



Department
for Transport

Mr Mark Killiner
Deputy Head of Correspondence
Department for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

Web Site: www.gov.uk/dft

Our Ref: F0018228

6 March 2020

Mr Kieran Fitzgerald

[By email: request-639946-fa1c4d56@whatdotheyknow]

Dear Mr Fitzgerald,

Freedom of Information Act Request – F0018228

Thank you for your Freedom of Information (FOI) request of 29 January 2020. You asked for the following information:

'I would like to know if there is an official number for the amount of penalty fares that have been given for the most recent 12 month period and also if there are any estimates that exist around railway fare evasion and what proportion/how many journeys are thought to have been made without a ticket.'

We wrote to you on the 26 February 2020 to advise you that we needed more time to complete complex public interest test considerations with regard to a qualified exemption. This process is now complete and I can provide the following response.

Your request has been considered under the FOI Act 2000 and the Department for Transport (DfT) has completed its search for the information. I will set out in order below responses to each part of your request.

'I would like to know if there is an official number for the amount of penalty fares that have been given for the most recent 12 month period...'

I can confirm that the Department does not hold this information. There is no centrally calculated figure for the amount of penalty fares across the rail network. The Department does not require individual train operators to run a penalty fare scheme and some train operators choose not to use penalty fares as a means to reduce ticketless travel. As a result, there is no official figure we could provide.

'... and also if there are any estimates for railway fare evasion and what proportion/how many journeys are thought to have been made without a ticket.'

I can confirm that the Department does hold information that falls within the scope of your request. As set out above, we do not hold central figures for the whole rail network. A search of our records has shown that we hold data for some Train Operating Companies (TOCs). The table below provides an overview of all DfT-controlled TOCs and whether or not we hold information on them:

TOC	Data held by the Department
Avanti West Coast	No
C2C	Yes
Chiltern Rail	Yes
CrossCountry	No
East Midlands Railway	No
Great Western Railway	Yes
Greater Anglia	Yes
GTR	Yes
LNER	No
Northern	Yes
South Eastern	No
South Western Railway	No
TransPennine Express	Yes
West Midlands Railway	No

Where we hold information, we consulted with the affected TOCs to gauge their views on whether or not they believe this information is commercially sensitive.

We are able to provide the following:

The data for GTR is in the public domain and can be accessed through the following link:

<https://www.thameslinkrailway.com/about-us/how-were-performing>

GTR's current estimated ticketless travel rate is 2.21 per cent.

For TransPennine Express, we only hold the overall estimated ticketless travel rate, which was 3.54 per cent of all journeys in November 2019.

For C2C, we only hold the current estimated ticketless travel rate, which is 1.81 per cent of all journeys in 2019.

For Chiltern, we hold an estimated ticketless travel rate and the value of penalty fares issued in 2019.

For Northern we hold an estimate of the ticketless travel rate for 2019 and an estimate for penalty fares issued in 2019.

For Greater Anglia, the operator provides information to the Department for each rail period, and some of this data is relevant to your request.

The Department also holds information on the ticketless travel rate for Great Western Railway (GWR), which forms part of the information we use to negotiate a direct award for the franchise.

However, we are withholding all of the information and other documents which fall within the scope of your request relating to Chiltern, Northern and Great Western Railway, as well as

part of the information we hold for Greater Anglia, in reliance on the exemptions at sections 41(1) (information provided in confidence) (the full text of the exemption is attached at **Annex A**) and 43(2) (commercial interests) (the full text of the exemption is attached at **Annex B**) of the FOI Act 2000.

Please find attached a redacted document which details Greater Anglia's returns for the last twelve months, which forms part of our in-franchise contract management. Greater Anglia has provided updates on their efforts to reduce ticketless travel as part of their regular exchange with the Department.

The information that was supplied to the DfT by Greater Anglia, Chiltern, as well as Northern, was shared under an explicit duty of confidence. It is not trivial and is not already in the public domain. These operators would reasonably be able to take some form of legal action against the DfT for breach of confidence if we disclosed it. Disclosure of the information would also be likely to prejudice the commercial interests of Greater Anglia, Chiltern, and Northern, and the DfT. As section 43(2) is a qualified exemption, we are required to balance the public interest in disclosing the information against that for withholding it. **Annex B** to this letter also details why, on balance, the public interest test favours withholding the information.

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.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

Mark Killiner
Deputy Head of Correspondence – 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

Annex A

Section 41- Information provided in confidence

(1) Information is exempt information if:

(a) It was obtained by the public authority from any other person (including another public authority), and

(b) The disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.

Annex B

Section 43: Commercial interests

(1) Information is exempt information if it constitutes a trade secret.

(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).

(3) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).

Public Interest Test

Factors for disclosure	Factors against disclosure
<ul style="list-style-type: none">- Disclosure of data on penalty fares and ticketless travel/ fare evasion would demonstrate the seriousness with which Government regards rail issues that have an impact on the public and the efficacy with which it seeks to address those issues.- Disclosure could help to allow the individual concerned, or the public as a whole, to understand the current position.- Disclosure would also contribute to the Government's wider transparency agenda, increase trust and allow the public to scrutinise discussions and decisions the Government and stakeholders make on rail matters.	<ul style="list-style-type: none">- Disclosure of the requested information would be likely to significantly weaken the competitive position of the various train operators cited for the following reasons:- The information was provided to the Department by Chiltern in strict confidence and on the assumption that it would not be published. It is commercially sensitive and allows insights into the company's revenue stream, which would be likely to enable competitors to predict future behaviour.- The information we hold for Great Western Railway was generated by a survey to support on-going negotiations for a Direct Award. The figures are commercially sensitive and release to the public would be likely to compromise the Government's negotiating position.- The information provided to the DfT by Greater Anglia is commercially sensitive and was shared on a strictly confidential basis, in order to provide management information. Disclosure of the information would be likely to damage the trust between the DfT and the operators. This would be likely to have an adverse effect on their owning groups' ability to bid for future franchises.

	<ul style="list-style-type: none"> - The information provided by Northern was provided on a strictly confidential basis. Furthermore, the information is based on a small sample and may not accurately reflect the true situation on its network. Publication would be likely to risk creating the impression that these figures might be reliable when they are not. - Some of the information regarding penalty fares/ ticketless travel contains plans for future commercial activities. Disclosure of this information into the public domain would be likely to negatively affect the operators' ability to put these plans into effect. - Train operators and their owning groups would be hindered in their attempts to create new plans to reduce ticketless travel/fare evasion if they operated under the knowledge that their plans could be routinely disclosed after they had been shared with the DfT, which would be likely to compromise their ability to put these plans into action. - In addition, sharing data that was provided to the Department by TOCs, which we do not own, would be likely to damage our relationship of trust with TOCs and their owning groups, which in turn could impede our ability to run future franchise competitions.
--	---

Decision Reached

The information requested is being **withheld** as on balance the factors for withholding this information outweigh the factors for releasing it. The release of this information would be likely to prejudice the commercial interests of the named Train Operating Companies.

Where we are releasing information for individual TOCs, we should be clear that this is on the basis of the Department holding a headline figure only, whereas in the case of the information being withheld, the data on record is more detailed and would be likely to prejudice commercial interests.