



Department for Transport

Doug Paulley
(By email: request-425127-64a1a0f6@whatdotheyknow.com)

Rolling Stock Team
Department for Transport
Great Minister House
33 Horseferry Road
London
SW1P 4DR

www.dft.gov.uk

Your ref: request-425127-64a1a0f6
Our ref: F0015105
Date: 12 September 2017

Dear Mr Paulley,

Freedom of Information Request F0015105

I am writing regarding your request for information received on 14 August 2017. Your request was as follows:

- 1) Please provide recorded information that explains why you granted dispensation from the requirement that sleepers of the size of the Night Riviera must have two sleeper berths.*
- 2) Please show which organisations you consulted on this dispensation, why you chose those organisations, and how the organisations responded to the consultation.*
- 3) Please provide your Equality Impact Assessment of your decision to award this dispensation.*
- 4) Please provide a link to the version of the PRM-TSI document you use for your dispensation spreadsheets and letters. The one I have, and every version I can find online, puts the wheelchair berth requirement at 4.2.2.10(2) but your dispensation refers to 4.2.2.11 instead.*

Your request has been considered under the Freedom of Information Act 2000.

The dispensation granted to Great Western Railway (GWR) for the operation of the Riviera Sleeper in December 2016 represents the conclusion of a dialogue between the Department and GWR dating back to 2012. We have estimated that the cost of complying with your request to find all relevant recorded information in that 5 year period would exceed £600. Section 12 of the Act (the full text of which is attached) does not oblige the Department to comply with requests that exceed this limit, and we are therefore refusing your request.

We are unable to answer your request within the cost limit because we do not keep a central record of all of this information. We would need to carry out a manual search of paper and electronic records to determine what information we hold, then to locate, retrieve and extract it.

Where part of a request would exceed the cost limit, the correct approach, as confirmed by the [ICO guidance](#), is to refuse all parts of a request. You asked for assistance to specify your request further, in the event that the questions you have submitted will not provide the information you're seeking on the reasons for Night Riviera dispensation. To assist you in specifying any further requests you may have, information on dispensation policy may be useful for you.

The Department's policy when reviewing dispensation requests for vehicles built prior to modern accessibility standards is to consider the constraints imposed on the ability to meet the standards of the PRM-TSI by the technical and physical limitations of the existing vehicle's construction. This policy is referred to as 'targeted compliance' and was developed in consultation with the Disabled Persons Transport Advisory Committee (DPTAC). It is designed to facilitate the delivery of accessibility improvements to keep older vehicles operating whilst retaining a pragmatic approach on what is deliverable.

With regard to consultation on dispensation request, as a minimum, we consult DPTAC, the Office of Rail and Road and Transport Focus. The Secretary of State's powers to grant a dispensation allows the disapplication of an accessibility standard, set for newly built rail vehicles, to older vehicles that are still in operation. By the nature of the request, the central focus of the consideration of the impact of permitting the request is on disabled passengers and those with reduced mobility.

I can provide you with the link to the version of the PRM-TSI which the vehicles have been assessed against and upgraded to. This is the 2008 version and can be found here: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32008D0164&from=EN> The establishment of the European standard is designed to cater for all types of sleeper train operated across Europe and has no requirement to be applied retrospectively to any trains in operation before 2008. The regulations which transpose the requirements of the Interoperability Directive (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:191:0001:0045:EN:PDF>) into UK law (the Railways (Interoperability) Directive 2011 <http://www.legislation.gov.uk/ukxi/2011/3066/contents/made>) included an end date by which all non-regulated vehicles must become regulated in order to harmonise requirements between existing domestic accessibility standards established under the Disability Discrimination Act 1995. After 1 January 2020 no further dispensations for vehicles built prior to 1999 should be required.

Please note, I cannot guarantee that Section 12 or any other exemption of the FOIA will not apply to any future requests for information.

If you are unhappy with the way the Department has handled your request or with the decisions made in relation to your request you may complain within two calendar months of the date of this letter by writing to the Department's FOI Advice Team at:

Zone D/04
Ashdown House
Sedlescombe Road North

Hastings
East Sussex TN37 7GA
E-mail: FOI-Advice-Team-DFT@dft.gsi.gov.uk

Please send or copy any follow-up correspondence relating to this request to the FOI Advice Team to help ensure that it receives prompt attention. Please also remember to quote the reference number above in any future communications.

Please see attached details of DfT's complaints procedure and your right to complain to the Information Commissioner.

Yours sincerely,

Department for Transport Rolling Stock Team

Section 12 exemption:

Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

(5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Your right to complain to DfT and the Information Commissioner

You have the right to complain within two calendar months of the date of this letter about the way in which your request for information was handled and/or about the decision not to disclose all or part of the information requested. In addition a complaint can be made that DfT has not complied with its FOI publication scheme.

Your complaint will be acknowledged and you will be advised of a target date by which to expect a response. Initially your complaint will be re-considered by the official who dealt with your request for information. If, after careful consideration, that official decides that his/her decision was correct, your complaint will automatically be referred to a senior independent official who will conduct a further review. You will be advised of the outcome of your complaint and if a decision is taken to disclose information originally withheld this will be done as soon as possible.

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