



Department  
for Transport

R Bostock

[By email: request-470450-06cadcf6@whatdotheyknow.com]

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Web Site: [www.dft.gov.uk](http://www.dft.gov.uk)

Our Ref: F0015866

16 May 2018

Dear R Bostock,

**Freedom of Information ("FOI") Act Request: F0015866 – Internal review**

I am writing with regard to your FOI request which you originally made to Department for Transport (DfT) on 13 March 2018. You requested the following information:

***'I am informed that a draft "clarification statement" regarding enforcement of parking under the Railway Byelaws has been issued to interested bodies including the British Parking Association.***

***Please would you disclose it.'***

You sent a further email to the DfT on the 16 March as follows:

***'In case there is any misunderstanding, may I make it clear that the document requested is not necessarily entitled "clarification statement".***

***The subject matter of the document is parking enforcement at station car parks, The application of Railway Byelaws 14 (1-4), and any role POPLA may have to play. It has been circulated within the last two months.***

***It may of course have a different title - not having seen it I wouldn't know.'***

The Department responded on the 12 April 2018 confirming that the Department does hold correspondence of the type described in your request regarding enforcement of parking under the Railway Byelaws. This was sent to a limited number of stakeholders including the British Parking Association within the last two months. A decision was taken by the Department to withhold the correspondence under the exemption at section 35(1)(a) (Formulation of government policy) of the FOI Act 2000.

As section 35(1)(a) is a qualified exemption, the Department carried out a public interest test which was included within the response and concluded that in this instance it favoured withholding the information.

On 18 April 2018 you wrote to the Department requesting an internal review of your FOI request.

### **Independent Internal Review**

As a senior member of the Department who was not involved in the original consideration of your request, I have carried out an independent Internal Review of the original handling of your request. My findings are set out below:

Material relating to the enforcement of parking under the Railway Byelaws has been shared with interested parties such as the British Parking Association. I have reviewed this material which clearly demonstrates that it has been shared in order to help the Department formulate its policy thinking ahead of issuing some form of formal clarification. The application of the exemption at section 35(1)(a) (Formulation of government policy) of the FOI Act 2000 would therefore apply to the material that was shared.

As Section 35(1) is a qualified exemption I have also reviewed the public interest test in disclosing the information against that for withholding it. Whilst disclosure of the material would aid transparency and enable a wider audience to engage in the policy development process, the public interest test also recognises the risk to the policy making process if all such material were to be shared. In particular it would be likely to constrain the Department's ability to conduct rigorous assessments and consider all the options, as well as potentially inhibiting discussions and exchanges with stakeholders if they knew their views and comments were going to be routinely disclosed.

The public interest test in this case has been appropriately applied in concluding that on balance the factors for withholding the information outweigh the factors for releasing it.

Whilst the initial response of 12 April 2018 only relied on exemption 35(1)a of the FOI Act 2000, from my review it is clear that the Department is intending to issue some form of clarification once decisions on the policy have been taken. Based on the information that I have reviewed, it would appear the current intention is to issue something broadly in line with the material that has been shared, subject to concluding the policy development processes and final decisions being taken. I believe there is also therefore a case for the application of the exemption at section 22(1) of the FOI Act which provides a qualified exemption for information intended for future publication to apply to the material that has been shared.

### **Conclusion**

I am satisfied that the Department correctly applied the exemption at section 35(1)a of the FOI Act 2000 and that the public interest in withholding the material outweighs

the public interest in releasing it and I therefore uphold the initial decision to withhold the information.

### **Appeals process**

If you are not content with the outcome of this 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  
Cheshire  
SK9 5AF

Yours sincerely,

**Nigel Nuttall**