

[request-543579-cd94d13d@whatdotheyknow.com](mailto:request-543579-cd94d13d@whatdotheyknow.com)

15 January 2019

Dear Mr Li

**Freedom of Information (Scotland) Act – Request for Information**

I refer to your email of 25 November 2018 in which you make a Freedom of Information Request in the following terms:

**I would like to enquire numbers of passengers carried by Lothian Country's West Lothian services. Preferably per route and total, by months.**

Having considered your first question alongside the provisions of the Act, Lothian is refusing this part of your request.

We consider such information to be exempt under the terms of Section 33 Commercial interests and the economy which says at sub-section (1) (b) - "Information is exempt information if -

(b) its disclosure under this Act would, or would be likely to, prejudice substantially the commercial interests of any person (including, without prejudice to that generality, a Scottish public authority)."

Lothian does hold the information you have requested. Lothian claims an exemption in respect of that information, namely the exemption provided for in Section 33 of the Act, the relevant part of which is set out above.

The exemption provided for in Section 33 is not an absolute exemption. Our reason for claiming it in this case is as follows.

The starting point is that there is a public interest, yours, in providing the information you have requested. Against that must be set the fact that Lothian is a publicly-owned business which operates profitably in the competitive and deregulated market for local bus services and, since the Company's shares are wholly owned by the various local authorities in the Lothians, there is a wider public interest in the Company operating successfully. Lothian is the only publicly owned business in Scotland, which operates in this competitive market. The Company's continued success and, as a consequence, its ability to generate income in the form of dividend payments to its shareholders and to sustain a high level of investment in both vehicles and other infrastructure is critically dependent on its competitive position not being undermined.

Placing such commercially sensitive information in the public domain would most definitely prejudice the ability of Lothian to compete effectively with its competitors, none of whom is subject to the provisions of the Act. Put shortly, there cannot be a competitive “level playing field” if Lothian Buses is obliged to provide this commercially sensitive revenue related information while there is no mechanism whereby equivalent information in respect of other bus operators in Scotland can be made available to Lothian Buses.

On balance, we believe that the public interest in safeguarding the ability of Lothian to compete effectively with its privately owned competitors outweighs the public interest in providing the information you have requested.

Further information on freedom of information can be obtained from the Scottish Information Commission's website: [www.itspublicknowledge.info](http://www.itspublicknowledge.info).

Yours sincerely,

Clare Bridson  
FOI