factor in favour of maintaining the exemption.

Conclusion

⁸ ICO Decision Notice FS50633090 issued 22nd February 2017, <https://ico.org.uk/media/action-weve-taken/decision-notice/2017/2013536/fs50633090.pdf>

⁹ ICO Decision Notice FS50633090 issued 22nd February 2017, <https://ico.org.uk/media/action-weve-taken/decision-notice/2017/2013536/fs50633090.pdf>

In FS50633090, the Information Commissioner concluded that *“Whilst CCTV and surveillance is an issue which is of concern to the public, particularly with regard to the impact of increased surveillance on individuals privacy, and therefore disclosing information which informs public debate of these issues would be of some public interest; the Commissioner does not consider that this argument carries sufficient weight to override the significant and weighty public interest in ensuring the security of rail network and the UK’s transport hubs.”*¹⁰

Taking this into consideration along with the circumstances of this case, although we recognise the arguments in favour of disclosure, we have concluded that the balance of the public interest lies in favour of maintaining the exemption in response to your request for the number of CCTV cameras Network Rail operate at Marylebone Station.

If you have any enquiries about this response, please contact me in the first instance at FOI@networkrail.co.uk or on 01908 782405. 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 Baker
Information Officer

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Appeal Rights

¹⁰ ICO Decision Notice FS50633090 issued 22nd February 2017, <https://ico.org.uk/media/action-veve-taken/decision-notice/2017/2013536/fs50633090.pdf>

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 FOI Compliance and Appeals Manager 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 can be contacted at:

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