

Doug Paulley
request-850787-e937a4e1@whatdotheyknow.com

SRT 012

20/05/2022

Dear Mr Paulley

I am writing in response to your Freedom of Information internal review request which was received by ScotRail Trains Limited (SRT) on 27/04/2022. As SRT is a Scottish Public Authority, your request is subject to the terms of the Freedom of Information (Scotland) Act 2002 (FOISA).

Your initial request – received 01 April 2022

I understand that there's an "Accessibility Email Group" by which members of the rail industry communicate on accessibility matters in service provision.

A FOI response at

<https://eur03.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.whatdotheyknow.com%2Frequest%2F834926%2Fresponse%2F2000133%2Fattach%2Fhtml%2F4%2FEmail%25202%2520Redacted.pdf.html&data=04%7C01%7Cfoi%40scotrail.co.uk%7C38150b9ea73c41636de408da14221cfb%7C6ae6141e13234e7e8a11cdd98c62d88a%7C0%7C0%7C637844434126929561%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6Ij1haWwILCJXVCi6Mn0%3D%7C1000&sdata=vrB8pdKwxq08DZxKJ%2F5IKpqBXXOAjj3JeugC%2BCNDb9I%3D&reserved=0> shows that the group includes Dominic Lund-Conlon of the Rail Delivery Group, also Charlotte Haynes of Govia Thameslink Railway and somebody at LNER.

"Attached to this correspondence are scripts of email chains sent from Rail Delivery Group to the Accessibility Group, of which Northern is part."

The contents of said response suggests that this group may include accessibility-related staff at all train operating companies and possibly station operators such as Network Rail.

Please supply all emails sent to/by this Accessibility Group over the previous 12 months.

SRT Response to your initial request

On 27 April 2022 ScotRail Trains advised that they do not hold the information that you have requested and is not aware of any other public authority that could respond to your request. Section 17 of FOISA states that where public authorities receive requests for information that they do not hold, they must issue a notice advising that they do not hold the requested information. This letter should be treated as formal notice.

SRT Response to your initial request

SRT have undertaken an internal review and note the following:

Correspondence was provided to you under FOI reference 011 and this is not included within this response.

SRT has searched the following and noted the number of emails found as a result:

Emails sent from staff member within SRT to Accessibility Group email address = 4

Emails sent from staff member within SRT copying in Accessibility Group email address = 1

Emails received by staff member within SRT sent from Accessibility Group email address = 0

The Accessibility Group email address is an email group with members from across the rail network. It is mainly used to send 'to' as a form of 'distribution list'.

In relation to the provision of these emails SRT are applying the following FOISA exemptions:

Section 38 (1) (b) – Third party data

An exemption under section 38(1)(b) of FOISA (personal information) applies to some of the information requested because it is personal data of a third party, i.e. names and contact details of individuals and companies, and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. The individuals do not expect such information relating to them to be released. This information is not in the public domain and their role is not sufficiently public facing to expect their details to be released.

This exemption is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exemption.

Section 30(b)(ii) - Substantial inhibition to free and frank exchange of views

An exemption under section 30(b)(ii) of FOISA (free and frank provision of views) applies to some of the information requested. This exemption applies because disclosure would, or would be likely to, inhibit substantially the free and frank exchange of views. The request is open ended with no topic or area of focus. This exemption recognises the need for officials to have a private space within which to provide free and frank views between other Train Operating Companies, the Rail Delivery Group and third parties.

Disclosing the content of free and frank exchange of views regarding all correspondence to/from Accessibility Group email address will inhibit the exchange of views in future between Train Operating Companies, the Rail Delivery Group and third parties in relation to areas of future policy making. This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption. We recognise there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate.

However, there is a greater public interest in allowing a private space within which Train Operating Companies, the Rail Delivery Group and third parties can exchange full and frank views, as part of the process of exploring and refining policies to improve accessibility across the railway. This private thinking space is essential to enable all

options to be properly considered, based on the best available advice, so that good policy decisions can be taken. Disclosure is likely to undermine the full and frank discussion of issues between Train Operating Companies, the Rail Delivery Group and third parties and likely to reduce the use of this method of communication. The email address is used as a means of seeking views and opinions in a safe space, with emails sent to the distribution list. By allowing discussion and debate, the TOCs are able to develop and amend policies to meet the needs of all using the rail network. If TOCs did not have this safe space there is a risk of siloed working, with less opportunity for discussion to develop the best policies for the public. This, in turn, would undermine the quality of the decision-making process, which would not be in the public interest.

To assist, if you could refine your request to a specific topic or area you wish us to focus on rather than a blanket request for all correspondence to/from the Accessibility Group email address we would be able to review our information held and consider disclosure.

Your right to request a review

If you are dissatisfied with the way in which we have handled your internal review request you may ask the Scottish Information Commissioner to review our decision. You must submit your complaint to the Commissioner within 6 months of receiving the response to review letter. The Commissioner's Office may be contacted as follows:

Online Appeal Service: Website: www.itspublicknowledge.info/Appeal

By post:

The Scottish Information Commissioner
Kinburn Castle
Doubledykes Road
St Andrews
Fife
KY16 9DS
Telephone: 01334 464610
Fax: 01334 464611
E-mail: enquiries@itspublicknowledge.info

An appeal, on a point of law, to the Court of Session may be made against a decision by the Commissioner.

Yours sincerely,

FOI Internal Reviewer