



Department
for Transport

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Web Site: www.gov.uk/dft

G Webber

[By email: request-485811-13aa5ef8@whatdotheyknow.com]

Our Ref: F0016055

20 June 2018

Dear G Webber,

Freedom of Information Act Request – F0016055

Thank you for your Freedom of Information (FOI) request of 17 May 2018. You requested the following information:

- 1. The date on which the decision was communicated to VTEC - this was presumably in advance of the statement to Parliament.***
- 2. A copy of the letter, document or order by which you communicated the decision to VTEC.***
- 3. Details of any appeal or review process which was offered to VTEC in respect of the decision or any preliminary or draft decision prior to the decision itself. Please note this part of the request relates only to the process and not to whether or not VTEC has made use of it.***

I am writing to confirm that your request has been considered under the FOI Act 2000. The Department for Transport (DfT) has now completed its search for the information. Replies are provided under each of your requests below.

(1) The date on which the decision was communicated to VTEC - this was presumably in advance of the statement to Parliament.

East Coast Main Line Company Limited (trading as Virgin Trains East Coast (“VTEC”)) were not formally advised of the decision in advance of the Secretary of State’s Oral Statement to Parliament on Wednesday 16 May 2018. The respective parent companies, Stagecoach and Virgin Holdings, were made aware of the decision, by telephone, shortly after 12 o’clock, before the Secretary of State’s Oral Statement began in Parliament at 12.58pm.

(2) A copy of the letter, document or order by which you communicated the decision to VTEC.

The Department wrote to VTEC and their holding company (being Inter City Railways Ltd) on 16 May 2018 following the Secretary of State’s Oral Statement to Parliament outlining the formal termination notice of the franchise. A copy of this termination letter is enclosed.

The names of external stakeholders have been withheld in reliance on the third party personal information exemption at section 40(2)&(3) of the FOI Act 2000 (see **Annex A** for the full text of the exemption). These individuals are not in public facing roles and therefore have a reasonable expectation that their names will not be placed into the public domain. To do so would be unfair and would contravene current data protection legislation. Section 40 is an absolute exemption.

In accordance with current data protection legislation, personal signatures have been redacted from the enclosed letter to safeguard against identity theft.

(3) Details of any appeal or review process which was offered to VTEC in respect of the decision or any preliminary or draft decision prior to the decision itself. Please note this part of the request relates only to the process and not to whether or not VTEC has made use of it.

No appeal or review process has been offered.

If you are unhappy with the way the DfT 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 DfT'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 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

Michael Evans
Senior 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

40 – Personal Information

Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

Any information to which a request for information relates is also exempt information if:

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied

The first condition is:

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of "data" in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene:

- (i) any of the data protection principles, or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject's right of access to personal data).

The duty to confirm or deny:

- (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
- (b) does not arise in relation to other information if or to the extent that either:

- (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
- (ii) by virtue of any provision of Part IV of the Data Protection

Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).

In determining for the purposes of this section whether anything done before 24 October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

In this section:

"the data protection principles" means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;

"data subject" has the same meaning as in section 1(1) of that Act;

"personal data" has the same meaning as in section 1(1) of that Act.