



Department
for Transport

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Mr R Bostock

[By email: request-311011-48d750f9@whatdotheyknow.com]

Our Ref: F0013227

10th February 2016

Dear Mr Bostock,

Freedom of Information Act Request – F0013227

Thank you for your Freedom of Information (FOI) request of 15th January 2016. You requested the following information:

I note that about 10 years ago government discussions took place about the making and enforcement of byelaws in general. One of the problems under discussion was that under the existing regime, penalties for breach of byelaws could only be imposed by the Court. One of the consultation documents can be found here:

<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/localgovernment/pdf/byelaws.pdf>

Proposals for alternative methods of enforcement were put forward. Although a number of byelaws which are within Department for Transport's province were included in the list for discussion, the Railway Byelaws 2005 were not mentioned.

So:-

1. Please would you tell me if any Secretary of State for Transport since the coming into force of the Railway Act 1993 has ever confirmed or made any laws (including byelaws and regulations), which empower any person or body other than the Courts to impose a penalty for breach of Byelaws 14(1), 14(2) or 14(3) of the Railway Byelaws 2005.

2. If so, please would you tell me:

a) the relevant section within the enabling Act of Parliament.

b) the requisite regulations setting out, in particular:-

i) by whom the penalties may be imposed;

ii) the circumstances in which they may be imposed;

iii) the safeguards against double liability – ie whether payment of a penalty is in lieu of prosecution, as in Fixed Penalties; or whether a penalty must be reimbursed if a person, having paid it, is later prosecuted - as required, for example, under para 10 of the Railways (Penalty Fares) Regulations 1994;

- iv) the conditions that must be met before such penalties can be imposed – eg the minimum signage requirements;*
- v) the maximum time following an alleged offence during which a penalty can be imposed;*
- vi) the time allowed for paying the penalty;*
- vii) the enforcement process when the penalty remains unpaid (ie as a civil debt, or by prosecution for the original offence);*
- viii) how, to whom, and within what timescale a person might appeal.*

Your request has been considered under the Freedom of Information (FOI) Act 2000. The Department for Transport (DfT) has now completed its search for the information.

I have reviewed our files and we do not hold the information which you have requested.

It may help if I explain a bit about how the different penalty regimes work. Article 24 of the Railway Byelaws 2005 make it an offence for any person to breach the byelaws. Such breaches are subject to a penalty not exceeding Scale 3 (presently £1,000). This penalty is not enforced by anyone other than the Court.

Article 14 sets out (amongst other things) rules for parking of motor vehicles, bicycles or other conveyances in any part of the railway and envisages that a person may be liable to pay penalties where they are in contravention of the local requirements. This is a different penalty from the penalty referred to in Article 24, and is administered by the operator or an 'authorised person'. The definition of an authorised person is in Article 25:

25 (1) "authorised person" means:

(i) a person acting in the course of his duties who:

(a) is an employee or agent of an Operator, or

(b) any other person authorised by an Operator, or

(ii) any constable, acting in the execution of his duties upon or in connection with the railway;

The term "authorised person" does not refer to someone authorised by the Department which I think may be what your request is seeking the Department to provide information about.

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

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

Yours sincerely

Jeaur Rahman

Correspondence Manager – Passenger Services

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